

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



**Recommendation CP(2012)4
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Denmark**

*adopted at the 7th meeting of the Committee of the Parties
on 30 January 2012*

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 Denmark on 19 September 2007;

Having examined the Report concerning the implementation of the Convention by Denmark, adopted by GRETA at its 11th meeting (20-23 September 2011) in the framework of the first evaluation round;

Having examined the comments of the Danish Government on GRETA's report, submitted on 19 December 2011;

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

- the setting up of the Inter-Ministerial Working Group on Human Trafficking, which coordinates the implementation of multiannual national action plans to combat trafficking in human beings;
- the extension of the scope of the national action plan for 2011-2014 to cover action against child trafficking and trafficking for the purpose of labour exploitation, and the increased budget allocation for the implementation of this action plan;
- the setting up of the Danish Centre against Human Trafficking with a view to ensuring co-operation among relevant governmental and non-governmental actors, improving the provision of assistance to victims, and centralising the collection of information in the field of trafficking in human beings;

- the establishment of a national and six regional referral groups which co-ordinate actions between relevant actors, exchange information and contribute to the implementation of the national action plans;
- the efforts to raise awareness on trafficking in human beings for sexual exploitation and to promote prevention of trafficking in countries of origin.

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

- developing preventive measures to address trafficking for the purpose of labour exploitation, as well as stepping up proactive detection through co-operation between the police, labour inspectorates, employers' organisations and trade unions;
 - improving the procedure for identification of victims of trafficking to ensure that the human rights-based approach underpinning the Convention is fully reflected;
 - providing victims of trafficking with an adequate recovery and reflection period;
 - ensuring that all victims of trafficking are provided with adequate support and assistance, including access to education, vocational training and the labour market, during their stay in Denmark and in preparation for their reintegration and rehabilitation upon return to their countries of origin;
 - reviewing the current institutional and procedural framework for the return and repatriation of victims of trafficking, having regard to their safety, protection and dignity and in order to avoid re-victimisation;
 - reviewing the system for granting residence permits to victims of trafficking, with a view to ensuring that the victim-centred approach underpinning the Convention is applied and in order to prevent re-trafficking;
 - providing for the possibility of not imposing penalties on victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so.
1. Recommends that the Government of Denmark implement the proposals of GRETA listed in Appendix I of its Report concerning the implementation of the Convention by Denmark (see addendum).
 2. Requests the Government of Denmark to inform the Committee of the Parties of the measures taken to comply with this recommendation by 30 January 2014.
 3. Invites the Government of Denmark 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 Denmark

Core concepts and definitions

1. GRETA considers that the Danish authorities should ensure that the principle according to which the consent of the victim is irrelevant when one of the means listed in the Convention has been used applies in all dimensions of the identification, protection and assistance of victims of trafficking as well as in the context of criminal proceedings.

Comprehensive approach and co-ordination

2. GRETA considers that the Danish authorities should step up their efforts to detect potential child victims and victims of trafficking for the purpose of labour exploitation.

3. GRETA invites the Danish authorities to:

- involve representatives of NGOs in the meetings of the Inter-Ministerial Working Group on Human Trafficking and associate NGOs in policy development;
- further improve the co-operation and co-ordination between governmental departments, the CMM, the Police, NGOs and other members of civil society active in the field of action against THB and the protection of victims.

Training of relevant professionals

4. GRETA considers that the Danish authorities should ensure that all relevant professionals are trained periodically, throughout their careers, in the identification of victims of trafficking, including with a view to improving the identification of victims of trafficking for labour exploitation. Such training should be designed taking full account of gender and child-specific aspects and be provided to law enforcement officers, border guards, immigration officials, staff working in refugee reception centres and detention centres for irregular migrants, staff working in establishments for juveniles and minors run by the social services, diplomatic and consular staff, social welfare officers and labour inspectors.

5. Further, GRETA invites the Danish authorities to step up the training provided to legal and judicial staff on the issue of THB and the applicable legislation and case-law, including the need to apply a human rights-based approach to action against THB on the basis of the Council of Europe Anti-Trafficking Convention and the case-law of the European Court on Human Rights.

Data collection and research

6. GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Danish authorities should develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical information from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination, etc.). This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection.

7. In addition, GRETA invites the Danish authorities to continue conducting and supporting research on THB-related issues, in particular in areas which have received little attention in the past, such as trafficking in children, and trafficking for the purpose of labour exploitation. Such research is an important source of information for future policy measures in the field of action against THB.

International co-operation

8. GRETA considers that the Danish authorities should explore further possibilities for international co-operation with governmental and non-governmental actors in the fields of protecting and assisting victims of trafficking, including in preparation of their return and reintegration in their countries of origin.

9. Further, GRETA invites the Danish authorities to continue developing the aspect of international co-operation with a view to preventing and combating THB.

Prevention of trafficking in human beings

10. GRETA considers that the Danish authorities should adopt measures to raise awareness of THB for the purpose of labour exploitation and discourage demand for the services of trafficked persons, in particular in the agriculture, construction and cleaning sectors.

11. In addition, GRETA considers that the Danish authorities should take steps to provide information to foreign nationals planning to travel to Denmark to alert them about the risks of THB for sexual and labour exploitation, as well as inform them of their rights.

12. Further, GRETA invites the Danish authorities to:

- explore the possibility of participating in awareness-raising activities in countries of origin of victims of trafficking, such as Nigeria, Thailand and Romania, where the majority of the women trafficked for sexual exploitation in Denmark originate from;
- plan future information and awareness-raising campaigns to prevent THB with the involvement of civil society, on the basis of previous research and impact assessment.

13. Further, GRETA encourages the Danish authorities to disseminate widely the '*Handbook for diplomatic and consular personnel on how to assist and protect victims of human trafficking*' in order to identify and address potential THB-related risks during the visa application system.

Identification of victims of trafficking in human beings

14. GRETA urges the Danish authorities to review the identification procedure of victims of trafficking with a view to ensuring that potential victims are treated in the first place as persons who have been exposed to human rights violations rather than as offenders.

15. To this end, GRETA considers that the Danish authorities should:

- take into account the special needs and circumstances to be addressed in the identification of child victims of trafficking, including the setting up of a special referral mechanism for unaccompanied children;
- envisage a longer time-frame for the identification of victims of trafficking taking into account the traumatic experience they may have suffered and the need for sufficient time to gather all the necessary information and decide on the status of victims of trafficking;
- ensure that the restrictive interpretation of "trafficked to Denmark" is no longer applied;

- review the practice of holding potential victims of trafficking in custodial settings while their identification is pending and provide appropriate alternatives for both men and women victims of trafficking;
- adopt a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation, for example by organising regular visits of labour inspectors to working sites in the sectors most at risk, such as agriculture, construction, cleaning, restaurants and hotels;
- give the CMM an enhanced role in the identification of victims who are illegally present in Denmark, in particular with a view to ensuring that potential victims of trafficking are not charged by courts without being identified.

16. Further, GRETA invites the Danish authorities to ensure that the guidelines, indicators and other tools used for the identification of victims of trafficking by law enforcement agencies, Government departments and service providers cover all types of THB, and are harmonised and that there is a regular exchange of information between the relevant actors who perform the identification of victims.

Assistance to victims

17. GRETA urges the Danish authorities to ensure that all victims of trafficking are provided with adequate support and assistance, including access to education, vocational training and the labour market, during their stay in Denmark and in preparation for their reintegration and rehabilitation upon return to the country of origin.

18. Further, GRETA considers that the Danish authorities should:

- improve the provision of information to victims of trafficking on their legal rights and obligations, the services and assistance measures available and how to access them, such as legal assistance, access to legal aid and right to compensation. In this context, written information materials on the rights of potential and identified victims should be drawn up in an appropriate range of languages;
- assess the needs of adult and child victims of trafficking and review accordingly the protection and assistance measures and services offered to them, including the provision of safe and suitable accommodation.

Recovery and reflection period

19. GRETA urges the Danish authorities to review the legislation in order to ensure that victims of trafficking are provided with an adequate recovery and reflection period, in line with Article 13 of the Convention, rather than a time-limit to prepare their departure from the country as illegal aliens.

Residence permits

20. GRETA urges the Danish authorities to review the system for granting residence permits to victims of trafficking with a view to ensuring that the victim-centred approach which underpins the Convention is fully applied and in order to prevent re-trafficking.

Compensation and legal redress

21. GRETA invites the Danish authorities to:

- continue their efforts to provide information and legal assistance to victims of trafficking in order to enable them to exercise their right to compensation from the traffickers and/or the State, and ensure that victims have effective access to free legal aid in this respect;
- consider granting residence permits to victims of trafficking for the duration of the legal proceedings, with a view to enabling them to benefit from compensation and redress;
- improve the registration of compensation claims by victims of trafficking regarding both compensation from the State and the offender.

Repatriation and return of victims

22. GRETA considers that the Danish authorities should review the current institutional and procedural framework for the return and repatriation of victims of trafficking, having regard to their safety, protection and dignity and in order to avoid their re-victimisation. In the case of children, a specific risk-assessment and process to determine the best interest of the child should be carried out.

23. Further, GRETA invites the Danish authorities to continue their co-operation efforts with the national authorities and relevant NGOs in the countries of return of victims of trafficking in order to improve their reintegration and rehabilitation.

Substantive criminal law

24. GRETA urges the Danish authorities to review the legislation in order to fully reflect the substantive provisions of the Convention regarding the criminalisation of acts relating to travel or identity documents (Article 20) and aggravating circumstances (Article 24).

25. GRETA also invites the Danish authorities to consider the criminalisation of the known use of services of trafficked persons for all types of exploitation.

Non-punishment of victims of trafficking in human beings

26. GRETA urges the Danish authorities to adopt a victim-centred approach and to take steps to achieve an effective implementation of Article 26 of the Convention, by:

- providing for the possibility of not imposing penalties on victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so;
- ensuring that while the identification procedure is ongoing, potential victims of trafficking are not punished for their illegal entry or residency in Denmark.

Investigation, prosecution and procedural law

27. GRETA considers that the Danish authorities should:

- continue proactive investigations to detect cases of THB for sexual exploitation;
- step up the proactive investigation of potential cases of THB for the purpose of labour exploitation, e.g. in sectors such as agriculture, construction, cleaning work, restaurants and amongst *au pairs*, including through co-operation between the police and other relevant actors;
- ensure that victims of trafficking are adequately informed, protected and assisted during court proceedings, including measures to protect their private life and safety;
- facilitate the legal stay in Denmark of victims of trafficking so that they can testify and exercise their rights to compensation and redress.