



Council
of Europe
Convention
on Action
against
**Trafficking
in Human
Beings**

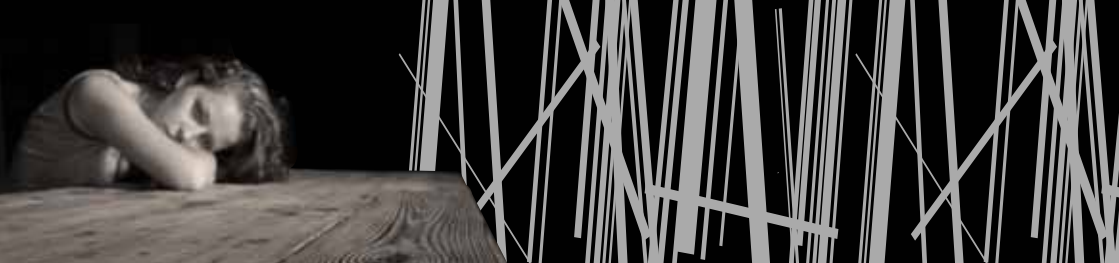


Victims'
rights

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE



Trafficking in human beings violates the rights and affects the lives of countless people in Europe and beyond. An increasing number of women, men and children are being traded as a commodity, across borders or in their own countries, and trapped into exploitation and abuse.

■ The Council of Europe Convention on Action against Trafficking in Human Beings, which entered into force on 1 February 2008, aims to:

- ▶ prevent trafficking in human beings,
- ▶ protect victims of trafficking,
- ▶ prosecute traffickers, and
- ▶ promote co-ordination of national actions and international co-operation.

■ The convention applies to:

- ▶ all forms of trafficking, whether national or transnational, whether linked to organised crime or not,
- ▶ all victims of trafficking (women, men and children),
- ▶ all forms of exploitation (sexual, forced labour or services, slavery, servitude, removal of organs, etc.).

■ The main added value of the convention is its focus on human rights and the protection of victims. The convention defines trafficking as a violation of human rights and an offence to the dignity and integrity of the human being. This means that the national authorities are held responsible if they do not take action to prevent human trafficking, protect victims and effectively investigate trafficking cases.

■ Trafficking in human beings is a worldwide phenomenon which knows no borders, which is why the convention is relevant for countries throughout the world and is open to all of them.




WHAT IS TRAFFICKING IN HUMAN BEINGS?

— The convention defines trafficking in human beings as a combination of three elements:

- ▶ an **action**: recruitment, transportation, transfer, harbouring or receipt of persons;
- ▶ with the use of certain **means**: threat or use of force or other forms of coercion, abduction, fraud, deception, the abuse of power or of a position of vulnerability, or giving or receiving payments or benefits to achieve the consent of a person having control of another person;
- ▶ for the **purpose of exploitation**: 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.

WHAT IS THE DIFFERENCE BETWEEN HUMAN TRAFFICKING AND PEOPLE SMUGGLING?

— While the aim of people smuggling 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 crossing a border; it can take place within a country.





WHO ARE THE VICTIMS OF HUMAN TRAFFICKING?

— Anyone can become a victim of trafficking – women, men and children, people of all ages and social status. People who fall victim to human trafficking are, for example, forced to provide sexual services, work for little or no payment, or undergo organ removal. The exploitation is often accompanied by physical and emotional violence and threats to the victims and their relatives.

— According to the convention a victim of human trafficking is a person who has been recruited, transported, transferred, harboured or received within a country or across borders, by the use of threat, force, fraud, coercion or other illegal means, for the purpose of being exploited.

— A child is considered to be a victim of human trafficking regardless of whether any **means** have been used to recruit, transport, transfer, harbour or receive him/her for the purpose of exploitation.

— The person's "consent" to the exploitation is irrelevant when any of the **means** (coercion, fraud, abuse of position of vulnerability, etc.) have been used. Furthermore, a person will be considered to be a victim even if the exploitation has not yet taken place, when he/she has been subjected to one of the **actions** with the use of one of the **means**.

WHAT RIGHTS DO VICTIMS OF TRAFFICKING HAVE UNDER THE CONVENTION?

Identification

Victims of trafficking must be formally identified as such in order to prevent them from being treated as irregular migrants or criminals. Identification is performed by specially trained professionals (police officers, social workers, labour inspectors, medical doctors, support providers, etc.) who follow agreed procedures and identification criteria.

Recovery and reflection period

Even before victims are formally identified as such they are entitled to a minimum of 30 days to recover, escape from the influence of the traffickers and consider co-operating with the authorities in the investigation of the trafficking offence. During this period, they cannot be expelled from the country and are entitled to assistance even if their stay is irregular.

Assistance

Regardless of whether victims are prepared to co-operate with the criminal investigation or act as a witness, they are entitled to:

- ▶ appropriate and secure accommodation,
- ▶ psychological assistance,
- ▶ material assistance,
- ▶ access to emergency medical treatment,
- ▶ translation and interpretation services,
- ▶ counselling and information,
- ▶ assistance during criminal proceedings,
- ▶ access to the labour market, vocational training and education, if lawfully resident in the country.

Legal assistance

Victims of trafficking are entitled to information regarding their rights and all relevant procedures, in a language which they can understand. They also have the right to legal assistance and to free legal aid under specific conditions.

Residence permit

Victims may be issued a renewable residence permit if their personal situation so requires or if they need to stay in the country in order to co-operate with the authorities in the investigation of the trafficking offence. The delivery of a residence permit does not interfere with their right to seek asylum.

Protection of private life and identity

Victims' personal data cannot be made public and can only be stored for specific lawful purposes. It cannot be used in any way which could allow them to be identified.

Protection during investigations and court proceedings

Victims and their family members will, when necessary, be provided with protection from potential retaliation or intimidation by the traffickers. This can include physical protection, relocation, identity change and assistance in obtaining employment.

Compensation

Victims of trafficking have the right to financial compensation for the damages suffered at the hands of the traffickers. This compensation can be awarded either by a court, following the confiscation of the traffickers' assets, or provided by the state in which the exploitation took place.

Repatriation and return

Victims' return to their country of origin has to take place with due regard for their rights, safety and dignity and taking into consideration the status of any related legal proceedings. Upon return, they must be offered reintegration assistance, such as education and help to find employment.

WHAT ARE THE SPECIAL RIGHTS OF CHILD VICTIMS OF TRAFFICKING?

— In addition to the above-mentioned rights, which apply to all victims of trafficking, children benefit from the following special rights:

- ▶ unaccompanied children are assigned a legal guardian to represent them and act in their best interests;
- ▶ steps are taken to establish the identity and nationality of children and, if it is in their best interests, to locate their families;
- ▶ when the age of a victim is uncertain, but there are reasonable grounds to believe that the victim is under 18 years old, he/she is presumed to be a child and given special protection measures pending age verification;
- ▶ children are entitled to education and assistance measures which take into account their needs;
- ▶ a risk and security assessment is carried out before repatriation, which will only take place if it is in the best interests of the child;
- ▶ children benefit from special protection measures during investigation and court proceedings.





MONITORING THE IMPLEMENTATION OF THE CONVENTION

— All the countries which have signed up to the Council of Europe convention are regularly monitored by the Group of Experts on Action against Trafficking in Human Beings (GRETA). GRETA's role is to ensure that the convention's provisions are effectively implemented and victims' rights respected.

— GRETA analyses the situation on a country-by-country basis, drawing up reports which identify good practices and gaps, and makes recommendations on how to improve the implementation of the convention in each country. The reports and recommendations are made public and are published on the Council of Europe's anti-trafficking website.

For contacts and further information

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