



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

Recommendation CP/Rec(2022)07 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Belarus

*adopted at the 31st meeting of the Committee of the Parties
on 25 November 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 Belarus on 26 November 2013;

Recalling Committee of the Parties' Recommendation CP(2017)26 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Belarus and the report of the Belarusian authorities on measures taken to comply with this recommendation, submitted on 14 October 2019;

Having examined the second report concerning the implementation of the Convention by Belarus, adopted by GRETA at its 44th meeting (27 June - 1 July 2022), as well as the comments of the Belarusian Government received on 19 September 2022;

1. Welcomes the progress made since the first round of evaluation in the following areas:
 - the development of the legislative framework relevant to action against trafficking in human beings;
 - the revision of the Victim Identification Regulation, introducing a simplified identification procedure in certain cases and clarifying the applicability of the 30-day reflection and recovery period, independently of the victim's consent to participate in the identification procedure;
 - the training on human trafficking provided of a range of relevant professionals;
 - the awareness-raising activities on human trafficking for the general public and target groups, in particular children and labour migrants;
 - the signing in 2019 of a Memorandum of Understanding with the International Organisation for Migration (IOM) to establish a mechanism for long-term co-operation in the field of facilitating the voluntary return of foreigners to their country of origin.

2. Recommends that the Belarusian authorities take measures to address the following issues for immediate action identified in GRETA's report:

- strengthen efforts to prevent trafficking for the purpose of labour exploitation, in particular by:
 - including the prevention and detection of trafficking in human beings for the purpose of labour exploitation in the mandate of the Department of the State Labour Inspectorate;
 - providing all labour inspectors with specialised training on human trafficking for the purposes of labour exploitation, as well as ensuring adequate financial and technical means so that they can be actively engaged in the prevention of human trafficking in all sectors of the economy throughout the country, including by means of unannounced inspections;
 - strengthening the supervision of recruitment agencies and reviewing the legislative framework for any loopholes that may limit protection or preventive measures;
 - raising awareness amongst migrant workers regarding the risks of human trafficking for the purpose of labour exploitation and provide effective access to confidential complaint mechanisms for protecting their rights;
 - sensitising relevant officials, including police officers, prosecutors, judges, staff of local administrations, social workers and other professionals likely to come into contact with victims of trafficking for labour exploitation about the signs and risks of human trafficking and the rights of victims;
 - enhancing co-operation with trade unions, civil society and the private sector to raise awareness of trafficking for the purpose of labour exploitation, prevent trafficking in supply chains and strengthening corporate social responsibility, drawing on the Guiding Principles on Business and Human Rights and Recommendation CM/Rec(2016)3 on human rights and business;
- strengthen efforts to prevent trafficking in children, in particular by:
 - developing programmes to reduce children's vulnerability to human trafficking, in particular children placed in or leaving child-care institutions, children from rural areas and children in Roma communities;
 - strengthen the role and capacity of the child protection system to prevent trafficking in children and alert other relevant stakeholders to possible cases of trafficking;
 - developing a legislative framework to deal with children in migration situations, including unaccompanied and separated children;
- implement international legal obligations under Article 7 of the Council of Europe Convention on Action against Trafficking in Human Beings, which obliges State Parties to strengthen border controls to prevent and detect trafficking in human beings. This should include steps to build the capacity of all competent authorities to detect cases of human trafficking among persons arriving in Belarus and the provision of information to foreign nationals arriving irregularly or seeking asylum, in a language that they can understand, about the risks of human trafficking, their rights and where to turn for advice and assistance;
- take further steps to:
 - ensure that, in practice, the identification as a victim of human trafficking does not depend on the opening of a criminal investigation or the presence of elements to prove a criminal offence of THB or related offence;
 - promote a multi-agency involvement in the decision-making process leading to the identification of victims of human trafficking, taking account of the findings and expertise of all relevant organisations and entities, including specialised NGOs and international organisations;

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- include labour inspectors among the actors responsible for the identification of trafficking victims, in particular in the identification of victims of human trafficking for the purpose of labour exploitation, and ensure that they have the necessary training, human and financial resources to carry out this task efficiently;
 - disseminate the direct and indirect indicators for the identification of victims of human trafficking for different forms of exploitation to all professionals who are likely to come into contact with victims of human trafficking;
 - improve the identification of victims of trafficking among foreign nationals, asylum seekers and persons in irregular migration situations, including through the provision of training and clear, binding procedures to be followed by staff of the State Border Committee and other relevant bodies;
 - comply with obligations under Article 12 of the Convention and to ensure that all presumed and identified victims of trafficking receive adequate assistance and support, according to their needs. This should include measures to:
 - ensure that assistance is provided for as long as needed to presumed and formally identified victims of trafficking and is not discontinued if no criminal proceedings are initiated;
 - ensure that all assistance measures provided for in law, in particular access to health care and psychological support, are guaranteed in practice;
 - provide appropriate and safe accommodation with a sufficient number of places for victims of trafficking in the light of the assessment of trafficking trends in Belarus;
 - ensure that the services available are adapted to the specific needs of trafficking victims and that minimum standards are guaranteed when victims of trafficking are accommodated in structures not specifically designed for them;
 - facilitate the reintegration of victims of trafficking into society and prevent re-trafficking by providing them with long-term assistance, including vocational training and access to the labour market;
 - provide regular training to all professionals responsible for implementing assistance measures for victims of trafficking;
 - take further steps to improve the identification and assistance of child victims of trafficking, and in particular to:
 - ensure that the procedure for the identification of child victims of human trafficking takes into account their special circumstances and needs, involves child specialists, includes outreach activities and ensures that the best interests of the child are the primary consideration;
 - ensure that relevant actors take a proactive approach and increase their outreach work to identify child victims of human trafficking, by paying particular attention to children in street situations, children placed in or leaving childcare institutions, children from rural areas, children in Roma communities and unaccompanied and separated foreign children;
 - provide further training to relevant stakeholders (police, NGOs, child protection authorities, social workers and health-care professionals) as well as tools and guidance on the identification of child victims of human trafficking for different purposes, including labour exploitation, the exploitation of begging and the exploitation of criminal activities;
 - set up sufficient shelters with qualified staff and assistance services for presumed child victims of trafficking, for different forms of exploitation, and provide these shelters with sufficient funding;
 - ensure long-term assistance for the integration of child victims of trafficking (paragraph 131);
 - take further steps to ensure respect for the confidentiality of personal data of victims of trafficking at all stages of processing of such data. The authorities should sensitise responsible officials of

local state administrations, teachers, social workers, doctors and other health professionals to the observance of the confidentiality of victims' personal data;

- take additional measures to facilitate and guarantee access to compensation for victims of trafficking, in particular by:
 - reviewing the criminal and civil law procedures regarding compensation with a view to improving their effectiveness;
 - ensuring that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed, and are provided with effective access to free legal aid, in accordance with the internal law;
 - enabling victims of trafficking to exercise their right to compensation, by building the capacity of legal practitioners to support victims to claim compensation and including compensation into existing training programmes for law enforcement officials, prosecutors and the judiciary;
 - establishing a state compensation scheme accessible to victims of human trafficking;
 - align the national definition of trafficking in human beings to that in the Convention by:
 - including the concept of "abuse of a position of vulnerability" as one of the means for committing trafficking in human beings;
 - removing the requirement of prior knowledge that the person is a child from Articles 181(2)9 and 181(3) of the Criminal Code and fully aligning the domestic law with the provisions of the Convention as regards trafficking in children (i.e. all persons under the age of 18);
 - take additional measures to ensure compliance with the principle of non-punishment of victims of human trafficking for their involvement in unlawful activities, including administrative offences, to the extent that they were compelled to do so, as contained in Article 26 of the Convention. Such measures should include the adoption of a specific legal provision and/or the development of guidance for police officers, prosecutors and judges on the scope of the non-punishment provision;
 - strengthen efforts to ensure that human trafficking cases for different forms of exploitation are investigated and prosecuted proactively, and lead to effective, proportionate and dissuasive sanctions, in particular by reviewing the legislation and the investigation/prosecution procedure with a view to identifying and addressing gaps (e.g. in relation to human trafficking for the purpose of labour exploitation);
 - take steps to:
 - make full use of the available measures to protect victims and witnesses of human trafficking and to prevent intimidation or re-traumatisation during the investigation, as well as during and after the court proceedings, including through the use of video conferences and other suitable means to avoid face-to-face cross-examination of victims in the presence of the accused;
 - extend the application of the procedure to interview children foreseen in the provisions of the Criminal Procedure Code to all victims and witnesses under the age of 18 years;
 - review any legislation which may impede the work of specialised anti-trafficking NGOs, to ensure that such NGOs have effective access to adequate funding and are enabled to participate in the prevention of human trafficking, identification of victims and their protection and assistance, as envisaged in Articles 5, 10 and 12 of the Convention, and to build strategic partnerships with civil society actors with the aim of achieving the purpose of the Convention.
3. Requests the Government of Belarus to report to the Committee of the Parties on the measures taken to comply with this recommendation by **25 November 2023**.
4. Invites the Government of Belarus to continue the dialogue in progress with GRETA and to keep GRETA regularly informed of the measures taken in response to GRETA's conclusions.