



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

Recommendation CP(2015)1 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Finland

*adopted at the 16th meeting of the Committee of the Parties
on 15 June 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 Finland on 30 May 2012;

Having examined the Report concerning the implementation of the Convention by Finland, adopted by GRETA at its 22nd meeting (16 - 20 March 2015) in the framework of the first evaluation round;

Having examined the comments of the Finnish Government on GRETA's report, submitted on 11 May 2015;

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

- the adoption and periodic amendment of legislation criminalising trafficking in human beings and regulating the identification of and assistance to victims of trafficking;
- the introduction of an independent National Rapporteur on Trafficking in Human Beings in 2009 and the recent appointment of a National Anti-Trafficking Co-ordinator;
- the setting up of a national assistance system for victims of human trafficking;
- the provision in Finnish law of a recovery and reflection period longer than the minimum of 30 days envisaged in the Convention;
- the efforts made to identify cases of trafficking for the purpose of labour exploitation and to secure convictions in such cases.

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

- adopting a new or updated national action plan and/or a strategy against human trafficking and a mechanism for monitoring its implementation;
- further improving the identification of victims of trafficking, in particular by introducing a clear national identification and referral mechanism and promoting multi-agency involvement in identification;
- ensuring that the assistance provided to victims of trafficking is adapted to their specific needs and paying particular attention to child victims of trafficking, including unaccompanied minors;
- making sure that all possible victims of trafficking are offered a reflection and recovery period with access to the protection and assistances measures foreseen by the Convention;
- adopting additional measures to facilitate and guarantee access to compensation for victims of trafficking;
- strengthening the effectiveness of investigations and prosecutions of human trafficking offences for all forms of exploitation with a view to securing proportionate and dissuasive sanctions, by building the capacity and specialisation of police officers, prosecutors and judges.

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

2. Requests the Government of Finland to inform the Committee of the Parties of the measures taken to comply with this recommendation by 15 June 2017;

3. Invites the Government of Finland 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 Finland

Definition of "trafficking in human beings"

1. GRETA considers that stating explicitly in legislation the irrelevance of the consent of a victim of trafficking to the intended exploitation can improve the implementation of the anti-trafficking provisions.
2. GRETA welcomes the adoption of amendments to the Criminal Code aimed at making the distinction between THB and pimping clearer and stresses that it would similarly be useful to make clearer the distinction between THB for the purpose of labour exploitation and extortionate work discrimination.

Comprehensive approach and co-ordination

3. GRETA urges the Finnish authorities to adopt as a matter of priority a new or updated action plan and/or strategy against THB, in which priorities, objectives, concrete activities and stakeholders responsible for their implementation are clearly defined and budgetary resources allocated. The action plan/strategy should be accompanied by a mechanism for monitoring its implementation.
4. GRETA also considers that the Finnish authorities should take additional steps to ensure that national action to combat THB is comprehensive, and in particular to:
 - further involve NGOs and other members of civil society in the development and implementation of anti-trafficking measures, including the elaboration of a future national action plan or strategy as well as the evaluation of anti-trafficking efforts; the conclusion of formal Memoranda of Understanding between public bodies and competent NGOs should be encouraged;
 - strengthen co-ordination between the national and municipal authorities and NGOs active in the field of action against THB, as well as co-ordination between relevant stakeholders at municipal level;
 - formalise co-ordination among different actors in the anti-trafficking area in the identification and referral of victims for assistance;
 - pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking and ensuring that the best interests of the child are fully taken into account;
 - strengthen action to combat THB for the purpose of sexual exploitation including identification;
 - pay increased attention to emerging forms of trafficking in Finland (such as forced begging and forced criminality) and internal trafficking.
5. Further, GRETA invites the Finnish authorities to provide for an independent evaluation of the implementation of the National Action Plan as a tool for assessing the impact of the activities and for planning future policies and measures to combat human trafficking.

Training of relevant professionals

6. GRETA notes the efforts made in Finland to train different professionals on issues related to human trafficking and considers that the Finnish authorities should take further steps to provide specialised and continuous training to professionals who may come into contact with victims of THB, in particular police officers, prosecutors, judges, labour inspectors, municipal officials, health professionals, social workers and teachers, to enable them to identify victims of trafficking, assist and protect victims including as regards the facilitation of compensation, and secure convictions of traffickers.

Data collection and research

7. For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA urges the Finnish authorities to develop and maintain a comprehensive and coherent data collection 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). The existence of a comprehensive data collection system can assist the preparation, monitoring and evaluating of anti-trafficking policies and would also facilitate the work of the National Rapporteur. Data collection 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.

8. GRETA welcomes the attention given to research into issues related to THB and invites the Finnish authorities to continue conducting and supporting research on THB-related issues as an important source of information on the impact of current policies as well as a basis for future measures. Areas where further research is needed, in order to shed more light on the extent of the problem of THB in Finland, include internal trafficking and emerging forms of trafficking, such as for the purpose of forced begging and forced criminality.

International co-operation

9. GRETA welcomes the efforts made by the Finnish authorities in the area of international co-operation to combat THB and invites the authorities to continue developing international co-operation with a view to preventing THB, assisting victims of trafficking and prosecuting offenders, including through exploring further possibilities for co-operation with governmental and non-governmental actors in countries of origin.

Measures to raise awareness

10. GRETA considers that there is need for more awareness-raising measures in Finland about the risks of THB and the rights of victims, especially among migrants. GRETA considers that future actions 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. The success of the efforts is linked to efficient data collection, adequate funding and regular evaluation.

Measures to discourage demand

11. GRETA considers that the Finnish authorities should make more efforts to discourage demand for the services of trafficked persons for the purpose of labour exploitation, in partnership with the private sector and civil society. In this context, GRETA invites the Finnish authorities to consider establishing as a criminal offence the use of services which are the object of labour exploitation, with the knowledge that the person is a victim of trafficking in human beings.

Economic, social and other initiatives for groups vulnerable to THB

12. GRETA notes the measures taken by the Finnish authorities vis-à-vis groups vulnerable to THB and considers that the authorities should continue to develop the aspect of prevention through social and economic empowerment measures, including by integration of the prevention of human trafficking in the policies for unaccompanied children, asylum seekers and migrant workers.

Border measures to prevent THB and measures to enable legal migration

13. GRETA considers that the Finnish authorities should continue their efforts to:

- detect and prevent THB through border control measures;
- introduce a checklist to identify potential THB-related risks during the visa application system.

Identification of victims of trafficking in human beings

14. GRETA urges the Finnish authorities to improve identification procedures in order to ensure that all victims of trafficking are properly identified and can benefit from the assistance and protection measures provided for by the Convention, in particular by:

- introducing a clear national identification and referral mechanism which defines the roles and responsibilities of different stakeholders and promotes a multi-agency approach to victim identification by involving NGOs, labour inspectors, social workers, health-care staff, municipal staff and other relevant actors;
- providing frontline staff with operational indicators, guidance, training and toolkits to be used in the identification process; these indicators should be harmonised and shared between the various stakeholders concerned and be regularly updated in order to reflect the changing nature of human trafficking;
- guaranteeing that in practice identification is dissociated from the victim's co-operation in the investigation;
- improving the proactive detection of victims of THB, the gathering of intelligence and the sharing of information between relevant actors, in particular as regards sexual exploitation and new forms of trafficking, such as forced begging;
- setting up a specific identification mechanism which takes into account the special circumstances and needs of child victims of trafficking, involves child specialists, ensures that the best interests of the child are the primary considerations and strengthens the detection of victims of THB among unaccompanied minors.

Assistance to victims

15. GRETA urges the Finnish authorities to ensure that the assistance provided to victims of THB is adapted to their specific needs and that minimum standards are guaranteed across the country, regardless of the service provider. When specialised assistance is delegated to NGOs, the State has an obligation to provide adequate funding. Particular attention should be paid to providing appropriate assistance to child victims of THB, including unaccompanied minors.

16. Further, GRETA considers that the Finnish authorities should provide regular specialised training to all professionals responsible for the provision of assistance and protection measures to victims of trafficking.

Recovery and reflection period

17. GRETA urges the Finnish authorities to ensure, in compliance with the obligations under Article 13 of the Convention, that all possible victims of trafficking are offered a reflection and recovery period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period. Police and border guard officers 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.

Residence permits

18. GRETA considers that the Finnish authorities should ensure that victims of trafficking can fully benefit from the right to obtain a renewable residence permit, including when they are unable to co-operate with the authorities.

Compensation and legal redress

19. GRETA urges the Finnish authorities to adopt additional measures to facilitate and guarantee access to compensation for victims of trafficking, and in particular to:

- ensure that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;
- enable victims of trafficking to exercise their right to compensation, by building the capacity of legal practitioners to support victims to claim compensation and by adding compensation issues into existing training programmes for law enforcement officials and the judiciary;
- include all victims of trafficking in the scope of the Act on Compensation for Crime Damage, irrespective of residence status;
- enable victims of trafficking who have left Finland to benefit from the possibilities to claim compensation;

20. Further, GRETA invites the Finnish authorities to develop the system for recording compensation claims of and awards to victims of trafficking.

Repatriation and return of victims

21. GRETA considers that the Finnish authorities 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 implies protection from retaliation and re-trafficking;
- make efforts to develop co-operation with countries of origin of victims of trafficking in order to ensure proper risk assessment and safe return of victims, as well as their effective reintegration.

Non-punishment of victims of trafficking in human beings

22. GRETA considers that, in order to ensure compliance with Article 26 of the Convention, the Finnish authorities should adopt a provision on the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so. Public prosecutors should be issued guidance and encouraged to be proactive in establishing if an accused is a potential victim of trafficking. While the identification procedure is on-going, potential victims of trafficking should not be punished for unlawful acts related to public order or immigration legislation.

Investigation, prosecution and procedural law

23. GRETA urges the Finnish authorities to ensure that THB offences for all types of exploitation are proactively investigated and prosecuted promptly, leading to proportionate and dissuasive sanctions, by building further the capacity and specialisation of police officers, prosecutors and judges.

Protection of victims and witnesses

24. GRETA welcomes the adoption by Parliament of legislation on a witness protection programme and considers that the Finnish authorities should take complementary practical measures to ensure the effective protection of victims of THB during the investigation and to prevent their intimidation during and after court proceedings.