

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

**Recommendation CP/Rec(2021)05
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Romania**

*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 Romania on 21 August 2006;

Recalling Committee of the Parties' Recommendation CP(2016)11 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Romania and the report of the Romanian authorities on measures taken to comply with this recommendation, submitted on 3 November 2017;

Having examined the third report concerning the implementation of the Convention by Romania, adopted by GRETA at its 40th meeting (22-26 March 2020), as well as the comments of the Romanian Government received on 21 May 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 Romania;

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

- the further development of the legislative framework, including the increase in the minimum penalty for trafficking in children and the addition of two aggravating circumstances for this offence in the Criminal Code;

- the adoption of the National Strategy against Trafficking in Human Beings (THB) for 2018-2022 and the setting up of a monitoring committee for its implementation;
- the updating of the National Identification and Referral Mechanism (NIRM);
- the issuance of instructions by the Minister of Justice to the Prosecutor General on the prioritisation of action to combat human trafficking and organised crime;
- the steps taken to raise awareness of child trafficking;
- the engagement in international co-operation in the fight against trafficking in human beings, including through setting up Joint Investigation Teams with a number of countries.

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

1. make additional efforts to facilitate and guarantee 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 investigation with a view to supporting compensation claims in court;
 - making full use of the legislation on the 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;
 - reviewing the procedure to facilitate access to judicial public aid for victims who wish to claim compensation in civil proceedings ;
 - supporting victims to effectively enforce compensation orders, including by ensuring that they have access to free legal aid;
 - including the topic of compensation in 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 87);
2. take measures to strengthen the criminal justice response to THB, including by:
 - ensuring that human trafficking offences are proactively and promptly investigated, making use of all possible evidence, including evidence collected through special investigative techniques and financial investigations, in order not 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 of labour exploitation;

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

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- ensuring that THB cases are prosecuted as such and lead to effective, proportionate and dissuasive sanctions for those convicted, including in cases involving public officials. 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 (regarding Article 6, paragraph 1, of the ECHR) and the standards set by the European Commission for the Efficiency of Justice (CEPEJ) (paragraph 108);
3. extend the scope of Article 20 of the Anti-Trafficking Law to cover all offences (including administrative ones) which victims of THB have been compelled to commit (paragraph 114);
 4. make full use of the available measures to protect victims and witnesses of THB and to prevent their intimidation during the investigation, as well as during and after the court proceedings, including by applying the measures provided for particularly vulnerable victims and threatened witnesses, making more frequent use of the witness protection programme, banning the publication of trafficking victims’ names on judicial websites, without affecting the ability of civil society to monitor cases with suspicion of corruption, and effectively investigating any cases of intimidation and threats against victims and witnesses (paragraph 125);
 5. ensure that there is a sufficient number of specialised, trained and well-resourced investigators and prosecutors to deal with THB cases throughout the country (paragraph 136);
 6. ensure that all child victims of THB are in practice afforded the protection measures foreseen by law (paragraph 156);
 7. further improve the identification of victims of THB, including by:
 - ensuring that the NIRM adopts a multi-disciplinary approach, involving specialised NGOs working with victims, and making a budgetary allocation of the implementation of the NIRM;
 - training labour inspectors throughout the country, as well as law enforcement officers, prosecutors and judges, on combating THB for the purpose of labour exploitation and the rights of victims;
 - ensuring that the Labour Inspectorate has adequate resources to carry out inspections and outreach work with a view to preventing and detecting cases of THB for the purpose of labour exploitation, including in remote locations;
 - strengthening co-operation between labour inspectors, law enforcement officers, tax authorities, trade unions and other civil society actors, with a view to collecting evidence necessary for successfully investigating and prosecuting cases of THB for the purpose of labour exploitation;
 - providing systematic training to officials asylum officials, migration officials, border police staff, as well as social workers, medical and other staff working at facilities for asylum seekers and detained migrants, 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 which can support them prior to their formal identification;

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- 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 (paragraph 203);
8. step up efforts to provide assistance to victims of trafficking, regardless of their nationality, in particular by:
- providing a sufficient number of shelter places around the country for all victims of trafficking who need safe accommodation for the duration necessary to achieve their recovery, based on individual needs assessment;
 - ensuring adequate funding and staff to work with victims of THB and facilitate the reintegration of victims of trafficking into society by providing them with vocational training and access to the labour market;
 - providing adequate financing to ensure the range and quality of the services delivered by NGOs;
 - continuing to build strategic partnerships with NGOs and other civil society actors;
 - guaranteeing access to health care to all victims of THB (paragraph 213);
9. strengthen efforts to identify child victims, including when the recruitment and/or exploitation take place online, and provide them with adequate assistance, in particular to:
- ensure that child victims of THB benefit from specialised accommodation and services across the country;
 - ensure that proper risk assessment is conducted before returning children to their parents, taking into account the best interests of the child;
 - provide long-term monitoring of the social inclusion of child victims of trafficking (paragraph 221).

B. Recommends that the Romanian 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 Romania 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 Romania to continue the dialogue in progress with GRETA and to keep GRETA regularly informed of the measures taken in response to GRETA's conclusions.