

# Council of Europe Convention on Action against Trafficking in Human Beings

Provisions relevant to migrant, refugee  
and asylum-seeking women



# Human trafficking in figures

- **Estimates** of the Walk Free Foundation, ILO and IOM: in 2016, **40.3 million** victims of “modern slavery” in 167 countries (including over **1 million** in Europe) – this estimate covers forced labour (including sexual exploitation), forced marriage and state-imposed forced labour
- **9<sup>th</sup> GRETA General report**: number of presumed and identified victims (47 State Parties) grew from 10,620 in 2015, to **15,042 in 2018** (44% increase)
- Eurostat report (EU28): 9 147 registered victims in 2015 and 11 385 in 2016. 22% were citizens of the same country; 44% were EU citizens and **56%** third-country citizens.

# Differences between trafficking and smuggling

While the aim of smuggling of migrants is the unlawful cross-border transport in order to obtain, directly or indirectly, a financial or other material benefit, the purpose of trafficking in human beings is exploitation. Furthermore, trafficking in human beings does not necessarily involve a transnational element; it can exist at national level.

# Council of Europe Convention

- Adopted in 2005, in force since 1 February 2008
- 47 Parties (all CoE Member States except for the Russian Federation)
- Not restricted to CoE member States (Belarus)
- Applies to all forms of trafficking in human beings, whether national or transnational, whether or not connected with organised crime (Article 2)
- Non-discrimination principle (Article 3)

# Aims of the Convention

- Prevent trafficking
- Protect the human rights of victims of trafficking
- Prosecute and punish traffickers
- Promote international co-operation and partnerships with civil society

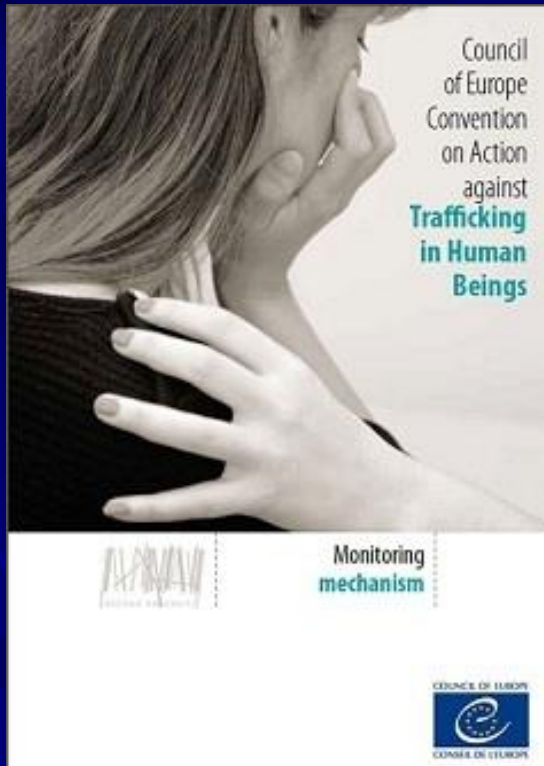
Comprehensive scope: the Convention applies to all trafficked persons (women, men, children) and to all forms of human trafficking.



# Human rights-based approach to trafficking in human beings

- Trafficking in human beings is not only a serious crime, but also a gross violation of human rights and an offence to the dignity and integrity of the human being
- The respect for victims' rights, protection of victims and action to combat trafficking are the paramount objectives
- Action against trafficking must be non-discriminatory, taking gender equality and a child-rights approach into account
- Parties must promote a human rights-based approach in the development, implementation and assessment of policies and programmes to prevent trafficking (Art.5.3)

# Monitoring mechanism



- **GRETA:** 15 experts, elected by the Committee of the Parties but acting in their individual capacity
- **Committee of the Parties** to the Convention: representatives of the states parties

Aim: to ensure compliance with the legal obligations under the Convention

## Article 5(4) - prevention

Each party shall take appropriate measures to enable migration to take place legally, in particular through dissemination or accurate information by relevant offices, on the conditions enabling the legal entry in and stay on its territory.



# Article 10 (identification of victims)

Each Party shall provide its competent authorities with persons who are trained and qualified in preventing and combating trafficking in human beings, in identifying and helping victims, including children, and shall ensure that the different authorities collaborate with each other as well as with relevant support organisations, so that victims can be identified in a procedure duly taking into account the special situation of women and child victims and, in appropriate cases, issued with residence permits under the conditions provided for in Article 14 of the present Convention.

# Article 12 (assistance to victims)

1. Each Party shall adopt such legislative or other measures as may be necessary to assist victims in their physical, psychological and social recovery. Such assistance shall include at least:

- a. standards of living capable of ensuring their subsistence, through such measures as: appropriate and secure accommodation, psychological and material assistance;
- b. access to emergency medical treatment;
- c. translation and interpretation services, when appropriate;
- d. counselling and information, in particular as regards their legal rights and the services available to them, in a language that they can understand;
- e. assistance to enable their rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders;
- f. access to education for children

# Article 12 (continued)

2. Each Party shall take due account of the victim's safety and protection needs.

3. In addition, each Party shall provide necessary medical or other assistance to victims lawfully resident within its territory who do not have adequate resources and need such help.

4. Each Party shall adopt the rules under which victims lawfully resident within its territory shall be authorised to have access to the labour market, to vocational training and education.

6. Each Party shall adopt such legislative or other measures as may be necessary to ensure that assistance to a victim is not made conditional on his or her willingness to act as a witness.

# Article 13 (recovery and reflection period)

Each Party shall provide in its internal law a recovery and reflection period of at least 30 days, when there are reasonable grounds to believe that the person concerned is a victim. Such a period shall be sufficient for the person concerned to recover and escape the influence of traffickers and/or to take an informed decision on cooperating with the competent authorities. During this period it shall not be possible to enforce any expulsion order against him or her.

# Article 14 (residence permit)

Each Party shall issue a renewable residence permit to victims, in one or other of the two following situations or in both:

a. the competent authority considers that their stay is necessary owing to their personal situation;

b. the competent authority considers that their stay is necessary for the purpose of their co-operation with the competent authorities in investigation or criminal proceedings.



# Article 14(5)

Having regard to the obligations of Parties to which Article 40 of this Convention refers, each Party shall ensure that granting of a permit according to this provision shall be without prejudice to the right to seek and enjoy asylum.

# Article 15 (compensation and legal redress)

- Right to information in a language the person understands
- Right to legal assistance and free legal aid
- Right to compensation from the perpetrator
- Obligation of State Parties to guarantee compensation through a State fund or other measures

# Article 16 (repatriation and return)

When a Party returns a victim to another State, such return shall be with due regard for the rights, safety and dignity of that person and for the status of any legal proceedings related to the fact that the person is a victim, and shall preferably be voluntary.

State Parties shall set up repatriation programmes aimed at avoiding re-victimisation, involving relevant national or international institutions and NGOs. Such programmes shall aim at the acquisition and improvement of professional skills.

## Article 26 (non-punishment provision )

- “Parties must provide for the possibility of not imposing penalties upon victims of human trafficking for their involvement in unlawful activities, to the extent that they have been compelled to do so.”
- Criminalisation of victims of trafficking not only contravenes the state’s obligation to provide assistance to victims, but also discourages victims from coming forward and co-operating with law enforcement agencies, thus interfering with the state’s obligation to investigate and prosecute those responsible for trafficking in human beings.
- The absence of a specific provision on the non-punishment of victims of trafficking entails a risk of treating them differently depending on the prosecutor in charge of the case

# Relevant case-law of the European Court of Human Rights

1. Siliadin v. France (26 July 2005)
2. Rantsev v. Cyprus and Russia (7 January 2010)
3. C.N. v. United Kingdom (13 November 2012)
4. C.N. and V. v. France (11 October 2012)
5. L.E. v. Greece (21 January 2016)
6. Chowdury and others v. Greece (30 March 2017)



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**Thank you!**