



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

**Recommendation CP/Rec(2021)06
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Malta**

*adopted at the 29th meeting of the Committee of the Parties
on 17 December 2021*

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 Malta on 30 January 2008;

Recalling Committee of the Parties' Recommendation CP(2017)3 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Malta and the report of the Maltese authorities on measures taken to comply with this recommendation, submitted on 6 March 2018;

Having examined the third report concerning the implementation of the Convention by Malta, adopted by GRETA at its 41st meeting (5-8 July 2021), as well as the comments of the Maltese Government received on 22 October 2021;

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 Malta;

Welcoming the measures taken and progress achieved by the Maltese authorities in implementing the Convention, and in particular:

- the further development of the legislative framework, including increasing the minimum penalty for trafficking in human beings, excluding companies involved in human trafficking from public procurement procedures, and strengthening the protection and assistance of victims of crimes;

- the adoption of a new National Action Plan on Combatting Trafficking in Human Beings, covering the period 2020-2023;
- the increase in the funding for victim assistance and the setting up of a safe house for victims of human trafficking;
- the awareness-raising and training activities undertaken to prevent and combat child trafficking;
- the efforts made to combat trafficking for the purpose of labour exploitation, through increased capacity and training of labour inspectors;
- the decision to waive residence and work permit application fees for victims of trafficking;
- the participation in international co-operation in the area of combating human trafficking, including by means of Joint Investigation Teams;

A. Recommends that the Government of Malta take measures to address the following issues for immediate action¹ identified in GRETA's report:

1. Ensure the provision of information to presumed victims of human trafficking in asylum reception centres and immigration detention centres, including by developing and disseminating information materials on the rights of victims of trafficking, the services and assistance measures available and how to access them, and ensuring access to interpretation (paragraph 46);
2. Make efforts to guarantee effective access to compensation for victims of human trafficking, in line with Article 15 (4) of the Convention, including by:
 - ensuring that the collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation of the victim, is part of the criminal investigation, with a view to supporting compensation claims in court;
 - enabling victims of trafficking to effectively exercise their right to compensation, by ensuring access to legal assistance and free legal aid;
 - building the capacity of lawyers to support victims in claiming compensation;
 - including compensation in training programmes for judges and prosecutors, encouraging them to use all the possibilities the law offers to uphold compensation claims by victims of human trafficking and requiring courts to state, where applicable, why compensation is not considered;
 - reviewing the legislation to allow the use of confiscated assets to secure compensation to victims of human trafficking;
 - removing the maximum limit of €10,000 of compensation for moral damages;
 - reviewing the eligibility criteria for state compensation with a view to making it available to all victims of trafficking when the offence was committed in Malta, regardless of their nationality and residence status, and ensuring that it is not conditional on failure to obtain compensation from the perpetrator. This should involve reviewing Article 4, paragraph 3, and Article 11 (b) of S.L. 9.12. The eligibility or amount of state compensation should not be affected by the failure of the victim to inform the authorities of the crime or to co-operate

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

with them or by his/her conduct, character or way of life. Further, the limit of €23,300 should apply to one victim, and not to a group of victims (paragraph 83);

3. Introduce as an aggravating circumstance the offence of trafficking in human beings committed against a child, regardless of the means used (paragraph 88);

4. Take measures to strengthen the criminal justice response to human trafficking and ensure that human trafficking cases lead to effective, proportionate and dissuasive sanctions, including by:

- providing regular training to judges, members of the Attorney General's office and police officers on trafficking in human beings and the rights of victims, and encouraging the development of specialisation amongst prosecutors and judges to deal with human trafficking cases;
- strengthening the proactive investigation of cases of all forms of human trafficking, including internal trafficking, regardless of whether a complaint about the reported crime has been submitted or not, making use of special investigation techniques in order to gather evidence and not having to exclusively rely on the testimony by victims;
- requiring consideration of allocation of specialist financial investigators to every human trafficking case;
- ensuring that the length of court proceedings in cases of trafficking of human beings is reasonable, in line with the case-law of the European Court of Human Rights (related to Article 6, paragraph 1 of the ECHR) and the standards set by the European Commission for the Efficiency of Justice (CEPEJ) (paragraph 106);

5. Take additional steps to ensure that victims and witnesses of human trafficking are provided with effective and appropriate protection from potential retaliation or intimidation, including by:

- avoiding cross-examination in the presence to defendants, and giving preference to testifying through video-conference;
- building the awareness of all actors in the criminal justice system on how to avoid re-victimisation and stigmatisation of victims of human trafficking, as well as prioritising the rights, needs and interests of victims (paragraph 120);

6. Review the Criminal Code with a view to ensuring that all child victims of human trafficking, including children older than 16, are afforded special protection measures (paragraph 140);

7. Respect the principle of *non-refoulement* of victims of trafficking (paragraph 174);

8. Take additional steps to proactively identify victims of trafficking, including by screening asylum seekers, in particular all unaccompanied children, for indicators of human trafficking upon or swiftly after their arrival in Malta, and enabling specialised NGOs to have regular access to facilities for asylum seekers and detained migrants in order to proactively identify victims of trafficking. This involves providing information on the rights of victims of trafficking, the services and assistance measures available and how to access them (paragraph 175).

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

C. Requests the Government of Malta to report to the Committee of the Parties on the measures taken to comply with this recommendation by **17 December 2023**.

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