

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



**Recommendation CP(2013)5  
on the implementation of the Council of Europe Convention  
on Action against Trafficking in Human Beings  
by Bosnia and Herzegovina**

*adopted at the 11th meeting of the Committee of the Parties  
on 7 June 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 Bosnia and Herzegovina on 11 January 2008;

Having examined the Report concerning the implementation of the Convention by Bosnia and Herzegovina, adopted by GRETA at its 16th meeting (11-15 March 2013) in the framework of the first evaluation round;

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

- the appointment of a National Co-ordinator for Combating Trafficking in Human Beings and the setting up of the Strike Force for combating trafficking in human beings and Regional Monitoring Teams;
- the adoption of state action plans for the prevention of trafficking in human beings and the independent evaluation of the implementation of the state action plan for 2008-2012;
- the inclusion on the offence of trafficking in human beings, as defined in the Convention, in the State Criminal Code;
- the criminalisation of the use of services of a trafficked person, with the knowledge that a person is a victim of trafficking;
- the efforts to provide training on trafficking in human beings to relevant professionals.

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

- ensuring that the offence of trafficking in human beings is incorporated in a consistent manner in all criminal codes applicable on the territory of Bosnia and Herzegovina;
- strengthening the protection of children against human trafficking, including by ensuring the registration of all children at birth, and ensuring that Roma children have effective access to education as a measure to prevent trafficking;
- improving the identification of victims of trafficking by disconnecting it from the initiation of criminal proceedings, introducing a national referral mechanism and ensuring that relevant professionals adopt a proactive approach to identification;
- ensuring that victims of trafficking have effective access to assistance and protection, regardless of whether they co-operate with the law-enforcement authorities;
- defining in law the recovery and reflection period provided for in Article 13 of the Convention and ensuring that trafficked persons are effectively granted such a period;
- ensuring that victims of trafficking have an effective possibility to obtain compensation from the perpetrators and setting up a state compensation scheme which is accessible to victims of trafficking;
- ensuring that crimes related to trafficking are investigated and prosecuted promptly and effectively, leading to proportionate and dissuasive sanctions.

1. Recommends that the Government of Bosnia and Herzegovina implement the proposals of GRETA listed in Appendix I to the Report concerning the implementation of the Convention by Bosnia and Herzegovina (see addendum);

2. Requests the Government of Bosnia and Herzegovina to inform the Committee of the Parties of the measures taken to comply with this recommendation by 7 June 2015;

3. Invites the Government of Bosnia and Herzegovina 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 Bosnia and Herzegovina**

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

1. GRETA urges the competent authorities to ensure that the offence of human trafficking is incorporated in a consistent manner in all criminal codes applicable on the territory of Bosnia and Herzegovina.

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

2. GRETA urges the authorities of Bosnia and Herzegovina to ensure, in close co-operation with the authorities of the entities and the Brčko District, that anti-trafficking legislation and policies are coherent and are effectively implemented and assessed. Particular attention should be paid to preventing and combating trafficking within Bosnia and Herzegovina. The responsible authorities should also pursue regular exchanges of information concerning all aspects of THB and aim for a greater co-ordination of their activities.

3. GRETA considers that the authorities should ensure that meetings of co-ordinating bodies (especially the State Group) take place regularly, and should increase the effectiveness of participation of all public bodies involved in the implementation of anti-trafficking measures at the state and entity levels. GRETA encourages the National Co-ordinator to intensify efforts for greater co-ordination of activities with the Regional Monitoring Teams.

4. Further, GRETA considers that the authorities of Bosnia and Herzegovina, the two entities and the Brčko District should effectively involve NGOs working in the anti-trafficking field in the discussion and elaboration of anti-trafficking policies and promote their participation in the work of the anti-trafficking public bodies.

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

5. GRETA considers that the authorities at the state, entity and cantonal level in Bosnia and Herzegovina should increase their efforts, including through funding, to provide regular training on THB-related issues to all relevant professionals. Training programmes should be designed in a manner providing practical knowledge and skills for the identification of victims of trafficking, the assistance and protection of victims, and the prosecution of traffickers (see also paragraphs 92, 106, 115 and 159).

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

6. GRETA considers that the authorities of Bosnia and Herzegovina should conduct and support research on trafficking-related issues as an important source of information for future policy measures. Areas where research is particularly needed to shed more light on the extent and nature of the problem of trafficking include child trafficking, internal trafficking, and trafficking in groups particularly vulnerable to trafficking.

7. GRETA also considers that when collecting statistical information from all main actors, the authorities of Bosnia and Herzegovina should take 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 official database.

## **International co-operation**

8. GRETA considers that the authorities of Bosnia and Herzegovina should enhance international co-operation in the investigation and prosecution of human trafficking cases, as well as the assistance of victims of THB.

## **Measures to raise awareness and discourage demand**

9. GRETA considers that the authorities, be it at state or other levels, should launch a comprehensive campaign for the general public as well as targeted initiatives for groups vulnerable to THB, in order to raise their awareness of the risks of human trafficking.

10. GRETA considers that future action in the area of awareness raising should be designed in the light of the assessment of previous measures and be focused on the needs identified. Prevention within the Roma community should be strengthened through specific campaigns, using the materials readily understood in these communities. The authorities of Bosnia and Herzegovina should also increase their efforts to raise awareness of THB among the general public, with special attention to children and young people.

11. GRETA considers that the authorities of Bosnia and Herzegovina should take further measures to discourage demand for services of victims of trafficking, including through raising awareness among the general public. In this context, GRETA considers that the state-level offence of the use of services of a victim of human trafficking should be incorporated into the criminal codes of the entities and the Brčko District.

## **Social, economic and other measures for groups vulnerable to THB**

12. GRETA stresses that absence of registration of children is often one of the aspects making this group particularly vulnerable to human trafficking and urges the authorities of Bosnia and Herzegovina to strengthen their efforts to ensure the registration at birth of all children.

13. In view of the number of children living in great poverty and at risk of human trafficking, GRETA urges the competent authorities to ensure that drop-in centres for children be provided with sufficient resources to stay open and provide adequate assistance.

14. Given that forced marriages of children leading to exploitation have been on the increase in the country (see paragraph 11), and considering that Roma children are a particularly vulnerable group, GRETA urges the competent authorities to take all necessary measures to ensure that they have effective access to education as a measures for preventing human trafficking.

## **Border measures and measures to enable legal immigration**

15. GRETA considers that the authorities of Bosnia and Herzegovina should make further efforts to:

- detect and prevent THB through border control measures;
- ensure that training on THB and the identification of victims is provided for frontline Border Police staff, immigration officers as well as diplomatic and consular staff, on a regular basis. Such training should underscore the difference between human trafficking and the smuggling of migrants;
- introduce a checklist to identify THB-related risks during the visa application system.

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

16. GRETA urges the authorities of Bosnia and Herzegovina to:

- disconnect the formal identification of victims of human trafficking from the initiation of criminal proceedings;
- establish a multi-agency involvement in victim identification by introducing a national referral mechanism which defines the roles and procedures of all frontline staff who may come into contact with victims of trafficking;
- provide specialised training on the identification of victims of THB to all frontline staff who may come into contact with possible victims (including law enforcement officials, staff of social welfare centres, staff of child drop-in centres, labour inspectors, medical staff and NGOs);
- ensure that law enforcement officials, social workers, labour inspectors and other relevant actors adopt a more proactive approach and increase their outreach work to identify possible victims of trafficking, regardless of the possibility of initiating criminal cases;
- avoid unnecessary repetition of interviews with victims of trafficking;
- improve the identification of child victims of trafficking, subjected to forced begging and other forms of exploitation targeting children.

## **Assistance measures**

17. GRETA urges the responsible authorities in Bosnia and Herzegovina to take further measures to provide victims and possible victims of THB with adequate assistance and protection, and in particular to:

- ensure that all assistance measures provided for in law are guaranteed in practice; when assistance is delegated to NGOs as service providers, the state has an obligation to provide adequate financing and ensure the quality of the services delivered by the NGOs;
- ensure that social welfare centres and other public bodies involved in the provision of assistance to victims have the necessary human and financial resources to ensure their unhindered and effective functioning;
- facilitate the reintegration of victims of trafficking into society and avoid re-trafficking by providing vocational training and access to the labour market for victims who are lawfully resident in the country;
- improve the system for providing assistance to child victims of trafficking, both in terms of accommodation and as regards medium and long-term support programmes tailored to the needs of the children;
- provide specialised training to all persons responsible for the provision of assistance to victims of trafficking.

### **Recovery and reflection period**

18. GRETA urges the authorities of Bosnia and Herzegovina to review the regulations in order to ensure that the recovery and reflection period provided for in Article 13 of the Convention is specifically defined in law.

19. Further, GRETA urges the authorities to ensure that trafficked persons are systematically informed of the possibility to use this recovery and reflection period and are effectively granted such a period.

### **Residence permit**

20. GRETA considers that the authorities of Bosnia and Herzegovina should ensure that victims of trafficking can fully benefit from the right to obtain a renewable residence permit in compliance with Article 14 of the Convention, including those who were identified but whose case did lead to any criminal prosecution.

### **Compensation and legal redress**

21. GRETA urges the authorities of Bosnia and Herzegovina to:

- review the existing legislation on compensation with a view to ensuring that victims of human trafficking have an effective possibility to obtain compensation from the perpetrators, including by providing effective access to legal aid and information in this respect;
- set up a state compensation scheme, such as a compensation fund, accessible to victims of trafficking in order to resolve the current difficulties for them to receive compensation from the perpetrators.

### **Repatriation and return of victims**

22. GRETA considers that the authorities of Bosnia and Herzegovina should take further steps to ensure that the return of victims of trafficking is conducted with due regard for the rights, safety and dignity of the person and the status of legal proceedings; this includes protection from retaliation and re-trafficking.

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

23. GRETA urges the authorities of Bosnia and Herzegovina to take legislative or other measures, such as issuing guidance to investigating and prosecuting authorities at state and entity level, allowing for the possibility of not imposing penalties on victims of THB for their involvement in unlawful activities to the extent that they were compelled to do so.

### **Investigation, prosecution and procedural law**

24. GRETA urges the authorities of Bosnia and Herzegovina to:

- identify gaps in the investigation procedure and the presentation of cases in court, inter alia, with a view to ensuring that crimes related to THB are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions;
- take measures to ensure that crimes related to THB are investigated and prosecuted promptly and effectively, in order to avoid undue delays in criminal proceedings;
- strengthen their efforts to proactively investigate THB offences, with a special emphasis on cases involving trafficking for the purpose of labour exploitation and trafficking of children

25. Further, GRETA considers that the knowledge and awareness of judges, prosecutors, investigators and lawyers about THB needs to be improved, including as regards specific elements of the offence, the rights of victims and access to compensation. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to effectively assist and protect victims of trafficking, and to ensure traffickers receive adequate convictions. During the training, particular attention should be paid to overcoming entrenched negative attitudes and prejudices vis-à-vis victims of trafficking.

#### **Protection of victims and witnesses**

26. GRETA urges the authorities of Bosnia and Herzegovina to take legislative and practical measures to ensure the effective protection of victims of THB, especially children, during the investigation and to prevent their intimidation during and after court proceedings.