

The Council of Europe Convention on Action against Trafficking in Human Beings and its monitoring mechanism (GRETA and Committee of the Parties)

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Action undertaken in CoE

Since the late 1980s, the Council of Europe has adopted a variety of initiatives:

- ✗ Studies and research
- ✗ Awareness-raising activities
- ✗ Co-operation activities at national and regional levels

The Council of Europe also has adopted texts concerning THB, in particular: *Recommendation n° R (2000) 11 of the Committee of Ministers to Member States on action against trafficking in human beings for the purpose of sexual exploitation*



Main international instruments



- ✗ UN Protocol to the Convention against transnational organised crime to prevent, suppress and punish trafficking in persons, especially women and children (Palermo Protocol)
- ✗ EU Directive of 29 April 2004 on the residence permit issued to third-country nationals victims of trafficking in human beings or to third-country nationals who have been the subject of an action to facilitate illegal migration who co-operate with the competent authorities
- ✗ EU Council Framework Decision of 19 July 2002 on combating trafficking in human beings
- ✗ OSCE Action Plan to combat trafficking in human beings



Why do we need a new treaty ?

- ✘ THB violates Human Rights and undermines the values on which the Council of Europe is based
- ✘ The geographical setting of the Council of Europe enables countries of origin, transit and destination to agree on a common binding policy against trafficking
- ✘ Existing international texts are either not sufficiently binding or take into account just "one aspect" of the problem



Relationship with other instruments



- ✗ The Council of Europe Convention does not prejudice the rights and obligations derived from the UN Palermo Protocol and is intended to enhance the protection afforded by it and develop the standards contained therein
- ✗ The fact of being a victim of trafficking in human beings cannot preclude the right to seek and enjoy asylum



Definition of THB (3 elements)



- ✘ The action of: “recruitment, transportation, transfer, harbouring or receipt of persons”,
- ✘ by means of: “the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”,
- ✘ for the purpose of exploitation: “Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.



Aims of the Council of Europe Convention



The Council of Europe Convention is a comprehensive treaty aiming to (3 Ps):

- ✘ **P**revent trafficking
- ✘ **P**rotect the Human Rights of victims of trafficking
- ✘ **P**rosecute the traffickers



Scope of the Convention

The Convention applies to:

- ✘ all forms of trafficking: whether national or transnational, whether or not related to organised crime
- ✘ whoever the victim: women, men or children
- ✘ whatever the form of exploitation: sexual exploitation, forced labour or services, etc



Trafficking vs. Illegal migration (smuggling of migrants)



- ✘ While the aim of smuggling of migrants is the unlawful cross-border transport in order to obtain, directly or indirectly, a financial or other material benefit, the purpose of trafficking in human beings is exploitation. Furthermore, trafficking in human beings does not necessarily involve a transnational element; it can exist at national level.



Measures provided by the Council of Europe Convention



- I. Prevention
- II. Measures to protect and promote the rights of victims
- III. Criminal law and procedure
- IV. Co-operation
- V. Monitoring mechanism



I. Prevention

- ✘ Prevention of THB by measures such as information, awareness-raising and education campaigns for persons vulnerable to trafficking
- ✘ Preventive measures to discourage demand
- ✘ Border control to detect THB and measures to ensure the validity of travel or identity documents



II. Measures to protect and promote the rights of victims

- a. Identification process
- b. What type of assistance victim must have
- c. Recovery and reflection period
- d. Residence permit
- e. Compensation and legal redress
- f. Repatriation
- g. Gender equality



III. Criminal law and procedure



- ✘ Criminalisation of trafficking
- ✘ Possibility to criminalise those who use the services of victims
- ✘ Criminalisation of producing a fraudulent travel or ID document, procuring or providing such a document, retaining, removing, concealing, damaging or destroying such a document of another person
- ✘ Attempt and aiding or abetting
- ✘ Liability of legal persons
- ✘ Sanctions and measures
- ✘ Aggravating circumstances (eg danger to the life of the victim, the victim was a child, offence committed by a public official, criminal organisation)
- ✘ Non-punishment provision



...[continues]

- ✘ *Ex parte & ex officio* application
- ✘ Protection of victims, witnesses and collaborators of justice
- ✘ Need for specialised authorities
- ✘ Adaptation of court proceedings in order to protect victims' private life and safety



IV. Co-operation



International co-operation: obligation for Parties to co-operate to the widest extent possible for the purpose of:

- Preventing and combating THB
- Protecting and providing assistance to victims
- Investigation or proceedings concerning criminal offences



NGOs work with victims, know their needs and the problems they face. The Convention encourages co-operation with civil society.



V. Monitoring mechanism

- ✗ The effectiveness of all treaties is measured by the effectiveness of its monitoring mechanism
- ✗ The monitoring mechanism of the Council of Europe Convention is described in Chapter VII (Art. 36-38)
- ✗ ALL Parties will be subject to the same monitoring mechanism on an equal footing



Bodies of the monitoring mechanism



- ✘ GRETA: (The Group of Expert on Action against Trafficking in Human Beings) 13 independent experts acting in their individual capacity
- ✘ Committee of the Parties: political body



Evaluation procedure

- ✘ Article 38 of the Council of Europe Convention
- ✘ Aim: Monitor the Parties' implementation of the measures contained in the Convention
- ✘ Dialogue and cooperation with the Parties will preside over the evaluation procedure
- ✘ All Parties will be subject to the same monitoring procedure



Evaluation procedure

- ✘ GRETA:
 - leading role in the evaluation procedure
 - proactive role throughout the evaluation procedure



Evaluation procedure

- ✗ Divided into rounds
- ✗ GRETA determines the length of rounds
- ✗ GRETA selects the provisions of the Convention to be monitored at the beginning of each round
- ✗ GRETA determines the means of evaluation: questionnaire, specific requests for information, etc.
- ✗ Obligation of the Parties to respond to all requests for information from GRETA



Evaluation procedure

- ✘ GRETA may request information directly from civil society
- ✘ GRETA can also organise “country visits”. During these visits GRETA may be assisted by
 - ✘ a national contact person,
 - ✘ independent national experts,
 - ✘ specialists in different fields.



Evaluation procedure

- ✗ GRETA will prepare a draft report evaluating the implementation of the Convention and make suggestions and proposals to overcome the problems identified
- ✗ Draft report will be transmitted to the Party concerned for comments
- ✗ GRETA will then prepare its Final Report and Conclusions
- ✗ Eventual comments from the Party concerned will be published together with GRETA's Final Report



GRETA Report and Conclusions



- ~~✗~~ Publication as from their adoption
- ~~✗~~ Sent to Party concerned
- ~~✗~~ Sent to the Committee of Parties
- ~~✗~~ GRETA Report and Conclusions cannot be changed or modified by the Committee of Parties



Committee of the Parties

- ✘ Adopt Recommendations on the basis of GRETA's Report and Conclusions
- ✘ indicating measures to be taken by the Party concerned to implement GRETA's conclusions
- ✘ Aiming at promoting co-operation with the Party for the proper implementation of the Convention



European Court of Human Rights

□ Siliadin v. France (26 July 2005)

□ Rantsev v. Cyprus and Russia
(7 January 2010)

THANK YOU!

✂ Any questions?

www.coe.int/trafficking

