



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

**Recommendation CP/Rec(2020)01
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by the Czech Republic**

*adopted at the 26th meeting of the Committee of the Parties
on 12 June 2020*

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 the Czech Republic on 29 March 2017;

Having examined the first evaluation report concerning the implementation of the Convention by the Czech Republic, adopted by GRETA at its 36th meeting (18-22 November 2019);

Having examined the comments of the Government of the Czech Republic on GRETA's report, submitted on 3 February 2020;

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

- the adoption of legislation criminalising trafficking in human beings and providing for the rights of victims of trafficking;
- the development of the institutional and policy framework for combating human trafficking, which involves civil society and follows a comprehensive approach;
- the training provided to a range of relevant professionals, with the involvement of civil society and international organisations;
- the attention given to preventing human trafficking through the provision of information and awareness-raising campaigns, focusing on vulnerable groups;

- the existence of the Programme for Support and Protection of Victims of Trafficking in Human Beings and the availability of shelter accommodation for both women and men who are presumed to be victims of human trafficking;

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

- adopting and strengthening 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;
- improving the identification of victims of trafficking by putting into place a formalised victim identification procedure, disconnecting the identification of victims from the initiation of criminal proceedings for human trafficking, and adopting a more proactive approach to victim identification, in particular among asylum seekers, persons placed in administrative detention, unaccompanied children and persons subjected to labour exploitation;
- ensuring that the recovery and reflection period is applied to all presumed foreign victims of human trafficking, regardless of whether they agree to be included in the Programme for Support and Protection of Victims of Trafficking, including those to whom the Dublin Regulation is applicable;
- adopting legislative and practical measures to facilitate access to compensation for victims of trafficking;
- taking measures to ensure compliance with the 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;
- strengthening the effectiveness of investigations and prosecutions with a view to securing proportionate and dissuasive sanctions for human trafficking offences;
- introducing a comprehensive and coherent data collection system on trafficking in human beings;

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

2. Requests the Government of the Czech Republic to inform the Committee of the Parties of the measures taken to comply with this recommendation by **12 June 2022**.

3. Invites the Government of the Czech Republic 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 Czech Republic

Definition of "trafficking in human beings"

1. GRETA considers that stating explicitly the irrelevance of the consent of a victim of trafficking to the intended exploitation could improve the implementation of the anti-trafficking provisions.

Comprehensive approach and co-ordination

2. GRETA considers that the Czech 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.

3. GRETA invites the Czech authorities to introduce a periodic independent evaluation of the national anti-trafficking strategy as a tool for assessing the impact of the activities and planning future policies and measures to combat THB, and to consider establishing an independent National Rapporteur or designating another existing independent 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).

4. GRETA considers that the Czech authorities should take further steps to ensure that national action to combat THB is comprehensive, and in particular to:

- strengthen action to prevent and combat THB for the purpose of labour exploitation by involving labour inspectors, trade unions, employment agencies, businesses and civil society in a joint platform and improving the identification of, and assistance to, victims of THB for the purpose of labour exploitation;
- address the vulnerability to trafficking of persons or groups affected by unfavourable social and economic conditions, in particular the Roma community;
- review the regulatory systems concerning migrant domestic and 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;
- working closely with trade unions, civil society and the private sector to raise awareness of trafficking for the purpose of labour exploitation, prevent trafficking in supply chains and strengthen corporate social responsibility, drawing on the UN's Guiding Principles on Business and Human Rights and Recommendation CM/Rec(2016)3 on human rights and business.

Training of relevant professionals

5. GRETA considers that the Czech authorities should take further steps to provide periodic training on THB and the rights of victims to all relevant professionals (including police officers, immigration and asylum officials, prosecutors, judges, social workers, labour inspectors, tax inspectors, child protection authorities, consular officials, health-care professionals). The training should be mainstreamed into the regular training curriculum of relevant professionals, at all levels, involve multi-disciplinary expertise, and be 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

6. For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA urges the Czech 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.

7. GRETA considers that the Czech authorities should conduct and support further research on THB as an important source of information for the evaluation and planning of policy measures. Areas where research could be carried out include trafficking for the purpose of forced marriage and child trafficking, including live streaming of trafficking for the purpose of sexual exploitation of children.

International co-operation

8. GRETA welcomes the involvement of the Czech Republic in international co-operation in the area of combating THB and invites the Czech authorities to continue international co-operation on action against THB, including the investigation of transnational THB cases, and to explore further possibilities for co-operation with governmental and non-governmental actors in countries of origin, destination and transit, with a view to providing assistance to, and safe referral for, victims of trafficking and preventing THB.

Measures to raise awareness

9. GRETA welcomes the attention given to preventing THB through information and raising awareness, focusing on vulnerable groups, and invites the Czech authorities to continue their efforts. Greater attention should be paid to informing the public about the risks of recruitment through social media and the Internet. 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

10. GRETA considers that the Czech 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.

Economic, social and other initiatives for groups vulnerable to THB

11. GRETA considers that the Czech authorities should continue strengthening prevention of THB through targeted social and economic empowerment measures for groups and persons vulnerable to THB, in particular the Roma community and migrant workers.

Border measures to prevent THB and measures to enable legal migration

12. GRETA invites the Czech authorities to continue making efforts to detect and prevent THB through border control measures, in particular by:

- strengthening the capacity of all competent law enforcement bodies to detect indicators of THB and ensure prompt and effective access to assistance and protection;
- 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).

Identification of victims of trafficking in human beings

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

- put in place a formalised victim identification procedure which defines the roles and responsibilities of all relevant stakeholders, promotes a multi-agency approach by involving specialised NGOs, labour inspectors, social workers, child protection specialists and health-care staff, and includes indicators and guidance for identifying victims of different forms of exploitation;
- disconnect the identification of victims of human trafficking from the initiation of criminal proceedings for THB;
- develop multi-agency training on the identification of victims and ensure that there is a regular exchange of information;
- take steps to strengthen the proactive identification of victims of THB for the purpose of labour exploitation, by reinforcing the capacity and training of labour inspectors and involving trade unions and other relevant actors;
- 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;
- pay increased attention to the proactive detection of victims of trafficking amongst asylum seekers and persons placed in administrative detention pending removal, allowing sufficient time to gather necessary information and taking into account their traumatic experience. In this context, training, guidance and indications on the identification of victims of THB and their rights should be provided to staff working in asylum and immigration detention centres, in co-operation with civil society and lawyers;
- 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 a primary consideration in all proceedings relating to child victims of THB and children at risk;

- strengthen the identification of victims of THB among unaccompanied children and take steps to address the problem of unaccompanied children disappearing by providing suitable safe accommodation and adequately trained supervisors or foster parents;
- reconsider the application of the Dublin Procedure to presumed victims of THB;
- strengthen efforts to identify victims of THB for the purpose of criminal activities.

Assistance to victims

14. GRETA urges the Czech authorities not to link the assistance provided to victims of THB to the carrying out of criminal investigations into THB.

15. GRETA considers that the Czech authorities should take additional measures to ensure adequate assistance to victims of trafficking, and in particular to:

- guarantee access to public health care for victims of trafficking;
- 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;
- ensure the continuity of funding for services delivered by specialised NGOs;
- ensure that the training provided to staff of the local Offices for the Legal and Social Protection of Children includes the Council of Europe Convention on Action against Trafficking in Human Beings.

Recovery and reflection period

16. GRETA urges the Czech authorities to ensure that the recovery and reflection period is applied to all presumed foreign victims of THB, regardless of whether they agree to be included in the Programme for Support and Protection of Victims of THB, including those to whom the Dublin Regulation is applicable.

Residence permits

17. GRETA invites the Czech authorities to consider granting temporary residence permits to victims of THB on the basis of their personal situation, in addition to the residence permit on the basis of the victim's co-operation in the investigation or criminal proceedings.

18. GRETA considers that the Czech authorities should review the application of the system for granting residence permits to victims of trafficking with a view to ensuring that the victim-centred approach which underpins the Convention is fully applied. The authorities should make further efforts to ensure that victims of trafficking can fully benefit in practice from the right to obtain a renewable residence permit, without prejudice to the right to seek and enjoy asylum. In this context, GRETA refers to the UNHCR 2006 Guidelines on the application of the Convention relating to the Status of Refugees and its additional protocol to victims of trafficking.

Compensation and legal redress

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

- review the criminal and civil procedures regarding compensation, with a view to improving their effectiveness
- ensure that victims of trafficking are systematically informed, in a language that they can understand, of the right to seek compensation in criminal and civil proceedings, 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;
- include victim compensation in training programmes for law enforcement officials, prosecutors and judges;
- ensure that all persons trafficked in, to or from the Czech Republic, regardless of nationality and residential status, are eligible for financial assistance from the State.

20. GRETA invites the Czech authorities to collect statistical information concerning compensation awarded by courts to victims of THB in criminal and civil proceedings.

Repatriation and return of victims

21. GRETA considers that the Czech authorities should continue taking steps to:

- ensure that the return of victims of THB is conducted with due regard for the rights, safety and dignity of the victim, is preferably voluntary and complies with the obligation of *non-refoulement*. This includes informing victims about existing support programmes, and protecting them from re-victimisation and re-trafficking;
- ensure the best interests of the child are effectively respected, protected and fulfilled, *inter alia*, through an assessment of risks and safety carried out, prior to any removal measure, by specialised bodies in co-operation with the competent contacts in the country of origin, especially for unaccompanied children;
- develop co-operation with countries of origin of victims with a view to ensuring that risks are correctly assessed, and that trafficking victims can return in safety and effectively reintegrate.

Substantive criminal law

22. GRETA urges the Czech authorities to ensure that trafficking in children is regarded as an aggravating circumstance in the determination of the penalty for trafficking in human beings.

23. GRETA invites the Czech authorities to consider introducing a legal provision criminalising the use of services which are the object of exploitation as referred to in Article 4 of the Convention, with the knowledge that the person is a victim of THB.

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

Non-punishment of victims of trafficking in human beings

25. GRETA urges the Czech authorities to take 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, including with regard to criminal offences.

Investigation, prosecution and procedural law

26. GRETA considers that the Czech authorities should continue to take steps to ensure that THB cases are investigated proactively, prosecuted successfully, and lead to effective, proportionate and dissuasive sanctions, including by:

- identifying gaps in the investigation and prosecution of cases of THB for different purposes of exploitation;
- providing law enforcement authorities with the necessary guidance and tools to detect and investigate THB cases for different purposes of exploitation;
- sensitising judges to the rights of victims of THB and developing further their specialised knowledge, experience and competence to deal with cases of THB and apply the provisions criminalising THB;
- systematically carrying out financial investigations into cases of THB in order to effectively locate, seize and confiscate criminal assets and enable compensation of the victims.

Protection of victims and witnesses

27. GRETA considers that the Czech authorities should make full use of the available measures to protect victims and witnesses of THB, including children, and to prevent intimidation during the investigation, as well as during and after court proceedings.