



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

**Recommendation CP(2014)17
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by San Marino**

*adopted at the 15th meeting of the Committee of the Parties
on 5 December 2014*

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 San Marino on 29 November 2010;

Having examined the Report concerning the implementation of the Convention by San Marino, adopted by GRETA at its 20th meeting (30 June - 4 July 2014) in the framework of the first evaluation round;

Having examined the comments of the Government of San Marino on GRETA's report, submitted on 5 September 2014;

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

- the adoption of legislation criminalising trafficking in human beings;
- the adoption of a law providing for a range of assistance measures for victims of domestic or gender-based violence which could be adapted for victims of trafficking ;
- the existence of an extraordinary residence permit for humanitarian reasons of social protection that would apply to victims of THB.

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

- ensuring that training on issues related to trafficking in human beings is provided to relevant professionals;

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- taking a proactive approach to the identification of victims of human trafficking and involving all relevant stakeholders in a multi-agency collaborative process;
 - adopting legislative or other measures to provide assistance and protection to all victims of trafficking in accordance with Article 12 of the Convention;
 - providing in law for a recovery and reflection period for victims of trafficking in human beings and ensuring that the protection and assistance envisaged in the Convention are provided during this period;
 - adopting measures to guarantee compensation for victims of human trafficking, including compensation from the State when compensation cannot be secured from the perpetrator.

1. Recommends that the Government of San Marino implement the proposals of GRETA listed in Appendix I to the Report concerning the implementation of the Convention by San Marino (see addendum);
2. Requests the Government of San Marino to inform the Committee of the Parties of the measures taken to comply with this recommendation by 5 December 2016;
3. Invites the Government of San Marino 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 San Marino

Definition of trafficking in human beings

1. GRETA considers that stating explicitly in law the irrelevance of the consent of a victim to the intended exploitation could improve the implementation of anti-trafficking provisions and provide victims with greater confidence in self-reporting to NGOs and public authorities.

Comprehensive approach and co-ordination

2. GRETA considers that the San Marinense authorities should ensure that all victims of THB can benefit from the assistance measures envisaged in the Convention regardless of the form of exploitation and the gender of the victim.

3. GRETA considers that the San Marinense authorities should establish a framework for co-ordinating the actions of different actors in the event of a trafficking case being identified, for instance as part of the existing technical panel, which includes law enforcement agencies, inspection agencies, social services and civil society.

Training of relevant professionals

4. GRETA urges the San Marinense authorities to ensure that training on THB (in particular on the definition and indicators of THB, distinguishing THB from smuggling of migrants, detection of vulnerable individuals and groups, identification, assistance and compensation of victims) is provided to relevant professionals, such as law enforcement officials, prosecutors, judges, labour inspectors, lawyers, social workers, child care professionals, medical and educational staff. NGOs and trade unions should also be involved in such training.

Data collection and research

5. GRETA encourages the San Marinense authorities to:

- consider how data on victims of trafficking in human beings (disaggregated by sex, age, type of exploitation, country of origin and/or destination) would be collected, having due regard to their right to personal data protection;
- support research into THB-related issues.

International co-operation

6. GRETA encourages the San Marinense authorities to continue their efforts in the area of international co-operation and to develop partnerships with Italy and other countries in the field of training on THB of relevant professionals (such as law enforcement officials, prosecutors, judges, labour inspectors, lawyers, social workers, child care professionals, medical and educational staff and other relevant groups).

Measures to raise awareness and discourage demand and initiatives for persons vulnerable to THB

7. GRETA considers that the San Marinense authorities should raise awareness of THB and the different forms of exploitation involved, both among the general public (including through school and university education) and among professionals likely to come into contact with victims of THB.

8. Further, GRETA considers that the San Marinense authorities should ensure that foreign persons employed as domestic workers and private carers are systematically informed in a language they understand about their rights and the danger of THB. Such persons should be given the possibility to contact, in a language they understand, an office or a person who can assist them in case of problems with their employers. Similar measures should also be introduced for foreign workers employed in San Marino, in particular on the basis of seasonal work permits in the sectors of tourism, domestic work and construction.

Identification of victims of trafficking in human beings

9. GRETA urges the San Marinense authorities to adopt such legislative or other measures as may be necessary to proactively identify victims of THB and refer them to assistance, involving different actors who may come into contact with victims (law enforcement officers, inspectorates, social workers, medical staff, NGOs, trade unions) and providing them with indicators for detecting possible victims.

Assistance to victims

10. GRETA urges the San Marinense authorities to adopt such legislative or other measures as may be necessary to provide assistance to victims of human trafficking (women, men and children, regardless of the form of exploitation) and help them with their physical, psychological and social recovery, in particular suitable safe accommodation, emergency medical treatment, counselling and information on their rights in a language that they can understand, in accordance with Article 12 of the Convention.

Recovery and reflection period

11. GRETA urges the San Marinense authorities to provide in law for a recovery and reflection period for victims of THB, in conformity with Article 13 of the Convention, and to ensure that all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention are provided during this period.

Residence permits

12. GRETA considers that the San Marinense authorities should provide in law for the issue of a renewable residence permit to victims on THB in cases where the competent authority considers that their stay is necessary owing to their personal situation and/or for the purpose of their co-operation in connection with an investigation or criminal proceedings, in accordance with Article 14 of the Convention.

Compensation and legal redress

13. GRETA urges the San Marinense authorities to adopt legislative or other measures necessary to guarantee compensation for victims of human trafficking, including compensation from the State when compensation cannot be secured from the perpetrator.

Repatriation and return of victims

14. GRETA considers that the San Marinense authorities should provide for a specific procedure for the return of victims of THB to their country of origin, which should preferably be voluntary and needs to be carried out with due regard for the victims' rights, safety and dignity. The return of victims should be preceded by an assessment of the risks they might face in the country of return and with due respect for the *non-refoulement* principle, in accordance with Article 40(4) of the Convention.

Substantive criminal law

15. GRETA invites the San Marinese authorities to consider criminalising the use of services which are the object of exploitation resulting from THB, with the knowledge that the person is a victim of THB.

Non-punishment of victims of trafficking in human beings

16. GRETA invites the San Marinese authorities to verify if the existing provisions of the Criminal Code would be sufficient to provide for the possibility of not imposing penalties on victims of trafficking for their involvement in unlawful activities, to the extent that they have been compelled to do so, and to raise the awareness of the law enforcement and judicial authorities concerning this principle.

Protection of victims and witnesses

17. GRETA considers that the San Marinese authorities should ensure that all measures to protect victims of trafficking from potential retaliation or intimidation, in particular during and after investigation, as envisaged in Articles 28 and 30 of the Convention, are effectively available for victims of trafficking of all types of exploitation, including labour exploitation.