COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

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

Recommendation CP/Rec(2020)02 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Monaco

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 Monaco on 25 November 2015;

Having examined the combined first and second evaluation rounds report concerning the implementation of the Convention by Monaco, adopted by GRETA at its 36th meeting (18-22 November 2019);

Having examined the comments of the Monegasque Government on GRETA's report, submitted on 16 October 2019;

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

- the adoption of legislation criminalising trafficking in human beings;

  the establishment of the Committee to Promote and Safeguard Women's Rights, whose remit covers action against trafficking in human beings as part of combating gender-based violence;

- the setting up of a working group comprising representatives of all relevant departments with a view to developing a policy document and strengthening co-ordination in the area of detecting and assisting victims of trafficking ;

- the recent organisation of an exhibition on trafficking in human beings and children's rights;

- the engagement in international co-operation in combating human trafficking;

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

- adopting an action plan or other policy document covering the prevention of human trafficking, training for relevant professionals, the identification and protection of trafficking victims and the prosecution of human trafficking offences;

- strengthening the proactive identification of victims of human trafficking for different forms of exploitation by providing operational tools to relevant professionals, in particular police officers, labour inspectors and NGOs;

- adopting legislative or other measures to provide assistance to victims of human trafficking;

- developing procedures for the identification of child victims of trafficking and their referral to assistance;

- providing in domestic law for a recovery and reflection period for victims of trafficking, in compliance with Article 13 of the Convention, as well as a residence permit for victims of trafficking if the competent authority considers that their stay is necessary owing to their personal situation and/or for the purpose of their co-operation in the investigation or criminal proceedings;

- ensuring compliance with Article 26 of the Convention through the adoption of a 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, and/or by developing relevant guidance.

- taking steps to ensure that human trafficking offences are investigated proactively and prosecuted expeditiously, resulting in proportionate and dissuasive sanctions;

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

2. Requests the Government of Monaco 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 Monaco 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 Monaco

Comprehensive approach and co-ordination

1. With a view to meeting their obligations under the Convention and adopting a comprehensive approach to the fight against THB, GRETA urges the Monegasque authorities to adopt an action plan or other policy document covering the prevention of THB, training for relevant professionals, the identification and protection of trafficking victims and the prosecution of THB offences.

2. In addition, GRETA considers that the Monegasque authorities should ensure that a structure be developed for co-ordinating the actions of relevant actors in the event of a case of human trafficking, with the involvement of civil society.

Training of relevant professionals

3. Given the potential link between lack of training and identification of victims of THB, GRETA considers that the Monegasque authorities should ensure that all the relevant professionals (police officers, judges and prosecutors, labour inspectors, social workers, child welfare professionals, medical staff, lawyers and other relevant groups) are trained in the identification and the support of THB victims (especially the definition and indicators of all forms of THB, the difference between THB and migrant smuggling, and the rights of THB victims).

Data collection and research

4. GRETA considers that the Monegasque authorities ought to conduct and/or support research into THB-related issues for the purpose of providing evidence on which to base future public policy.

Measures to raise awareness (Article 5)

5. GRETA considers that the Monegasque authorities should develop initiatives to raise awareness among the public and the various groups considered at risk of various forms of trafficking. Awareness-raising should be supported by research, and the impact of measures ought to be evaluated.

Measures to prevent labour exploitation (Article 5)

6. GRETA considers that the Monegasque authorities should take further steps to prevent trafficking for the purpose of labour exploitation, in particular by:

- providing labour inspectors with training on trafficking for the purpose of labour exploitation and on victims' rights;

- broadening the remit of labour inspectors so that they can play an active part in preventing THB in all sectors of economic activity, including domestic work;

- alerting the general public and, more specifically, foreign workers to the risks of trafficking for the purpose of labour exploitation;

- establishing effective mechanisms allowing foreign workers, even if undocumented, to lodge complaints against employers not complying with labour regulations and to obtain effective redress without fear of having their residence permits revoked;

- working closely with the private sector in keeping with the Guiding Principles on Business and Human Rights.

Measures to prevent trafficking in children (Article 5)

7. GRETA considers that the Monegasque authorities should take steps to prevent trafficking in children, including by:

- alerting the public to the risks and signs of trafficking in children;
- providing awareness-raising for child welfare professionals to familiarise them with the phenomenon of trafficking and build their capacity to prevent it and report potential cases to the competent authorities;
- continuing to promote children's safety online and train relevant stakeholders about the risks of child trafficking online.

Measures to prevent trafficking for the purpose of organ removal (Article 5)

8. GRETA encourages the Monegasque authorities to sign and ratify the Council of Europe Convention against Trafficking in Human Organs, since this would help to prevent trafficking for the purpose of organ removal.

Measures to discourage demand (Article 6)

9. GRETA considers that the Monegasque authorities should take further legislative steps (see paragraph 150), as well as educational, social, cultural and other measures to discourage demand for services of persons trafficked for the purpose of any form of exploitation, including in domestic work (see paragraph 69), in partnership with civil society, trade unions, the media and the private sector.

Identification of victims of trafficking in human beings (Article 10)

10. GRETA urges the Monegasque authorities to adopt measures to ensure that all professionals likely to come into contact with potential victims of trafficking, and in particular police officers, labour inspectors and NGOs, have operational tools at their disposal (such as indicators, checklists and risk assessment tools) for detecting victims of trafficking for various forms of exploitation, for the proactive identification of THB victims.

Assistance to victims (Article 12)

11. GRETA urges the Monegasque authorities to adopt such legislative or other measures as may be necessary to provide assistance to all victims of human trafficking and help them with their physical, psychological and social recovery (in particular suitable safe accommodation, access to emergency medical care, counselling and material assistance, as well as advice and information on their rights in a language understood by the victim) in accordance with Article 12 of the Convention, with the involvement of civil society.

Identification and, assistance to, child victims of trafficking (Articles 10 and 12)

12. GRETA urges the Monegasque authorities to develop procedures for the identification of child victims of trafficking and their referral to assistance, and in particular:

- to determine a clear procedure (national referral mechanism) for the identification of child victims of trafficking, based on multi-agency action, which is integrated in the child protection system and involves child care specialists, and makes the child's best interests a primary consideration in all proceedings affecting child victims of trafficking;

- to ensure that the relevant stakeholders (police, service providers, NGOs, child protection services and social workers) have appropriate training and guidance to identify child victims of trafficking proactively.

13. GRETA also invites the Monegasque authorities to review age determination procedures whilst effectively protecting the child's best interests in accordance with Article 10, paragraphs 3 and 4, of the Convention and in keeping with the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child.

Recovery and reflection period (Article 13)

14. GRETA urges the Monegasque authorities to provide in their internal law for a recovery and reflection period for victims of trafficking pursuant to Article 13 of the Convention and to ensure that no person can be removed from the territory once an identification procedure has started.

Residence permits (Article 14)

15. GRETA urges the Monegasque authorities to make provision in internal law for granting of a residence permit to victims of trafficking in human beings if the competent authority considers that their stay is necessary owing to their personal situation and/or if it is necessary for the purpose of their co-operation with the competent authorities in connection with an investigation or criminal proceedings.

Compensation and legal redress (Article 15)

16. GRETA considers that the Monegasque authorities should adopt measures to guarantee compensation for victims of trafficking, including compensation from the State when compensation cannot be secured from the perpetrator.

17. Furthermore, GRETA considers that the Monegasque authorities should ensure that victims of trafficking are systematically informed, in a language that they understand, of their right to claim compensation from the perpetrator and of the procedures to be followed.

Repatriation and return of victims (Article 16)

18. GRETA considers that the Monegasque authorities should provide for a specific framework for the return of victims of trafficking to their country of origin, which should preferably be voluntary and needs to be carried out with due regard for the victims' safety and dignity, *inter alia,* through an assessment of the risks they face if they return to their country, while also respecting the *non-refoulement* principle, in accordance with Article 40(4) of the Convention and taking account of the United Nations guidelines for the application of the Convention relating to the status of refugees.

Substantive criminal law (Articles 18, 23, 24 and 25)

19. GRETA urges the Monegasque authorities to ensure that all the aggravating circumstances included in the Convention are duly taken into account.

Criminalisation of the use of services of a victim (Article 19)

20. GRETA invites the Monegasque authorities to adopt such legislative measures as may be necessary to establish as a criminal offence the use of services of a person known to be a victim of THB, whatever the form of exploitation, as provided for in Article 19 of the Convention.

Corporate responsibility (Article 22)

21. GRETA invites the Monegasque authorities to ensure that any suspected offence of THB committed by a legal person is investigated and, as appropriate, prosecuted, leading to effective, proportionate and dissuasive sanctions or measures.

Non-punishment of victims of trafficking in human beings (Article 26)

22. GRETA considers that the Monegasque authorities the Monegasque authorities should take further steps to guarantee the principle of not imposing penalties on victims of trafficking who have committed offences, including administrative ones, to the extent that they have been compelled to do so, be it through the adoption of specific legal provisions and/or the elaboration of guidelines for police officers, prosecutors and judges.

Investigation, prosecution and procedural law (Articles 1, 27 and 29)

23. GRETA considers that the Monegasque authorities should take steps to ensure that offences of trafficking are investigated proactively and prosecuted expeditiously, resulting in proportionate and dissuasive sanctions, in particular by:

- ensuring that investigators, prosecutors and judges have better knowledge of the phenomenon of trafficking in human beings and are made aware of the impact of exploitation on victims and the need to respect their human rights;

- stepping up proactive investigations into potential cases of trafficking in human beings;

- ensuring that special investigation techniques are also applied in cases of trafficking which do not have a transnational element;

- where it is necessary to use controlled deliveries in human trafficking cases, taking all steps to minimise the risk for the health or life of victims;

- providing for the confiscation of movable and immovable property and capital of illicit origin in connection with offences of trafficking when the latter is not transnational in nature and does not involve an organised criminal group.

Protection of victims and witnesses (Articles 28 and 30)

24. GRETA invites the Monegasque authorities to ensure that all the protection measures for victims of crime are in fact available to victims of trafficking, witnesses and their legal representatives in order to prevent retaliation or intimidation during investigation as well as during and after court proceedings.

International co-operation (Article 32)

25. GRETA commends the efforts made and invites the Monegasque authorities to continue developing international co-operation with a view to training relevant professionals, raising awareness of human trafficking, improving identification of victims and providing them with the necessary accommodation and assistance, as well as conducting investigations into trafficking cases connected with transnational organised crime.