



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

**Recommendation CP/Rec(2019)11
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Turkey**

*adopted at the 25th meeting of the Committee of the Parties
on 18 October 2019*

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 Turkey on 2 May 2016;

Having examined the first evaluation report concerning the implementation of the Convention by Turkey, adopted by GRETA at its 35th meeting (8-12 July 2019);

Having examined the comments of the Turkish Government on GRETA's report, submitted on 6 September 2019;

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

- the adoption of legislation criminalising trafficking in human beings and providing for the rights of victims of trafficking;
- the setting up of the Co-ordination Commission on Combating Human Trafficking, the Department of Protection of Victims of Human Trafficking within the Directorate General on Migration Management, as well as specialised units dealing with human trafficking within the law enforcement agencies;
- the adoption of the Regulation on Combating Human Trafficking and the Protection of Victims, which lays down the rules and procedures concerning the identification and support of victims of trafficking;
- the publication of an annual report on trafficking in human beings, since 2017, containing statistical data on victims of trafficking;

- the significant efforts to provide refugees and asylum seekers with accommodation, welfare support, access to health care and the labour market, as well as access to education for children, which contribute to reducing their vulnerability to falling victim to human trafficking and exploitation;

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

- adopting a new national anti-trafficking action plan which addresses all victims of trafficking for all forms of exploitation and involves specialised NGOs and other relevant civil society actors, with the aim of building strategic partnerships for achieving the purposes of the Convention;
- making further efforts to raise awareness of human trafficking and discourage demand for the services of trafficked persons;
- taking steps to improve the identification of victims of human trafficking, including the proactive identification of victims of trafficking for the purpose of labour exploitation, child victims and victims of trafficking among asylum seekers and persons placed in removal centres;
- providing appropriate and safe accommodation with a sufficient number of places for victims of trafficking (women, men and children);
- adopting legislative and practical measures to facilitate access to compensation for victims of trafficking;
- ensuring that the return of victims of trafficking is conducted with due regard for their rights, safety and dignity, including by developing international co-operation to ensure comprehensive risk assessment and safe and effective reintegration of victims;
- strengthening the effectiveness of investigations and prosecutions with a view to securing proportionate and dissuasive convictions for human trafficking offences, including through reinforced international co-operation.

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

2. Requests the Government of Turkey to inform the Committee of the Parties of the measures taken to comply with this recommendation by **18 October 2021**.

3. Invites the Government of Turkey 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 Turkey

Definition of "victim of THB"

1. GRETA urges the Turkish authorities to bring the definition of THB in conformity with Article 4 of the Convention by adding "servitude" and "other forms of sexual exploitation" to the list of forms of exploitation.
2. GRETA considers that the Turkish authorities should ensure that the means of "abuse of a position of vulnerability" and "giving or receiving of payments or benefits to achieve the consent of a person having control over another person" are adequately covered by law and practice.

Comprehensive approach and co-ordination

3. GRETA considers that the Turkish authorities should continue raising awareness among all frontline professionals involved in action against trafficking concerning the scope of the definition of trafficking in human beings and the rights of victims of trafficking, including in the context of irregular migration.
4. GRETA urges the Turkish authorities to take further steps to ensure that national action to combat THB is comprehensive, through the adoption, as a matter of priority, of a new national action plan against THB, in which objectives, concrete activities and stakeholders responsible for their implementation are clearly defined and budgetary resources allocated. The action plan should be accompanied by a mechanism for monitoring its implementation and should aim to:
 - address all victims of trafficking, including Turkish nationals, for all forms of exploitation, including forced begging, forced criminality, forced marriages and the removal of organs, while taking into account the gender-dimension of trafficking and the particular vulnerability of children;
 - prioritise the identification of victims of human trafficking amongst refugees, asylum seekers and internally displaced persons, particularly in the South-Eastern region;
 - strengthen action to combat THB for the purpose of labour exploitation by reviewing the legislative framework, improving the identification of, and assistance to, victims of THB for the purpose of labour exploitation in different sectors of the economy (in particular high-risk sectors such as agriculture, construction, restaurants, entertainment and domestic work), and involving civil society, trade unions, labour inspectorates and the private sector.
5. GRETA urges the Turkish authorities to ensure the involvement of specialised NGOs and other relevant civil society actors in the planning, drafting, implementing and evaluating of national anti-trafficking policies, with the aim of building strategic partnerships for achieving the purposes of the Convention, as envisaged in Article 35 of the Convention, and promoting a human rights-based approach to combating human trafficking (Article 5, paragraph 3, of the Convention). In this context, the authorities should provide on-going and sustainable funding for anti-trafficking activities of NGOs.

6. GRETA considers that the Turkish authorities should consolidate the co-ordination of anti-trafficking activities at the national and provincial levels by ensuring regular exchange of information between all public bodies involved in prevention of THB, identification and assistance to victims, and prosecution of traffickers. In this context, the establishment of the post of National Co-ordinator on action against THB, supported by a dedicated office, could significantly strengthen co-ordination.

7. GRETA considers that the Turkish authorities should examine the possibility of designating as a National Rapporteur a separate organisational entity or another independent mechanism for monitoring the anti-trafficking activities of State institutions, including the implementation of the National Action Plan.

Training of relevant professionals

8. GRETA urges the Turkish authorities to take further steps to provide periodic training on THB and the rights of victims to all relevant professionals (such as police and Gendarmerie officers, prosecutors, judges, social workers and other staff delivering social services, labour inspectors, staff working in centres for asylum seekers, staff working in removal centres, child protection authorities, consular officials, health-care professionals, coast guard services). The training should be mainstreamed into the regular training curricula of relevant professionals, at all levels, including those at senior decision-making levels, and implemented systematically across the country. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking for all forms of exploitation and assist and protect them, to ensure effective access to compensation for victims, to enable effective investigations, and to secure convictions of traffickers.

Data collection and research

9. For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA urges the Turkish authorities to develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical data on measures to protect and promote the rights of victims, as well as on the investigation, prosecution and adjudication of human trafficking cases. Statistics regarding victims should be collected from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. This 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.

10. GRETA considers that the Turkish authorities should conduct and support research on THB as an important source of information for the evaluation and planning of policy measures. Areas where research should be carried out include trafficking for the purpose of labour exploitation, child trafficking and trafficking taking place within Turkey for different purposes of exploitation. Further research on emerging trends, including on the potential for trafficking of children for the purpose of use in hostilities and armed conflict, forced marriage, live streaming of trafficking for the purpose of sexual exploitation of children, should be undertaken, with resources and an enabling framework for independent research supported by the State.

International co-operation

11. GRETA urges the Turkish authorities to strengthen international co-operation in the field of action against THB, including as regards investigating cases of transnational THB, and to explore further possibilities for co-operation with governmental and non-governmental actors in countries of origin and transit, with a view to providing assistance to, and safe referral for, victims of trafficking and preventing THB.

Measures to raise awareness

12. GRETA urges the Turkish authorities to launch nation-wide awareness-raising campaigns regarding THB for different forms of exploitation, taking place both transnationally and within the country. Further, awareness-raising activities about THB and the rights of victims should be carried out in respect of vulnerable groups, such as migrant workers, refugees, persons under temporary protection, asylum seekers and internally displaced persons. Future awareness-raising activities should be designed in the light of impact assessment of previous measures, focusing on the needs identified.

Measures to discourage demand

13. GRETA considers that the Turkish authorities should adopt and strengthen legislative, administrative, educational, social, cultural or other measures to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society, trade unions and the media, including by:

- raising awareness of the important role of the media and advertising in tackling demand which leads to human trafficking;
- promoting awareness among businesses, strengthening corporate social responsibility and preventing trafficking in supply chains;
- implementing educational programmes at schools that stress the importance of gender equality and respect for the dignity and integrity of every human being and the consequences of gender-based discrimination.

14. GRETA considers that the Turkish authorities should examine the possibility of establishing as a criminal offence the use of services which are the object of exploitation as defined in Article 4 of the Convention, with the knowledge that the person is a victim of trafficking in human beings.

Economic, social and other initiatives for groups vulnerable to THB

15. GRETA considers that the Turkish authorities should continue strengthening prevention of THB through targeted social and economic empowerment measures for groups and persons vulnerable to THB, including refugees, asylum seekers, migrants in transit, internally displaced persons, women and children. Further, recalling the Council of Europe Action Plan on Protecting Migrant and Refugee children, GRETA considers that further measures should be taken to prevent trafficking among migrant and refugee children (unaccompanied and separated children, as well as those accompanied by families), including through timely appointment of guardians, provision of specialised accommodation and a protective environment for all children, ensuring the implementation of a child rights approach.

Border measures to prevent THB and measures to enable legal migration

16. GRETA considers that the Turkish authorities should strengthen their efforts to detect and prevent THB through border control measures, in particular in the context of increased migration. This should include:

- strengthening the capacity of all competent law enforcement bodies to detect indicators of THB among persons arriving in Turkey and ensure prompt and effective access to assistance and protection;
- providing Coast Guard officers with indicators to enable the identification and prompt and effective referral to assistance and protection of all possible victims of trafficking;
- providing information to foreign nationals arriving irregularly or seeking asylum, in a language that they can understand, about the risks of THB, their rights and the availability

of legal assistance, counselling and other services. In this context, GRETA refers to the United Nations Office of the High Commissioner for Human Rights (OHCHR) 2014 Recommended Principles and Guidelines on Human Rights at International Borders and the OHCHR Report on the situation of migrants in transit (2016);

- proactive measures at all borders, including maritime borders, to ensure compliance with the State's positive obligations to prevent trafficking in human beings and to effectively protect the human rights of victims of trafficking.

Identification of victims of trafficking in human beings

17. GRETA urges the Turkish authorities to take steps to improve the identification of victims of THB, and in particular to:

- promote a multi-agency approach in the identification of victims of trafficking by involving the expertise of all relevant organisations and entities, such as specialised NGOs, social workers, labour inspectors, child protection specialists and health-care staff;
- ensure an enabling environment for NGOs and sufficient resources to support their involvement in the identification of possible victims of trafficking, including in removal centres and in search and rescue operations at sea;
- ensure effective implementation of the Regulation on Combating Human Trafficking and Protection of Victims by providing training to relevant professionals on identification indicators, techniques and procedures;
- ensure that the authorities have sufficient staff to be able to manage the identification procedure, take measures to proactively identify victims of transnational, as well as internal trafficking (i.e. taking place within Turkey) for different purposes of exploitation, and provide the law enforcement bodies and other competent authorities with the necessary means for doing so;
- pay increased attention to the proactive detection of victims of trafficking among asylum seekers and persons placed in removal centres, allowing sufficient time to gather necessary information and taking into account their traumatic experience. In this context, training on the identification of victims of THB and their rights should be provided to staff working in centres where such persons are placed, in co-operation with civil society and lawyers;
- ensure the availability and quality of interpreters and cultural mediators during the identification process and at all stages of investigation processes;
- ensure that the identification of child victims of THB takes into account the special circumstances and needs of child victims, involves child specialists and ensures that the best interests of the child are the primary consideration in all proceedings relating to child victims of THB and children at risk;
- ensure that relevant actors take a proactive approach and increase their outreach work to identify child victims of THB, by paying particular attention to unaccompanied and separated migrant and refugee children, as well as children working in the agricultural sector and children in street situations;
- ensure identification of possible victims of THB, including child victims, at all border crossings in accordance with the OHCHR's Recommended Principles and Guidelines on Human Rights at International Borders and the OHCHR Report on the situation of migrants in transit;
- provide training and guidance for the identification of child victims of THB for different purposes, including sexual exploitation, forced marriage, exploitation of begging and exploitation of criminal activities.

18. GRETA urges the Turkish authorities to take steps to strengthen the proactive identification of victims of THB for the purpose of labour exploitation, and in particular to:

- expand the capacity of labour inspectors so that they can be actively engaged in the prevention of THB, including in private households, small businesses in the hotel, catering and restaurant sectors and small agricultural units;
- monitor the frequency and effectiveness of labour inspections and ensure that sufficient human and financial resources are made available to labour inspectors to fulfil their mandate, including in remote locations at risk of THB in the agricultural sector;
- separate immigration enforcement functions from labour inspectorate roles and ensure that labour inspectors prioritise the detection of persons working in irregular situations who are vulnerable to THB;
- review the regulatory systems concerning migrants working as home care workers and ensure that inspections can take place in private households with a view to preventing abuse of domestic workers and detecting cases of human trafficking.

Assistance to victims

19. GRETA urges the Turkish authorities to take the necessary legislative and practical measures to ensure adequate assistance to victims of trafficking, and in particular to:

- provide appropriate and safe accommodation with a sufficient number of places for victims of trafficking (women, men and children);
- ensure that conditions provided in shelters for victims of trafficking are adequate and adapted to their special needs. In this context, better balance should be struck between the need to place victims of THB in a safe accommodation and the need to achieve their recovery and rehabilitation; this requires greater awareness among staff working with such victims as regards the need to respect the victims' privacy and to assist in their rehabilitation;
- facilitate the social inclusion of victims of trafficking into society and prevent re-trafficking by providing them with long-term assistance, including vocational training and access to the labour market;
- provide specialised assistance for child victims of trafficking which takes into account their specific circumstances and the best interests of the child, ensuring timely appointment of qualified guardians and a holistic approach to age assessment, in accordance with General Comment No. 6 of the UN Committee on the Rights of the Child and the Council of Europe Action Plan on Protecting the Rights of Migrant and Refugee Children;
- provide regular training to all professionals responsible for implementing assistance measures for victims of trafficking.

20. GRETA considers that for the purpose of assisting all victims of THB for different purposes of exploitation, the authorities should strengthen partnerships with specialised NGOs, including by delegating to NGOs the functions of service providers, and provide adequate financing of the services delivered by such NGOs.

Recovery and reflection period

21. GRETA considers that the Turkish authorities should ensure that all presumed foreign victims of THB are systematically informed of their right to a recovery and reflection period and to ensure that the recovery and reflection period is applied in practice to all foreign victims of THB.

Residence permits

22. GRETA considers that the Turkish authorities should ensure that all victims of THB can fully benefit from the right to obtain a renewable residence permit, without prejudice to the right to seek and enjoy asylum.

23. GRETA considers that the Turkish authorities should review Article 29 of the Regulation on Combating Human Trafficking and the Protection of Victims, which refers to victims leaving the shelter without informing the authorities as grounds for terminating the victim support programme.

Compensation and legal redress

24. GRETA urges the Turkish authorities to adopt legislative and practical measures to facilitate access to compensation for victims of trafficking, and in particular to:

- ensure that victims have access, from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings and the right to seek compensation, in a language they can understand;
- enable victims of trafficking, including those in removal centres, to exercise their right to compensation by ensuring their effective access to State-funded legal aid, by building the capacity of legal practitioners to support victims to claim compensation and including the issue of victim compensation into training programmes for law enforcement officials, prosecutors, judges and lawyers;
- establish a State compensation scheme accessible to victims of THB, regardless of their citizenship and residence status.

25. GRETA invites the Turkish authorities to collect statistical information concerning compensation awarded by courts to victims of THB, in response to their compensation claims made in criminal and civil proceedings.

Repatriation and return of victims

26. GRETA urges the Turkish authorities to take additional steps to:

- ensure that the return of victims of trafficking is conducted with due regard for their rights, safety and dignity. This means informing victims about existing programmes, protecting them from re-victimisation and re-trafficking and, in the case of children, fully respecting the principle of the best interests of the child;
- develop international co-operation and involvement of NGOs in order to ensure comprehensive risk assessment and safe return, as well as safe and effective reintegration of victims of THB;
- ensure compliance with the non-refoulement obligation under Article 40, paragraph 4, of the Convention. In this context, the Turkish authorities should give full consideration to the UNHCR's Guidelines on the application of the Refugees Convention to trafficked people and their possible entitlement to asylum when deciding upon applications for asylum of persons who are at risk of being re-trafficked or otherwise persecuted should they be obliged to return to their State of origin or residence.

Substantive criminal law

27. GRETA urges the Turkish authorities to consider trafficking in all children, i.e. all persons under the age of 18, as an aggravating circumstance, in accordance with Article 24 of the Convention, and to ensure that all the aggravating circumstances included in the Convention, including the offence deliberately or by gross negligence endangering the life of the victim, are appropriately taken into account.

28. GRETA urges the Turkish authorities to adopt such legislative and other measures providing for the possibility to take into account final sentences passed by another Party in relation to THB when determining the penalty.

Non-punishment of victims of trafficking in human beings

29. GRETA urges the Turkish authorities to take additional measures to ensure compliance with the provision on the non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so, in pursuance to Article 26 of the Convention. Such measures should include the adoption of a specific legal provision and/or the development of guidance for law enforcement officials and prosecutors on the scope of the non-punishment provision. Further, the Turkish authorities should examine the possibility of repealing sanctions imposed against victims of THB and providing compensation or reimbursement of fines paid by victims of THB.

Investigation, prosecution and procedural law

30. GRETA urges the Turkish authorities to:

- prioritise the identification of gaps in the investigation procedure and the prosecution of THB cases in court, for different purposes of exploitation, with a view to ensuring effective, proportionate and dissuasive convictions;
- develop the training and specialisation of law enforcement officials, prosecutors and judges to deal with THB cases;
- provide law enforcement authorities with the necessary guidance and tools to detect and investigate THB cases for different purposes of exploitation;
- carry out financial investigations into THB cases in order to effectively locate, seize and confiscate criminal assets related to this offence;
- improve the possibilities for victims to participate in court proceedings.

Protection of victims and witnesses

GRETA urges the Turkish authorities to make full use of the available measures to protect victims and witnesses of THB, including children, and to prevent their intimidation during the investigation and during and after the court proceedings.