

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



**Recommendation CP/Rec(2023)01
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Estonia**

*adopted at the 32nd meeting of the Committee of the Parties
on 16 June 2023*

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 Estonia on 5 February 2015;

Recalling Committee of the Parties' Recommendation CP(2018)23 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Estonia and the report of the Estonian authorities on measures taken to comply with this recommendation, submitted on 13 November 2020;

Having examined the second report concerning the implementation of the Convention by Estonia, adopted by GRETA at its 47th meeting (27-31 March 2023), as well as the comments of the Estonian Government received on 15 May 2023;

1. Welcomes the progress made since the first round of evaluation in the following areas:
 - the further development of the legal framework relevant for combating trafficking in human beings, including by amending to the Criminal Code in view of expanding the criminalisation of trafficking in human beings and trafficking in children, adopting a new Victim Support Act, and making changes to the several legal acts related to the employment of foreign workers and posted workers;
 - the adoption of the Violence Prevention Agreement 2021-2025, which contains a specific chapter on action against trafficking in human beings;
 - the efforts made to provide training on human trafficking and related topics to a wide range of actors, including multi-agency training sessions;

- the steps taken to raise awareness of the risks of human trafficking, discourage demand for services provided by victims of trafficking, and strengthen prevention of trafficking among vulnerable groups, including Ukrainian refugees;
 - the steps taken to investigate human trafficking crimes committed online, such as deploying an IT tool to screen internet-based advertisements for sexual services and establishing cooperation with the main service providers in Estonia for the removal of illegal online content;
 - the engagement in international co-operation in the fight against trafficking in human beings.
2. Recommends that the Estonian authorities take measures to address the following issues for immediate action identified in GRETA's report:
- strengthen efforts to prevent and combat trafficking for the purpose of labour exploitation, taking into account Recommendation CM/Rec(2022)21 of the Committee of Ministers and GRETA's Guidance Note on combating trafficking for labour exploitation, in particular by:
 - strengthening the capacity and mandate of labour inspectors to detect possible victims of human trafficking and refer them for identification and assistance;
 - establishing safe reporting and effective complaint mechanisms for workers, to ensure that victims of abuses or exploitative situations can refer their case without fear of repercussions;
 - ensuring that when joint inspections are conducted, the objectives of labour inspectorates and the role of the immigration authorities are clearly defined;
 - providing further training to labour inspectors, police officers and border guards on the characteristics of human trafficking cases for the purpose of labour exploitation;
 - increase efforts to detect potential victims of human trafficking in the context of border controls and refer them to assistance. In this context, the Estonian authorities should ensure, at both legislative and operational level, that pre-removal risk assessments prior to all forced removals from Estonia fully assess the risks of trafficking or re-trafficking on return, in compliance with the obligation of *non-refoulement*. The Estonian authorities should take full account of the UNHCR guidelines on the application of the Convention relating to refugee status to victims of trafficking, and their right to seek asylum, and to GRETA's Guidance Note on the entitlement of victims of human trafficking, and persons at risk of being trafficked, to international protection;
 - take further steps to improve the identification of victims of human trafficking, and in particular to:
 - ensure that the formal identification of a person as a victim of human trafficking does not depend on the opening of a criminal investigation into human trafficking or a related offence;
 - ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures provided for under the Convention;
 - pay increased attention to the proactive detection of victims of trafficking among undocumented migrants and asylum seekers, allowing sufficient time to gather necessary information and taking into account their traumatic experience. In this context, further training on the identification of victims of human trafficking and their rights should be provided to law enforcement officials, border guards and prosecutors;
 - improve the proactive identification of victims of human trafficking for the purpose of labour exploitation, especially among foreign nationals;
 - comply with their obligations under Article 12 of the Convention, and in particular:
 - set up, as a matter of priority, specialised accommodation facilities for victims of human trafficking and ensure that accommodation is gender-sensitive, appropriate and safe, and that victims are provided with specialised services;
 - ensure that social, legal and psychological assistance is provided for to presumed and formally identified victims of trafficking as long as necessary and is not discontinued if no criminal proceedings are initiated;

- ensure that adequate state funding is dedicated to the provision of specialised assistance and safe accommodation of victims of trafficking;
- ensure that foreign victims are properly informed about their rights and in a language that they understand and receive adequate assistance, including by ensuring the involvement of qualified interpreters;
- 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;
- 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 trafficking for different purposes of exploitation;
 - providing further training to relevant professionals (police, child protection authorities, social workers, health professionals, asylum officials) as well as guidance for the identification of child victims of human trafficking for different forms of exploitation;
 - increasing efforts to identify and refer to assistance child victims of human trafficking who are foreign nationals, taking into account GRETA's Guidance Note on addressing the risks of trafficking in human beings related to the war in Ukraine and the ensuing humanitarian crisis;
- review the provisions and application of the recovery and reflection period with a view to ensuring that:
 - all possible foreign victims of trafficking, including EU/EEA nationals, are systematically informed of the possibility to benefit from a recovery and reflection period and are effectively offered a recovery and reflection period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period;
 - the relevant authorities are informed of the State's positive obligation to grant a recovery and reflection period to all possible victims of human trafficking, whether or not such a request is made by the presumed victim;
- facilitate and guarantee access to compensation for victims of trafficking, including by:
 - ensuring that all 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;
 - 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;
- bring the definition of human trafficking into conformity with Article 4 of the Convention without further delay, in particular by:
 - including the component of "action" in the definition of human trafficking under Article 133 of the CC;
 - ensuring that all the "means" provided for in the Convention are adequately reflected;
 - including forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs among the forms of exploitation under Article 133 of the CC;
 - clearly stating the irrelevance of the consent of a victim of human trafficking to establishing a trafficking offence where any of the means have been used;
- take further steps to ensure compliance with the principle of non-punishment of victims of human trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, as contained in Article 26 of the Convention, in particular by:
 - adopting a specific provision and/or developing guidance for police officers and prosecutors on the scope of the non-punishment provision;

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- including the non-punishment provision in the training of law enforcement officials, prosecutors and judges;
 - ensuring that the non-punishment provision is capable of being applied in practice to all offences that victims of trafficking were compelled to commit, including migration related offences, by ensuring that victims are promptly identified as such and receive adequate support from their first contact with law enforcement agencies;
 - take further measures to ensure that human trafficking cases are investigated proactively, prosecuted successfully and result in effective, proportionate and dissuasive convictions, including by:
 - strengthening the capacity to locate, seize and confiscate assets of the traffickers by carrying out proactive investigations, including financial investigations related to trafficking offences;
 - providing further training to police officers and prosecutors to investigate and prosecute cases of human trafficking for the purpose of labour exploitation, including through co-operation with other relevant actors and countries;
 - further developing the specialisation of investigators, prosecutors and judges to deal with human trafficking cases.
3. Requests the Government of Estonia to report to the Committee of the Parties on the measures taken to comply with this recommendation by **16 June 2024**.
4. Invites the Government of Estonia to continue the dialogue in progress with GRETA and to keep GRETA regularly informed of the measures taken in response to GRETA's conclusions.