

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



**Recommendation CP/Rec(2022)02
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Bosnia and Herzegovina**

*adopted at the 30th meeting of the Committee of the Parties
on 17 June 2022*

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 Bosnia and Herzegovina on 11 January 2008;

Recalling Committee of the Parties' Recommendation CP(2017)27 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bosnia and Herzegovina and the report of the authorities of Bosnia and Herzegovina on measures taken to comply with this recommendation, submitted on 8 October 2018;

Having examined the third report concerning the implementation of the Convention by Bosnia and Herzegovina, adopted by GRETA at its 43rd meeting (28 March – 1 April 2022) ;

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 Bosnia and Herzegovina;

Welcoming the measures taken and progress achieved by the authorities of Bosnia and Herzegovina in implementing the Convention, and in particular:

- the further development of the legislative framework relevant to action against trafficking in human beings (THB), including amendments to the definition of THB and the inclusion of the non-punishment principle in the Criminal Code of the Republika Srpska;

- the adoption of the Strategy for Combating Trafficking in Human Beings for the period 2020-2023 and accompanying action plans at entity and local level;
- the setting up of specialised THB units within the Prosecutor's Office of Bosnia and Herzegovina and the State Investigation and Protection Agency, as well as a network of prosecutors and investigators specialised to deal with cases of THB;
- the steps taken to ensure child-sensitive procedures for obtaining access to justice and remedies;
- the setting up a comprehensive and coherent statistical system regarding THB victims;
- 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 Bosnia and Herzegovina 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:

- legal assistance is provided systematically and as soon as there are reasonable grounds for believing that a person is a victim of trafficking;
- prosecutors instruct victims of THB on their right to legal representation and such representation is secured at the early stage of criminal proceedings. In this regard, prosecutors and the police should routinely inform shelters where victims are accommodated and legal guardians assigned to child victims that criminal proceedings have been initiated;
- centres for legal aid play a greater role in providing free legal aid to victims of trafficking. In this regard, the criteria for receiving free legal aid from the legal aid centres should be harmonised throughout the country;
- adequate funding is secured for NGOs and centres for legal aid providing free legal aid to victims of trafficking;
- the authorities and the Bar Associations encourage training and specialisation of lawyers to provide legal aid to trafficking victims (paragraph 53);

2. Make further efforts to guarantee effective access to compensation for victims of THB, in particular by:

- systematically informing victims of trafficking of their right to seek compensation in criminal and civil proceedings and the procedure to be followed, and ensuring that they are provided with effective legal assistance from the early stage of the proceedings in order to exercise this right;
- 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;
- ensuring that victims 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/awarded;
- making full use of the legislation on the seizure and confiscation of assets, as well as international co-operation, to secure compensation to victims of THB, and ensure that

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

- recoverable property which is seized in criminal proceedings is returned as soon as possible to the victim;
- supporting victims to effectively enforce compensation orders, including by ensuring that they have access to free legal aid;
 - including the topic of compensation in the regular training curricula for lawyers, prosecutors and judges;
 - setting up without further delay a state compensation scheme accessible to victims of THB, regardless of their nationality and immigration status (paragraph 77);
3. Take measures to strengthen the criminal justice response to THB, including by:
- ensuring that human trafficking offences are investigated proactively and promptly, regardless of whether a complaint about the reported crime has been submitted or not, making use of all possible evidence, including evidence gathered through special investigative measures, financial evidence, documents and digital evidence, so that there is less reliance on testimony by victims or witnesses;
 - ensuring that human trafficking offences are prosecuted as such, rather than as lesser offences, every time the circumstances of the case allow this, and lead to effective, proportionate and dissuasive sanctions for those convicted. 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;
 - strengthening efforts to investigate, prosecute and secure convictions in cases of trafficking for the purpose of labour exploitation, with the involvement of labour inspectors and tax inspectors;
 - intensifying efforts to identify, seize and confiscate criminal assets generated by trafficking offences (paragraph 100);
4. Strengthen efforts to prevent child trafficking, including by:
- sensitising and training child protection professionals and social workers on child trafficking, and strengthening their resources across the country;
 - raising awareness of the risks of human trafficking, including recruitment and abuse through internet/social networks, and trafficking for sexual exploitation abroad;
 - developing programmes for rehabilitation of children in street situations, by offering them and their families alternative opportunities such as vocational training, employment opportunities, placement in alternative care, based on the best interests of the child;
 - providing adequate financial support to day-care centres for children in the street to guarantee the sustainability of their activities;
 - increasing accommodation facilities to meet the needs of emergency protection for children at risk of exploitation;
 - providing sufficient human, technical and financial resources to increase the capacity and improve the conditions of government-run reception centres to accommodate all migrant and asylum-seeking children (paragraph 166);
5. Take additional steps to prevent and combat THB for labour exploitation, and in particular to:
- ensure that sufficient staff and resources are made available to labour inspectors to enable them to play a frontline role in the prevention and identification of THB for the purpose of labour exploitation;

- ensure that labour inspectors, law enforcement officers and other relevant actors increase their outreach work to identify victims of human trafficking for the purpose of labour exploitation, paying particular attention to at-risk sectors, such as the construction and catering industries;
 - strengthen co-operation between law enforcement officers, labour inspectors, financial police, tax authorities, trade unions and other civil society actors, with a view to identifying victims of THB for the purpose of labour exploitation and collecting the evidence necessary for successfully prosecuting those cases (paragraph 174);
6. Strengthen the identification of victims of THB, and in particular:
- increase efforts to proactively identify victims of trafficking, especially trafficking for the purpose of labour exploitation;
 - pay increased attention to detecting victims of trafficking amongst migrants and asylum seekers, by providing training and issuing clear operational instructions for frontline professionals on identifying and responding to cases of human trafficking and on conducting gender-and culturally-sensitive interviews with migrants and asylum seekers, as well as by recruiting or otherwise engaging a sufficient number of trained interpreters and cultural mediators to more effectively interact with migrants and asylum seekers (paragraph 188);
7. Improve the provision of assistance to victims of THB, and in particular:
- allocate adequate funding to and further develop co-operation and coordination with NGOs providing accommodation and support to victims of THB;
 - develop programmes for long-term support and integration of victims of THB (paragraph 201);
8. Improve the identification of, and assistance to, child victims of trafficking, in particular by:
- ensuring that relevant actors take a proactive approach and increase their outreach work to identify child victims of THB, including by continuing to pay attention to children in street situations and by actively involving, wherever necessary, qualified persons from the Roma community;
 - providing further training to police, prosecutors, NGOs, centres for social welfare, and child specialists and guidance on the identification of child victims of THB, based on an agreed understanding of the concepts of trafficking for the purpose of forced begging, forced criminality and early, child or forced marriages;
 - ensuring that day-centres for children and Social Work Centres are adequately funded and that social workers are adequately equipped with resources to effectively act as temporary legal guardians;
 - ensuring that child victims of THB across the country benefit from appropriate accommodation, especially by setting up specialised safe houses for children in all regions of the country (paragraph 213).

B. Recommends that the authorities of Bosnia and Herzegovina take measures to implement the other proposals for action listed in Appendix 1 of GRETA's third evaluation report.

C. Requests the Government of Bosnia and Herzegovina to report to the Committee of the Parties on the measures taken to comply with this recommendation by **17 June 2024**.

D. Invites the Government of Bosnia and Herzegovina to continue the dialogue in progress with GRETA and to keep GRETA regularly informed of the measures taken in response to GRETA's conclusions.