



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

**Recommendation CP(2013)9
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Ireland**

*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 Ireland on 13 July 2010;

Having examined the Report concerning the implementation of the Convention by Ireland, 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 Irish Government on GRETA's report, submitted on 10 September 2013¹;

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

- the setting up of the High Level Interdepartmental Group on Combating Trafficking in Human Beings, the Anti-Human Trafficking Unit within the Department of Justice and other specialised units within Government departments and agencies;
- the adoption of a comprehensive national anti-trafficking action plan and the allocation of human and financial resources to ensure its implementation;
- the considerable efforts made in the areas of awareness raising and training as a form of prevention of human trafficking;
- the availability of free legal advice and a range of information materials for victims of trafficking;

¹ The deadline for submitting comments is 10 September 2013.

- the provision of a recovery and reflection period longer than the minimum of 30 days envisaged in the Convention and more flexible arrangements for child victims;
- the strengthening of the child care system which has limited to an important extent the disappearance of unaccompanied minors.

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

- strengthening action to combat trafficking for the purpose of labour exploitation and paying increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking;
- taking further measures to ensure that all victims of trafficking are properly identified, in particular by promoting multi-agency involvement in victim identification;
- reviewing the policy of accommodating victims of trafficking in centres for asylum seekers and considering the setting up of specialised shelters for victims of trafficking;
- ensuring that all possible victims of trafficking are offered a recovery and reflection period and all the measures of protection and assistance envisaged in the Convention during this period;
- ensuring that victims of trafficking can fully benefit from the right to obtain a renewable residence permit, particularly when they are unable to co-operate with the authorities;
- adopting further measures to ensure that avenues for compensation are effectively accessible to trafficked persons;
- taking additional measures to ensure that human trafficking offences are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions.

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

2. Requests the Government of Ireland 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 Ireland 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 Ireland

Comprehensive approach and co-ordination

1. GRETA considers that the Irish authorities should take further 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 policy, including evaluation of anti-trafficking efforts;
- strengthen action to combat THB for the purpose of labour exploitation, in particular in the sectors of domestic service, construction, entertainment, hotels and restaurants, care homes and agriculture;
- 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.

2. Further, GRETA invites the Irish authorities to introduce 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, and to consider the establishment of an independent National Rapporteur or other mechanism for monitoring the anti-trafficking activities of State institutions (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).

Training of relevant professionals

3. GRETA invites the Irish authorities to continue improving the knowledge and sensitivity of relevant professionals about human trafficking and the rights of victims. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to proactively 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 invites the Irish authorities to continue to ensure that statistical data are collected from all the main players and recalls that the data collection should be accompanied by all the necessary measures to ensure respect for the rights of data subjects to personal data protection, including when NGOs working with victims of human trafficking are asked to provide information to feed into the national database.

5. GRETA invites the Irish authorities to continue conducting and supporting research on THB issues, including when such studies are carried out by civil society, as an important source of information for future policy measures. Areas where research is needed in order to shed more light on the extent of human trafficking in Ireland include trafficking within the country, trafficking for the purpose of labour exploitation and trafficking in children.

International co-operation

6. GRETA commends the efforts made by the Irish authorities in the area of international co-operation and invites them to continue developing the aspect of international co-operation with a view to preventing human trafficking, assisting victims of trafficking, and investigating and prosecuting human trafficking offences, including through exploring further possibilities for co-operation with governmental and non-governmental actors in the main countries of origin of trafficking victims.

Measures to raise awareness

7. 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. Particular attention should be paid to raising awareness of human trafficking for the purpose of labour exploitation and child trafficking. Awareness-raising campaigns should target among others foreign nationals coming to work in Ireland, employers and employers' associations, trade unions, as well as labour and tax inspectors and medical professionals.

Measures to discourage demand

8. GRETA considers that the Irish 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 Irish 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 empowerment measures for groups vulnerable to THB

9. GRETA considers that the Irish authorities should integrate the prevention of human trafficking in the policies for children of immigrant origin, asylum seekers and persons with protection status.

Border measures to prevent THB and measures to enable legal migration

10. GRETA invites the Irish authorities to keep under scrutiny the employment permit system to ensure that it does not facilitate the trafficking of migrant workers.

Identification of victims of trafficking in human beings

11. GRETA urges the Irish authorities to ensure that all victims of trafficking are properly identified and can benefit from the assistance and protection measures contained in the Convention, in particular by:

- promoting multi-agency involvement in victim identification by formalising the role and input of specialised NGOs and involving other relevant actors, such as labour inspectors, social workers and medical staff;
- amending the relevant regulations to allow asylum seekers, EEA nationals and Irish nationals to be formally identified as victims of trafficking;
- guaranteeing that in practice identification is dissociated from the suspected victim's co-operation in the investigation.

12. As regards children, GRETA considers that the Irish authorities should set up a specific identification mechanism which takes into account the special circumstances and needs of child victims of trafficking, involves child specialists and ensures that the best interests of the child are the primary consideration.

13. GRETA welcomes the attention paid to inspections of private homes and encourages the Irish authorities to continue using such inspections as a tool for preventing and detecting human trafficking cases, alongside inspections by NERA in other sectors at risk (e.g. service sector, construction, entertainment, care homes, agriculture).

14. GRETA invites the Irish authorities to further develop multi-agency training on the identification of victims and to ensure that there is a regular exchange of information.

15. Further, GRETA invites the Irish authorities to consider whether human trafficking identification might not be better placed under structures that do not deal with immigration control.

Assistance to victims

16. GRETA urges the Irish authorities to review the policy of accommodating suspected victims of trafficking in accommodation centres for asylum seekers and to consider setting up specialised shelters for victims of THB, with the involvement of NGOs as support providers. In the meantime, the authorities should ensure that the services available are adapted to the specific needs of trafficking victims and that minimum standards are guaranteed across the country when victims of trafficking are accommodated in structures not specifically designed for them. Particular care should be taken to ensure the victim care plans, which set out specific medical, psychological and social needs and risk assessment, are implemented in order to minimise further trauma and re-trafficking.

17. GRETA also urges the Irish authorities to enact statutory rights to assistance and protection for possible victims of trafficking, as specified in Articles 10 and 12 of the Convention, regardless of the victim's nationality or immigration status.

18. Further, GRETA invites the authorities to continue providing regular specialised training to all professionals responsible for the provision of assistance and protection measures to victims of trafficking.

Recovery and reflection period

19. GRETA urges the Irish authorities to ensure, in compliance with the obligations under Article 13 of the Convention, that all possible victims of trafficking, including EEA nationals, are offered a 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.

Residence permits

20. GRETA urges the Irish authorities to ensure that victims of trafficking can fully benefit from the right to obtain a renewable residence permit, particularly when they are unable to co-operate with the authorities.

Compensation and legal redress

21. GRETA urges the Irish authorities to take measures to ensure that avenues for compensation are easily accessible to trafficked persons, and in particular to:

- encourage prosecutors to request compensation orders in all relevant cases;
- make the State compensation scheme effectively accessible to victims of trafficking, which would require a review of the current conditions for eligibility.

Repatriation and return of victims

22. GRETA considers that the Irish authorities should take 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.

23. Further, GRETA invites the Irish authorities to review the appropriateness of the existing voluntary return arrangements for victims of trafficking as a specific category.

Non-punishment of victims of trafficking in human beings

24. GRETA considers that the Irish authorities should take further steps to ensure compliance with Article 26 of the Convention through the adoption of a provision on non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, or by further developing the guidelines for public prosecutors. Public prosecutors should be encouraged to be proactive in establishing if an accused is a potential victim of trafficking and to consider trafficking in human beings as a serious violation of human rights. While the identification procedure is ongoing, potential victims of trafficking should not be punished for immigration-related offences.

Investigation, prosecution and procedural law

25. GRETA urges the Irish authorities to take additional measures to ensure that THB offences are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions, in particular by:

- continuing efforts to train Garda officials to detect cases of THB and carry out proactive investigations, including through co-operation with other relevant actors in the country and abroad;
- encouraging the Office of the Director of Public Prosecutions to further develop their specialism in THB with a view to successfully prosecuting more traffickers;
- continuing to improve the skills of investigators, prosecutors and judges about the seriousness of THB, the severe impact of exploitation on the victims and the need to respect their human rights.

Protection of victims and witnesses

26. GRETA invites the Irish authorities to make full use of all measures available to protect victims/witnesses of THB and to prevent intimidation during the investigation and during and after the court proceedings.