



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

**Recommendation CP/Rec(2021)07
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by the United Kingdom**

*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 the United Kingdom on 17 December 2008;

Recalling Committee of the Parties' Recommendation CP(2016)12 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom and the report of the UK authorities on measures taken to comply with this recommendation, submitted on 31 October 2017;

Having examined the third report concerning the implementation of the Convention by the United Kingdom, adopted by GRETA at its 41st meeting (5-8 July 2021), as well as the comments of the UK Government received on 17 September 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 the United Kingdom;

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

- the independent review of the Modern Slavery Act 2015 and the UK Government's commitment to implementing the majority of the review's recommendations;

- the efforts to establish specialised anti-trafficking bodies and to provide training and guidance to relevant professionals;
- the reforms of the National Referral Mechanism (NRM) intended to improve victim identification and support, including the setting up of a Single Competent Authority and independent multi-agency panels of experts to review negative identification decisions;
- the increased support for confirmed victims in England and Wales from 45 days to a minimum of 90 days through the Modern Slavery Victim Care Contract;
- the steps taken to prevent and eradicate human trafficking from businesses and supply chains, including in the public sector;
- the action taken to prevent and combat trafficking for the purpose of labour exploitation, including through the increased capacity and budget of the Gangmasters Labour Abuse Authority (GLAA);
- the active participation in multilateral and bilateral international co-operation in the fight against trafficking in human beings, including the setting up Joint Investigation Teams with a number of countries.

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

1. Take further steps to facilitate and guarantee access to justice for victims of human trafficking, in particular by ensuring that:
 - victims, and in particular children, receive legal assistance during the identification process and are properly informed of their rights and options before entering the NRM;
 - access to free legal aid is ensured across the UK and is granted in a timely manner;
 - the assistance of a lawyer is ensured for state compensation proceedings, by making the Exceptional Case Funding scheme accessible in practice to victims seeking compensation before the Criminal Injuries Compensation Authority (paragraph 92);
2. Make additional efforts to guarantee effective access to compensation for victims of human trafficking, in particular by:
 - enabling all victims of trafficking, including undocumented migrants, to exercise their right to compensation, and carrying out a review of the "illegality defence", aimed at enabling victims of trafficking who are irregular migrants to seek unpaid salaries before employment tribunal;
 - ensuring that the Family Worker Exemption and the "live in domestic workers exemption" do not prevent domestic workers who are victims of trafficking from accessing compensation;
 - ensuring that victims of labour exploitation have accessible remedies for obtaining more than two years owed in National Minimum Wage;
 - making full use of the legislation on the freezing and forfeiture of assets and international co-operation to secure compensation to victims of human trafficking;

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

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- improving training programmes on compensation for legal practitioners, prosecutors and the judiciary, and encouraging them to use all the possibilities the law offers to uphold compensation claims by victims of human trafficking;
 - enabling victims of trafficking to effectively exercise their right to state compensation within reasonable time, by ensuring their access to legal aid when submitting applications to the Criminal Injuries Compensation Scheme as well as to experts who can assess psychological injuries, and providing appropriate guidance to the Criminal Injuries Compensation Authority;
 - ensuring that the amount of compensation from the Northern Ireland Criminal Injuries Compensation Authority is not made dependent on the victim's co-operation with the authorities or prior convictions (paragraph 132);
3. Strengthen efforts to ensure compliance with the non-punishment provision, by:
- ensuring that the non-punishment provision is capable of being applied to all offences that victims of trafficking were compelled to commit, by ensuring that victims are promptly identified as such and receive adequate support from their first contact with law enforcement agencies;
 - ensuring that the allocation of the burden of proof does not substantially hinder the application of the non-punishment provision;
 - removing the requirement to apply the "reasonable person" test in the framework of the statutory defence of child victims pursuant to section 45 of the Modern Slavery Act;
 - strengthening their efforts to ensure the 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, by further developing the existing guidance and promoting it through training of police staff, prosecutors and judges, including staff working in prisons and immigration detention centres, as well as social workers and all First Responders (paragraph 177);
4. Further improve the identification of victims of human trafficking, including by:
- ensuring that the identification process has a reasonable duration, by providing appropriate funding for the recruitment of new staff and making the process more efficient;
 - continuing to monitor the implication of the Immigration Act 2016 offence of illegal work for the identification and protection of victims of trafficking, and adopting necessary measures for ensuring that victims of trafficking who are undocumented migrants are identified as victims instead of being considered as criminals (paragraph 268);
5. Ensure that all victims of human trafficking who have received a positive Conclusive Grounds decision and whose immigration status requires it are issued a renewable residence permit when their personal situation warrants it or when they are co-operating with the authorities in criminal investigations or proceedings and their presence in the UK is required for this purpose, as well as that all child victims are issued such residence permits, in accordance with the best interests of the child, pursuant to Article 14(2) of the Convention (paragraph 314).

6. Review the victim return and repatriation policies in order to ensure compliance in law and practice with Article 16 of the Convention, including by:

- ensuring that the best interests of the child are effectively respected, protected and fulfilled, including through pre-removal risk and security assessments, in particular for unaccompanied children, by specialised bodies working with relevant partners in countries of return; such assessments should also ensure effective enjoyment of the child's right to education and measures to secure adequate care or receipt by the family or appropriate care structures in countries of return (Article 16 (5) of the Convention);
- ensuring that the return of victims of trafficking is conducted with due regard for their rights, safety and dignity, is preferably voluntary and complies with the obligation of non-refoulement. This includes informing victims about existing support programmes, protecting them from re-victimisation and re-trafficking;
- carrying out a comprehensive risk assessment prior to the return of victims, including through enhancing international co-operation, in order to ensure compliance with the non-refoulement principle, as well as enabling the effective reintegration and protection of victims of THB returned to other countries (paragraph 322).

B. Recommends that the UK 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 the United Kingdom 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 the United Kingdom to continue the dialogue in progress with GRETA and to keep GRETA regularly informed of the measures taken in response to GRETA's conclusions.