



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

**Recommendation CP/Rec(2019)07
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Hungary**

*adopted at the 25th meeting of the Committee of the Parties
on 18 October 2019*

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 Hungary on 4 April 2013;

Recalling Committee of the Parties' Recommendation CP(2015)3 of 15 June 2015 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Hungary and the report of the Hungarian authorities on measures taken to comply with this recommendation, submitted on 23 June 2017;

Having examined the second report concerning the implementation of the Convention by Hungary adopted by GRETA at its 35th meeting (8-12 July 2019) as well as the comments of the Hungarian Government received on 16 September 2019;

1. Welcomes the progress made by Hungary since the first round of evaluation in the following areas:

- the adoption of new provisions in the Criminal Procedure Code on the protection of witnesses and victims;
- the launch of a database for the registration of presumed victims of trafficking in human beings, enabling the collection of information from a range of relevant professionals, including NGOs;
- the organisation of awareness-raising activities targeting child care institutions and crisis centres, and the research carried out on child trafficking;
- the training provided to a range of professionals who may come across victims of human trafficking, including staff of the Immigration and Asylum Office, and the development of guidelines on how to identify victims of trafficking and refer them to assistance;

- the extension of the range of professional groups entitled to perform identification of victims of human trafficking to include the victim support services, the probation services and the legal aid services;
- the steps taken in the area of international co-operation, in particular the setting up of Joint Investigation Teams in transnational cases of human trafficking and the participation in international projects.

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

- take all necessary steps to further develop the EKAT data base and make it fully operational in order to be able to compile comprehensive and coherent statistical data on trafficking in human beings, including reliable data on measures to protect and promote the rights of victims of THB;
- strengthen their efforts in the area of prevention of child trafficking, in particular by:
 - sensitising and training staff working with children, including in residential care institutions, as well as other child protection professionals across the country;
 - raising awareness of THB and online safety among children, including those in residential care institutions;
 - taking further measures to strengthen the prevention of THB through social, economic and other measures for groups vulnerable to THB, including outreach work and fostering access to education and employment in Roma communities;
- ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures provided for in the Convention, including by:
 - not requiring written consent from trafficked persons for them to be identified as victims and provided with assistance;
 - adopting a framework for the identification of victims of THB among third-country nationals without legal residence which ensures that victim identification is dissociated from the presumed victim's co-operation with the investigation;
 - improving the identification of victims of trafficking among asylum seekers and irregular migrants;
 - organising regular and co-ordinated multi-agency inspections by labour inspectors, the Police and other relevant agencies in at-risk sectors;
 - enabling specialised NGOs with experience in identifying and assisting victims of THB to have regular access to transit zones;
 - ensuring that there are appropriate facilities in transit zones where asylum seekers can meet in privacy with persons of trust, including lawyers, employees of specialised NGOs, officials of international organisations and social workers;

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- take further measures to provide victims of THB with adequate assistance, and in particular:
 - ensure that all assistance measures provided for in law are guaranteed in practice to victims of THB, regardless of their migration status and whether they are in possession of a certificate on victim status; when the provision of assistance is delegated to NGOs as service providers, the State has an obligation to provide adequate financing and ensure the quality of the services delivered by all NGOs to whom the State refers victims of THB for assistance;
 - enable male victims of THB to benefit from all the assistance measures provided for in law, including safe accommodation;
 - ensure that presumed foreign victims of trafficking are moved to a shelter for victims of THB as soon as there are reasonable grounds to believe that they are victims of trafficking;
 - ensure that the legislation criminalising the promotion and facilitation of irregular migration is not applied in a way which would prevent NGOs from being involved in providing assistance to all victims of trafficking;
 - strengthen efforts to identify child victims of trafficking and to provide them with assistance adapted to their needs, including by:
 - setting up child-specific identification procedures which involve child specialists and take into account the special circumstances of child victims of trafficking;
 - repealing legislation allowing the imposition of administrative fines on children engaged in prostitution and instructing police officers to consider all children (including those 14-18 years of age) who are engaged in prostitution as victims, including possible victims of trafficking rather than as offenders;
 - ensuring the timely appointment of trained guardians to unaccompanied or separated children kept in transit zones and enabling guardians to effectively fulfil their tasks by limiting the number of children for which each guardian is responsible;
 - reviewing the age assessment procedures applied in the transit zones, with a view to ensuring that the best interests of the child are effectively protected and that the benefit of the doubt is given in cases of doubt, in accordance with Article 10, paragraph 3, of the Convention, and taking into account the requirements of the UN Convention on the Rights of the Child, General Comment No. 6 of the Committee on the Rights of the Child and the European Asylum Support Office (EASO) practical guide on age assessment. The National Directorate-General for Aliens Policing should be given sufficient time to involve expertise such as forensic medicine experts, psychologist and psychiatrists to carry out age assessment before having to assert a young person's age;
 - placing presumed child victims of trafficking in accommodation which has suitably qualified staff and is appropriate in terms of their specific needs, in line with Article 12.7 of the Convention;
 - ensure that the recovery and reflection period, as provided for in Article 13 of the Convention, is specifically defined in law and that all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention are made available during this period to persons for whom there are reasonable grounds to believe are victims of THB, regardless of whether they are detected inside Hungary or in a transit zone;
 - adopt measures to facilitate and guarantee compensation from the perpetrators for victims of trafficking, including by:
 - ensuring that victims of trafficking are systematically informed of their right to legal aid and to seek compensation and the procedures to be followed;

- enabling victims of trafficking to effectively 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 and the judiciary;
 - review the legislation concerning State compensation so that all victims of trafficking are able to benefit from it regardless of their nationality or the regularity of their stay in Hungary or in any other country;
- take the following steps as regards the repatriation and return of victims of trafficking:
- duly conduct pre-removal risk assessments prior to forced removals of irregular migrants or return of victims of trafficking or failed asylum seekers from Hungary, fully assessing the risks of trafficking or re-trafficking on return;
 - give full consideration to the UNHCR's Guidelines on the application of the Refugees Convention to trafficked people;
 - ensure that the repatriation of trafficking victims is carried out with due regard for their rights, safety and dignity and preferably on a voluntary basis and in compliance with the obligation of non-refoulement. This requirement includes the provision of information to victims on existing support programmes and protection against re-victimisation and re-trafficking;
 - make sure that the best interests of the child are effectively respected, protected and fulfilled, *inter alia*, through an assessment of risks and safety carried out, prior to any removal measure, by specialised bodies in co-operation with the competent contacts in the country of origin, especially for unaccompanied children; this assessment must also enable the child to properly exercise his/her right to education and measures to secure adequate care or receipt by the family or appropriate care structures;
- include the different types of exploitation mentioned in the Convention, including slavery, practices similar to slavery and servitude, in the definition of THB in the Criminal Code;
- adopt a specific legal provision on non-punishment of victims of trafficking for their involvement in unlawful activities to the extent that they were compelled to do so and/or to issue guidance to the Police and public prosecutors on the application of the non-punishment principle;
- take measures to ensure that THB cases are investigated proactively, prosecuted and result in effective, proportionate and dissuasive convictions, including by:
- identifying gaps in the investigation and prosecution of THB cases;
 - providing further training to police officers and prosecutors to investigate and prosecute cases of THB for different purposes of exploitation, including through co-operation with other relevant actors, such as child protection services and labour inspectors;
 - ensuring, as far as possible, that THB investigations or charges are not re-qualified into other offences which carry lighter penalties and deprive victims of THB of access to protection, support and compensation;
 - strengthening efforts to investigate and prosecute cases of trafficking for the purpose of labour exploitation;
 - encouraging the Police not to react only to complaints but to be proactive in investigating possible THB offences, including when presumed victims of THB do not consider themselves as victims;
 - ensuring that units investigating THB offences are properly resourced and make use in practice of special investigation techniques;

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- carrying out financial investigations into THB cases in order to effectively locate, seize and confiscate criminal assets related to this offence;
 - build strategic partnerships with civil society actors with the aim of achieving the purpose of the Convention, and to review any legislation which may impede the work of specialised anti-trafficking NGOs to ensure that all such NGOs have effective access to adequate funding and are enabled to participate in the prevention of THB, identification of victims and their protection and assistance, as envisaged in Articles 5, 10 and 12 of the Convention.
3. Requests the Government of Hungary to report to the Committee of the Parties on the measures taken to improve the implementation of the Convention in the above-mentioned areas by **18 October 2020**.
4. Recommends that the Government of Hungary take measures to implement the further conclusions of GRETA's second evaluation report.
5. Invites the Government of Hungary to continue the dialogue in progress with GRETA and to keep GRETA regularly informed of the measures taken in response to GRETA's conclusions.