



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

**Recommendation CP(2014)11
on the implementation of the Council of Europe Convention
on Action against Trafficking in Human Beings
by the Netherlands**

*adopted at the 14th meeting of the Committee of the Parties
on 7 July 2014*

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 Netherlands on 22 April 2010;

Having examined the Report concerning the implementation of the Convention by the Netherlands, adopted by GRETA at its 19th meeting (17-21 March 2014) in the framework of the first evaluation round;

Having examined the comments of the Dutch Government on GRETA's report, submitted on 16 June 2014;

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

- the setting up of the Task Force on Human Trafficking and the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children who, as an independent figure, reports on a regular basis on the nature and scale of human trafficking and collates statistical data;
- the training and specialisation of professionals involved in anti-trafficking action, in particular within the public prosecution service, law enforcement agencies, the immigration authorities and the labour inspectorate, as well as the development of the specialisation of judges;
- the considerable efforts to raise awareness of human trafficking among the general public and vulnerable groups;

- the setting up of specialised shelters for foreign victims of human trafficking and for unaccompanied minors at risk of being trafficked or trafficked, with assistance tailored to their specific needs;
- the provision in law of a recovery and reflection period longer than the minimum of 30 days laid down in the Convention and the possibility of granting residence permits to victims of trafficking both on the basis of their personal situation and when co-operating in the investigation or criminal proceedings;
- the introduction of the system of advance payment of compensation to victims when the convicted trafficker has not paid the full amount of compensation eight months after the court judgment has become final;

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

- strengthening efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with the private sector and civil society;
- reinforcing multi-agency involvement in victim identification, by giving a formal role to frontline actors such as NGOs, labour inspectors, social workers and officials dealing with irregular migrants and asylum seekers, and ensuring that identification is not linked to the prospects of the investigation and prosecution;
- improving the identification of and assistance to child victims of trafficking;
- making sure that victims of trafficking receive adequate assistance uninterruptedly from the moment they are identified and ensuring that assistance provided to foreign victims of trafficking is not linked to investigations or prosecutions;
- ensuring that possible victims of trafficking fully benefit in practice of the possibility of a recovery and reflection period as provided by law;
- ensuring that victims of trafficking fully benefit in practice from the right provided by law to obtain a renewable residence permit when they are unable to co-operate with the authorities, and raising awareness of this possibility among relevant professionals and victims.

1. Recommends that the Government of the Netherlands implement the proposals of GRETA listed in Appendix I to the Report concerning the implementation of the Convention by the Netherlands (see addendum);
2. Requests the Government of the Netherlands to inform the Committee of the Parties of the measures taken to comply with this recommendation by 2 January 2017;
3. Invites the Government of the Netherlands 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 the Netherlands

Comprehensive approach and co-ordination

1. GRETA invites the Dutch authorities to:
 - continue and further strengthen their efforts against human trafficking for the purpose of labour exploitation, including by doing more to raise awareness of this type of trafficking among professionals (such as policemen, prosecutors, judges, labour inspectors, municipalities and trade unions), in high risk sectors (e.g. agriculture, horticultural, catering, dock work, meat processing and construction), as well as among the public at large;
 - further restrict employment contracts with benefits in kind and tighten regulations on employment agencies.
2. GRETA considers that the Dutch authorities should continue developing a proactive approach taking full account of the particular vulnerability of child victims of trafficking, in accordance with the best interests of the child.

Training of relevant professionals

3. GRETA welcomes the efforts made in the Netherlands to train different professionals on issues related to human trafficking and invites the Dutch authorities to maintain their efforts, in particular concerning the training of judges, labour inspectors and local actors. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.

Data collection and research

4. GRETA invites the Dutch authorities to continue exploring ways of encouraging all stakeholders to report presumed victims of THB to CoMensha in order to have comprehensive statistics on all victims in the country, including children, and to secure adequate funding for CoMensha to perform this task.
5. GRETA welcomes the research on THB carried out in the Netherlands and invites the Dutch authorities to continue conducting and supporting research on THB issues as an important source of information for future policy measures.

International co-operation

6. GRETA commends the efforts made in the area of international co-operation and invites the Dutch authorities to continue developing international co-operation with a view to preventing human trafficking, assisting victims of trafficking, and investigating and prosecuting human trafficking offences, including through exploring further possibilities for co-operation with governmental and non-governmental actors in countries of origin and transit.

Measures to raise awareness

7. GRETA welcomes the considerable efforts made in the Netherlands in the area of awareness raising as a form of prevention of THB and invites the Dutch authorities to plan future actions in the light of the assessment of the impact of previous awareness-raising measures.

Measures to discourage demand

8. GRETA considers that the Dutch authorities should strengthen their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with the private sector and civil society.

Identification of victims of trafficking in human beings

9. GRETA urges the Dutch authorities to ensure that all victims of trafficking are properly identified and can benefit from the assistance and protection measures contained in the Convention, in particular by:

- placing the protection of and assistance to possible victims at the heart of the identification system and not linking identification to the prospects of the investigation and prosecution;
- strengthening multi-agency involvement in the decision-making process leading to 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 and officials dealing with irregular migrants and asylum seekers;
- improving the detection and identification of child victims of trafficking, including by setting up a specific identification mechanism which takes into account the special circumstances and needs of child victims, involves child specialists and ensures that the best interests of the child are the primary consideration.

10. GRETA invites the Dutch authorities to continue and further strengthen their efforts to identify victims of trafficking for the purpose of labour exploitation, especially among irregular migrant workers, and to detect victims of trafficking among asylum seekers, in particular unaccompanied foreign minors.

Assistance to victims

11. GRETA urges the Dutch authorities to ensure that assistance provided to foreign victims of THB is not linked to investigations or prosecutions being pursued.

12. Further, GRETA urges the Dutch authorities to ensure that victims receive adequate assistance uninterruptedly from the moment they are identified. For this purpose, the Dutch authorities should:

- avoid any bottleneck between specialised shelters for foreigners (COSM), accommodating victims during the reflection period, and follow-up shelters or facilities;
- ensure continuity in the psychological and medical support provided to victims after the reflection period, including by clarifying and reinforcing the role of regional care co-ordinators.

13. GRETA also considers that the Dutch authorities should:
- review the entry requirements to COSM shelters, in particular the conditions excluding victims with an ongoing or past asylum application;
 - ensure that all victims, including EU and Dutch nationals, are provided with assistance adapted to their individual needs.
14. Moreover, GRETA considers that the Dutch authorities should ensure that placing child victims of “loverboys” in closed shelters should be a measure of last resort and for the shortest appropriate period of time, and should take into account the best interests of the child.
15. GRETA invites the Dutch authorities to keep under review the capacity of the different types of shelters available for male victims of trafficking, to strengthen links between them and secure an adequate allocation of resources for that purpose.

Recovery and reflection period

16. GRETA urges the Dutch authorities to ensure, in compliance with the obligations under Article 13 of the Convention, that possible victims of trafficking are offered a recovery and reflection period and are able to fully benefit from all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.

Residence permits

17. GRETA considers that the Dutch authorities should ensure that victims of trafficking can fully benefit in practice from the right provided under Dutch law to obtain a renewable residence permit when they are unable to co-operate with the authorities and to raise awareness of this possibility among relevant professionals and victims.

Substantive criminal law

18. GRETA invites the Dutch authorities to consider making clearer the criminalisation of the use of services of a victim of THB with the knowledge that the person is a victim of THB.

Non-punishment of victims of trafficking in human beings

19. GRETA invites the Dutch authorities to make sure that no victims found in possession of false travel documents are punished on this ground.

20. GRETA urges the Dutch authorities to ensure that victims having committed an offence under the influence of traffickers are not precluded from obtaining a residence permit after the conviction of the perpetrators.

Investigation, prosecution and procedural law

21. GRETA considers that the Dutch authorities should ensure that, in trafficking cases where it has been decided not to prosecute, victims are duly informed of the possibility of applying for a residence permit on compelling humanitarian reasons and that deportation will be suspended while their application is examined.

22. Furthermore, GRETA invites the Dutch authorities to:

- further support the specialisation of judges on human trafficking in order to continue securing high rates of convictions and sentences proportionate to the seriousness of the crime (see paragraph 67);
- make further use of the existing framework to seize and confiscate criminal assets in the framework of trafficking investigations at the earliest stages possible.

Protection of victims and witnesses

23. Whilst welcoming the protection programme for victims and witnesses of THB as best practice under Article 28 of the Convention, GRETA invites the Dutch authorities to examine why it has so far not been used and to ensure that full use is made of it wherever required.