



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

**Recommendation CP/Rec(2019)08
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Liechtenstein**

*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 Liechtenstein on 27 January 2016;

Having examined the combined first and second evaluation rounds report concerning the implementation of the Convention by Liechtenstein, adopted by GRETA at its 35th meeting (8-12 July 2019);

Having examined the comments of the Liechtenstein Government on GRETA's report, submitted on 13 September 2019;

Welcoming the measures to combat trafficking in human beings taken by the Liechtenstein authorities, and in particular:

- the adoption of legislation criminalising trafficking in human beings and providing for the rights of victims of trafficking;
- the setting up of a Roundtable on Trafficking in Human Beings with a view to strengthening co-operation between law enforcement authorities, migration authorities and institutions responsible for providing assistance to victims of trafficking;
- the adoption of Guidelines against Trafficking in Human Beings which define the roles and responsibilities of different stakeholders in the identification and referral to assistance of victims of trafficking;
- the co-operation established with the Swiss NGO FIZ in order to provide assistance to any victims of trafficking detected in Liechtenstein;

- the engagement in international co-operation in combating human trafficking, including through promoting the financial sector's involvement against human trafficking;

Taking note of the areas where further action is required in order to improve the implementation of the Convention by Liechtenstein, in particular:

- adopting an action plan or other policy document against trafficking in human beings, which includes measures to prevent human trafficking and to provide training to relevant professionals;
- including slavery, practices similar to slavery and servitude as types of exploitation in the legal definition of trafficking in human beings in the Criminal Code;
- taking additional measures to prevent human trafficking for the purpose of labour exploitation;
- taking further steps to ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures contained in the Convention;
- providing in internal law for a recovery and reflection period, in compliance with Article 13 of the Convention, and ensuring that all possible foreign victims of trafficking are offered such a period together with all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention;
- ensuring compliance with Article 26 of the Convention through the adoption of a provision on the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, and/or by developing relevant guidance.

1. Recommends that the Government of Liechtenstein implement the proposals of GRETA listed in Appendix I to the Report concerning the implementation of the Convention by Liechtenstein (see addendum);
2. Requests the Government of Liechtenstein to inform the Committee of the Parties of the measures taken to comply with this recommendation by **18 October 2021**.
3. Invites the Government of Liechtenstein to continue the ongoing dialogue and co-operation with GRETA and to keep GRETA informed of the measures taken in response to its proposals.

Addendum

List of GRETA's proposals concerning the implementation of the Convention by Liechtenstein

National Action Plan

1. With a view to meeting the obligations under the Convention and adopting a comprehensive approach to the fight against trafficking in human beings (THB), GRETA urges the Liechtenstein authorities to adopt an action plan or other policy document which addresses all aspects of the fight against trafficking in human being, including prevention and the provision of training to relevant professionals.

Definition of "trafficking in human beings"

2. GRETA urges the Liechtenstein authorities to include slavery, practices similar to slavery and servitude as types of exploitation in the legal definition of trafficking in human beings in Article 104a of the CC.

3. GRETA considers that stating explicitly in law the irrelevance of the consent of a victim to the intended exploitation could improve the implementation of anti-trafficking provisions and provide victims with greater confidence in self-reporting to NGOs and public authorities.

Comprehensive approach and co-ordination

4. GRETA considers that the Liechtenstein authorities should take further steps to ensure that national action to combat THB is comprehensive, including by:

- involving more stakeholders, such as members of the judiciary, NGOs and other members of civil society in action against THB, including in the work of the Roundtable, and encouraging the conclusion of Memoranda of Understanding with relevant NGOs;
- paying increased attention to prevention and protection measures for groups at risk of THB, such as nightclub dancers, agricultural workers under trainee contracts, personal care workers for the elderly and asylum seekers.

Training of relevant professionals

5. GRETA urges the Liechtenstein authorities to ensure that training on THB (in particular on the definition and indicators of THB, detection of vulnerable individuals and groups, identification, assistance and compensation of victims) is systematically provided to relevant professionals, such as law enforcement officials, prosecutors, judges, labour inspectors, lawyers, asylum officers, social workers, child care professionals, medical and educational staff. NGOs and trade unions should also be involved in such training.

Data collection and research

6. In order to create an evidence base for future policy measures, GRETA urges the Liechtenstein authorities to, set up and maintain a comprehensive and coherent statistical system on THB by compiling reliable statistical data from all main actors, including specialised NGOs, on measures to protect and promote the rights of victims as well as on investigations, prosecutions, convictions and compensations in human trafficking cases. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database.

7. GRETA considers that the Liechtenstein authorities should conduct and support research related to the phenomenon of THB as an evidence base for future policy measures.

Measures to raise awareness

8. GRETA considers that the Liechtenstein authorities should develop initiatives to raise awareness of THB for different forms of exploitation amongst the general public, groups considered at risk and service providers, including the financial sector. Awareness-raising should be accompanied by research and the impact of the measures should be assessed.

Measures to prevent labour exploitation (Article 5)

9. GRETA urges the Liechtenstein authorities to take additional measures to prevent trafficking for the purpose of labour exploitation, in particular by:

- training labour inspectors on detecting THB for the purpose of labour exploitation and the rights of victims;
- using interpreters during labour inspections of places of work at which foreigners with insufficient command of German or other languages spoken by the labour inspectors work;
- paying particular attention to at-risk groups, such as persons employed to provide personal care for the elderly, and foreign agricultural workers employed on trainee contracts, based on which employers rather than the workers apply for residence permits for the latter, with the potential risk of abuse this procedure entails;
- review the regulatory systems concerning domestic and personal care workers and ensure that inspections can take place in private households with a view to preventing abuse and detecting cases of human trafficking;
- working closely with the private sector, in line with the Guiding Principles on Business and Human Rights.

Measures to prevent trafficking in children (Article 5)

10. GRETA considers that the Liechtenstein authorities should take additional measures to prevent trafficking in children, in particular by:

- raising public awareness about the risks and manifestations of child trafficking;
- sensitising and training child professionals about THB, how to prevent it and how to report possible cases to the competent authorities;
- promoting online safety of children and alerting relevant actors of the risks of trafficking in children committed via the Internet.

Measures to discourage demand (Article 6)

11. GRETA considers that the Liechtenstein authorities should make efforts to discourage demand for the services of trafficked persons, in partnership with the private sector and civil society.

Measures to prevent trafficking in human beings for the purpose of organ removal (Article 5)

12. GRETA encourages the Liechtenstein authorities to sign and ratify the Council of Europe Convention against Trafficking in Human Organs as this would contribute to the prevention of trafficking for the purpose of organ removal.

Identification of victims of trafficking in human beings (Article 10)

13. GRETA urges the Liechtenstein authorities to take further steps to ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures contained in the Convention, in particular by:

- disconnecting the formal identification of victims of THB from the criminal investigation and the presumed victim's co-operation in it;
- promoting multi-agency involvement in the identification of victims of trafficking by giving a formal role in the identification process to frontline actors such as NGOs, labour inspectors, social workers, health-care staff and other bodies which may come into contact with victims of trafficking;
- increasing efforts to proactively identify victims of THB for the purpose of labour exploitation, in particular in at-risk sectors, such as entertainment, agriculture, and the provision of personal care for the elderly, by involving labour inspectors and trade unions;
- providing sufficient human resources for the asylum reception centre, as well as training to staff to enable the identification of presumed victims of THB among asylum seekers.

Assistance to victims (Article 12)

14. GRETA urges the Liechtenstein authorities to ensure that all victims of THB under Liechtenstein jurisdiction, including asylum seekers and persons exploited abroad but identified in Liechtenstein, benefit from assistance measures in accordance with Article 12, Paragraph 1, of the Convention.

15. GRETA considers that the Liechtenstein authorities should ensure that adequate financial and human resources are made available in Liechtenstein to enable all presumed and identified victims of THB to benefit from the assistance measures provided for under Article 12 of the Convention.

Identification and assistance of child victims of trafficking (Articles 10 and 12)

16. GRETA invites the Liechtenstein authorities to review the age assessment procedures, ensuring that the best interests of the child are effectively protected, and taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child.

17. GRETA urges the Liechtenstein authorities to take steps to improve the identification of child victims of trafficking and their referral to dedicated assistance services, in particular by:

- developing a procedure for identifying children, based on co-operation between relevant institutions, which takes account of the situation and specific needs of child victims of trafficking, with input from child protection specialists and a focus on the best interests of the child as the prime consideration;
- providing capacity-building to stakeholders (police, NGOs, child protection authorities, Migration and Passport Office, social workers) as well as guidance for the identification of child victims of THB for different purposes, including the exploitation of begging and exploitation of criminal activities.

Recovery and reflection period (Article 13)

18. Noting that domestic law must be brought into compliance with international obligations, GRETA urges the Liechtenstein authorities to provide in internal law a recovery and reflection period and to ensure, in compliance with Article 13 of the Convention, that all possible foreign victims of trafficking are offered such a period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.

Residence permits (Article 14)

19. GRETA considers that the Liechtenstein authorities should make full use of the legal possibilities to grant residence permits to victims of THB and ensure that they are systematically informed of these possibilities. Officials of the Migration and Passport Office should be given clear guidance in this respect.

Compensation and legal redress (Article 15)

20. GRETA considers that the Liechtenstein authorities should adopt measures to facilitate and guarantee access to compensation for victims of trafficking, and in particular to:

- ensure that victims of trafficking are systematically informed, at an early stage, in a language that they can understand, of the right to seek compensation from the perpetrator and the procedures to be followed;
- enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid and by including the issue of victim compensation in training programmes for lawyers, law enforcement officials, prosecution and the judiciary;
- ensure that victims are informed of the possibility to apply for State compensation, when compensation by the perpetrator is not possible, and are effectively enabled to receive it.

Repatriation and return of victims (Article 16)

21. GRETA considers that the Liechtenstein authorities should:

- ensure that the return of victims of trafficking is conducted with due regard for their rights, safety and dignity. In the case of children, no return should be carried out before a thorough assessment of the child's best interest has been carried out and arrangements made for the necessary support measures upon arrival in the receiving country;

- develop international co-operation in order to ensure proper risk assessment, including as regards the risk of re-victimisation through re-trafficking, safe return, and effective reintegration of victims of THB;
- ensure compliance with the non-refoulement obligation under Article 40, paragraph 4, of the Convention;
- as regards victims of THB among asylum seekers, apply the 2006 UNHCR's Guidelines on the application of the Refugees Convention to trafficked people and their possible entitlement to asylum when deciding upon applications for asylum of persons who are at risk of being re-trafficked or otherwise persecuted should they be obliged to return to their State of origin or residence.

Substantive criminal law (Articles 18, 23, 24 and 25)

22. GRETA invites the Liechtenstein authorities to adopt legislative measures to criminalise the use of services with the knowledge that the person is a victim of THB, regardless of the form of exploitation, as stipulated by Article 19 of the Convention.

Corporate liability (Article 22)

23. GRETA invites the Liechtenstein authorities to ensure that any offences related to THB committed by legal persons, including financial institutions, are effectively investigated and prosecuted.

Non-punishment of victims of trafficking in human beings (Article 26)

24. GRETA urges the Liechtenstein authorities to ensure compliance with Article 26 of the Convention through the adoption of a provision on the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, and/or by developing relevant guidance. Public prosecutors should be encouraged to be proactive in establishing whether an accused person is a potential victim of trafficking. While the identification procedure is ongoing, potential victims of trafficking should not be punished for immigration-related offences.

Investigation, prosecution and procedural law (Articles 1, 27 and 29)

25. GRETA considers that the Liechtenstein authorities should take further steps to ensure that THB offences for all types of exploitation are proactively investigated and promptly prosecuted, leading to proportionate and dissuasive sanctions, by:

- providing further training to police officers and prosecutors to investigate and prosecute cases of THB, including through co-operation with other relevant actors and countries;
- making use of special investigation techniques in suspected cases of THB with a view to ensuring that evidence is obtained at as early a stage of the investigation as possible;
- systematically carrying out financial investigations in human trafficking cases with a view to seizing and confiscating criminal assets and in this context ensuring that bank secrecy rules are not an impediment.

Protection of victims and witnesses (Articles 28 and 30)

26. GRETA invites the Liechtenstein authorities to ensure that all measures to protect victims of criminal offences are available in practice to victims of THB, witnesses and their legal representatives, to prevent reprisals and intimidation during investigation, as well as during and after the court proceedings.

International co-operation (Article 32)

27. GRETA welcomes Liechtenstein's involvement in international co-operation against human trafficking and invites the authorities to continue and further develop this co-operation, in particular as regards training of relevant professionals, protection of victims and criminal investigation of cross-border cases.