

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



**Recommendation CP(2012)7
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Romania**

*adopted at the 8th meeting of the Committee of the Parties
on 11 June 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 Romania on 21 August 2006;

Having examined the Report concerning the implementation of the Convention by Romania, adopted by GRETA at its 13th meeting (19-23 March 2012) in the framework of the first evaluation round;

Having examined the comments of the Romanian Government on GRETA's report, submitted on 4 May 2012 ;

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

- the adoption of a specific law to combat trafficking in human beings, the establishment as criminal offence to knowingly use the services of a victim of trafficking, and the introduction of a legal provision concerning the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they have been compelled to do so;
- the setting up of the National Agency against Trafficking in Persons, with 15 regional centres, which co-ordinates the actions of relevant actors;
- the introduction of a National Identification and Referral Mechanism for Victims of Trafficking;
- the setting up of a data collection mechanism on trafficking in human beings;

- the substantial efforts to develop the aspect of prevention through awareness raising campaigns and education programmes;
- the progress made in investigating and prosecuting cases of trafficking in human beings, including through international co-operation, as well as in securing convictions;

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

- taking additional measures to tackle the root causes of trafficking in human beings, especially through fostering access to education and jobs for vulnerable groups;
- further improving the identification of victims of trafficking, including through the provision of training to all relevant professionals and the appointment of specially trained border police officers;
- ensuring that all assistance measures provided for in law are guaranteed in practice, in particular by securing adequate financing to guarantee the quality of services provided by the State and non-governmental organisations, and facilitating the reintegration of victims into society;
- facilitating access to compensation for victims of trafficking, including by providing them systematically with information on the right to compensation and facilitating their effective access to legal aid;
- taking additional steps to improve the institutional and procedural framework for the repatriation and return of victims of trafficking, with due regard for the victim's rights, safety and dignity, and in the case of children, by fully respecting the principle of the best interest of the child;
- stepping up proactive investigations of potential cases of trafficking, in particular concerning trafficking for the purpose of labour exploitation;
- reinforcing measures for protecting victims of trafficking, regardless of whether or not they have agreed to participate in criminal proceedings.

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

2. Requests the Government of Romania to inform the Committee of the Parties of the measures taken to comply with this recommendation by 11 June 2014;

3. Invites the Government of Romania 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 Romania

Core concepts and definitions

1. GRETA considers that the Romanian authorities should adapt the relevant secondary legislation, including the provisions of the National Identification and Referral Mechanism, in order to ensure that the legal definition of victim of THB, and its application in practice, are fully in line with the definition set out in the Anti-Trafficking Convention. The authorities should also notify all the parties concerned of the content of the definition in the Anti-Trafficking Law.

Comprehensive approach and co-ordination

2. GRETA considers that the Romanian authorities should adopt as a matter of priority the new anti-trafficking strategy.

3. GRETA also considers that the Romanian authorities should:

- reinforce co-ordination and co-operation between governmental bodies, as well as between the central government and local authorities, with a view to ensuring that all aspects of trafficking and all parts of Romania are integrated in the efforts undertaken to combat THB;
- systematically invite NGO representatives to participate in the meetings of the Inter-Ministerial Working Groups on Combating THB and involve them in the development of anti-trafficking policies.

4. GRETA urges the Romanian authorities to ensure that the NATP is allocated sufficient human and financial resources, enabling it to accomplish its different tasks in the most efficient way.

5. GRETA also encourages the Romanian authorities to take measures to allocate and secure appropriate funds in the central budget and the budgets of the local authorities dedicated to action against THB, in consultation with all relevant actors, and reflecting the actual needs.

6. Moreover, GRETA invites the Romanian authorities to introduce, in addition to the governmental reports on the implementation of the national anti-trafficking strategies, a periodic independent evaluation as a tool for assessing the impact of these activities and for planning future policies and measures to combat THB.

Training of relevant professionals

7. GRETA invites the Romanian authorities to design future training programmes with a view to improving the knowledge and skills of relevant professionals, which enable them to identify victims of trafficking and to assist and protect them, by placing a particular emphasis on multidisciplinary training sessions for law enforcement officials and judges. Training should also be provided to staff working in shelters for adult and child victims, as well as staff working with children in difficult situations or under institutional care.

8. GRETA also considers that during the training particular attention should be paid to overcoming entrenched negative attitudes and prejudices vis-à-vis victims of trafficking, including those of Roma origin.

9. As regards training for law enforcement officials, GRETA considers that the Romanian authorities should aim at developing skills for proactive investigative work, particularly in the field of THB for the purpose of labour exploitation.

Data collection and research

10. GRETA considers that the Romanian authorities should pursue their efforts in improving the collection of statistical data on compensation granted to victims of THB. Further, the Ministry of Justice should analyse the data collected on investigations, prosecutions and convictions. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection.

11. Further, GRETA considers that the Romanian authorities should continue to support research on THB-related issues as an important source of information for future policy measures. Areas where research is needed include national trafficking, trafficking in men and trafficking of foreigners for the purpose of labour exploitation.

International co-operation

12. GRETA considers that the Romanian authorities should step up their efforts to reinforce co-operation with trafficking destination countries in the areas of prevention, protection of victims and prosecution of perpetrators of trafficking, on the basis of existing mechanisms and by introducing further procedures wherever this proves necessary.

Measures to raise awareness

13. GRETA considers that future action in the area of awareness raising should be designed in the light of the assessment of previous measures and focused on the needs identified. In this context, measures should be taken to combat stereotypes and prejudice towards victims of THB, in particular women and Roma. The Romanian authorities should also continue to raise public awareness on the question of equality between women and men and the principle of non-discrimination as a preventive measure against THB.

14. GRETA invites the Romanian authorities to continue their efforts to discourage demand for services from trafficked persons by targeting, in particular, the most common forms of THB in the country.

Social, economic and other initiatives for groups vulnerable to THB

15. GRETA considers that efforts to prevent trafficking should be stepped up as part of a long-term approach aimed at tackling the root causes of trafficking, especially through fostering access to education and jobs for vulnerable groups, particularly women and Roma.

16. GRETA also considers that the Romanian authorities should pursue their efforts to strengthen the prevention of trafficking in children, particularly through the recording of all children in the civil status register and by finding solutions for children left behind by their parents who have gone abroad to work, as well as street children.

Border measures to prevent THB

17. GRETA considers that the Romanian authorities should make further efforts to detect cases of THB in the context of border control measures as well as to reinforce the security of identity, visa and travel documents to prevent and detect trafficking.

18. GRETA considers that the Romanian authorities should continue to raise public awareness of the dangers of transnational trafficking.

Identification of victims of trafficking in human beings

19. GRETA considers that the Romanian authorities should provide the Border Police with all necessary human and financial resources to ensure that it can duly play its role in the identification and referral of victims of THB. In particular, they should envisage the appointment of specially trained border police officers whose task would be to deal with THB cases and, among others, to identify victims and refer them to the adequate institutions.

20. GRETA considers that the Romanian authorities should pay more attention to the identification of foreign nationals who could be subject to THB and provide training of relevant staff in this respect.

21. GRETA also considers that the Romanian authorities should take steps to spread knowledge of the NIRM and ensure that all relevant professionals are trained to apply it, including those who are likely to carry out an informal identification of victims. In addition, police officers who are not specialised in combating THB should be trained in the identification of victims of THB, in particular officers working in the local and rural police.

Assistance measures

22. GRETA urges the Romanian authorities to step up their efforts to provide assistance to victims of trafficking, and in particular to:

- review the system of shelters for victims of trafficking, with a view to assessing, in co-operation with relevant members of civil society, victims' needs in relation to the services currently provided, and to take all necessary measures to ensure that these needs are met throughout Romania, and in particular in Bucharest, for all categories of victims of THB;
- ensure the quality of the services delivered in all state-run shelters;
- ensure that all assistance measures provided for in law, including access to health care, are guaranteed in practice; when assistance is delegated to NGOs as service providers, the state has an obligation to provide adequate financing and to ensure the quality of the services delivered;
- ensure that assistance measures provided for in law are not made, in practice, dependent on the victims' willingness to co-operate with law enforcement agencies;
- facilitate the reintegration of victims of trafficking into society and avoid re-trafficking by providing them with access to education and vocational training, as well as access to the labour market.

Recovery and reflection period

23. GRETA invites the Romanian authorities to review the legislation, in order to ensure that a minimum period of at least 30 days is clearly established in the Anti-Trafficking Law regarding the recovery and reflection period, as requested in Article 13 of the Convention.

24. GRETA urges the Romanian authorities to ensure that presumed victims of THB and relevant officials are systematically informed of the possibility of a recovery and reflection period and that such a period should be effectively granted.

Residence permits

25. GRETA considers that the Romanian authorities should take steps to ensure that victims of THB can take full advantage of the right to be granted a temporary residence permit.

26. GRETA also encourages the Romanian authorities to consider granting temporary residence permits to victims who, for various reasons, do not co-operate with the competent authorities or when the conditions for carrying out criminal law proceedings are not met, for reasons which have nothing to do with the situation of the victim.

Compensation and legal redress

27. GRETA urges the Romanian authorities to increase their efforts to provide information to victims of THB about their right to compensation and the ways to access it, and to ensure that victims have effective access to legal aid in this respect.

28. Further, GRETA urges the Romanian authorities to ensure that victims of trafficking can effectively exercise their right to claim compensation from the perpetrators.

Repatriation and return of victims

29. GRETA urges the Romanian authorities to take additional steps to improve the current institutional and procedural framework for the repatriation and return of victims of THB, with due regard to their safety, dignity and protection and, in the case of children, by fully respecting the principle of the best interest of the child and making an appropriate risk assessment prior to their return. Particular attention should be paid to ensuring financial means for the travel of victims of THB.

Substantive criminal law

30. GRETA considers that the Romanian authorities should review the legislation, with a view to establishing as criminal offences all acts related to travel or identity documents provided for in Article 20 of the Convention.

31. GRETA considers that the Romanian authorities should explore the reasons why no legal entities have been punished for trafficking-related acts and, in the light of their findings, take the necessary measures to ensure that the liability of legal entities can be acted upon in practice.

32. Further, GRETA considers that the Romanian authorities should review the criminal law provisions concerning THB, as well as those establishing THB-related offences, by conducting a thorough and comprehensive assessment of their effectiveness. The Romanian authorities should be prepared to review, on the basis of such an assessment, the content and/or the application of the relevant provisions, with a view to addressing any shortcomings and/or inconsistencies identified. In particular, the authorities should ensure that all aggravating circumstances provided for in Article 24 of the Convention are reflected.

33. In addition, GRETA considers that law enforcement officials, prosecutors and judges should be adequately trained on the criminal law provisions applicable to THB-related offence, notably on changes brought to them, such as the criminalisation of the knowing use of service of victims of THB and the criminal responsibility of legal persons.

Non-punishment of victims of trafficking in human beings

34. GRETA considers that the Romanian authorities should assess the implementation of Article 26 of the Convention by the judicial and other relevant authorities. The Romanian authorities should be prepared to review, on the basis of such an assessment, the content and/or the application of the relevant provisions, with a view to addressing any shortcoming identified. GRETA would like to be kept informed of the outcome of this assessment.

Investigation, prosecution and procedural law

35. GRETA encourages the Romanian authorities to prioritise the identification of gaps in the investigation procedure and the presentation of cases in court, with a view to ensuring that THB-related offences are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions.

36. GRETA invites the Romanian authorities to review the system of confiscation of assets, in order to reinforce its effective implementation to THB-related offences.

37. GRETA urges the Romanian authorities to investigate any reports of alleged involvement of public officials in THB-related offences or corruption in connection with THB, and to take additional steps to prevent such acts.

38. GRETA urges the Romanian authorities, including the entities responsible in the field of ensuring respect of the labour legislation, to conduct proactive investigations concerning THB for the purpose of labour exploitation.

39. GRETA invites the Romanian authorities to adopt, as soon as possible, the secondary legislation necessary for the enforcement of the new provision in the Anti-Trafficking Law extending physical protection to members of the NGOs assisting victims of THB.

40. Further, GRETA urges the Romanian authorities to reinforce measures for protecting victims of trafficking, with due regard to the special situation of child victims, regardless of whether or not they have agreed to participate in criminal proceedings. For those who agree to co-operate, the authorities should ensure that full use is made of the special protection measures provided for in the law, in order to afford maximum protection to victims/witnesses. The Romanian authorities should also envisage reviewing the legislation on protection of persons participating in criminal proceedings, in order to ensure that not only witnesses, but also injured parties are adequately protected.