



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

**Recommendation CP/Rec(2021)01
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Bulgaria**

*adopted at the 28th meeting of the Committee of the Parties
on 4 June 2021*

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 Bulgaria on 17 April 2007;

Recalling Committee of the Parties' Recommendation CP(2016)2 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bulgaria and the report of the Bulgarian authorities on measures taken to comply with this recommendation, submitted on 23 May 2017;

Having examined the third report concerning the implementation of the Convention by Bulgaria, adopted by GRETA at its 39th meeting (18-20 November 2020), as well as the comments of the Bulgarian Government received on 5 February 2021;

Bearing in mind the focus of the third evaluation round of the Convention on access to justice and effective remedies for victims of trafficking;

Considering the conclusions and proposals contained in Appendix I of GRETA's third report on topics related to the third evaluation round and follow-up topics specific to Bulgaria;

Welcoming the measures taken and progress achieved by the Bulgarian authorities in implementing the Convention, and in particular:

- the further development of the legislative framework relevant to action against trafficking in human beings (THB), through amendments to the Law on Combating Trafficking in Human Beings and amendments to the Code of Criminal Procedure related to the support and protection of victims of crime;
- the adoption of the National Strategy for Combating Trafficking in Human Beings for the period 2017-2021;

- the update and formal adoption of the National Referral Mechanism for Support of Trafficked Persons (NRM);
- the increased use of specially equipped facilities for interviewing children involved in criminal proceedings;
- the steps taken to prevent and combat trafficking for the purpose of labour exploitation, including through the involvement of the Labour Inspectorate in the NRM and joint actions with the labour inspectorates of other countries;
- the participation in international co-operation in the area of combating human trafficking, including the setting up of Joint Investigation Teams.

A. Recommends that the Government of Bulgaria take measures to address the following issues for immediate action¹ identified in GRETA's report:

1. take further steps to facilitate and guarantee access to justice for victims of THB, in particular by ensuring that:
 - a lawyer is appointed as soon as there are reasonable grounds for believing that a person is a victim of human trafficking, before the person concerned has to decide whether or not he/she wants to co-operate with the authorities and/or make an official statement;
 - adequate funding is made available for the provision of legal assistance, legal representation and interpretation/translation to victims of THB placed in shelters;
 - Bar Associations encourage training and specialisation of lawyers to provide legal aid to trafficking victims, and ensure that trafficking victims are systematically appointed a specialised lawyer (paragraph 69);
2. make additional efforts to guarantee effective access to compensation for victims of THB, in particular by:
 - ensuring that the collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation of the victim or loss sustained by the victim, is part of the criminal investigations with a view to supporting compensation claims in court;
 - ensuring that the Prosecutor's Office applies in practice Article 51 of the CCP by claiming compensation on behalf of child victims in the course of the criminal trial;
 - making full use of the legislation on freezing and forfeiture of assets, as well as international co-operation, to secure compensation to victims of THB, and ensure that recoverable property which is seized in criminal proceedings is returned as soon as possible to the victim;
 - introducing a procedure through which victims are entitled to obtain a decision on compensation from the offender as part of the criminal trial and requiring courts to state, where applicable, why compensation is not considered;
 - including the topic of compensation in the training programmes for lawyers, prosecutors and judges and encouraging them to use all the possibilities the law offers to uphold compensation claims by victims of THB;
 - facilitating access to state compensation by setting up as a matter of priority a victim compensation fund which uses confiscated assets of perpetrators of human trafficking to fund compensation and reparation, and simplifying the procedure and eligibility criteria for claiming compensation (paragraph 111);

¹ The number of the paragraph setting out GRETA's proposals in the report is indicated in brackets.

3. take further measures to strengthen the criminal justice response to THB, including by:
 - ensuring that human trafficking offences are proactively and promptly investigated, making use of special investigation techniques in order to gather material, documental, financial and digital evidence and not having to rely exclusively on testimony by victims or witnesses;
 - requiring consideration of allocation of specialist financial investigators to every THB case;
 - sensitising prosecutors and judges to the rights of victims of THB, and encouraging the development of specialisation amongst prosecutors and judges to deal with THB cases;
 - strengthening efforts to investigate, prosecute and convict traffickers for labour exploitation;
 - ensuring that THB prosecutions lead to effective, proportionate and dissuasive sanctions for those convicted. If an alternative charge is preferred in THB cases, this should be recorded and monitored by the Prosecutor's Office. The plea-bargaining procedure should be used only exceptionally in human trafficking cases, subject to appropriate safeguards, where the reduction of a sentence is clearly outweighed by the advantages offered by the plea agreement (these advantages being indicated in the judicial decision approving the agreement) and the agreement is not in any way detrimental to the rights of the victims, including their access to compensation;
 - ensuring that the length of court proceedings in cases of trafficking of human beings is reasonable, in line with the case-law of the European Court of Human Rights (related to Article 6, paragraph 1 of the ECHR) and the standards set by the European Commission for the Efficiency of Justice (CEPEJ) (paragraph 135);
4. further improve the identification of victims of THB, including by:
 - making a budgetary allocation of the implementation of the NRM;
 - providing further systematic training to officials of the SAR, migration officials, border police staff, as well as social workers, medical and other staff working at facilities for asylum seekers and detained migrants, focusing on the identification of victims of trafficking and the procedures to be followed, including by providing operational indicators to enable staff to proactively identify victims of trafficking and refer them to specialised structures;
 - enabling specialised NGOs with experience in identifying and assisting victims of trafficking to have regular access to facilities for asylum seekers and detained migrants;
 - systematically informing all asylum seekers, in a language they can understand, about their rights in the framework of the asylum procedure, and the legal rights and the services available to victims of trafficking;
 - ensuring that pre-removal risk assessments prior to all forced removals from Bulgaria fully assess the risks of trafficking or re-trafficking on return, in compliance with the obligation of non-refoulement (paragraph 238);
5. take additional steps to ensure that all assistance measures provided for in the Convention and by Bulgarian law are guaranteed in practice, in particular by:
 - providing adequate financing to ensure the range and quality of the services delivered by NGOs and a sufficient number of places for all victims who need safe accommodation;
 - guaranteeing access to health care to all victims of THB (paragraph 248);
6. enshrine in law the recovery and reflection period, and ensure that it is systematically offered to all presumed foreign victims of human trafficking, including EU and EEA citizens, regardless of whether a temporary residence permit and access to assistance can be secured on other grounds (paragraph 273).

- B. Recommends that the Bulgarian authorities take measures to implement the other proposals for action listed in Appendix 1 of GRETA's third evaluation report.
- C. Requests the Government of Bulgaria to report to the Committee of the Parties on the measures taken to comply with this recommendation by **4 June 2023**.
- D. Invites the Government of Bulgaria to continue the dialogue in progress with GRETA and to keep GRETA regularly informed of the measures taken in response to GRETA's conclusions.