



GRETA
GROUP OF EXPERTS
ON ACTION AGAINST
TRAFFICKING IN HUMAN BEINGS

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**Report concerning the implementation
of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Bulgaria**

SECOND EVALUATION ROUND

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Preamble

The Group of Experts on Action against Trafficking in Human Beings (GRETA) has been set up pursuant to Article 36 of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention"), which entered into force on 1 February 2008. GRETA is responsible for monitoring the implementation of the Convention by the parties and for drawing up reports evaluating the measures taken by each party.

GRETA is composed of 15 independent and impartial experts coming from a variety of backgrounds, who have been selected on the basis of their professional experience in the areas covered by the Convention. The term of office of GRETA members is four years, renewable once.

GRETA's country-by-country monitoring deals with all parties to the Convention on an equal footing. In accordance with Article 38, paragraph 1, of the Convention, GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions on which the evaluation procedure is to be based and defines the most appropriate means to carry out the evaluation. GRETA adopts a questionnaire for each evaluation round which serves as the basis for the evaluation and is addressed to all parties.

The first evaluation round was launched in February 2010 and the questionnaire for this round was sent to all parties according to a timetable adopted by GRETA, which reflected the time of entry into force of the Convention for each party. GRETA organised country visits to all parties in order to collect additional information and have direct meetings with relevant actors, both governmental and non-governmental. By the beginning of 2014, most of the parties had been or were being evaluated for the first time, whilst the number of parties to the Convention continues to grow.

GRETA decided to launch the second evaluation round of the Convention on 15 May 2014. Following the first round of monitoring, which provided an overview of the implementation of the Convention by each party, GRETA has decided to examine during this new evaluation round the impact of legislative, policy and practical measures on the prevention of trafficking, the protection of the rights of victims of trafficking, and the prosecution of traffickers. The adoption of a human rights-based approach to action against trafficking in human beings remains at the centre of the second evaluation round. In addition, particular attention is paid to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking. For the second evaluation round, GRETA has adopted a questionnaire to be sent to all states parties which have undergone the first round of evaluation, following a timetable approved by GRETA.

GRETA's reports are based on information gathered from a variety of sources and contain recommendations intended to strengthen the implementation of the Convention by the party concerned. In its recommendations, GRETA has adopted the use of three different verbs - "urge", "consider" and "invite" - which correspond to different levels of urgency of the recommended action for bringing the party's legislation and/or practice into compliance with the Convention. GRETA uses the verb "urge" when it assesses that the country's legislation or policy are not in compliance with the Convention, or when it finds that despite the existence of legal provisions and other measures, the implementation of an obligation of the Convention is lacking. In other situations, GRETA "considers" that it is necessary to make improvements in order to fully comply with an obligation of the Convention. By "inviting" a country to pursue its efforts in a given area, GRETA acknowledges that the authorities are on the right track.

As regards the procedure for the preparation of reports, GRETA examines a draft report on each party in a plenary session. The process of confidential dialogue with the national authorities allows the latter to provide, within two months, comments on GRETA's draft report with a view to providing additional information or correcting any possible factual errors. These comments are taken into account by GRETA when establishing its final report. The final report is adopted by GRETA in a plenary session and transmitted to the party concerned, which is invited to submit any final comments. At the expiry of the time-limit of one month GRETA's report, together with eventual final comments made by the national authorities, are made public and sent to the Committee of the Parties to the Convention.

I. Introduction

1. The first evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") by Bulgaria took place in 2010-2011. Following the receipt of Bulgaria's reply to GRETA's first questionnaire on 30 August 2010, a country evaluation visit was organised from 21 to 24 February 2011. The draft report on Bulgaria was examined at GRETA's 10th meeting (21-24 June 2011) and the final report was adopted at GRETA's 11th meeting (20-23 September 2011). Following the receipt of the Bulgarian authorities' comments, GRETA's final report was published on 14 December 2011.¹

2. In its first evaluation report, GRETA noted that the Bulgarian authorities had put in place a comprehensive legal and institutional framework for combating trafficking in human beings (THB). GRETA welcomed the considerable efforts made in the area of prevention, through awareness-raising campaigns, education in schools and training of relevant professionals. However, GRETA urged the Bulgarian authorities to strengthen the aspect of prevention through social and economic empowerment measures for groups vulnerable to human trafficking, such as the Roma community, children and disabled persons. GRETA noted the adoption of a national mechanism for referral and support of trafficked persons, but was concerned that the victim identification system was not sufficiently effective as it risked leaving out those victims who did not co-operate with the authorities. Furthermore, GRETA urged the Bulgarian authorities to step up their efforts to provide assistance to victims of trafficking, including through guaranteeing adequate funding to service providers and setting up a sufficient number of shelters for victims of trafficking, including men.

3. Another key recommendation made by GRETA in the first report was to make State compensation accessible to all victims of THB, irrespective of their nationality and residence status. Further, GRETA urged the Bulgarian authorities to take legislative measures allowing for the possibility of not imposing penalties on victims of trafficking for their involvement in unlawful activities to the extent that they were compelled to do so. GRETA noted the efforts made to investigate and prosecute cases of trafficking in human beings, but urged the authorities to step up proactive investigations in at-risk sectors. GRETA also considered that the Bulgarian authorities should make full use of the available measures to protect victims and prevent their intimidation during the investigation and during and after court proceedings.

4. On the basis of GRETA's report, on 30 January 2012 the Committee of the Parties to the Convention adopted a recommendation to the Bulgarian authorities, requesting them to report back on measures taken by 30 January 2014.² The report submitted by the Bulgarian authorities was considered at the 13th meeting of the Committee of the Parties (7 February 2014). The Committee of the Parties decided to transmit the authorities' report to GRETA for consideration and to make it public.³

5. On 3 June 2014, GRETA launched the second round of evaluation of the Convention in respect of Bulgaria by sending the questionnaire for this round to the Bulgarian authorities. The deadline for submitting the reply to the questionnaire was 3 November 2014. Bulgaria submitted its reply on 28 November 2014.

¹ Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bulgaria, GRETA(2011)19, available at:

http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2011_19_FGR_BGR_en.pdf

² Recommendation CP(2012)2 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Bulgaria, adopted at the 7th meeting of the Committee of the Parties on 30 January 2011, available at:

http://www.coe.int/t/dghl/monitoring/trafficking/Docs/CommitteeParties/Recommendations/CP_2012_2_BGR_en.pdf

³ Available at:

http://www.coe.int/t/dghl/monitoring/trafficking/Docs/CommitteeParties/Reply_REC/CP_2014_2_RR_BGR_en.pdf

6. In preparation of the present report, GRETA used the reply to the questionnaire by the Bulgarian authorities, the above-mentioned report submitted by them to the Committee of the Parties, and information received from civil society. An evaluation visit to Bulgaria took place from 23 to 27 February 2015 in order to hold meetings with relevant governmental and non-governmental actors, collect additional information and examine the practical implementation of adopted measures. The visit was carried out by a delegation composed of:

- Ms Rita Theodorou Superman, member of GRETA;
- Mr Jan van Dijk, member of GRETA;
- Ms Petya Nestorova, Executive Secretary of the Convention;
- Mr Markus Lehner, Administrator in the Secretariat of the Convention.

7. During the visit, the GRETA delegation met Ms Meglena Kuneva, Deputy Prime Minister in charge of European Policies Co-ordination and Institutional Affairs and Chairperson of the National Commission for Combating Trafficking in Human Beings. Discussions were also held with Ms Eva Jecheva, Chairperson of the State Agency for Child Protection, Ms Antoaneta Vassileva, Secretary of the National Commission for Combating Trafficking in Human Beings, officials from relevant ministries and public bodies, and judges from the Supreme Court of Cassation.

8. In addition to holding meetings in Sofia, the GRETA delegation travelled to Burgas, Ruse, Sliven and Veliko Tarnovo where it met the local commissions for combating trafficking in human beings which include representatives of law enforcement agencies, social and child welfare services, lawyers and non-governmental organisations (NGOs).

9. In the course of the visit, the GRETA delegation visited crisis centres for victims of violence and human trafficking in Burgas, Ruse and Veliko Tarnovo, a shelter for children run by the Bulgarian Red Cross in Ruse, as well as a reception centre for asylum seekers in Vrazhdebna.

10. Separate meetings were held with representatives of NGOs, researchers and lawyers. The GRETA delegation also met officials of the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR).

11. The list of the national authorities, NGOs and other organisations with which the delegation held consultations is set out in the Appendix to this report. GRETA is grateful for the information provided by them.

12. GRETA wishes to place on record the co-operation provided by the Bulgarian authorities and in particular by Ms Antoaneta Vassileva, Secretary of the National Commission for Combating Trafficking in Human Beings.

13. The draft version of the present report was approved by GRETA at its 23rd meeting (29 June - 3 July 2015) and was submitted to the Bulgarian authorities for comments. The authorities' comments were received on 15 October 2015 and have been taken into account by GRETA when considering and adopting the final report at its 24th meeting (16-20 November 2015). The final report covers the situation up to 20 November 2015; developments since that date are not taken into account in the following analysis and conclusions. The conclusions summarise the progress made since the first report, the issues which require immediate action and the other areas where further action is needed (see pages 46-51).

II. Main developments in the implementation of the Convention by Bulgaria

1. Emerging trends in trafficking in human beings

14. Bulgaria continues to be primarily a country of origin for trafficked persons, but in the last few years it has also increasingly become a country of transit and destination, although there is no official data to bear out this trend. Trafficking in human beings for the purpose of sexual exploitation remains the prevalent form of exploitation, according to official data on identified victims. The Bulgarian authorities point out that sexual exploitation is more easily detectable, while there are fewer reports of labour exploitation. At the same time, the number of persons trafficked for the purpose of labour exploitation has been on the increase, and there is a growing trend of male victims trafficked for exploitation in the sectors of agriculture and construction. A growing number of women and girls with mental disabilities are falling victim to trafficking. The number of persons trafficked for the purpose of forced begging, who are often men with some form of physical and/or mental disability, is also growing. There continue to be cases of trafficking in pregnant women for the purpose of selling their new-born babies, and a new phenomenon is trafficking of young women for the purpose of concluding fictitious marriages. Victims are recruited mostly in small places with high unemployment and severe poverty, and young people leaving specialised institutions after coming of age are particularly vulnerable. The Roma population remains a highly vulnerable group regarding trafficking. Recruiting victims through the Internet, via websites advertising jobs, dating sites, social media and applications, is also a growing trend.

15. During the period 2011-2015, the main countries of destination of people trafficked from Bulgaria were Germany, Greece, the Netherlands, Austria, France, Cyprus, Poland, Italy and the Czech Republic. According to the authorities, the number of victims increases during the period from May to August when they are trafficked for seasonal work, such as picking blueberries in Sweden. About 45% of the victims identified in recent years were trafficked internally. After having been exploited in the country, victims of internal trafficking are often trafficked abroad. Internal trafficking takes place mostly for the purpose of sexual exploitation and is focused in tourist centres (winter and summer resorts).

16. According to data collected by the Supreme Cassation Prosecutor's Office on the number of victims who took part in pre-trial proceedings in a given year⁴, there were 540 victims of human trafficking in 2011 (387 women, 60 girls, 83 men, 10 boys), 579 victims in 2012 (451 women, 55 girls, 62 men, 11 boys), 538 victims in 2013 (427 women, 48 girls, 46 men, 17 boys), 491 victims in 2014 (433 women, 29 girls, 17 men, 12 boys), and 309 victims in the first half of 2015 (265 women, 21 girls, 20 men, 3 boys). About 86% of the victims were female. The number of child victims during this period was 266. The majority of the victims (77%) were trafficked for the purpose of sexual exploitation. Trafficking for the purpose of forced labour accounted for 12% of the victims. The remainder of the victims were women trafficked for the purpose of selling their new-born babies (12 in 2011, 9 in 2012, 17 in 2014); persons trafficked for the purpose of servitude, which also covers exploitation through forced begging and pickpocketing (17 in 2011, 1 in 2012, 11 in 2013, 11 in 2014); and persons trafficked for the purpose of organ removal (2 in 2013). There is no information on the number of identified foreign victims of trafficking.

17. Since 2013, as a result of the humanitarian crisis triggered by the conflict in Syria, there has been a sharp increase in the number of people seeking asylum in Bulgaria as an external border of the European Union (7 144 in 2013; 11 091 in 2014). Many of them are unaccompanied children. At the same time, there have been no victims of trafficking identified among asylum seekers.

⁴ These annual figures include both new pre-trial proceedings initiated during the year in question and pre-trial proceedings continued from previous years. As a result, there is double counting.

2. Developments in the legal framework

18. In its first evaluation report, GRETA noted the difference between the two definitions of trafficking in human beings under Bulgarian law, in the Criminal Code and the Law on Combatting Trafficking in Human Beings, and asked the Bulgarian authorities to ensure that the national anti-trafficking provisions are interpreted in a manner fully conforming to the Convention.

19. As a follow-up to GRETA's recommendations and with a view to transposing Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, a working group was set up by the Minister of Justice in December 2012. The working group drafted amendments to the Criminal Code (CC), the Law on Combatting Trafficking in Human Beings and the Law on Child Protection. The amendments to the CC were adopted by the National Assembly on 19 September 2013 and were promulgated on 27 September in the State Gazette. As a result of the amendments, the list of forms of exploitation in Article 159a, paragraph 1, of the CC was expanded by adding forced begging and the removal of tissues, bodily fluids or cells. The amendments also added to the list of aggravating circumstances trafficking in human beings committed by an official in discharging his/her duties (Article 159a, paragraph 2, item 7, of the CC). Further, a new provision was added to the CC, Article 16a, which introduced the non-punishment provision of the Convention.

20. The amendments made to the Law on Combatting Trafficking in Human Beings concerned the definition of THB, which was made identical to that in the CC, as recommended by GRETA. Further, Article 23 of this Law was amended to include an obligation for the State to provide education to the children of victims of THB. An amendment was also made to Article 31 with a view to overcoming a previous contradiction whereby protection measures could not be taken in relation to victims who had been granted protection under a law different from the Code of Criminal Procedure. These amendments entered into force on 1 October 2013.

21. Pursuant to the amendments to the Law on Child Protection, the scope of persons eligible for protection was expanded to include victims of violence or exploitation whose age has not been determined, but the circumstances of the case allow to reasonably presume that the victim is a child.

22. The above-mentioned measures are discussed in greater detail in later parts of this report (see paragraphs 179-184 and 188).

3. Developments in the institutional framework

23. The institutional framework for action against THB has remained largely the same as described in GRETA's first report.

24. The composition and functions of the national co-ordinating body, the National Commission for Combating Trafficking in Human Beings (NCCTHB), which are defined in the Law on Combatting Trafficking in Human Beings (hereafter, Anti-Trafficking Law), have remained the same. The NCCTHB is chaired by a Deputy Prime Minister designated by the Council of Ministers and has as members Deputy Ministers of relevant Ministries (Foreign Affairs; Labour and Social Affairs; the Interior; Justice; Health; Education, Youth and Science), Deputy Chairs of relevant public bodies (the State Agency of National Security; the State Agency for Child Protection; the Central Commission for Combating Juvenile Delinquency), Deputy Prosecutor General, Deputy Chair of the Supreme Court of Cassation, and Deputy Director of the National Investigation Service. NGOs and international organisations active in combating human trafficking may be invited to attend meetings of the NCCTHB. The NCCTHB is assisted by a permanent Secretariat headed by an Executive Secretary who is appointed by the Chairperson of the NCCTHB.

25. In the years following GRETA's first evaluation, political instability and frequent changes of Government (a total of five Governments since 2012) have affected the functioning of the NCCTHB. The Chairperson of the NCCTHB has changed repeatedly and this has delayed or blocked the implementation of certain activities. Shortly before GRETA's evaluation visit, the Deputy Prime Minister in charge of European Policies Co-ordination and Institutional Affairs was designated as Chairperson of the National Commission. The Secretariat of the NCCTHB has been affected by staff changes, including the key position of the Executive Secretary. The meetings of the NCCTHB have been rare, usually once a year, in order to adopt the next National Programme. In their comments on the draft GRETA report, the Bulgarian authorities have indicated that the frequency of meetings of the NCCTHB has been limited due to the high level of representation of its members (at Deputy Minister or Chairperson level), but the Secretariat of the NCCTHB is committed to increasing the number of meetings in 2016 by developing a meeting schedule at the beginning of the year and informing members of the NCCTHB well in advance of the planned meetings.

26. The expert working group set up under the NCCTHB has been expanded and currently includes 30 experts from relevant ministries, agencies, international organisations and NGOs. However, the frequency of the expert group's meetings has been reduced: thus in 2014, it met only twice. GRETA was informed of plans to include in the working group experts from the State Agency for Refugees and the Legal Aid Agency, as well as representatives of NGOs from the Roma community. In their comments on the draft GRETA report, the Bulgarian authorities have indicated that in order to make better use of the expert working group, more meetings have been planned in the second half of 2015. Thus a meeting of the expert working group took place on 10 July 2015 and two more meetings were planned before the end of the year: one on 13 November, in order to provide feedback on the centralised data collection system developed under the project "Towards a pan-European monitoring system of trafficking in human beings" (see paragraph 60), and another one to develop the National Programme for Combatting THB for 2016.

27. GRETA is concerned that there has been a vacuum in the leadership and co-ordination of anti-trafficking action at national level and, as a result, it would appear that trafficking in human beings has not been the subject of sufficient political attention in Bulgaria in recent years. Given the responsibilities of the NCCTHB and the volume of activities performed by its Secretariat, **GRETA urges the Bulgarian authorities to take steps to improve the co-ordination of anti-trafficking action, including by increasing the frequency of meetings of the NCCTHB and the expert working group, and expanding the range of relevant stakeholders involved in these structures.**

28. Since GRETA's first evaluation, the number of Local Commissions for Combating Trafficking in Human Beings (LCCTHB) has increased from seven to nine. The existing local commissions have full-time executive secretaries who are paid from the budget of the NCCTHB. GRETA notes as a good practice the setting up of anti-trafficking co-ordination structures at local level, bringing together a variety of stakeholders, including NGOs. However, GRETA is concerned that the funding provided to the local commissions from the budget allocated to the NCCTHB (see paragraphs 35 and 73) is not sufficient to support their activities and therefore they have to rely to a large extent on funding from the municipal budget and external funding through projects. In their comments on the draft GRETA report, the Bulgarian authorities have indicated that on 18-19 September 2015, the NCCTHB organised a joint meeting of the secretaries of the nine local commissions aimed at increasing their co-ordination, discussing joint work in the area of prevention and training, as well as capacity building. **GRETA considers that the Bulgarian authorities should reinforce the work of the local commissions for combating THB, including by securing funding for their activities.**

29. The State Agency for Child Protection (SACP), which is subordinated to the Council of Ministers, continues to play a co-ordinating role in the implementation of national measures against trafficking in children. It plays a central role in the National Co-ordination Mechanism for Referral, Care and Protection of Unaccompanied Minors and Child Victims of Trafficking Repatriated to Bulgaria. The activities of the SACP include participation in the development of legal changes and programmes for prevention as well as providing assistance in the context of the repatriation and reintegration of child victims of trafficking. The SACP has issued methodological guidelines for the functioning of crisis centres and carries out inspections of these centres (see paragraph 140). It has also set up a working group together with the State Agency for Refugees concerning unaccompanied minors who, as children, fall under the responsibility of the SACP (see paragraph 150).

30. The Agency for Social Assistance, subordinated to the Ministry of Labour and Social Policy, has competencies related to the funding and provision of social services to all groups requiring social protection, including victims of trafficking.

31. As regards the investigation of THB offences, in 2013 this function was moved from the Ministry of the Interior's General Directorate for Combating Organised Crime to the State Agency for National Security whose scope of action was expanded. At the time of GRETA's visit in February 2015, a new change had just been announced as a result of which the investigation of THB offences was moved back to the Ministry of the Interior. These repeated changes have had a negative impact on the operational activities for combating THB, including in the area of international co-operation.

32. A specialised court for organised crime was set up in 2012 to try cases involving more than three perpetrators, including THB cases.

4. National Programme

33. At the time of GRETA's second evaluation visit, Bulgaria was implementing the 2014 National Programme on preventing and combating trafficking in human beings and protecting its victims, adopted by decision of the Council of Ministers No. 480 of 10 July 2014. The National Programme contained objectives and activities in seven areas (chapters):

1. Institutional and organisational measures (e.g. improving the co-ordination of stakeholders; optimising the work of the local commissions; updating the National Referral Mechanism; introducing minimum standards for the functioning of shelters for victims of THB);
2. Prevention (e.g. setting up a network of volunteers working on awareness-raising; an information campaign on THB for labour exploitation; education of children in specialised institutions; involving the private sector in prevention and reintegration of victims);
3. Training of staff (e.g. multidisciplinary trainings on identification, prevention, assistance of victims; training of staff working in job centres, labour inspectors, social workers);
4. Protection, rehabilitation and reintegration of victims (e.g. opening a new shelter for victims of THB; reintegration of victims through vocational training and employment);
5. Data collection and analysis (e.g. adopting a methodology for data collection; setting up a database on cases of THB at the Secretariat of the NCCTHB);
6. International co-operation (e.g. developing partnerships in the context of bilateral and international co-operation; elaborating and implementing international projects);
7. Legislative measures (e.g. harmonising domestic law with international commitments and recommendations; drafting amendments to the Law on Compensation of Crime Victims).

34. The National Programme for 2014 was adopted only in July 2014. At the time of GRETA's second evaluation visit in February 2015, the Secretariat of the NCCTHB was in the process of finalising the drafting of the National Programme for 2015. A meeting of the NCCTHB took place on 12 March 2015 to adopt the new programme and the Council of Ministers approved it on 6 August 2015. The new National Programme has the same structure as the previous one, with seven chapters. All institutions that are members of the NCCTHB, the Secretariat of the NCCTHB, the local commissions and NGOs (when delegated by the State) are responsible for implementing the different activities under the National Programme. While no budget is specified, it is indicated that the activities are to be funded from the budget of the respective ministry or agency, the NCCTHB budget, municipal budgets or external projects and programmes.

35. The overall budget of the NCCTHB in 2012 was 450 330 BGN, i.e. approximately 230 000 Euros, of which around 142 000 euros were allocated to operational activities (prevention campaigns, training, the running of two state shelters for victims of trafficking and the nine local commissions). In 2014, the budget dropped to 396 364 BGN (approximately 202 400 euros), and in 2015, to 379 000 BGN (approximately 192 000 euros). GRETA is concerned by the drop in the anti-trafficking budget, while at the same time the number of identified victims of trafficking has been growing. Civil society actors met by GRETA during the second evaluation visit considered that the financial resources invested by the government in action against THB were not commensurate with the actual needs. GRETA notes that anti-trafficking action in Bulgaria has relied to a significant extent on external funding and stresses that securing funding from the budget will be indispensable for the implementation of the anti-trafficking National Programme. **Recalling the recommendations made in its first evaluation report, GRETA urges the Bulgarian authorities to allocate appropriate funds in the State budget to action against THB, in consultation with all relevant actors, and reflecting the actual requirements of a co-ordinated and effective human rights-based approach to combating human trafficking.**

36. As regards external funding, in October 2015 an agreement was signed with the Swiss Government for the funding of a programme entitled "Combatting trafficking in human beings" under the Bulgarian-Swiss Co-operation Programme, thematic fund "Security". The budget over a 36-month period is 888 472 CHF, i.e. 813 000 euros (of which 133 271 CHF is co-funding by the Bulgarian Government). The programme covers three projects: one led by the Animus Association Foundation/La Strada Bulgaria, another one led by the IOM Mission in Bulgaria, and the third one led by the NCCTHB. The projects' objectives include improved identification of victims of THB, increased number of child and adult victims assisted in shelters and crisis centres, and improved policies and monitoring mechanisms for post-shelter care. It is planned to establish a 10-bed shelter for adult victims of THB in Sofia and a 10-bed centre for child victims providing services for the reintegration of victims. The staff of the two shelters will benefit from specialised training provided by the Drehscheibe Centre in Vienna. With the assistance of the ICMPD, a dedicated policy for monitoring child victims of trafficking once they have left crisis centers will be developed, and a similar policy will be developed for adults.

37. GRETA was informed that it was envisaged to elaborate, for the first time in Bulgaria, a Strategy for Combatting Trafficking in Human Beings. The development of a strategy will be included in the National Programme for 2016. Civil society will be involved in the process and the British Embassy in Sofia has already indicated an interest in supporting the strategy development process.

38. A report on the implementation of the National Programme is drawn up annually by the Secretariat of the NCCTHB and is published on the website of the NCCTHB, which also serves as an equivalent mechanism to a rapporteur on THB.⁵ However, GRETA notes that there is no external evaluation or monitoring of the implementation of the National Programme. In its first report, GRETA invited the Bulgarian authorities to introduce an independent evaluation of the implementation of the National Action Plan as a tool for assessing the impact of the activities and for planning future policies and measures to combat human trafficking. Such an independent monitoring is in the spirit of the human rights-based approach to anti-trafficking action underpinning the Convention. GRETA is of the view that the key features of National Rapporteurs' mechanisms within the meaning of Article 29, paragraph 4, of the Convention should be the ability to critically monitor the efforts and effectiveness of all state institutions, including national co-ordinators, and to that end maintain a constant exchange with civil society, the research community and other relevant stakeholders. A structural separation between these monitoring functions and executive functions makes possible an objective evaluation of the implementation of anti-trafficking legislation, policy and activities, identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations. Therefore, **GRETA considers that the Bulgarian authorities should examine the possibility of establishing an independent National Rapporteur or designating another mechanism as an independent organisational entity with a view to ensuring an effective monitoring of the anti-trafficking activities of state institutions and making recommendations to persons and institutions concerned (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).**

5. Training of relevant professionals

39. The annual National Programmes provide for training activities targeting a range of relevant professionals, such as police and border police officers, prosecutors, judges, social workers, journalists, teachers and school counsellors. Many training activities are carried out in co-operation with NGOs. Whenever possible, a multi-stakeholder approach is promoted. By way of example, reference is made to the following training activities carried out since 2012.

40. In 2012 the Secretariat of the NCCTHB organised six multidisciplinary training sessions for judges, prosecutors and police officers in the regions of Burgas, Varna, Veliko Tarnovo, Plovdiv, Montana and Blagoevgrad. The training addressed new trends in trafficking in human beings in Bulgaria and aimed at improving interaction between institutions in the investigation of THB and criminal proceedings, as well as the assistance provided to victims of trafficking and their reintegration. More than 150 judges, prosecutors, police officers, experts from the NCCTHB and the local commissions for combatting THB, and representatives of NGOs took part in these training sessions. A similar training was organised in June 2013 in Varshets for 21 police officers, prosecutors and judges from the regions of Vratsa, Montana and Vidin. These training sessions were organised with the financial support of the Hanns Seidel Foundation.

41. The Supreme Cassation Prosecutor's Office has organised a number of trainings for prosecutors and investigators on a variety of subjects related to THB (legal and social aspects, interaction and co-operation, the role of Eurojust, reintegration of victims, forced marriage, organised crime, trafficking in human beings for the purpose of labour exploitation, joint investigation teams, legal regulation and investigation methods, identification of victims, financial investigation). For example, in 2012, there were 13 training sessions, seven of which were held abroad; 65 prosecutors and 16 investigators took part in them. In 2013, there were eight trainings, four of which were held abroad; 29 prosecutors and 8 investigators took part. Four intradepartmental training sessions were conducted for the appellate judicial districts of Plovdiv and Varna, with 80 prosecutors and six investigators participating in them.

⁵ <http://antitrafficking.government.bg/>

42. Combating trafficking in human beings and the protection of victims of THB is included in the curriculum of the National Institute of Justice. In 2012 three two-day seminars were conducted in co-operation with the Ministry of Justice and Interior of the Netherlands and the Dutch Judicial School in Zutphen. A joint team of experts (comprising a criminal judge from the Criminal Court in Amsterdam, a prosecutor and an investigator) elaborated a training programme for magistrates and investigating police officers. Some 110 magistrates (42 judges, 48 prosecutors and 20 investigators) and 16 officers from the Ministry of the Interior took part in the seminars.

43. Furthermore, in 2012, the Academy of the Ministry of the Interior organised a course on trafficking in human beings for updating the professional qualification of law enforcement officials. The course comprised five training modules covering a total of 17 topics. Moreover, in the framework of the compulsory course "Counteracting Organised Crime" taken by Bachelor degree students at the Ministry of the Interior Academy, specialised modules were included dealing with counteracting trafficking in human beings and tactical criminal analysis for detecting organised crime groups. The subject of THB was also included in the initial professional training of newly appointed police officers.

44. Border Police officers are regularly trained in counteracting trafficking in human beings at the Police Officers Training Centres. Victims' and traffickers' risk profiles have been included in the annual training curricula for border police officers who are introduced to risk analysis of THB and take part in exchange of experience with other agencies (Ministry of Justice, State Agency for Child Protection, Social Assistance Agency).

45. Since 2013 experts from the State Agency for Child Protection have taken part as trainers in training sessions for consular officials and other staff of Bulgarian consular offices. The National Co-ordination Mechanism for Referral, Care and Protection of Unaccompanied Minors and Child Victims of Trafficking Repatriated to Bulgaria is presented at this training and practical guidelines for work on cases involving child victims of trafficking and exploitation are given. Seventy diplomats appointed in Bulgarian missions abroad were trained on human trafficking by the Ministry of Foreign Affairs Diplomatic Institute. Further, in 2013 and 2014, experts from the State Agency for Child Protection provided training to police officers aimed at improving the interaction between social workers and police officers in cases involving trafficking and labour exploitation of children. More than 500 police officers were trained.

46. Every year staff of the territorial structures of the State Agency for Social Assistance take part in training aimed at improving the capacity for working with victims of THB, including children. In 2013, a total of 101 staff members took part in such training.

47. In 2013, several training sessions were provided to staff working at job centres under the project "Building the institutional capacity of the Ministry of Labour and Social Policy". One of the training sessions was designed particularly for psychologists. Two groups of labour market intermediaries, each of approximately 15 persons, were trained in the framework of another training activity.

48. In 2012 the Secretariat of the NCCTHB organised training for social workers and staff of crisis centres. This was the second training conducted jointly with the crisis centre for unaccompanied minors of Vienna Municipality (Drehscheibe Centre). Staff working at crisis centres in the towns of Peshtera, Silistra and Plovdiv took part in the training, which lasted four weeks. Further, in 2013 representatives of the State Agency for Child Protection, the Social Assistance Agency and crisis centres took part in training of social workers from crisis centres for children, organised in co-operation with Drehscheibe Centre. A similar training was conducted in Burgas for staff of the crisis centre for children and social workers from the Child Protection Department and the public support centres of the bigger municipalities in the region of Burgas.

49. In 2013 the Secretariat of the NCCTHB implemented two projects under the operational programme "Administrative Capacity", co-funded by the European Union through the European Social Fund. The objective of the projects was to increase the NCCTHB's capacity to implement effectively the national policy for combating trafficking in human beings. Experts from the NCCTHB and the local commissions as well as representatives of other public institutions and NGOs took part in a training of trainers "First level identification of victims of trafficking in human beings". The training was conducted in the framework of the project "Elaborating common guidelines and procedures for the identification of victims of trafficking in human beings" which also involved Spain, France, the Netherlands, Greece and Romania.

50. Several training sessions for journalists have been organised at national and local level. Thus in 2012, 30 media professionals were trained. The training aimed at enhancing awareness of trafficking in human beings, acquainting participants with the work of relevant stakeholders and the functioning of the shelters for victims of trafficking. In July 2013 the Secretariat of the NCCTHB held training for journalists from the cities of Blagoevgrad, Pazardzhik, Plovdiv, Montana and Sofia on "Trafficking in human beings: rights, social inclusion and reintegration of victims". Some 25 media professionals took part.

51. Since 2011, a Summer Volunteer Academy has been organised every year to provide peer-to-peer education for children aged 14 to 16. In 2012 the Summer Academy took place in Burgas in co-operation with the Hanns Seidel Foundation. Sixty-eight volunteers recruited by the local commissions for combatting THB in Pazardzhik, Plovdiv, Sliven, Burgas, Varna, Ruse and Montana took part in it. An introductory Spring Academy for volunteers took place in Plovdiv in March 2013, with 72 children acquiring skills on how to avoid situations of trafficking of human beings. In 2013, the Summer Academy took place in Varna, involving 84 volunteers from across the country.

52. In December 2013 a training event for Orthodox priests was conducted under the title "Trafficking in human beings: a social and a universal problem. Social inclusion and reintegration of victims of human trafficking". Some 20 priests took part in it.

53. NGOs have been involved in the provision of training concerning THB. By way of example, in November 2013 the Animus Association Foundation conducted training on "Legal procedures for protecting victims of trafficking" for 29 social workers and in October 2014 for 20 lawyers interested in acting as defence counsel for victims of THB. In April 2014, the Animus Association Foundation conducted training for 20 social workers on "Work with victims of trafficking and domestic violence: assets based approach". In September 2013, the NGO NAYA Association conducted two training sessions for some 30 experts entitled "Trafficking in women and children: we can stop it" in the municipalities of Popovo and Antonovo.

54. As part of the National Programme for 2015 it is envisaged to organise training for staff of the State Agency for Refugees on recognising indicators of THB when interviewing asylum seekers and applying the National Referral Mechanism. Special attention will be given to women and unaccompanied minors. Further, in October 2015, training of social workers from the Agency for Social Assistance on working with unaccompanied asylum-seeking children was organised by the UNHCR. Capacity building also takes place within co-operation projects with partnering organisations. Such a project was financed under the EEA Grants entitled "Increasing the effectiveness of referral, support, protection and reintegration of victims of THB through the practical implementation of the transnational referral mechanism". As part of another project financed through the EEA/Norway Grants and entitled "Multidisciplinary approach to combating THB with transfer of knowledge and good practices from countries from the Schengen area and more specifically Norwegian experience", eight multidisciplinary training sessions took place in September - November 2015 for police and border police officers, prosecutors, judges, investigators and officials from the NCCTHB and the local commissions. The National Programme for 2015 also envisages training of employment intermediaries, labour inspectors, staff of job centres and social workers.

55. **GRETA commends the investment made in training relevant professionals on THB and considers that these efforts should continue, in particular as regards labour inspectors, social workers, staff of the State Agency for Refugees, staff working in detention centres and centres for asylum seekers, prosecutors, judges and medical staff.**

6. Data collection and research

56. In its first evaluation report, GRETA considered that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Bulgarian authorities should develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical information from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination).

57. The Secretariat of the NCCTHB continues to be responsible for pooling together data collected from different bodies, but there are a number of challenges, in particular some institutions do not provide requested data and there is double counting. The data is not disaggregated by country of origin and, as acknowledged by the Secretariat of the NCCTHB, is difficult to analyse. As mentioned in paragraph 33, improving data collection was one of the objectives of the National Programme for 2014.

58. The Supreme Cassation Prosecutor's Office continues to gather data regarding criminal proceedings in cases of human trafficking, the number of accused, convicted and acquitted persons, as well as data on the victims of trafficking (disaggregated by gender, age and purpose of the exploitation). As noted in GRETA's first report, these statistics are limited to persons who have taken part as witnesses in pre-trial proceedings completed in a given year.

59. GRETA notes that there are NGOs to which presumed victims of THB may turn for assistance and if these persons do not wish to have contacts with the police, they are not entered in the official police statistics. As already stressed by GRETA in the first evaluation report, the data collection should be broadened to include victims of THB identified by law enforcement agencies, NGOs and other relevant bodies, regardless of whether criminal proceedings have been instituted and whether the persons have given testimony against the alleged perpetrators. GRETA stresses that the absence of a comprehensive data collection system makes it difficult to make an assessment of the situation and the extent to which measures to combat THB correspond to the actual needs.

60. Bulgaria has been involved in an EU-funded project entitled "Towards a pan-European monitoring system of trafficking in human beings (MoSy)", led by Portugal and involving several other EU member states. The project started in April 2013 and its results were presented at an international seminar in Lisbon on 25-26 June 2015. The data collection system developed under the project has three levels of data collection: i) local repositories (e.g. police, NGOs, social workers) who fill in standardised and anonymised questionnaires on victims and perpetrators; ii) national level repository which receives data from all local repositories; and iii) European level. Data will be collected and shared in alignment with Eurostat indicators. In their comments on the draft GRETA report, the Bulgarian authorities have indicated that the technical capacity of the NCCTHB is being updated with a view to installing the new data collection system. All manuals developed under the project have been translated into Bulgarian and training is being conducted. A meeting of the permanent expert working group was scheduled in November 2015 to introduce the MoSy system and it was envisaged to draw up official agreements with relevant institutions to allow for data collection. After the performance of development and security tests, the new system is expected to be launched by the end of 2015. The Secretariat of the NCCTHB is also planning to propose changes to the anti-trafficking legislation with a view to collecting data from civil society on all notifications and referrals of victims of THB and the progress of each case. This should strengthen the data collection and monitoring role of the Secretariat of the NCCTHB.

61. **While acknowledging the steps taken to improve data collection, GRETA urges the Bulgarian authorities to finalise the development of a comprehensive and coherent statistical system on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of THB cases. Statistics regarding victims should be collected from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims are asked to provide information for the national database.**

62. There is no specific budget line for research projects concerning THB, but a number of research projects have been funded externally. By way of example, a research report entitled "Promoting the Rights of Trafficking Persons in Bulgaria: A Human-Rights Based Approach" was published in 2013 as part of a project run by the Animus Association Foundation with EU funding.⁶ The report, based on 14 case files and 44 court decisions, provides an analysis of the position of trafficked persons in criminal and other proceedings and their treatment by the judicial system. Further, a research project was conducted by the Centre for the Study of Democracy as part of the project CONFRONT ("Countering New Forms of Roma Child Trafficking").⁷ Another research by the Centre for the Study of Democracy, carried out in 2012 as part of an EU project entitled "Assisting and Reintegrating Children Victims of Trafficking: Promotion and Evaluation of Best Practices in Source and Destination Countries" (ARECHIVIC), provided an assessment of programmes for assistance and reintegration of child victims.⁸

63. Further, the Bulgaria Gender Studies Foundation and Foundation PULS–Pernik, with funding from the EU, carried out research and published in 2013 a report entitled "Identification of Victims of Trafficking and Monitoring of Courts and Law Enforcement Agencies in South-West Bulgaria." Of relevance is also the research carried out by the Bulgarian Helsinki Committee on children deprived of their liberty,⁹ the functioning of crises centres for children¹⁰ and the guardianship system for child victims of THB. In the framework of the project Mario-2, funded by the EU Daphne Programme and the OAK Foundation and co-ordinated by the NGO Terre des Hommes, a report was prepared by a team of experts under the guidance of ECPAT Bulgaria - Neglected Children Society entitled "Situational Analysis: Children on the Move in Bulgaria and the Child Protection System Capacity to Protect Them".¹¹ Another research funded by the EU focused on compensation and legal aid to victims of THB.¹²

64. In their comments on the draft GRETA report, the Bulgarian authorities have referred to plans to involve external experts in conducting evidence-based research in 2016, such as an assessment of the long-term re-integration of victims of THB (as part of the ICMPD-led project under the Swiss-Bulgarian Co-operation Programme), a needs assessment targeting male victims of THB for the purpose of labour exploitation, and research on the particular vulnerabilities of asylum seekers to THB. **GRETA would like to be kept informed of the outcome of these research plans.**

⁶ Natasha Dobrova, *Promotion of the Rights of Trafficked Persons in Bulgaria*, Animus Association Foundation, Sofia, July 2013. Available at: <http://www.animusassociation.org/wp-content/uploads/2014/03/Promotion-of-the-rights-of-the-trafficked-persons-in-Bulgaria.pdf>

⁷ Kamelia Dimitrova, Yva Alexandrova, *Countering New Forms of Roma Child Trafficking* (CONFRONT), Centre for the Study of Democracy, Sofia, March 2015.

⁸ Mila Mancheva and Kamelia Dimitrova, *Assisting and Reintegrating Children Victims of Trafficking: Promotion and Evaluation of Best Practices in Source and Destination Countries* (ARECHIVIC), Centre for the Study of Democracy, Sofia, 2012. Available at: <http://childrentrafficking.eu/wp-content/uploads/2014/04/WS2-BULGARIA-EN.pdf>

⁹ Bulgarian Helsinki Committee, *Children Deprived of Their Liberty: Between the Legacy and the Reform*, Sofia, 2014, [http://www.bghelsinki.org/media/uploads/documents/reports/special/bhc_\(2014\)_children_deprived_from_liberty_bg.pdf](http://www.bghelsinki.org/media/uploads/documents/reports/special/bhc_(2014)_children_deprived_from_liberty_bg.pdf).

¹⁰ Bulgarian Helsinki Committee, *Crises Centres for Children in Bulgaria – between Social Services and Institutions*, Sofia, 2011. Available at: http://issue.com/bghelsinki/docs/finalen_kc_15

¹¹ Neglected Children Society, *Situational Analysis: Children on the Move in Bulgaria and the Child Protection System Capacity to Protect Them*, Sofia, 2014.

¹² Genoveva Tisheva, Svetlana Ganeva, Maria Vogiatzi, *Comparative Analysis of Greek and Bulgarian Law and Practices in handling of Human Trafficking Cases, Including Issues on Victims' Representation Compensation and Identification of Good Practice*, Sofia, October 2014.

65. **While welcoming the above-mentioned efforts, GRETA considers that the Bulgarian authorities should conduct and support research on THB-related issues as an evidence base for future policy measures. Areas where research is needed in order to shed more light on the extent and nature of the problem of THB include trafficking of foreign nationals to Bulgaria, trafficking for the purpose of labour exploitation, trafficking of mentally disabled persons, and participatory research in Roma communities.**

III. Article-by-article findings

1. Prevention of trafficking in human beings

66. In its first evaluation report, GRETA considered that the Bulgarian authorities should design their awareness raising actions in the light of the assessment of previous measures and urged them to develop specific prevention campaigns in the Roma community. Further, GRETA recommended that the authorities strengthen prevention through social and economic empowerment measures for groups vulnerable to THB, including by securing the registration of all persons from socially vulnerable groups at birth and for social services. GRETA also asked the authorities to continue their efforts to discourage demand for services from trafficked persons.

a. Measures to raise awareness of THB (Article 5)

67. Raising awareness remains one of the priorities of the NCCTHB and the local commissions for combatting THB. A number of campaigns have been organised to inform the general public and target groups about risks of THB, recruitment methods used by traffickers and ways for prevention. These activities are reported in the annual reports published on the National Commission's website.¹³

68. In 2012 and 2013, the NCCTHB and the local commissions organised each year three major national awareness-raising campaigns. First, a summer campaign regarding sexual exploitation was organised from June to August. A second campaign addresses trafficking in human beings for the purpose of labour exploitation took place in the spring and targeted Bulgarians citizens searching seasonal employment in the EU and students preparing for summer jobs. A third campaign, focussing on domestic and sexual violence, was launched on the occasion of the European Anti-Trafficking Day on 18 October. However, in 2014, only one national campaign was organised by the NCCTHB.

69. The Secretariat of the NCCTHB has organised additional campaigns related to legislative changes. In 2012, for example, a campaign was carried out informing the public about the criminalisation of the use of services of victims of trafficking, with a focus on clients of sexual services.

70. The local commissions take part in the national campaigns but also organise their own initiatives on regional level. Activities and target groups vary in accordance with the situation and needs in each region. By way of example, the local commission in Sliven organised screenings of films concerning THB in Roma communities. The local commission in Burgas, with funding from the EEA/Norway Grants, has organised several awareness-raising campaigns in Roma communities.

71. An essential part of preventive work consists in information sessions on trafficking in human beings among students and young people. NGOs are very active in this regard, usually at local level, such as the NAYA Association in Targovishte, SOS Women and Child Victims of Violence Association in Novi Pazar, or the Bulgarian Red Cross in Plovdiv. Further, Caritas Bulgaria conducted the one-week information campaign "A future without violence" in July 2013 in 20 cities and villages to inform the Catholic community and vulnerable target groups about THB.

¹³ <http://antitrafficking.government.bg/>

72. In 2013, an exhibition of posters on trafficking in human beings entitled "Step 2 Freedom" was organised in Sofia, Plovdiv, Pazardzhik and Blagoevgrad by the NCCTHB and the local commission, in co-operation with the respective municipalities. The exhibitions attracted considerable public interest. Further, the Bulgarian National Television with the support of the NCCTHB produced a documentary "Red as lipstick, red as blood" which tells the true stories of two women victims of trafficking for the purpose of sexual exploitation. The film was screened in Sofia, Blagoevgrad, Burgas, Veliko Tarnovo, Montana, Pazardzhik, Plovdiv and Sliven in co-operation with the local commissions.

73. GRETA was informed that the cuts in the budget of the National Commission had resulted in reduced financing of prevention activities. For many prevention projects, external donors and private business partners have been sought. GRETA was also informed that the local commissions receive hardly any financial support from the NCCTHB for their prevention activities despite the fact that, according to Article 5, paragraph 4, of the Anti-Trafficking Law, local commissions are to be funded by the National Commission's budget. Similarly, NGOs engaged in preventive work against THB are mostly funded by foreign donors. In 2014, the total amount spent on information and prevention activities, including activities organised by the local commissions, was BGN 11 782 (approximately 5 850 euros), and in 2013, BGN 13 062 (approximately 6 500 euros). In 2015, it is expected to spend around BGN 15 000 (approximately 7 500 euros) on such activities.

74. There has been no systematic impact evaluation of the above-mentioned awareness-raising measures. **GRETA invites the Bulgarian authorities to continue their efforts to raise awareness of THB and to design future actions in this area in the light of impact assessment of previous measures, focusing on the needs identified.**

b. Measures to prevent THB for the purpose of labour exploitation (Article 5)

75. As mentioned in paragraph 68, one of the annual awareness-raising campaigns is dedicated to the topic of THB for the purpose of labour exploitation.

76. As a reaction to the exploitation of Bulgarian citizens as berry pickers in Sweden, information campaigns were carried out in 2013 and 2014 by the NCCTHB in co-operation with the Ministry of the Interior, the Ministry of Foreign Affairs, the Ministry of Labour and Social Policy, the National Network of Health Mediators and other organisations. The dissemination of information also took place through representatives of Roma organisations and local informal leaders.

77. The Secretariat of NCCTHB has made efforts to involve the private sector in anti-trafficking action. As a result of these efforts, the mobile operator MTel and the bank Postbank supported awareness-raising campaigns. Through the promotion of business ethics and corporate social responsibility, the NCCTHB aims to make businesses an active actor in the fight against THB.

78. In 2014 the Animus Association Foundation, together with partners from La Strada Netherlands, Poland and the Czech Republic, launched the international project "NGOs&Co: Co-operation between NGOs and business in combatting trafficking in human beings". The project aimed at increasing awareness among recruitment agencies and strengthening their responsible behaviour in preventing human trafficking. The activities were supported by the Labour Inspectorate and the Employment Agency. As part of the project, an information campaign was organised on the risks of accepting work abroad through illegal channels or unlicensed intermediaries, via social media and TV and radio channels (see also paragraph 114).

79. Furthermore, an information campaign was held as part of the project "Integrated approach to preventing labour exploitation in countries of origin and destination" in Bulgaria, Romania, Greece, Cyprus, Hungary and "the former Yugoslav Republic of Macedonia". Lectures were given in schools and TV and radio spots were aired.

80. Every year, Varna Municipality and the local commission in Varna, in partnership with the NCCTHB, organise a campaign entitled "Where are you travelling to?" to prevent THB for the purpose of labour exploitation. In 2014, the campaign was organised in co-operation with a Hamburg counselling centre for migrant workers and informed potential migrants about work conditions in Germany, illegal practices in hired labour, forms of exploitation and possibilities to receive legal aid and social protection.

81. Reference should also be made to two on-going projects in the Czech Republic which concern Bulgarian workers, "Prevention of human trafficking and labour exploitation in the EU" (run by the Diaconia of the Evangelical Church of Czech Brethren) and "Prevention of exploitation of Bulgarian citizens in the Czech labour market" (run by the Czech Ministry of Labour and Social Affairs and IOM). Further, as part of the Bulgarian-Czech Co-operation Programme, a campaign on prevention of THB for the purpose of labour exploitation is envisaged by the end of 2015.

82. In the first evaluation report, GRETA highlighted as a good practice the appointment of "labour attachés" in countries where many Bulgarian nationals seek employment. The network of labour attachés, who are posted by the Ministry of Labour and Social Policy in selected EU countries, has been gradually expanded and they provide information and advice to Bulgarian citizens working abroad, serving as a link to the local services in the foreign country. Further, to prevent trafficking for labour exploitation, the Employment Agency of the Ministry of Labour and Social Assistance provides information on its website about licensed employment agencies which offer work abroad. Information and practical advice for those intending to work abroad is also provided on the site of the NCCTHB.

83. There are some 360 labour inspectors across Bulgaria, all of whom undergo initial training which includes a module on labour exploitation. The mandate of the Labour Inspectorate covers health and safety at work, labour relations, unpaid wages, control over the operation of temporary employment companies and mediators, and control over the operation of companies which send workers abroad. Labour inspectors can inspect any place where work is performed, including domestic households, and can impose administrative sanctions. The Labour Inspectorate monitors work announcements in the media and the Internet and co-operates closely with the Employment Agency. In case of a complaint by Bulgarian workers abroad, the Labour Inspectorate checks the temporary employment company in Bulgaria and makes a request to the foreign country's labour inspectors to check the working conditions.

84. Reference should also be made to the prevention activities of the Employment Agency of the Ministry of Labour and Social Policy, which licenses employment agencies and Bulgarian employment intermediaries and provides information through its website on available jobs, work conditions and workers' rights abroad.¹⁴ It also provides information and support through 107 Job Centres across the country. The Executive Agency of the Labour Inspectorate is responsible for conducting checks on the licensed employment intermediaries.

85. **GRETA commends the steps taken in Bulgaria since the first evaluation visit to prevent trafficking for the purpose of labour exploitation through raising awareness about this phenomenon and considers that these efforts should be intensified, in particular by:**

- **further sensitising relevant officials, in particular labour inspectors, prosecutors and judges, about THB for the purpose of labour exploitation and the rights of victims;**
- **expanding the mandate of labour inspectors so that they can be actively engaged in the prevention of THB;**
- **strengthening the monitoring of recruitment and temporary work agencies and supply chains and reviewing the legislative framework for any loopholes that may limit protection or preventive measures;**

- **working closely with the private sector, in line with the Guiding Principles on Business and Human Rights.**¹⁵

c. **Measures to prevent trafficking in children (Article 5)**

86. A major tool for preventing trafficking in children is raising awareness through education. The NCCTHB has issued a manual on preventing trafficking in human beings intended for pedagogical counsellors, teachers, social workers and other professionals working with children. The Ministry of Education and Science has conducted, jointly with the NCCTHB, training of pedagogical counsellors and philosophy teachers on the issue of THB (which is discussed as part of philosophy lessons in secondary schools). All regional education inspectorates have reported that the topic of THB was covered through different methods. Numerous activities have taken place in many schools across the country, including discussions with students and their parents, thematic presentations, film screenings, teaching skills in safe online communication, promotion events of the telephone helpline for children, and joint initiatives with the Police Juvenile Delinquency Units.

87. Since 2012, the National Programme "At school without absences" has been implemented by the Ministry of Education. The aim of the programme is to prepare and implement school programmes to reduce early school drop-out. On 30 October 2013, the Council of Ministers adopted a Strategy for the Prevention and Reduction of School Drop-outs (2013–2020).¹⁶ Further, as a part of the Human Resources Development Operational Programme, the Ministry of Labour and Social Policy supported a number of projects aimed at the integration of Roma children in primary schools. The Strategic Plan of the State Agency for Child Protection for the period 2014-2016 envisages support for families at risk, free meals for children at risk of drop-out from schools, and mandatory pre-school education to form study habits and prepare all children equally for school.¹⁷

88. On 3 August 2011, the Bulgarian Government adopted the State Policy Concept for Juvenile Justice and in 2012, a draft Action Plan for its implementation was drawn up with the participation of relevant stakeholders.¹⁸ The Action Plan, which was adopted in March 2013, includes measures to ensure a system focused on children's rights and individual approach, including developing services in the family and the community which are focused on prevention, early intervention and support instead of the use of criminal sanctions. In their comments on the draft GRETA report, the Bulgarian authorities have indicated that a working group was set up at the Ministry of Justice comprising officials and NGO representatives involved in child protection to draft a new law on juvenile justice.

89. Reference should also be made to the National Plan for the Prevention of Violence against Children 2012-2014¹⁹ which was adopted by the Council of Ministers in May 2012 and aimed at increasing the effectiveness of measures for the protection of children against violence (including the effectiveness of the Co-ordination Mechanism for Referral, Care and Protection of Unaccompanied Minors and Child Victims of Trafficking Repatriated to Bulgaria). According to the report on the implementation of the National Plan issued by the State Agency for Child Protection, during the period 2012-2014 there were a total of 142 children victims of THB who were repatriated to Bulgaria as part of the Co-ordination Mechanism. Repatriated trafficked children are monitored by the State Agency for Child Protection during one year. While the assessment of the functioning of the Co-ordination Mechanism is generally positive, the finding of the children's return to Bulgaria remains a problem and relies on the good will of the social services in countries of origin and NGOs (see paragraph 176).

¹⁵ http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

¹⁶ Available in Bulgarian at: www.strategy.bg/FileHandler.ashx?fileId=4126.

¹⁷ Available in Bulgarian at:

http://sacp.government.bg/media/cms_page_media/21/DA%20Strategicheski_plan_DAZD_2014-16-last.doc.

¹⁸ Available in Bulgarian at: www.strategy.bg/PublicConsultations/View.aspx?Id=804.

¹⁹ National Plan for Prevention of Violence against Children 2012-2014, 23 May 2012, available in Bulgarian at: <http://www.strategy.bg/FileHandler.ashx?fileId=2351>.

90. As already noted in GRETA's first evaluation report, Article 76a of the Law on the Bulgarian Identity Documents is used, *inter alia*, as a form of prevention of trafficking in children. Under this provision persons younger than 18 are prohibited to leave the country for a period of up to two years if they have been subjected to neglect or sexual exploitation or involved in begging or committing petty crimes, because these might be signs of a particular risk of being trafficked. In 2013 this measure was requested for 112 children, and in 2014, for 30 children. In their comments on the draft GRETA report, the Bulgarian authorities have indicated that these measures have proven to be effective over the years. When the exploitation of children takes place with the consent or involvement of the family, returning children to their families is not in their best interests and they are placed in foster care or specialised institutions.

91. GRETA was informed that there continue to be cases, in particular in isolated Roma communities, where children are not registered at birth. There are also some cases of children born abroad to Bulgarian mothers and not registered. The Bulgarian authorities have referred to the Law on the Registration of Citizens, which sets out the procedure for issuing birth certificates. **GRETA considers that the Bulgarian authorities should continue taking steps to ensure that all children are registered at birth.**

92. The national telephone helpline for children 116 111 offers advice, information and help on any issues and problems related to children. The telephone is supported through a grant provided by the State Agency for Child Protection and the delivery of the service is assigned to the Animus Association Foundation. In 2014 a total of 102 889 calls were received, including three notifications about children at risk of being trafficked outside the country. In the first half of 2015, a total of 57 178 calls were received, of which one notification about a child at risk of being trafficked. There is also a telephone helpline for missing children, 116 000, which started working on 3 December 2012 and is maintained by the NGO Nadja Centre Foundation. The helpline receives reports about children living on the streets, child victims of trafficking and runaway children. More than 60 of the 2 500 calls received since it started functioning were notifications or requests for information on child trafficking. Further, a system of early notifications about missing children was launched in 2014. Relevant bodies (e.g. bus stations, Sofia underground, TV channels) have signed agreements for its application and there is a mechanism for assessing reports on missing children and reacting promptly. The State Agency for Child Protection also maintains a specialised website against sexual exploitation of children which received in 2014 a total of 182 notifications, none of which concerned child trafficking.²⁰

93. **GRETA considers that the Bulgarian authorities should continue and strengthen their efforts in the area of prevention of child trafficking, using the results of research on new trends, in particular by sensitising and training child protection professionals across the country, raising awareness of children through education, and paying special attention to Roma communities and migrant children.**

d. **Social, economic and other initiatives for groups vulnerable to THB (Article 5)**

94. In its first evaluation report, GRETA urged the Bulgarian authorities to strengthen the aspect of prevention through social and economic empowerment measures for groups vulnerable to THB. GRETA concluded that there was a need for a comprehensive, co-ordinated and adapted approach towards the problems in the Roma community, involving all relevant institutions and aiming at improving their integration and access to education, health care and social assistance as an ultimate prevention measure against THB.

²⁰

www.stopech.sacp.government.bg

95. The National Strategy for Encouraging Gender Equality (2009-2015) aims to create guarantees for equal treatment, equal access to public resources and equal participation in decision-making for women and men in Bulgaria. Eliminating gender-based violence and trafficking in human beings is one of the strategic goals of this National Strategy. This goal is pursued through specific measures set forth in annual national action plans for the implementation of the Strategy. These national action plans contain measures for encouraging economic independence of both women and men, preventing gender-based violence in all its forms, eliminating gender-based stereotypes and counteracting gender-based stereotypes and discrimination, enhancing the awareness and sensitivity regarding gender equality and anti-discrimination.

96. Reference should also be made to the adoption by the Council of Ministers in July 2013 of an inter-institutional Action Plan implementing the concluding observations of the UN Committee on the elimination of discrimination against women (CEDAW). The Action Plan includes, *inter alia*, measures in the areas of gender equality, counteracting trafficking in human beings and overcoming stereotypes and discriminatory practices. There are 14 measures in the area of "Trafficking and Exploitation of Prostituting Women", including activities targeted at preventing the trafficking and exploitation of women, in particular Roma; measures directed at consumers of sexual services; setting up an integrated database of victims of trafficking; ensuring adequate protection of victims of trafficking by increasing the number of shelters and protected accommodation; and improving the reintegration programmes. Measures are also envisaged for the rehabilitation and reintegration of women who are willing to quit prostitution, training of law enforcement and judicial bodies regarding work with victims of trafficking for the purpose of sexual exploitation, and exchange of good practices at international level. In 2014 the Ministry of Labour and Social Policy co-ordinated the preparation of a response as regards progress made in implementing the measures included in this Action Plan.²¹

97. The National Strategy for Roma Integration (2012-2020) aims to "intensify the efforts in combating trafficking in human beings through the effective application of the provisions of UN, Council of Europe and EU documents and the use of existing EU instruments." An Inter-institutional Working Group has been set up, in accordance with Chapter 5 of the Action Plan for the implementation of the National Strategy for Roma Integration. The Working Group may propose that combating trafficking in human beings be included as one of the priorities when applications are submitted for programmes and projects funded by EU funds. The NCCTHB has proposed that community-based measures to prevent THB among Roma groups at risk are included in the Action Plan for the Implementation of the Strategy for Roma Integration which is yet to be adopted.

98. The National Network of Health Mediators²² plays an important role in preventing THB in Roma communities. The Network has more than 170 members – health mediators, medical specialists, sociologists, psychologists, experts in the field of ethnic minorities' integration - whose objective is to facilitate access to health and social services for vulnerable communities. The health mediators, often of Roma origin themselves, are active in 85 municipalities. They are trained in dealing with risk situations and inform relevant institutions when they discover situation of trafficking or risk situations that might lead to trafficking.

99. Under the project "Prevention of trafficking in human beings belonging to ethnic groups focusing on the Roma minority in Bulgaria", the local commission in Varna developed a model for systematic multi-faceted approach to working in the Roma community. The project was funded by France and was implemented in partnership with several public bodies and NGOs. In the framework of the project a manual for prevention of trafficking in human beings in the Roma community was drafted.

²¹ See Information provided by Bulgaria in follow-up to the concluding observations, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBGR%2fCO%2f4-7%2fAdd.1&Lang=en.

²² <http://www.togetherforbetterhealth.eu/countries/bulgaria/bulgaria>

100. Reference should also be made of the work of the NGO "Empowered Roma Union", based in Burgas, which has been working on prevention of THB among Roma communities at risk, in partnership with the German NGO Jadwiga based in Munich.²³ It was reported to GRETA that as a result of this project, the number of Roma women and girls trafficked from that particular community to the area of Munich for the purpose of sexual exploitation had decreased.

101. Another example of targeted action is the NGO Association "Thirst for Life" in Sliven, which has been running a project in Roma communities with funding from the EEA/Norway Grants. The project involves the forming of support and self-support groups of young people from the Roma community with a view to developing skills for preventing and combating domestic violence and human trafficking.²⁴

102. The Bulgarian authorities have also referred to the National Health Strategy (2014-2020), which envisages the decrease in the differences in the access to quality health care, and improvement of the awareness of vulnerable groups through health education.

103. In their comments on the draft GRETA report, the Bulgarian authorities have referred to plans to establish a model for prevention in Roma communities at high risk of THB by the end of 2015. This would involve community-based research on vulnerabilities to exploitation (with a focus on labour exploitation). The prevention activities of the local commissions, in particular in Burgas, Plovdiv, Pazardzhik, Montana, Sliven and Varna, also include information campaigns in Roma neighbourhoods, with the assistance of Roma mediators, NGOs and community members. The NCCTHB is a partner in an initiative conducted by the Dutch Embassy and the Roma NGO Amalipe, which aims to inform Roma communities of the possibilities for regular migration and the risks behind irregular migration into the Netherlands.

104. GRETA welcomes the above-mentioned activities, which have the potential of addressing the root causes of THB and preventing the trafficking of persons from Roma communities. However, GRETA notes that Bulgaria remains a major source country of persons trafficked in Europe. **GRETA considers that the Bulgarian authorities should take vigorous measures to strengthen the prevention of THB through social, economic and other measures for groups vulnerable to THB, including outreach work in Roma communities. Further efforts should be made to promote gender equality, combat gender-based violence and stereotypes, and support specific policies for the empowerment of women as a means of combating the root causes of THB.**

e. **Measures to prevent trafficking for the purpose of organ removal (Article 5)**

105. GRETA notes that while human trafficking for the purpose of organ removal and organ trafficking are two distinct crimes, they bear certain similarities and share similar root causes, e.g. shortage of organs to meet demand for transplantation and poor economic and other conditions that put persons in a vulnerable position. Therefore, measures to prevent organ trafficking can help prevent trafficking for the purpose of organ removal and the reverse is also true.²⁵

106. Trafficking in human beings for the purpose of organ removal is penalised under Article 159a of the Criminal Code, and Article 159c of the CC provides for criminal liability for using a victim of trafficking in human beings for the removal of a body organ regardless of the victim's consent.

²³ <http://www.jadwiga-online.de/beratungsstellen.php>

²⁴ <http://www.thirstforlife-bg.com/en/>

²⁵ See Council of Europe/United Nations, *Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs*, 2009, in particular pages 55-56; OSCE, *Trafficking in human beings for the purpose of organ removal in the OSCE region*, OSCE Occasional Paper No. 6, 2013.

107. The transplantation of organs in Bulgaria is regulated by the Law on the Transplantation of Organs, Tissues and Cells and several implementing regulations. Pursuant to Article 24 of this Law, the extraction of organs from a living donor may be performed only where this does not pose any threat to the donor's life and when the donor's consent, certified by a notary, has been received in writing. The donor may withdraw the consent given for organ removal at any time before the transplantation. The donor must be informed prior to the transplantation about the risks involved, his or her rights, the medical procedures and safety measures. The donor must be at least 18 years of age and has to be a spouse or close relative of the recipient.

108. The Transplantations Executive Agency is the body competent for the management, co-ordination and supervision of transplantations in Bulgaria. Among the duties of the Agency is the distribution of organs provided for transplantation. It also registers, stores and analyses information about the donor, the health condition of living donors and recipients during the transplantation and post-transplantation period, as well as grave adverse reactions and incidents related to the transplantation. Moreover, it supervises and co-ordinates the exchange of organs with other European states.

109. Pursuant to Article 13 of the Law on the Transplantation of Organs, Tissues and Cells, the removal of organs can be performed by clinics which have been licensed by the Minister of Health and certified by the Transplantation Executive Agency. So far, one private clinic has been certified. Pursuant to Article 15d of the Law, every clinic performing transplantations shall appoint a member of its staff who shall organise, supervise and be responsible for the expert assessments, the removal, processing, reprocessing, labelling, storing, provision and transplantation of organs, tissues and cells as well as for the notification of grave adverse reactions and incidents.

110. The Transplantation Executive Agency informed GRETA that there had been no known cases of THB for the purpose of organ removal in Bulgaria. Reference was made to media reports about Bulgarian nationals going abroad to receive organs, mostly to India or Pakistan where transplantations may take place illegally, as well as about a Bulgarian citizen being brought to Turkey for a kidney removal and another Bulgarian citizen involved in organ trafficking in Israel. GRETA notes that in the statistics provided by the Supreme Cassation Prosecutor's Office, there were two victims of THB for the purpose of removal of organs (one man and one woman) in 2013. The pre-trial proceedings initiated into these cases have not yet been completed and therefore no further details could be communicated about them. **GRETA would like to be kept informed of the outcome of these cases.**

111. GRETA considers that, as part of their training, medical staff should be sensitised about THB for the purpose of organ removal.

f. Measures to discourage demand (Article 6)

112. The annual campaigns to prevent THB for the purpose of sexual exploitation conducted by the NCCTHB have, *inter alia*, targeted users of sexual services and have aimed at alerting the public that the use of services of victims of THB, with the knowledge that the person is a victim, is a punishable act under Bulgarian law. In 2012 the NCCTHB joined the project "NO", an independent initiative aimed at creating awareness and critical thinking on the problem of THB. Prevention materials targeting users of sexual services have been developed as part of the joint campaign under the motto "Paying for sex with a victim of trafficking is a crime".

113. Further, at the beginning of 2013, the NCCTHB conducted a campaign to prevent THB for the purpose of labour exploitation under the motto "Zero tolerance to trafficking in human beings." One objective of the project is to inform employers about THB and its negative impact on businesses, as well as possible ways to prevent it.

114. Under the project entitled "NGOs&Co: Co-operation between NGOs and the business in combatting trafficking in human beings", the Animus Association Foundation organised several business meetings, made direct contacts with some 30 business representatives, including Manpower Bulgaria and JobTiger Bulgaria, and participated in two job fairs. The meetings aimed at discussing and devising a strategy for awareness raising and corporate accountability.

115. Another NGO-led campaign was launched in December 2013 by the Animus Association Foundation, together with La Strada International under the title "One story, two outcomes: Let's convince the European governments to grant rights to victims of trafficking".²⁶ The materials produced in the framework of this campaign have been distributed to all media as well as to key politicians in Bulgaria and the Bulgarian representatives in the European institutions.

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

g. Border measures (Article 7)

117. As noted in paragraph 44, the Directorate General Border Police has developed risk profiles of victims and traffickers. The risk profiles are included in the annual training curricula which address all forms of trafficking, especially trafficking of children for the purpose of sexual and labour exploitation, begging, pickpocketing and sale of new-born babies.

118. The National Programme for 2014 included the activity "Involving the private sector in the identification, prevention of trafficking in human beings and reintegration of its victims" with aircraft carriers being partners of this activity. Further, according to the authorities, information materials about trafficking in human beings have been disseminated at the international airports in Bulgaria.

2. Measures to protect and promote the rights of victims, guaranteeing gender equality

a. Identification of victims of THB (Article 10)

119. In the first evaluation report on Bulgaria, GRETA noted the recent adoption of a National Mechanism for Referral and Support of Trafficked Persons (NRM), but was concerned that the victim identification system risked excluding those victims who did not co-operate with the authorities in the investigation and criminal proceedings. GRETA invited the authorities to continue spreading knowledge of the NRM and to ensure that all relevant professionals are trained to apply it. GRETA also considered that the Bulgarian authorities should pay more attention to the identification of victims of trafficking among foreign nationals and irregular migrants.

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<http://lastradainternational.org/realstories/>

120. The NRM, which was officially endorsed by the NCCTHB at the end of 2010 and was described in GRETA's first evaluation report,²⁷ provides a formalised collaborative framework for the identification and referral to assistance of victims of trafficking, describing the roles of all stakeholders, the relevant procedures and concrete steps to be taken. The following institutions and organisations are involved in the NRM: NCCTHB, Ministry of the Interior, Ministry of Foreign Affairs, Ministry of Labour and Social Policy, Ministry of Health, Ministry of Education, Youth and Science, State Agency for National Security, State Agency for Child Protection, State Agency for Refugees, Supreme Cassation Prosecutor's Office, local commissions for combating THB, UNHCR, IOM and NGOs service providers (which are listed in the NRM).²⁸

121. As described in GRETA's first report on Bulgaria, under the NRM, there is "informal" identification by public agencies and NGOs which establish the first contact with the victim, and "formal" identification by bodies responsible for the pre-trial proceedings, which is linked to the opening of an investigation. "Informal" identification entitles the victim to immediate access to services and support programmes envisaged under the NRM. All bodies and institutions involved in the NRM are competent to identify victims upon "reasonable grounds". The identification is made on the basis of an initial informal talk with the victim, observations of the behaviour and appearance of the victim, observations and analysis of the circumstances in which the victim was found, or self-identification by the victim him/herself.

122. There are formalised indicators for the identification of victims of THB which are listed in Annex 1 to the NRM. Information about these indicators is distributed among various specialists through brochures and other printed materials. In addition, a manual containing indicators for the identification of victims of different types of exploitation have been elaborated in the framework of the project "Elaborating common guidelines and procedures for the identification of victims of trafficking", which involved Bulgaria, France, Greece, Romania, Spain and the Netherlands in 2013.²⁹ The indicators are distributed in particular to front-line police officers and are used during various training programmes.

123. At the time of the first evaluation, the NRM was not backed up with necessary funding from the state budget. Four years later, GRETA is concerned to learn that no funding has been provided for the NRM. No evaluation of the NRM and its application has been made so far, but it is envisaged that in the framework of the forthcoming project funded by the Swiss Government referred to in paragraph 36, an evaluation will be carried out by the Swiss NGO FIZ.

124. According to NGOs met during the visit, the NRM is known and implemented only at the central level, but there is little application of its rules and procedures across the country. By way of example, GRETA was informed of a recent case in the city of Pleven, which concerned a teenage Roma girl who had been married at the age of 12 and trafficked by her in-laws abroad in order to be used for pickpocketing. Although the girl was detected by NGOs, law enforcement officials did not treat her as a victim of trafficking and she was returned to her family by the responsible judge (reportedly under pressure from the family). Further, it was reported that in the city of Plovdiv, civil society representatives had sent more than 50 reports of detected cases of THB to the police and the prosecution over one year, but action was taken only in 12 cases.

125. Bulgarian nationals are exploited abroad mostly in the sectors of agriculture, construction and domestic work. "Au pair" programmes are reportedly used to employ domestic workers under conditions which are worse than those officially agreed. Reference was made to a case in 2014, in which a Bulgarian employment intermediary sent workers to a Polish employer who then sent them to work in a meat factory in Germany. The workers complained about their working conditions, which allegedly involved 16 hours of work per day and pay below the minimum wage. The Bulgaria Labour Inspectorate checked the employment intermediary and his activities were terminated. A request was sent to Poland and Germany to carry out inspections. However, the Labour Inspectorate had no information about the follow-up to this case.

²⁷ See paragraphs 33-34 and 145-149 of GRETA's first evaluation report on Bulgaria.

²⁸ <http://www.animusassociation.org/wp-content/uploads/2014/03/National-referral-mechanism-for-trafficked-persons-En.pdf>

²⁹ http://ec.europa.eu/dgs/home-affairs/e-library/docs/thb-victims-identification/thb_identification_en.pdf

126. GRETA notes that the number of identified victims of trafficking for the purpose of labour exploitation remains low. In the period 2011-2013, trafficking for the purpose of forced labour accounted for only 12% of identified victims. There is still a knowledge gap when it comes to identifying this form of trafficking. Labour inspectors are part of the NRM and can refer victims of THB, but GRETA was informed that they do not benefit from regular training on THB. Further, the trade unions do not appear to be sufficiently involved in combating this phenomenon.

127. GRETA is concerned to note that there have been no cases of identified victims of THB among foreign nationals. The NRM involves the Migration Directorate and the State Agency for Refugees. Irregular migrants and foreigners are expressly mentioned in the NRM and clear instructions for working with these groups of people are given. However, so far the Directorate General Border Police and the State Agency for Refugees have not reported any cases of irregular migrants or asylum seekers who are victims of THB. The Secretariat of the NCCTHB has concluded an agreement with the State Agency for Refugees to support the training of staff interviewing asylum seekers (see paragraph 54). In June 2015, a conference entitled "The interface between the protection of victims of trafficking in human beings and asylum" was organised in Sofia by the Council of Europe, the NCCTHB, the UNHCR and the Hanns Seidel Foundation. The NCCTHB has indicated plans to review the NRM by the end of 2015 in order to take into account the new migration realities.

128. **GRETA urges the Bulgarian authorities to take further steps to improve the timely identification of victims of THB, and in particular to:**

- **ensure that the NRM is effectively implemented in practice, including by backing it up with adequate funding and periodically training all relevant professionals on the NRM. In this context, the envisaged evaluation of the functioning of the NRM should be carried out as a matter of priority, with a view to ensuring that whenever there are reasonable grounds to believe that a person is a victim of THB, he/she is provided with all the assistance and protection measures provided for in the Convention, regardless of whether an investigation into trafficking is opened;**
- **increase efforts to proactively identify victims of trafficking for the purpose of labour exploitation, by reinforcing the capacity of labour inspectors and providing the Labour Inspectorate with the resources required as well as training to effectively prevent and combat THB;**
- **pay increased attention to detecting victims of trafficking among foreign workers, asylum seekers and persons placed in immigration detention centres. In this context, training on the identification of victims of THB and their rights should be provided to staff of the State Agency for Refugees and the Migration Directorate.**

b. **Assistance measures (Article 12)**

129. In its first evaluation report, GRETA urged the Bulgarian authorities to ensure that all assistance measures provided for in law are guaranteed in practice, by providing adequate financing and ensuring the quality of the services delivered by the NGOs, as well as setting up a sufficient number of shelters for victims of trafficking and ensuring that suitable accommodation and assistance is provided to male victims. Further, GRETA urged the authorities to guarantee access to health care for victims of trafficking and facilitate their reintegration of by providing them with vocational training and access to the labour market.

130. The provision of assistance to victims of THB is regulated by the Anti-Trafficking Law. The criteria and standards for providing social services for victims of trafficking are part of the NRM and are described in Annex 2 to the NRM. Victims are entitled to accommodation in a shelter for a period of 10 days, which may be extended to 30 days or until the end of the criminal proceedings in case the victim acts as a witness.

131. There are two State shelters for female victims of trafficking, in Burgas and Varna, which are funded from the budget of the NCCTHB and are run by NGOs. Each shelter can accommodate up to six persons. According to information provided by the Bulgarian authorities, 29 women were provided care in these shelters in 2013, and 24 in 2012. However, at the time of GRETA's second evaluation visit, both shelters were closed, following a decision taken in October 2014 to terminate the contracts of the NGOs running the shelters as the tender procedure had apparently been breached. The victims who used to be accommodated in the two shelters, mostly women with mental and/or physical health problems, had to be moved to other facilities (crisis centres, NGO-run shelters or sheltered housing) or go back to their families. GRETA is concerned by the closing down of the two State shelters and the failure to re-open them for a prolonged period of time. In their comments on the draft GRETA report, the Bulgarian authorities have indicated that a tender procedure for the operation of the two shelters was published in September 2015, with a deadline of 26 October 2015. There are plans to open a long-term shelter for victims ("safe house") in Burgas, as well as a long-term shelter for adults in Sofia under the Bulgarian-Swiss Co-operation Programme referred to in paragraph 36.

132. There are five crisis centres for adult victims of violence and human trafficking across the country, with a total capacity of 53 places, and six crisis centres for both adults and children. Most of these crisis centres are run by NGOs with funding from the Agency for Social Assistance (this is referred to in Bulgaria as a "delegated social service"). In 2013 the funds for one person per day were at the amount of BGN 7.93, for 2014 and 2015, BGN 8.25, and in 2016 the amount will be increased to BGN 8.50 (approximately 4.25 euros). The Agency for Social Assistance provides methodological support and has issued various guidelines, including Guidelines for the opening and operating of crisis centres, which set minimum quality and standard requirements.

133. The GRETA delegation visited a crisis centre for victims of violence and human trafficking in Burgas, which was intended for both adults and children. It had a capacity of eight places and was accommodating two girls from Romania at the time of the visit (see paragraph 144). It was staffed around the clock by one staff member. The building was under renovation, but material conditions were generally adequate. Persons accommodated at the centre had access to some activities and one of the girls was attending a course for manicurists.

134. Further, the GRETA delegation visited a crisis centre for victims of violence and human trafficking, both adults and children, in Ruse. The centre, set up in 2014, occupies a building in the centre of the city, with a capacity of eight places. At the time of the visit, four women were accommodated at the centre, one of whom was a victim of THB repatriated from Poland. There were six staff members who ensured 24-hour presence.

135. As during the first GRETA evaluation, there were no shelters or crisis centres providing assistance to male victims of THB. GRETA is concerned by this continuing lacuna, which is all the more worrying given the number of male victims of THB (see paragraph 16).

136. The provision of health care to victims of THB, who often lack medical insurance because no contributions have been made to the State Health Fund, is limited to emergency care and thus remains highly problematic. The funding provided by the Agency for Social Protection to crisis centres does not cover health care.

137. GRETA urges the Bulgarian authorities to comply with their obligations under Article 12 of the Convention and to ensure that all presumed and identified victims of trafficking receive adequate assistance and support, according to their needs. This should include measures to:

- **re-open the two State shelters as a matter of priority;**
- **provide a sufficient number of places around the country for all victims of trafficking who need safe accommodation;**
- **provide assistance, including safe accommodation, adapted to the specific needs of male victims of THB;**
- **ensure adequate funding and staff to work with victims of THB and facilitate the reintegration of victims of trafficking into society by providing them with vocational training and access to the labour market;**
- **guarantee access to health care to all victims of THB.**

c. Identification and assistance of child victims of THB (Articles 10 and 12)

138. The Law on Child Protection, which was amended in 2013 (see paragraph 21) and its implementing regulations provide the legal basis for the protection of all children, including children at risk (which includes victims of trafficking), and regulates the rights of children in administrative and judicial proceedings. The identification and referral to assistance of child victims of THB follows the rules and procedures described in the Co-ordination Mechanism for Referral, Care and Protection of Unaccompanied Minors and Child Victims of THB Repatriated to Bulgaria (first adopted in 2005 and periodically updated since), which was described in the first GRETA evaluation report on Bulgaria.³⁰

139. There are currently 16 crisis centres for child victims of violence and other forms of abuse, including THB, with a total of 161 places.³¹ Crisis centres are regulated by the Rules on the Implementation of the Social Assistance Act and are defined as a set of social services, including social and psychological support, crisis intervention and legal counselling. Children are placed in residential care, including crisis centres, by court decision upon a request of the Social Assistance Directorate, a prosecutor or a parent. Until the court has ruled on the placement, the child is temporarily placed administratively by the local Social Assistance Directorate. Placement in a crisis centre is for a duration of up to six months. Crises centres are funded by the Agency for Social Assistance, which is responsible for the provision of all social services in the country and organises tenders to delegate the running of the centres to civil society organisations.

³⁰ Paragraphs 35-36 of GRETA(2011) 19.

³¹ In September 2014, there were 15 crisis centres for children with a total of 155 places. In 2013, a total of 312 children were placed in crisis centres, of whom 49 were victims of THB. In 2012, out of 255 children, 41 were victims of THB.

140. The State Agency for Child Protection (SACP) has issued Methodological Guidelines for Operating Crisis Centres as a Social Service which set out in detail the requirements for their running and minimum quality standards. SACP carries out inspections, both planned and ad hoc, following a report or complaint. Thus in 2011, all crisis centres were inspected and in 2014, there were three ad hoc inspections. The conclusion of the inspections was that there was a shortage of activities, absence of specialised programmes, the right to education was sometimes violated, and occasionally the length of stay of the children exceeded the legal maximum of six months. Another issue of concern was that crisis centres do not exist in all regions of the country. Following inspections, the SACP recommended that a profiling of the crisis centres be introduced, that the meaning of "social service" be clarified, and that the placement of children be limited to once within a calendar year.³² Further, it was recommended that flexible forms of education be introduced and that the judicial procedure confirming placement in crisis centres be speeded up. **GRETA welcomes the practice of inspections by the SACP and encourages the inspectors to pay particular attention to the situation and rights of child victims of THB.**

141. According to the SACP, the number of notifications received by the Agency concerning child victims of THB by Bulgarian embassies or foreign social or law enforcement agencies, has dropped from 60 in 2013 to 36 in 2014, and 10 in the first half of 2015. One of the reasons for the reduction of notifications about trafficked children is that most EU Member States do not report these cases to the Bulgarian consular and diplomatic missions. Foreign social and law enforcement authorities do not pay enough attention to this problem and often return children to their parents or relatives who most often are the ones who involve them in trafficking. Exchange of information between EU Member States is hindered by the lack of common procedures for children from Eastern Europe. Protection of child migrants in the EU is often impeded by the difficulty in determining their identity and subsequently their vulnerability and hence rules out long-term sustainable solutions for the children. According to the SACP, children who are EU nationals cannot have recourse to the EU law procedural guarantees which are accorded to third-country nationals.

142. During the second evaluation visit to Bulgaria, the GRETA delegation visited the crisis centre for children in the region of Veliko Tarnovo. The centre is located in a village some 15 km outside the city of Veliko Tarnovo. It has a capacity of 10 places (five rooms with two beds each) and accommodates only girls. At the time of the visit, there were nine girls accommodated at the centre; one girl victim of THB for the purpose of sexual exploitation had left the centre the previous day. There were nine full-time posts (employed by the municipality) and staff presence was ensured around the clock. Volunteers from NGOs regularly came to support staff. Material conditions in the centre were very good and the delegation was impressed by the dedication and caring attitude of staff. Children could attend school in the community, accompanied by staff, and teachers also came to the centre for individual lessons. However, GRETA was informed that the budget received from the Agency for Social Assistance was not sufficient and the centre had to rely on financing from the municipality and NGO funds.

143. The GRETA delegation also visited a shelter run by the Red Cross in Ruse. The house where the shelter is located, in the centre of Ruse, is provided by the municipality free of charge. With a capacity of 15 places, at the time of the visit the shelter was accommodating one Bulgarian child and three Iraqi women with their children. In 2013, four out of 45 persons hosted in the shelter were victims of THB. Staff included seven full-time Red Cross employees (including educators, a psychologist, a social worker). Conditions in the shelter were very good and the staff was committed to providing high quality care. The funding provided by the Agency for Social Assistance was supplemented by the Red Cross Netherlands and private donations.

³² The placement of a child in a crisis centre is decided by the SACP and has to be confirmed by a court decision.

144. During the visit to the crisis centre for victims of violence and human trafficking in Burgas, GRETA met two Romanian girls (one aged 16, the other 18) who had been stopped at Burgas Airport because they were being looked for by SIRENE. No action was taken by the border police against the two men who were accompanying the girls. The girls were placed at the crisis centre for what was meant to be a short period, but they stayed there for more than six months and in the meantime, one of them came of age. During that time, they were visited by the Romanian honorary consul in Burgas and the Ministry of the Interior attaché for Romania. Staff working at the crisis centre informed the police and the social services that there were indications that the girls had been trafficked and they were eventually questioned by the Juvenile Delinquency Commission. The girls were returned to Romania where they were accommodated by the social services and stand as chief witnesses against the perpetrators.

145. In addition to crisis centres, child victims of THB can be accommodated in other facilities, such as centres for temporary placement of homeless children, run by the police (for up to three months) or shelters for children (for up to three months). There are also reports that child victims of THB have been placed in juvenile delinquency institutions (correctional boarding schools, socio-pedagogical boarding schools and homes for the temporary accommodation of minors). All these institutions are of the closed type, children not being allowed to leave them.³³ GRETA notes that according to a report by the Bulgarian Helsinki Committee, which visited a number of child institutions in Bulgaria, these institutions in general did not manage to provide the needed care and protection for child victims and the requirements for placement were not always respected (e.g. the judge's decision was delayed; children were kept for longer than the maximum provided for in law).³⁴ The mixing of different categories of children which different needs has also been highlighted as a problem.

146. GRETA refers to the report by the Council of Europe Commission for Human Rights, Mr Nils Muižnieks, following his visit to Bulgaria from 9 to 11 February 2015, which contains recommendations to prevent the institutionalisation of children through the development of a fully-fledged system of family- and community-based services, to reform the juvenile justice system with no further delay and in particular repeal the obsolete Law on Measures against Delinquency of Minors and Juvenile, and to move away from the current repressive approach towards a protective one.³⁵

147. Social workers play a central role in assisting child victims of THB. They meet repatriated children at the border, accompany them to the crisis centre, and make assessments concerning the child, including a social assessment of the family environment. However, there is a lack of effective monitoring of the children's re-integration, which decreases the chances of prevention of re-trafficking. According to the research report as part of the project "Countering New Forms of Roma Child Trafficking" (CONFRONT), the most acute weaknesses are observed at the stage of looking for long-term durable solutions and re-integration of child victims of THB, especially those of Roma origin (which, according to expert assessments, account for between 50 and 80% of trafficked children).³⁶ Boys trafficked for the purpose of sexual exploitation are reportedly not referred to assistance by the authorities and service providers. The trafficking of children for the purpose of pickpocketing and/or begging is most often done with the active collusion of the child's parents or relatives, but risk assessments are rarely conducted and no steps are taken to establish the complicity of the parents or caregivers in the trafficking of the children. The deprivation of parental rights is an extreme measure, rarely applied.³⁷ In the majority of cases child victims are not willing to support the criminal proceedings against the traffickers as they do not realise they have been exploited, but rather feel attached to or dependent on their families.

³³ In the case of *A. and others v. Bulgaria*, the European Court of Human Rights found that placing a child in a crisis centre amounted to deprivation of liberty under Article 5 of the ECHR.

³⁴ [http://www.bghelsinki.org/media/uploads/documents/reports/special/bhc_\(2014\)_children_deprived_from_liberty_bg.pdf](http://www.bghelsinki.org/media/uploads/documents/reports/special/bhc_(2014)_children_deprived_from_liberty_bg.pdf)

³⁵ Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Bulgaria from 9 to 11 February 2015, CommDH(2015)12, Strasbourg, 22 June 2015.

³⁶ Kamelia Dimitrova, Yva Alexandrova, *Countering New Forms of Roma Child Trafficking* (CONFRONT), Centre for the Study of Democracy, Sofia, March 2015.

³⁷ Bulgarian Helsinki Committee, *The Bulgarian Guardianship System for Child Victims of Trafficking*, Sofia, 2014.

148. The guardianship of child victims of THB is regulated by the Law on Child Protection, the Family Code, the Law on Social Assistance, the Code of Criminal Procedure (in particular Article 101) and, in the case of foreign unaccompanied minors, by the Law on Asylum and Refugees. Bulgarian legislation recognises the role of a "legal representative" of a child victim of trafficking to three cases: 1) the guardian appointed in the meaning and under the procedure of the Family Code, who is one of the relatives of the child; 2) the director of the institution in which a child with unknown parents is accommodated, who becomes a guardian by law; and 3) the special representative who is a lawyer involved the proceedings when the interests of the child and of the biological parents/legal representatives are contradictory.

149. Bulgarian law does not provide for a special procedure for appointing guardians to foreign unaccompanied minors. The Law on Asylum and Refugees refers to the Family Code; however, the procedure envisaged under that Code for appointing guardians is not applicable in practice to foreign unaccompanied minors as they do not have any documentation regarding their parents. The Law on Asylum and Refugees provides that if the child does not have an appointed guardian, it shall be represented by the Agency for Social Assistance. The director of the local Social Assistance Directorate appoints a social worker who is personally responsible for the child and acts as his/her legal representative in administrative proceedings. The social worker's legal representation is limited to the application for international protection and does not guarantee that unaccompanied minors exercise their rights to education or health care. The legal representative has the right to submit the asylum claim, apply for legal aid and submit appeals against negative decisions. The Bulgarian authorities have indicated that some court panels do not consider the legal representation of unaccompanied minors by social workers as lawful. In practice, appointing legal guardians to unaccompanied minors is a challenge. A bill amending the Law on Asylum and Refugees has been submitted to Parliament, including a special type of legal representation for unaccompanied minors seeking or granted international protection, which should guarantee in full their rights and legitimate interests.

150. The number of foreign unaccompanied minors in Bulgaria has grown considerably in recent years (726 in the period 2010-2014). Unaccompanied minors are placed in a variety of institutions, including temporary detention centres for foreigners, as well as reception centres for asylum seekers.³⁸ There is reportedly an absence of interpretation and social services for such children. After being accommodated in reception centres, the majority of unaccompanied minors reportedly disappear within a few days. There is no information regarding any victims of THB being identified among foreign unaccompanied minors. The State Agency for Child Protection, together with the State Agency for Refugees, has set up a working group to deal with issues concerning unaccompanied minors. An agreement was signed between the two agencies in November 2013 on exchange of information, co-operation and co-ordination of actions as regards unaccompanied minors. A register on unaccompanied minors is kept by the State Agency for Child Protection, which also supervises their inclusion in schools. As noted above, amendments to the Law on Asylum and Refugees are underway and the State Agency for Child Protection and the State Agency for Refugees have drawn up a co-ordination mechanism for interaction of child protection bodies at national and local level and institutions in charge of foreign unaccompanied minors seeking or granted international protection. Further, a new training module was prepared in 2014 for foster families providing care of unaccompanied minors.

³⁸ See Bulgarian Helsinki Committee, *Children Deprived of Liberty in Central and Eastern Europe: Between Legacy and Reform* (Bulgaria), 2014. Available at: [http://www.bghelsinki.org/media/uploads/documents/reports/special/bhc_\(2014\)_children_deprived_from_liberty_bg.pdf](http://www.bghelsinki.org/media/uploads/documents/reports/special/bhc_(2014)_children_deprived_from_liberty_bg.pdf)

151. Following the 2013 amendments to the Child Protection Act, Article 10 provides that "the protection provided under this Act shall also be extended to persons victims of violence or exploitation where the age is uncertain and there are reasons to believe that the person is a child." The method of age assessment is not stipulated in law but in practice, an X-ray of the wrist is applied. GRETA notes that this method of age assessment does not take into account psychological, cognitive or behavioural factors. **GRETA considers that the Bulgarian authorities should review the age assessment procedures, ensuring that the best interests of the child are effectively protected, and taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child.**³⁹

152. **GRETA urges the Bulgarian authorities to make efforts to improve the identification of and assistance to child victims of trafficking, in particular by:**

- **ensuring that relevant actors take a proactive approach and increase their outreach work to identify child victims of THB by paying particular attention to children in care institutions, Roma children and unaccompanied foreign minors;**
- **providing further training to stakeholders (police, service providers, NGOs, child protection authorities, social workers) as well as guidance for the identification of child victims of THB for the purpose of exploitation of begging and exploitation of criminal activities and boys victims of sexual exploitation;**
- **providing adequate support and services which are adapted to the needs of child victims of trafficking, including appropriate accommodation, access to education and vocational training;**
- **ensuring long-term monitoring of the reintegration of child victims of trafficking;**
- **ensuring that proper risk assessment is conducted before returning children to their parents, taking into account the best interests of the child;**
- **reviewing the application of the guardianship system for child victims of trafficking and paying increased attention to children who are trafficked by their parents or other family members;**
- **urgently initiating consultations with relevant destination countries and EU institutions with a view of adopting effective cross-border mechanisms of identifying children at risk to be re-trafficked as well as of effective reporting on such cases to the consular or diplomatic missions of Bulgaria or the State Agency for Child Protection and the provision of adequate assistance and protection in accordance the Convention;**
- **taking steps to address the problem of unaccompanied minors disappearing by providing suitable safe accommodation and adequately trained supervisors or foster parents.**

³⁹ General Comment No. 6 Treatment of unaccompanied and separated children outside their country of origin, Committee on the Rights of the Child, Thirty-ninth session, 17 May - 3 June 2005.

d. **Protection of private life (Article 11)**

153. Pursuant to Article 20 of the Anti-Trafficking Law, victims of trafficking are ensured anonymity and protection of their personal data. Article 32, paragraph 2, of the Bulgarian Constitution stipulates that the privacy of citizens shall be inviolable and pursuant to this provision the court may prohibit use of cameras in the court room but not the presence of journalists. In addition, Article 263, paragraph 2, of the Code of Criminal Procedure provides for the possibility to conduct a court hearing behind closed doors. According to the Bulgarian authorities, this is widely applied in practice in cases of trafficking for the purpose of sexual exploitation. In addition, both the Code of Criminal Procedure and the Law on the Protection of Persons Threatened in Relation to Criminal Proceedings envisage that the victim's personal data must not be disclosed and that his/her anonymity must be ensured.

e. **Recovery and reflection period (Article 13)**

154. In its first evaluation report, GRETA invited the Bulgarian authorities to review the legislation in order to ensure that the recovery and reflection period is specifically defined in Bulgarian law. Further, GRETA urged the authorities to ensure that trafficked persons are systematically informed of the possibility to use a recovery and reflection period and are effectively granted such a period.

155. There have been no changes to the legal provisions regarding the recovery and reflection period. The legal basis for granting such a period is Article 26 of the Anti-Trafficking Law, which states that "the authorities involved in the conduct of pre-trial proceedings shall promptly inform victims of THB upon their identification about the possibility to receive special protection if within one month they declare their consent to collaborate with the investigation". This period can be extended to two months in the case of child victims of trafficking.

156. Pursuant to the NRM, the reflection period starts running from the moment of the victim's identification and applies both to victims of internal and transnational trafficking. During this period, the victim is entitled to safe accommodation, legal advice and information, psychological support, and crisis intervention. According to NGOs, in practice, it is not clear by whom and how the decision to start the reflection period is taken. There is no information on the number of recovery and reflection periods granted.

157. GRETA is concerned that Article 26 of the Anti-Trafficking Law does not state the purpose of the recovery and reflection period as it is stated in the Convention, i.e. to enable possible victims of trafficking to escape the influence of the traffickers and/or to take an informed decision on co-operating with the competent authorities. According to the Convention, the recovery and reflection period should be granted when there are reasonable grounds to believe that the person concerned is a victim of trafficking, i.e. before the identification procedure has been completed. Moreover, in itself, it is not conditional on the victim's co-operation with the investigative or prosecution authorities.

158. **GRETA urges the Bulgarian authorities to review the legislation in order to ensure that the recovery and reflection period is specifically defined in law as provided for in Article 13 of the Convention and that all possible victims of trafficking are offered a recovery and reflection period and all the measures of assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period. The procedure for granting a recovery and reflection period should be spelled out and the authorities performing identification should be issued with clear instructions stressing the need to offer the recovery and reflection period as defined in the Convention, i.e. not making it conditional on the victim's co-operation and offering it to victims before formal statements are made to investigators.**

f. **Residence permits (Article 14)**

159. The legal provision regulating the issuing of residence permits to victims of THB (Article 25 of the Anti-Trafficking Law) remains the same as at the time of the first evaluation. Pursuant to it, victims of THB who have declared their readiness to co-operate in the detection of the offence shall be granted a special protection status for the duration of the criminal proceedings, which involves a long-term residence permit (as well as an extension of the accommodation period in a shelter). It is not possible to issue a residence permit to victims of THB on the basis of their personal situation.

160. As noted in paragraph 127, no foreign victims of THB have been formally identified in Bulgaria and therefore it is not possible to verify to what extent the legal provision concerning residence permits is applied in practice.

161. GRETA recalls that Article 14 of the Convention allows Parties to choose between granting a residence permit in exchange for co-operation with the authorities or on account of the victim's needs, or indeed to adopt both simultaneously. There are situations in which victims might be afraid to co-operate in the investigation because of threats from the traffickers. Granting a residence permit on account of the personal situation of the victim takes in a range of situations, such as the victim's safety, state of health and family situation, and tallies with the human-rights based approach to combating THB. **GRETA once again invites the Bulgarian authorities to consider granting temporary residence permits to victims of THB on the basis of their personal situation, in addition to the residence permit on the basis of the victim's co-operation in the investigation or criminal proceedings.**

g. **Compensation and legal remedies (Article 15)**

162. The legal framework for compensation of victims of THB in Bulgaria has remained unchanged since GRETA's first evaluation visit.⁴⁰

163. Victims of THB can claim compensation from the perpetrators during criminal proceedings as civil claimants and/or in a civil court. According to defence lawyers met by GRETA during the visit to Bulgaria, judges are reluctant to consider compensation claims as part of criminal proceedings. An example was given of a judge who refused to accept a claim for material damages with the argument that sex work brings "immoral income" and the victim had no legal ground to claim compensation from the trafficker.⁴¹ Further, in many cases the accused confesses and the prosecutor ends the investigation not with an indictment, but with a proposal for a settlement; as a consequence, the participation of the victim in the criminal proceedings ends and he/she has no other way to claim compensation but to initiate civil proceedings.⁴² If a settlement is reached at the court stage and the victim is a party to the trial, then the settlement is only possible with the agreement of the victim and the settlement decision can be used as proof for compensation claims before civil courts.

164. The number of victims of THB who have joined criminal proceedings with the status of a civil claimant is apparently small. According to the research referred to in paragraph 62, there were five cases in which eight victims were granted compensation⁴³ for non-material damages in the period 2008-2012. It is not known how many of the victims actually received compensation, but according to lawyers and NGOs, victims do not receive assistance from the State to collect the money due and compensation orders are not complied with by the convicted traffickers.

⁴⁰ See paragraphs 184-187 of GRETA(2011)19.

⁴¹ Criminal case 9403/13 of Sofia District Court as quoted in Natasha Dobreva, *Promotion of the Rights of Trafficked Persons in Bulgaria*, Animus Association Foundation, Sofia, July 2013.

⁴² See Natasha Dobreva, *Promotion of the Rights of Trafficked Persons in Bulgaria*, Animus Association Foundation, Sofia, July 2013, p. 70

⁴³ The compensation orders ranged between BGN 3 000 and BGN 35 000 (respectively, 1 500 and 17 500 euros).

165. There is no information about any civil claim submitted by a trafficked person before a civil court. Civil proceedings can take years and the victim has to pay a significant amount at the opening of the case (4% of the claim). If the victim loses the case, he/she might have to pay the cost of the entire procedure.

166. In its first report on Bulgaria, GRETA urged the Bulgarian authorities to make State compensation accessible to all victims of THB, irrespective of their nationality and residence status. In their report sent in response to the Committee of the Parties' recommendation, the Bulgarian authorities argued that the Law on the Assistance and Financial Compensation to Crime Victims, which transposes the provisions of Council Directive 2004/80/EC relating to compensation to crime victims, goes beyond the requirements of the Directive. Article 1, paragraph 2, of this Law provides that "in accordance with the terms and procedure under this Law, assistance and financial compensation may also be provided to foreign nationals in the cases laid down in international treaties to which Bulgaria is a signatory." Therefore, according to the Bulgarian authorities, State compensation is accessible to all victims of trafficking, regardless of their nationality and residence status, if there is a respective treaty which provides for such an obligation and to which Bulgaria is a signatory.

167. Under the State compensation scheme, victims can claim compensation only for material damages that are directly caused by the crime. The following costs can be compensated: medical treatment; fees paid to lawyers; other court fees; lost wages. The amount awarded may range from BGN 250 to BGN 5 000 (respectively, 125 and 2 500 euros). In practice, victims of THB hardly ever claim State compensations as they are unable to support their claims with documentation. In the period from 2011 to 2014 the National Council for Assistance and Compensation of Crime Victims within the Ministry of Justice received three requests for financial compensation of victims of THB, two of which were referred to the competent authorities of other EU member States (in accordance with Council Directive 2004/80/EC) and one request was rejected because a settlement was reached during the pre-trial proceedings.

168. In 2012, the National Council for Assistance and Compensation for Crime Victims, which is a body under the Ministry of Justice responsible for considerable applications for State compensation, issued a brochure in four languages containing information on how to apply for State compensation.

169. An interdepartmental working group was set up by the Minister of Justice in 2014 in order to draft amendments to the Law on Assistance and Financial Compensation to Crime Victims, with a view to improving the situation of victims of serious offences, including THB. The working group comprises judges, prosecutors and representatives of the Ministry of Interior, the NCCTHB, the Ministry of Foreign Affairs and NGOs providing support to victims. In 2015 the Ministry of Justice presented for public debate a draft law amending the Law on Assistance and Financial Compensation to Crime Victims, which propose expanding the scope of violent intentional crimes, but does not envisage compensation for non-material damages. Discussions regarding the related financial costs are on-going. **GRETA would like to be kept informed of the adoption of amendments to the Law on Assistance and Financial Compensation to Crime Victims.**

170. The Law on Legal Aid was amended in 2013 to include "victims of domestic or sexual violence and THB who do not have the means and wish to use attorney defence" within its scope of application as regards the provision of primary legal aid (i.e. advice and/or preparation of documents to initiate a case and procedural representation until the final completion of the proceedings).

171. According to information received from the Bulgarian authorities, there were six final judgments in 2012 for forfeiture of assets of persons convicted of trafficking in human beings for a total of BGN 753 708 (approximately 376 000 euros); five judgments in 2013 for a total of BGN 2 604 899 (approximately 1 302 000 euros); and one judgment in 2014 (as of August) for BGN 304 671 (approximately 152 000 euros). GRETA welcomes the fact that there has been forfeiture of assets of convicted traffickers, but notes that assets forfeited in human trafficking cases are not earmarked for the compensation of victims of THB.

172. The Code of Criminal Procedure provides for the right of the prosecutor and the victim to ask the court to apply measures to secure a fine, confiscation or future civil claim. However, according to research, in practice such requests are made very rarely. Requests for freezing of assets reportedly come more frequently from magistrates from other EU countries, on the basis of mutual legal assistance agreements, when the accused traffickers are Bulgarian citizens.⁴⁴

173. GRETA urges the Bulgarian authorities to take steps to facilitate and guarantee access to compensation to victims of THB, and in particular to:

- **ensure that all victims of human trafficking, regardless of nationality and residential status, are eligible for State compensation;**
- **enable victims of trafficking to exercise their right to compensation, by building the capacity of legal practitioners to support victims to claim compensation;**
- **include victim compensation into training programmes for law enforcement officials, prosecutors and judges;**
- **make full use of the existing legislation on the freezing and forfeiture of assets to secure compensation to victims of trafficking.**

174. Further, GRETA invites the Bulgarian authorities to develop a system for recording claims for compensation to the State-funded scheme by victims of trafficking, as well as compensation awarded to victims of trafficking.

h. Repatriation and return of victims (Article 16)

175. The NRM defines the institutions responsible for the return of victims of THB and details the steps to be taken. Further, as described in GRETA's first evaluation report, the Co-ordination Mechanism for Referral and Protection Care of Unaccompanied Minors and Repatriated Child Victims of THB, which is periodically updated, defines the procedures for the return of children.⁴⁵ Bulgaria also applies the Transnational Referral Mechanism for Victims of Trafficking developed under an ICMPD project.

⁴⁴ See Natasha Dobrova, *Promotion of the Rights of Trafficked Persons in Bulgaria*, Animus Association Foundation, Sofia, July 2013, p. 74.

⁴⁵ See paragraphs 35 and 192 of GRETA(2011)19.

176. A crucial issue is the provision of financial means for the travel of victims of THB because such funds have not been allocated in the budgets of any of the responsible institutions. The referral of victims of THB from countries of destination relies mainly on organisations from these countries and/or international organisations (IOM). In their report in response to the Committee of the Parties' recommendation, the Bulgarian authorities referred to a proposal by the Ministry of Foreign Affairs to draft amendments to the Anti-Trafficking Law in order to lay down more specific commitments of the diplomatic representations. It was also proposed to designate additional budgetary funds in the annual budget of the NCCTHB which would be allocated to the repatriation of Bulgarian victims of trafficking abroad. In their comments on the draft GRETA report, the Bulgarian authorities have indicated that such funding has been allocated under the Bulgarian-Swiss Co-operation Programme, as well as within the project "Increasing the effectiveness of referral, support, protection and reintegration of victims of THB" funded by the Norway Grants (2009-2014).

177. There are procedures in place in the Directorate General Border Police for rendering support to victims who are nationals of third countries regarding their safe return to the country of origin. Preliminary risk assessment is conducted by the Ministry of the Interior or the State Agency for National Security and by the respective social and health care offices. In their comments on the draft GRETA report, the Bulgarian authorities have indicated that no cases of THB involving third-country nationals have been recorded, but in principle, every decision to return a victim of THB to his/her country of origin would have to be preceded by a report assessing the risks, the opportunities for ensuring a safe environment and future prospects in the country of origin.

178. GRETA considers that the Bulgarian authorities should take steps to provide financial means for the repatriation of victims of THB and ensure that the return of victims of THB is conducted with due regard to their rights, safety and dignity, including the right to *non-refoulement* (Article 40(4) of the Convention), and in the case of children, by fully respecting the principle of the best interests of the child.

3. Substantive criminal law

a. Criminalisation of THB (Article 18)

179. As noted in paragraph 19, the 2013 amendments to the CC expanded the list of exploitative purposes by including forced begging and removal of tissues, cells or body fluids. Further, the list of aggravating circumstances was expanded to include the offence being committed by an official in discharging his/her duties. The amended paragraphs 1 and 2 of Article 159a CC read as follows:

"(1) An individual who recruits, transports, hides or receives individuals or groups of people with the aim of using them for debauched activities⁴⁶, forced labour or begging, removal of a body organ, tissue, cell or body fluid or holding them in forceful subjection, regardless of their consent, shall be punished by imprisonment of two to eight years and a fine of from BGN three thousand to twelve thousand.

(2) Where the act under paragraph 1 has been committed:

1. with regard to an individual who has not turned eighteen years of age;
2. through the use of coercion or by misleading the individual;
3. through kidnapping or illegal imprisonment;
4. through abuse of a status of dependency;
5. through abuse of power;
6. through promising, giving away or receiving benefits;

⁴⁶ Within the meaning of Bulgarian criminal legislation, "debauchery" is the exploitation of prostitution or other unlawful sexual activities with a mercantile purpose.

7. by an official during or in connection with the fulfilment of his/her official duties, the punishment shall be imprisonment from three to ten years and a fine of from BGN ten thousand to twenty thousand.

(3) Where the act under paragraph 1 has been committed with regard to a pregnant woman with the aim of selling the child, the punishment shall be imprisonment from three to fifteen years and a fine of from BGN twenty thousand to fifty thousand.”

180. As explained in GRETA’s first report, the basic offence of trafficking in human beings, as laid down in Article 159a, paragraph 1, of the CC, is a combination of action and exploitative purpose, while the means are considered as aggravating circumstances under Article 159(a), paragraph 2, of the CC. Therefore, to prove the *corpus delicti*, it is sufficient to demonstrate that one of the actions took place with the purpose of exploitation, without having to prove the use of means.⁴⁷ While acknowledging that this may contribute to making the prosecution of traffickers easier in terms of evidential requirements, GRETA notes that there are potential risks, such as confusion with other criminal offences, difficulties regarding mutual legal assistance with countries which have incorporated the means in their national definition of THB, and the interpretation of Article 4(b) of the Convention concerning victim’s consent.

181. GRETA notes that the aggravating circumstance of “deliberately or by gross negligence endangering the life of the victim” is still not reflected in Bulgarian law. **GRETA urges the Bulgarian authorities to include the aggravating circumstance of “deliberately or by gross negligence endangering the life of the victim” in the CC.**

182. In its first report, GRETA noted that the provisions criminalising the forgery of private documents (Article 309 CC) and the destruction, concealing or damaging of documents of another person (Article 319 CC) do not cover all obligations arising out of Article 20 of the Convention, which requires the establishment of criminal offences related to procuring or providing a forged travel or identity document as well as to retaining, removing, concealing, damaging or destroying a travel or identity document, when committed intentionally and for the purpose of enabling THB. **GRETA considers that the Bulgarian authorities should amend the legislation in order to fully reflect the substantive provisions under Article 20 of the Convention regarding the criminalisation of acts relating to travel or identity documents.**

183. GRETA notes that the 2013 amendment of Article 159a of the CC added forced begging to the list of forms of exploitation, but trafficking for the purpose of exploitation of criminal activities is not explicitly mentioned in Article 159a. The statistics kept by the Supreme Cassation Prosecutor’s Office do not provide data on THB for the latter purpose. **GRETA considers that the Bulgarian authorities should take steps to ensure that THB for the purpose of exploitation of criminal activities is adequately covered by law and practice.**

184. Forced marriage and illegal adoption are included as individual offences in the CC (Articles 177 and 178, and 182a respectively) and may appear in aggregate with THB offences under Articles 159a to 159d. However, the Prosecutor’s Office does not collect statistics on how many of the cases initiated under Articles 177, 178 and 182a of the CC are aggregate with THB offences.

⁴⁷

See Interpretative Decision No. 2 of the Supreme Court of Cassation, 16 July 2009.

b. Criminalisation of the use of services of a victim (Article 19)

185. The known use of services of trafficked persons was criminalised in April 2009 under Article 159c of the CC. This provision was amended in 2013 to reflect the modified wording of Section 159a. It now reads as follows: "A person who takes advantage of a person who has been subjected to trafficking in human beings for the purpose of debauched activities, forced labour or begging, removal of a body organ, tissue, cell or body fluid or holding him/her in forceful subjection, regardless of his/her consent, shall be punished by imprisonment from three to ten years and a fine of from BGN ten thousand to twenty thousand". According to information provided by the Supreme Cassation Prosecutor's Office, five pre-trial proceedings under Article 159c of the CC were overseen in 2014, of which four were for sexual exploitation and one for forced labour. Four cases were submitted in court against six accused persons; one person was convicted with a final sentence of imprisonment, which was suspended. In the first half of 2015, three cases were overseen by the Prosecutor's Office, all concerning sexual exploitation. Two persons were finally sentenced, one to effective imprisonment, the other to suspended imprisonment. No persons have been finally acquitted.

c. Corporate liability (Article 22)

186. As described in the first evaluation report, the administrative responsibility of legal persons is provided for under Article 83a of the Law on Administrative Violations and Sanctions, pursuant to which a legal person which has enriched or may enrich itself from a crime committed by an individual controlling, managing or representing that legal person is punishable by a pecuniary penalty. The Bulgarian authorities have not provided information on sanctions imposed on legal persons for their involvement in THB.

187. A draft law amending the Law on Administrative Violations and Sanctions was adopted by the National Assembly at first reading in April 2015. It provides for substantive and procedural amendments, for example, possible forfeiture of direct and indirect proceeds of crime, and the introduction of the possibility to institute proceedings against a legal person in cases where the proceedings against the natural person who is the perpetrator have been terminated, discontinued or have not been instituted. In addition, the law increases by five times the maximum pecuniary penalty to be imposed on legal persons in cases where the proceeds of crime are of a non-pecuniary nature or their size cannot be established.

d. Non-punishment of victims of THB (Article 26)

188. In its first report, GRETA urged the Bulgarian authorities to take legislative measures allowing for the possibility of not imposing penalties on victims of THB for their involvement in unlawful activities to the extent that they were compelled to do so. As noted in paragraph 19, the 2013 amendments to the CC included the insertion of Article 16a, which reads as follows: "An act shall not be considered culpably committed if performed by a person who is a victim of human trafficking and who was forced to perform the act in direct relation to being such a victim." GRETA welcomes the adoption of this provision.

189. Lawyers and NGOs assisting victims of THB have reported cases of victims being fined because of lack of identity documents or penalised for illegal crossing of the border. While prostitution is not criminalised in Bulgaria, Article 329, paragraph 1, of the CC (entitled “earning income in an immoral way”)⁴⁸ has reportedly been used to arrest and prosecute persons engaged in prostitution. For victims of trafficking for the purpose of sexual exploitation this practice poses a threat of being punished. In 2011 a dissenting opinion by a judge of Sofia District Court in a case prosecuted under Article 329, paragraph 1, of the CC reportedly influenced the case law in Sofia, but in other parts of the country this provision is still applied.⁴⁹

190. While welcoming the incorporation of the non-punishment clause in the Criminal Code, GRETA considers the Bulgarian authorities should take measures to ensure compliance with the principle of non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so. Such measures should include the development of guidance for police officers and prosecutors on the scope of the non-punishment provision, including with regard to the application of Article 329, paragraph 1, of the CC.

4. Investigation, prosecution and procedural law

a. Measures related to ensuring effective investigations (Articles 1, 27 and 29)

191. Pursuant to Article 207, paragraph 1, of the Code of Criminal Procedure (CCP), pre-trial proceedings are instituted where there is a legal ground and sufficient evidence of an offence committed.

192. As noted in paragraph 31, the specialised unit “Trafficking in Human Beings” was moved from the Ministry of the Interior to the State Agency for National Security in 2013, and in March 2015 it was moved back to the Ministry of the Interior. The Ministry of the Interior’s Directorate General for Combating Organised Crime is responsible for conducting activities related to national and transnational organised crime groups, including THB. Currently this Directorate General has 18 regional units. There was a unit for trafficking in human beings at the Ministry of the Interior’s Directorate General of Border Police until 2006, the functions of which were subsequently expanded to counteracting all trans-border offences at border checkpoints.

193. The National Investigation Service investigates factually and legally complicated cases and offences committed abroad and acts upon letters rogatory requiring investigation in the country or interrogation by video conference. By way of example, in the period from 1 January 2014 to 18 September 2015, the National Investigation Service worked on a total of 36 pre-trial proceedings related to THB. In 2015, it completed work on six letters rogatory. In addition, acting upon an order of the Prosecutor General, the Director of the National Investigation Service has co-ordinated the elaboration of Methods for Investigating THB Offences which analyse deficiencies in investigating THB, focus on practical aspects of investigations, touch upon psychological and traumatic aspects of THB, and aim at clarifying the correct legal classification of the offence with a view to avoiding errors in prosecuting traffickers. The Methods are consistent with the legislation in force as of 15 July 2015. Annexes to the Methods provide relevant case law as well as sample records for the interrogation of victims of human trafficking. The Methods have been distributed to all district investigation departments and the investigation units of the Ministry of the Interior.

⁴⁸ Article 329, paragraph 1, CC, reads as follows: “An adult capable for work who for a long time does not engage in any socially useful work, but receives unearned incomes in an illegal or immoral way, shall be punished by imprisonment for up to two years or probation.”

⁴⁹ Natasha Dobreva, *Promotion of the Rights of Trafficked Persons in Bulgaria*, Animus Association Foundation, Sofia, July 2013, pages 77 and following.

194. THB offences are judged in first-instance general courts. These courts are often small, with few prosecutors and judges, who deal with all kinds of offences and are not trained or specialised to deal with THB cases. Cases are randomly assigned to judges in the order of their receipt via an electronic case management system (as an anti-corruption measure). GRETA stresses that THB is a complex crime requiring experience which can only come through training and specialisation. The current practice of trying THB cases at first-instance courts, together with the random allocation of cases, prevents the development of specialisation. It also limits the number of cases that reach the Supreme Court of Cassation. GRETA was informed that as of 2012, cases involving organised crime, i.e. with more than three perpetrators, are tried in a specialised criminal court, but it would appear that the THB cases are rarely considered there.

195. Special investigative techniques are regulated in the CCP and the Law on Special Surveillance Means, and include surveillance, wire-tapping, tracing, entry, marking and inspection of correspondence and computer information, controlled delivery, and investigation by a cover agent. These means are used for the investigation of serious intentional crimes listed in the Criminal Code when the circumstances may not be established in another way or this involves exceptional difficulties. The use of special investigation means must be authorised in advance by the chairperson of the respective court or a person expressly authorised by him/her. For cases falling within the competence of the specialised criminal court authorisation is granted by the court's chairperson or a deputy chairperson expressly authorised by him.

196. The Bulgarian authorities have indicated that in establishing data about online criminal activity, the police co-operates with the specialised unit for counteracting cybercrime at the State Agency for National Security. In such cases officers with the required qualifications and technical expertise for detecting, preventing and discouraging online criminal offences are involved. Websites used for criminal activities are blocked upon orders of the competent authorities. When cases of trafficking in human beings are notified, the specialised unit for counteracting cybercrime determines the location of a specific victim of trafficking.

197. According to the national regulations and established practice, investigation of THB always includes money laundering checks such as establishing the profits raised, identification of financial flows, identification of transforming schemes and localisation of available funds. The first evaluation report already provided details of the Law on Forfeiture of Assets Acquired through Criminal Activity, which specifically mentions THB as one of the crimes for which proceedings shall be conducted when it is established that a person has acquired assets of substantial value which can be reasonably assumed to have been derived from criminal activity.⁵⁰ Reference is made to the information in paragraph 171 concerning forfeited assets.

198. NGOs have reported that many victims returning to Bulgaria refuse assistance or contacts with official bodies because of lack of trust in the criminal justice system. Participation in the trial is traumatising for the victim and may involve a cross-examination in the presence of the trafficker. Although it is possible to question the victim without the presence of the defendant, lawyers' requests for this are apparently often rejected. Some victims have reportedly been questioned for up to eight hours without interruption. According to NGOs, the criminal proceedings are sometimes hindered by witnesses' refusal to testify in court after taking part in the pre-trial proceedings due to either intimidation by the perpetrators or making an arrangement with them.

⁵⁰ See paragraph 204 of GRETA's first evaluation report (GRETA(2011)19).

199. According to data provided by the Supreme Cassation Prosecutor's Office for the four-year period from 2010 to 2013, 506 pre-trial proceedings for THB offences were newly instituted and 318 charges were filed in court against 451 accused persons. Convictions were handed down against 430 persons, with 411 convictions being final. For 159 convicted perpetrators (39% of final convictions) this meant an effective deprivation of liberty, whereas the prison sentences of 252 perpetrators (61%) were suspended. Concerning the length of the prison sentences for the final convictions that were not suspended, 75% were for up to three years, 17% for up to five years, and 8% from five to 10 years. In 2014, there were 87 newly initiated pre-trial proceedings, and in the first half of 2015, 43. Since 2014 no data has been collected by the Supreme Cassation Prosecutor's Office as regards the length of punishments imposed by final convictions and judgments.⁵¹ The data for 2014 show that the number of suspended prison sentences was 34 (36.6% of the total number of final sentences for THB and 64.2% of the total prison sentences for THB). In 19 cases the court imposed effective imprisonment. Probation was imposed in just one case, while fines were imposed in 31 cases. As regards the first nine months of 2015, there were 13 suspended prison sentences (corresponding to 54.2% of the total number of final sentences for THB and 72.2% of the prison sentences), five effective prison sentences as well as six fines. In conclusion, in the majority of cases the punishment that has been imposed for THB has been suspended imprisonment and a fine.

200. The statistics collected by the Prosecutor's Office do not contain data about public officials involved or complicit in trafficking in human beings. Checks in the Uniform Information System have not yielded data about such cases either.

201. The statistical information provided by the Bulgarian authorities does not provide a breakdown of cases according to the type of exploitation, but GRETA was informed that there have been very few court decisions concerning THB for the purpose of labour exploitation. According to the study of case files and court decisions referred to previously, out of 44 court cases, only one concerned a girl who was subjected to a forced/early marriage and was subsequently trafficked for the purpose of force labour and criminal activities. The Bulgarian authorities have referred to difficulties in identifying and prosecuting cases of trafficking for the purpose of labour exploitation.

202. GRETA is concerned that a significant number of the penalties upon final conviction for THB were suspended and the majority of the prison sentences were of less than three years. Moreover, as noted above (see paragraph 163), many criminal proceedings end when a settlement is made between the prosecution and the perpetrator.⁵² Failure to convict traffickers and the absence of effective sentences engenders a feeling of impunity and undermines efforts to support victims to testify.

⁵¹ Such data used to be collected pursuant to the Instruction for the information activity of the Prosecutor General, which was repealed in 2014.

⁵² For example, out of 99 court decisions in cases of human trafficking dealt with by a sample of 10 first instance courts in 2011-2013, 77 cases were resolved by settlement agreements with the offender, while verdicts were issued in 22 cases (See Genoveva Tisheva, Svetlana Ganeva, Maria Vogiatzi, *Comparative Analysis of Greek and Bulgarian Law and Practices in handling of Human Trafficking Cases, Including Issues on Victims' Representation Compensation and Identification of Good Practice*, Sofia, October 2014).

203. **GRETA considers that the Bulgarian authorities should take measures to ensure that THB cases are investigated proactively, prosecuted successfully and lead to effective, proportionate and dissuasive sanctions, including by:**

- **sensitising prosecutors and judges to the rights of victims of THB and encouraging the development of specialisation among prosecutors and judges to deal with THB cases;**
- **strengthening efforts to investigate, prosecute and convict traffickers for labour exploitation;**
- **excluding THB from the procedure of reaching a settlement with the perpetrators.**

b. Protection of witnesses and victims (Articles 28 and 30)

204. As explained in GRETA's first evaluation report, three instruments address the issue of protection of the victims of human trafficking: the Law on Protection of Persons at Risk in Relation to Criminal Proceedings (which provides for a special witness protection programme which can include a change of residence and change of identity), the Code of Criminal Procedure (CCP) and the Anti-Trafficking Law. The Bulgarian authorities have not provided information on the number of victims/witnesses of THB who have been included in the witness protection programme.

205. Under the CCP, to protect the victim's privacy it is possible to exclude the public from the court room; this is often applied in cases of THB for the purpose of sexual exploitation. Upon request of the victim, his/her identity can be kept secret. Further, police escorts to hearings are sometimes used. During investigations the victim can be accompanied by a social worker. At court, interrogation by video link is possible upon request of the victim, but not all judges agree to such a measure.

206. According to the Supreme Court of Cassation, the available witness protection instruments under the Law on Protection of Persons at Risk in Relation to Criminal Proceedings are not fully used in cases where there are sufficient grounds to assume that as a result of the testimony a genuine risk has occurred or may occur for the life or health of the witness or his/her relatives, and the investigating officers, prosecutor and court do not always apply the status of protected witness under the CCP. The same applies to the practice of using video conference for interrogating witnesses who are victims of THB with a view to avoiding direct contact with the accused person.

207. According to research, the average number of interrogations of victims of THB during pre-trial proceedings is four and the interrogation may involve cross-examination with the accused.⁵³ Another burden for victims which has not improved since GRETA's first evaluation is the length of proceedings: both the pre-trial and the trial phase may take several years. This can become particularly problematic because the maximum detention during pre-trial proceeding is one year and if the investigation takes longer, the perpetrator has to be released and can try to influence and intimidate the victim.

⁵³ See Natasha Dobreva, *Promotion of the Rights of Trafficked Persons in Bulgaria*, Animus Association Foundation, Sofia, July 2013, p. 60 and following.

208. GRETA welcomes the setting up of specially equipped facilities for interviewing children involved in criminal proceedings, known as “blue rooms”, in a number of cities in Bulgaria where child victims of trafficking can be questioned in a child-friendly manner. The GRETA delegation visited the “blue rooms” in Burgas, Ruse, Sliven and Veliko Tarnovo, which are excellent facilities. However, GRETA was informed by several interlocutors that there was reluctance among prosecutors and judges to use these rooms. GRETA was also informed about a district prosecutor spreading doubts about the admissibility in court of testimony taken in a “blue room”; as a consequence, investigators in that district were unsure whether to use the room or not. Other prosecutors have promoted the use of the “blue rooms”. In Burgas, following a request made by the Director of the centre on the territory of which the “blue room” is located, a decision was issued by the responsible Prosecutor’s Office to questions children in the “blue room” within 72 hours of placing them under police protection. GRETA was informed of forthcoming amendments of the CC which will regulate the use of the “blue rooms”. **GRETA considers that the “blue rooms” should be used systematically to interview children and other vulnerable victims of THB, and to use the testimony given in such rooms in court, thus avoiding repeated questioning of victims. The Bulgarian authorities should issue national guidance on the use of the “blue rooms” with a view to clarifying and harmonising the procedure.** In this context, GRETA refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.⁵⁴

209. **GRETA urges the Bulgarian authorities to make full use of the available measures to protect victims and witnesses of THB and to prevent intimidation during the investigation and during and after the court proceedings.**

c. Jurisdiction (Article 31)

210. Article 3, paragraph 1, of the Bulgarian CC stipulates that the “... Criminal Code shall apply to all offences committed within the territory of the Republic of Bulgaria”. This includes THB offences committed on Bulgarian territory when the complaint was submitted in the country of residence of a foreign victim of THB. Bulgarian criminal law is applicable to Bulgarian nationals for the offences committed by them abroad, as well as to foreign nationals for publicly indictable offences committed abroad but affecting the interests of Bulgaria or Bulgarian nationals. Article 6, paragraph 1, of the CC provides that “the CC shall also apply to foreign nationals who have committed abroad crimes against peace and humanity, whereby the interests of another State or foreign citizens have been affected”. The CC also applies to other crimes committed by foreign citizens abroad, where this is stipulated in an international agreement to which Bulgaria is a party. The CC can be enforced for crimes committed by Bulgarian citizens abroad regardless of whether these acts are criminalised in the respective country. Pursuant to Article 480 of the Code of Criminal Procedure, when information is received from the authority of another state concerning the actual or forthcoming institution of criminal proceedings in relation to an offence committed in that state, the competent prosecutor in Bulgaria takes a decision whether to institute criminal proceedings in respect of the same offence.

⁵⁴ Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies. Available at: http://www.coe.int/t/dghl/standardsetting/childjustice/Guidelines%20on%20child-friendly%20justice%20and%20their%20explanatory%20memorandum%20_4_.pdf

5. International co-operation and co-operation with civil society

a. International co-operation (Article 32)

211. Bulgaria's international police and judicial co-operation in proceedings concerning offences related to THB is based on multilateral and bilateral agreements. Where there is no bilateral or multilateral agreement, legal co-operation may be effected following the principle of reciprocity. Moreover, the co-operation with other European Union member States is effected on the basis of relevant EU law.

212. Bulgarian law enforcement bodies use all established forms and channels for international exchange of information, including Europol, Interpol and police liaison officers. The main forms of legal co-operation in criminal proceedings for THB are international legal assistance, the European Arrest Warrant (EAW), and extradition. From 2010 to 2013, the Prosecutor's Office received and acted upon 54 letters rogatory and sent out 34 letters regarding cases of trafficking in human beings. In the same period, 44 EAWs concerning trafficking in human beings were received and 21 EAW were issued. The Bulgarian authorities have, however, reported certain difficulties caused by delays in executing letters rogatory, differences in laws regarding the recognition and assessment of evidence, lack of means required for translation, poor communication and lack of expertise in the field of EU criminal law.

213. The Bulgarian police regularly conduct investigations together with the police services of other States by way of Joint Investigation Teams (JITs) and parallel investigations. From 2010 to 2013, eight JITs were set up in investigations for THB offences: three with the Netherlands, two with the UK, two with Germany and one with France. Parallel investigations were put in place concerning activities of organised crime groups relating to THB for the purpose of sexual exploitation, forced labour or forced marriage with several countries (Austria, Belgium, France, Germany, Italy, the Netherlands, Spain, Sweden and the UK). Bulgaria also takes part in the priority area "Trafficking in Human Beings" of Europol's EMPACT policy cycle for combatting grave international and organised crime (2014-2017).

214. The NCCTHB takes part in numerous THB-related co-operation activities with international organisations, EU Institutions and countries of destination of Bulgarian victims of trafficking. For example, from 2012 to 2014, a project on improving the national policy in combating THB by sharing knowledge, experience and good practices was implemented in partnership with the office of the Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children. Another project with France aimed at preventing trafficking in human beings belonging to ethnic minorities, with a focus on the Roma minority in Bulgaria. Reference has already been made in paragraph 36 to the on-going project with Switzerland.

215. Further, the NCCTHB and other Bulgarian authorities participate in numerous projects funded by the European Commission. Reference has already been made to the project on developing a pan-European monitoring of trafficking in human beings (see paragraph 60) and the project on the elaboration of common guidelines and procedures for the identification of victims of trafficking (see paragraph 122). A regional project in partnership with the Romanian Anti-Trafficking Agency aims to develop an integrated approach to prevention of labour exploitation in countries of origin and destination. Further, together with the NGO Nadja Centre Foundation and 15 public bodies and NGOs from seven countries, the NCCTHB is taking part in the project VICTOR which aims at improving the identification of child victims or potential victims of trafficking and enhancing prevention of trafficking in children.

216. **GRETA commends the efforts in the area on international co-operation made by Bulgaria and invites the Bulgarian authorities to continue these efforts, including by strengthening law enforcement co-operation and developing co-operation with labour inspectorates abroad.**

b. **Co-operation with civil society (Article 35)**

217. There are a number of NGOs active in the area of combating THB in Bulgaria, both national and local, which are engaged in preventive activities, training, running shelters and providing assistance to victims of trafficking. NGOs can participate in the meetings of the NCCTHB solely as observers, but some of them participate as full members in the expert working group. As regards the local commissions, local NGOs participate in them as full members.

218. The Bulgarian authorities have referred to a number of projects in which NGOs are involved alongside the NCCTHB and the local commissions (see, for example, paragraphs 71, 77, 101, 103, 104, 114 and 115). In relation to specific cases of human trafficking, the NCCTHB co-operates with NGOs providing support to victims of THB, in particular the Animus Association Foundation, PULSE Foundation and NGOs running crisis centres for children and adults.

219. However, there is general dissatisfaction among NGOs with the possibilities for involvement in the national policy-making process. GRETA notes that the important contribution of NGOs to anti-trafficking action should be duly recognised and supported by involving them as equal partners in the planning and assessment of measures.

220. **GRETA considers that the Bulgarian authorities should continue building strategic partnerships with a series of civil society actors, trade unions and the private sector. The composition of the expert group could be expanded by involving trade union representatives. Particular attention should also be paid to involving Roma NGOs in the fight against THB.**

IV. Conclusions

221. Since the adoption of GRETA's first report on Bulgaria in September 2011, progress has been made in a number of areas.

222. The Bulgarian authorities have continued to develop the legal framework for combating trafficking in human beings, in accordance with GRETA's recommendations. The expanded definition of THB, which explicitly mentions the exploitation of begging, corresponds to the need to address new trends in human trafficking. Another positive legal development is the adoption of a provision concerning the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so.

223. Since GRETA's first evaluation, the number of Local Commissions for Combating Trafficking in Human Beings has increased from seven to nine. Further, a specialised court for organised crime was set up in 2012 to try cases involving more than three perpetrators, including THB cases.

224. Efforts have been made to provide training to relevant professionals and to expand the categories of staff targeted. The training is often carried out in co-operation with NGOs and, whenever possible, a multi-stakeholder approach is promoted.

225. The Bulgarian authorities have adopted a number of policy documents and actions plans (in the area of gender equality, for the prevention of violence against children and for Roma integration) which have the potential of preventing THB by tackling the root causes of this phenomenon.

226. GRETA commends the steps taken since the first evaluation visit to prevent trafficking for the purpose of labour exploitation through raising awareness about this phenomenon, appointing "labour attachés" in countries where many Bulgarian nationals seek employment and strengthening the capacity of labour inspectors to detect forced labour.

227. GRETA also welcomes the development of methodological guidance and the inspections performed by the State Agency for Child Protection in crisis centres where child victims of trafficking may be placed. The on-going reform of the juvenile justice system, with its focus on children's rights and early intervention, should lead to improved prevention, identification and assistance of child victims of THB.

228. Further, the Bulgarian authorities have taken steps to involve the private sector in anti-trafficking action.

229. GRETA also welcomes the efforts made in the area of international co-operation, both when it comes to co-operation in the investigation of THB cases and participation in projects aimed at improving the prevention of trafficking, strengthening the protection of victims of THB and developing data collection. A number of research projects on the issue of THB have been conducted in co-operation with foreign partners.

230. However, despite the progress achieved, some issues give rise to concern. In this report, GRETA requests the Bulgarian authorities to take further action in a number of areas. The position of the recommendations in the text of the report is shown in parentheses.

Issues for immediate action

- **GRETA urges the Bulgarian authorities to take further steps to improve the timely identification of victims of THB, and in particular to:**
 - **ensure that the NRM is effectively implemented in practice, including by backing it up with adequate funding and periodically training all relevant professionals on the NRM. In this context, the envisaged evaluation of the functioning of the NRM should be carried out as a matter of priority, with a view to ensuring that whenever there are reasonable grounds to believe that a person is a victim of THB, he/she is provided with all the assistance and protection measures provided for in the Convention, regardless of whether an investigation into trafficking is opened;**
 - **increase efforts to proactively identify victims of trafficking for the purpose of labour exploitation, by reinforcing the capacity of labour inspectors and providing the Labour Inspectorate with the resources required as well as training to effectively prevent and combat THB;**
 - **pay increased attention to detecting victims of trafficking among foreign workers, asylum seekers and persons placed in immigration detention centres. In this context, training on the identification of victims of THB and their rights should be provided to staff of the State Agency for Refugees and the Migration Directorate (paragraph 128).**

- **GRETA urges the Bulgarian authorities to comply with their obligations under Article 12 of the Convention and to ensure that all presumed and identified victims of trafficking receive adequate assistance and support, according to their needs. This should include measures to:**
 - **re-open the two State shelters as a matter of priority;**
 - **provide a sufficient number of places around the country for all victims of trafficking who need safe accommodation;**
 - **provide assistance, including safe accommodation, adapted to the specific needs of male victims of THB;**
 - **ensure adequate funding and staff to work with victims of THB and facilitate the reintegration of victims of trafficking into society by providing them with vocational training and access to the labour market;**
 - **guarantee access to health care to all victims of THB (paragraph 137).**

- **GRETA urges the Bulgarian authorities to make efforts to improve the identification of and assistance to child victims of trafficking, in particular by:**
 - **ensuring that relevant actors take a proactive approach and increase their outreach work to identify child victims of THB by paying particular attention to children in care institutions, Roma children and unaccompanied foreign minors;**
 - **providing further training to stakeholders (police, service providers, NGOs, child protection authorities, social workers) and guidance for the identification of child victims of THB for the purpose of exploitation of begging and exploitation of criminal activities and boys victims of sexual exploitation;**

- **providing adequate support and services which are adapted to the needs of child victims of trafficking, including appropriate accommodation, access to education and vocational training;**
- **ensuring long-term monitoring of the reintegration of child victims of trafficking;**
- **ensuring that proper risk assessment is conducted before returning children to their parents, taking into account the best interests of the child;**
- **reviewing the application of the guardianship system for child victims of trafficking and paying increased attention to children who are trafficked by their parents or other family members;**
- **urgently initiating consultations with relevant destination countries and EU institutions with a view of adopting effective cross-border mechanisms of identifying children at risk to be re-trafficked as well as of effective reporting on such cases to the consular or diplomatic missions of Bulgaria or the State Agency for Child Protection and the provision of adequate assistance and protection in accordance the Convention;**
- **taking steps to address the problem of unaccompanied minors disappearing by providing suitable safe accommodation and adequately trained supervisors or foster parents (paragraph 152).**
- **GRETA urges the Bulgarian authorities to review the legislation in order to ensure that the recovery and reflection period is specifically defined in law as provided for in Article 13 of the Convention and that all possible victims of trafficking are offered a recovery and reflection period and all the measures of assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period. The procedure for granting a recovery and reflection period should be spelled out and the authorities performing identification should be issued with clear instructions stressing the need to offer the recovery and reflection period as defined in the Convention, i.e. not making it conditional on the victim's co-operation and offering it to victims before formal statements are made to investigators (paragraph 158).**
- **GRETA urges the Bulgarian authorities to take steps to facilitate and guarantee access to compensation to victims of THB, and in particular to:**
 - **ensure that all victims of human trafficking, regardless of nationality and residential status, are eligible for State compensation;**
 - **enable victims of trafficking to exercise their right to compensation, by building the capacity of legal practitioners to support victims to claim compensation;**
 - **include victim compensation into training programmes for law enforcement officials, prosecutors and judges;**
 - **make full use of the existing legislation on the freezing and forfeiture of assets to secure compensation to victims of trafficking (paragraph 173).**
- **GRETA urges the Bulgarian authorities to make full use of the available measures to protect victims and witnesses of THB and to prevent intimidation during the investigation and during and after the court proceedings (paragraph 209).**

Further conclusions

- GRETA urges the Bulgarian authorities to take steps to improve the co-ordination of anti-trafficking action, including by increasing the frequency of meetings of the NCCTHB and the expert working group, and expanding the range of relevant stakeholders involved in these structures (paragraph 27).
- GRETA considers that the Bulgarian authorities should reinforce the work of the local commissions for combating THB, including by securing funding for their activities (paragraph 28).
- Recalling the recommendations made in its first evaluation report, GRETA urges the Bulgarian authorities to allocate appropriate funds in the State budget to action against THB, in consultation with all relevant actors, and reflecting the actual requirements of a co-ordinated and effective human rights-based approach to combating human trafficking (paragraph 35).
- GRETA considers that the Bulgarian authorities should examine the possibility of establishing an independent National Rapporteur or designating another mechanism as an independent organisational entity with a view to ensuring an effective monitoring of the anti-trafficking activities of state institutions and making recommendations to persons and institutions concerned (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report) (paragraph 38).
- GRETA commends the investment made in training relevant professionals on THB and considers that these efforts should continue, in particular as regards labour inspectors, social workers, staff of the State Agency for Refugees, staff working in detention centres and centres for asylum seekers, prosecutors, judges and medical staff (paragraph 55).
- While acknowledging the steps taken to improve data collection, GRETA urges the Bulgarian authorities to finalise the development of a comprehensive and coherent statistical system on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of THB cases. Statistics regarding victims should be collected from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims are asked to provide information for the national database (paragraph 61).
- GRETA considers that the Bulgarian authorities should conduct and support research on THB-related issues as an evidence base for future policy measures. Areas where research is needed in order to shed more light on the extent and nature of the problem of THB include trafficking of foreign nationals to Bulgaria, trafficking for the purpose of labour exploitation, trafficking of mentally disabled persons, and participatory research in Roma communities (paragraph 65).
- GRETA invites the Bulgarian authorities to continue their efforts to raise awareness of THB and to design future actions in this area in the light of impact assessment of previous measures, focusing on the needs identified (paragraph 74).
- GRETA commends the steps taken in Bulgaria since the first evaluation visit to prevent trafficking for the purpose of labour exploitation through raising awareness about this phenomenon and considers that these efforts should be intensified, in particular by:
 - further sensitising relevant officials, in particular labour inspectors, prosecutors and judges, about THB for the purpose of labour exploitation and the rights of victims;
 - expanding the mandate of labour inspectors so that they can be actively engaged in the prevention of THB;

- strengthening the monitoring of recruitment and temporary work agencies and supply chains and reviewing the legislative framework for any loopholes that may limit protection or preventive measures;
- working closely with the private sector, in line with the Guiding Principles on Business and Human Rights (paragraph 85).
- GRETA considers that the Bulgarian authorities should continue taking steps to ensure that all children are registered at birth (paragraph 91).
- GRETA considers that the Bulgarian authorities should continue and strengthen their efforts in the area of prevention of child trafficking, using the results of research on new trends, in particular by sensitising and training child protection professionals across the country, raising awareness of children through education, and paying special attention to Roma communities and migrant children (paragraph 93).
- GRETA considers that the Bulgarian authorities should take vigorous measures to strengthen the prevention of THB through social, economic measures other measures for groups vulnerable to THB, including outreach work in Roma communities. Further efforts should be made to promote gender equality, combat gender-based violence and stereotypes, and support specific policies for the empowerment of women as a means of combating the root causes of THB (paragraph 104).
- GRETA considers that, as part of their training, medical staff should be sensitised about THB for the purpose of organ removal (paragraph 111).
- GRETA considers that the Bulgarian authorities should strengthen their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society and the private sector (paragraph 116).
- GRETA considers that the Bulgarian authorities should review the age assessment procedures, ensuring that the best interests of the child are effectively protected, and taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child (paragraph 151).
- GRETA invites the Bulgarian authorities to consider granting temporary residence permits to victims of THB on the basis of their personal situation, in addition to the residence permit on the basis of the victim's co-operation in the investigation or criminal proceedings (paragraph 161).
- GRETA invites the Bulgarian authorities to develop a system for recording claims for compensation to the State-funded scheme by victims of trafficking, as well as compensation awarded to victims of trafficking (paragraph 174).
- GRETA considers that the Bulgarian authorities should take steps to provide financial means for the repatriation of victims of THB and ensure that the return of victims of THB is conducted with due regard to their rights, safety and dignity, including the right to *non-refoulement* (Article 40(4) of the Convention), and in the case of children, by fully respecting the principle of the best interests of the child (paragraph 178).
- GRETA urges the Bulgarian authorities to include the aggravating circumstance of "deliberately or by gross negligence endangering the life of the victim" in the CC (paragraph 181).

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- GRETA considers that the Bulgarian authorities should amend the legislation in order to fully reflect the substantive provisions under Article 20 of the Convention regarding the criminalisation of acts relating to travel or identity documents (paragraph 182).
 - GRETA considers that the Bulgarian authorities should take steps to ensure that THB for the purpose of exploitation of criminal activities is adequately covered by law and practice (paragraph 183).
 - While welcoming the incorporation of the non-punishment clause in the Criminal Code, GRETA considers the Bulgarian authorities should take measures to ensure compliance with the principle of non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so. Such measures should include the development of guidance for police officers and prosecutors on the scope of the non-punishment provision, including with regard to the application of Article 329, paragraph 1, of the CC (paragraph 190).
 - GRETA considers that the Bulgarian authorities should take measures to ensure that THB cases are investigated proactively, prosecuted successfully and lead to effective, proportionate and dissuasive sanctions, including by:
 - sensitising prosecutors and judges to the rights of victims of THB and encouraging the development of specialisation among prosecutors and judges to deal with THB cases;
 - strengthening efforts to investigate, prosecute and convict traffickers for labour exploitation;
 - excluding THB from the procedure of reaching a settlement with the perpetrators (paragraph 203).
 - GRETA considers that the “blue rooms” should be used systematically to interview children and other vulnerable victims of THB, and to use the testimony given in such rooms in court, thus avoiding repeated questioning of victims. The Bulgarian authorities should issue national guidance on the use of the “blue rooms” with a view to clarifying and harmonising the procedure (paragraph 208).
 - GRETA commends the efforts in the area on international co-operation made by Bulgaria and invites the Bulgarian authorities to continue these efforts, including by strengthening law enforcement co-operation and developing co-operation with labour inspectorates abroad (paragraph 216).
 - GRETA considers that the Bulgarian authorities should continue building strategic partnerships with a series of civil society actors, trade unions and the private sector. The composition of the expert group could be expanded by involving trade union representatives. Particular attention should also be paid to involving Roma NGOs in the fight against THB (paragraph 220).

Appendix

List of public bodies, intergovernmental organisations, non-governmental organisations and other civil society actors with which GRETA held consultations

Public bodies

- Ms Meglena Kuneva, Deputy Prime Minister for European Policies Coordination and Institutional Affairs, Chair of the National Commission for Combating Trafficking in Human Beings
- Secretariat of the National Commission for Combating Trafficking in Human Beings
- Ministry of the Interior
- Ministry of Education, Youth and Science
- Ministry of Health
- Ministry of Justice
- Ministry of Foreign Affairs
- Ministry of Labour and Social Policy
- State Agency for National Security
- State Agency for Child Protection
- State Agency for Refugees
- Agency for Social Assistance
- Transplantations Executive Agency
- Supreme Court of Cassation
- Supreme Cassation Prosecutor's Office
- Local Commission for Combating Trafficking in Human Beings, Burgas
- Local Commission for Combating Trafficking in Human Beings, Ruse
- Local Commission for Combating Trafficking in Human Beings, Sliven
- Local Commission for Combating Trafficking in Human Beings, Veliko Tarnovo

Intergovernmental organisations

- International Organization for Migration
- United Nations High Commissioner for Refugees (UNHCR)

NGOs and other civil society organisations

- Animus Association Foundation
- A21
- Association "Ravnovesie", Burgas
- Association "Verniyat nastoinik", Burgas
- Association "Centre Dinamika", Ruse
- Bulgarian Gender Research Foundation

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- Bulgarian Red Cross
 - Centre for Gender Violence
 - Demetra Association, Burgas
 - Empowered Roma Union, Burgas
 - Gender Alternatives Foundation, Plovdiv
 - Nadja Centre Foundation
 - National Network of Health Mediators
 - Open Door Centre Association, Pleven
 - PULSE Foundation, Pernik
 - Samaritans Association, Stara Zagora
 - SOS Families at Risk
 - Thirst for Life Association, Sliven
 - Women's Association "Ekaterina Karavelova", Silistra

GOVERNMENT'S COMMENTS

The following comments do not form part of GRETA's analysis concerning the situation in Bulgaria

GRETA engaged in a dialogue with the Bulgaria authorities on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version.

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the Bulgarian authorities on 9 December 2015 and invited them to submit any final comments. The comments of the authorities of Bulgaria, submitted on 11 January 2016, are reproduced hereafter.



REPUBLIC OF BULGARIA
COUNCIL OF MINISTERS

NATIONAL COMMISSION FOR COMBATING TRAFFICKING IN
HUMAN BEINGS



SECRETARIAT GENERAL
DIRECTORATE GENERAL II - DEMOCRACY
DIRECTORATE OF HUMAN DIGNITY AND EQUALITY
PETYA NESTOROVA
EXECUTIVE SECRETARY OF THE
COUNCIL OF EUROPE CONVENTION ON ACTION AGAINST
TRAFFICKING

11 January 2016

Dear Ms Nestorova,

Pursuant to your requests for final comments of the Bulgarian authorities on the final report drawn by the Group of Experts on Action against Trafficking in Human Beings (GRETA) concerning the implementation of the Convention by Bulgaria (second evaluation round) and in my capacity of GRETA Contact Point, I hereby present to your attention the compiled response of the Bulgarian institutions.

Subsequent to our request to national institutions for final review of the GRETA report, a total of 9 official letters were received from the following institutions: the State Agency for Refugees to the Council of Ministers, The State Agency for Child Protection, the Ministry of Education, the Ministry of Labour and Social Policy, the Ministry of Interior, the Agency for Social Assistance, the Supreme Court of Cassation, the Supreme Prosecution Office of Cassation, and the Ministry of Justice. Three of those institutions submitted letters with additional comments on different points of GRETA's report: The Agency for Social Assistance at the Ministry of Labour and Social Policy, the Supreme Prosecution Office of Cassation and the Ministry of Justice. The comments are enclosed in supplement to this letter.

I would like to take this opportunity to thank you for the effective cooperation between GRETA Secretariat and the administration of the NCCTHB and to wish you a happy and successful New Year!

I remain at your disposal should you have any questions or need further information.

Kind regards,

Kamelia Dimitrova
Acting Secretary General
National Commission for Combatting Trafficking in Human Beings

Comments and feedback on the final report drawn up by the Group of Experts on Action against Trafficking in Human Beings (GRETA) concerning the implementation of the Convention by Bulgaria (round two)

I. Feedback and comments from the AGENCY FOR SOCIAL ASSISTANCE

Letter signed by Ms. Yanita Manolova, Deputy Executive Director

On point 89:

According to the *Coordination Mechanism for Referral, Care and Protection of Repatriated Bulgarian UAM and Children – Victims of Trafficking Returning From Abroad*, the cases of children-victims of human trafficking are being actively scrutinized by the civil servants at the Child Protection Departments in the “Social Assistance” Directorates (and not by the State Agency for Child Protection, as it was noted in the report), for a period of one year in order to provide children with the necessary assistance and to prevent them, and their siblings, from being drawn into traffic. It is up to the social worker to decide if the supervision period needs to be extended – a decision which depends on the specific circumstances and is taken on a case by case basis.

The Agency for Social Assistance receives information every three months about the supervision of the Child Protection Departments over the children-victims of trafficking and/or repatriated from abroad, from the territorial departments. This information includes data for the work that is being done, the measures taken, the achieved results and the planned future expenses for the work on each case.

On point 90:

An important part of the work of the social workers from the Child Protection Departments in the “Social Assistance” Directorates is the making of an adequate assessment of the needs of the child, an assessment of the risk, and planning the necessary measures for her/his protection and safety.

In compliance with the Child Protection Act, children are subject to protection measures aimed at guaranteeing their safety and preventing the consequences of trafficking.

Usually as a first measure, the children – victims of trafficking are placed in crisis centres. When the adopted protection measure is placement in their family circle, the work is focused on family consultations with the parents and the relatives of the child on questions, related to responsible upbringing, securing a safe and protected environment for the development of the child, upholding and guaranteeing the basic rights of the child and so on.

In some cases the drawing into traffic and the exploitation of children happens with the knowledge, consent, actions, or inactions of the family and relatives, which is why returning the child in the family circle is not in her/his best interest. In these cases the child is placed outside the family and other alternative forms of care are provided – placement in foster families, use of social services of residential type, placement in specialized institutions and others. Parents, who are known to be drawing their child in activities, which are harmful for her/his development or are putting their child at risk, are indicted for

their criminal actions or inactions. The Court and the Prosecution Office are notified to undertake actions within their competencies.

II. Feedback and comments from the SUPREME PROSECUTION OFFICE OF CASSATION

Letter signed by Ms. Maria Shishkova, Deputy Chief Prosecutor

On point 180:

The listing of specific criteria as aggravating circumstances in paragraph 2 of art. 159a of the Criminal Code should not be prone to impede international legal aid, since these criteria are always with relation to para 1.

On point 182:

The text does not mention art. 308, paragraph 2 of the Criminal Code, which introduces criminal liability for persons who draw up a false official document or alter the contents of an official document for the purpose of using it, regardless of whether these documents are Bulgarian or not.

On point 187:

It should be noted that the said amendments in the Administrative Violations and Penalties Act have been adopted and have entered into force (SG No. 81/2015, in force since 21.11.2015).

On point 188:

It is necessary to note that there has been an amendment in art. 16a of the Criminal Code. Paragraph 2 has been added: (2) (New, SG No. 74 of 2015) The act shall not be considered delinquent if it has been committed by an underage person, victim of a crime under art. 155, art. 56, art. 158a and art. 188, paragraph 2, or by an underage person, used for the creation of pornographic materials, which they have been compelled to commit as a direct consequence of their victim status.

On point 190:

Concerning the recommendation to Bulgarian authorities to introduce the Non-Punishment Principle for victims of human trafficking for crimes they have been compelled to commit, incl. in the context of art. 329, paragraph 1 of the Criminal Code we would like to make the following clarification. With the cited provision, the acquisition of assets in an immoral way is altogether forbidden where there is no defect of will on the part of the perpetrator. For criminal acts, which victims of human trafficking have been compelled to commit as a direct consequence of their victim status, including acts under art. 329, paragraph 1 of the Criminal Code, art. 16a of the Criminal Code applies.

On point 200:

With regard to the conclusion that the statistics of the Prosecution Office does not include data about public servants involved in trafficking in human beings, it should be noted that such data is not

drawn from the official statistical tables however the Prosecution Office has introduced an organisation for the tracking and reading of cases of corruption offences, committed by civil servants, including the offences under art. 159a, paragraph 2, p.7 of the Criminal Code. The lack of data for such cases in the Unified Information System of the Prosecution shows that no defendants have been charged with crimes under this specific classification in the said period, and not that such cases are generally untraceable.

III. Feedback and comments from the MINISTRY OF JUSTICE

Letter signed by Ms. Verginia Micheva - Ruseva, Deputy Minister of Justice

On point 169:

It is incorrect to point that the Draft Bill for the Amendment and Supplement to the Law on the Assistance and Financial Compensation to Crime Victims, introduced for public discussion, merely aims at extending the scope of serious offences, for which the State would offer assistance and financial compensation. In a letter of 10th September 2015, we have specified that the Draft Bill would also extend the scope of the bodies, organisations and persons, who provide information about the rights of the victims under this act, and would also improve the effectiveness of the financial compensation providing scheme, more specifically in cases where allowance to underage persons is provided.

This act transposes some of the provisions of Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA. It is envisaged to prepare Implementing Regulations of the Act, regulating the interaction between the state and the non-governmental organisations for support of victims, which offer free psychological consultations and practical help under the act.

I recommend that point 169 be supplemented with the information hereinabove.

On point 173:

GRETA recommends that Bulgarian authorities undertake measures to ensure that all victims of traffic, regardless of their nationality and residential status, have access to state compensation. With regard to this recommendation, it should be noted that the Law on the Assistance and Financial Compensation to Crime Victims (LAFCCV) is adopted in order to fulfil the obligations of the Republic of Bulgaria as a Member-State of the EU, transposing the requirements of Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims.

In that regard, art. 1, paragraph 1 of LAFCCV provides that “this act regulates the conditions and procedures for assistance and financial compensation from the state to crime victims, nationals of Bulgaria, or of other Member-States of the European Union“. Nevertheless, and beyond the requirements of the Directive, the Bulgarian legislator has provided in art. 1, paragraph 2 of LAFCCV that „under the

conditions and procedures of this act, assistance and financial compensation shall be also available to other crime victims, nationals of states, with which Bulgaria has entered into international agreements.” Considering the two paragraphs of art. 1, it is obvious that the state system for compensation is available to all victims of traffic, regardless of their nationality and residential status, where there is a respective international agreement, signed by the Republic of Bulgaria, providing such an obligation. Therefore, I consider the recommendation in p. 173 to have been fulfilled from a legislative point of view.

On point 181:

GRETA insists that Bulgarian legislation include the aggravating circumstance of “deliberately or by gross negligence endangering the life of the victim” in the Criminal Code.

I believe that the Courts should present their opinion on whether endangering the life of the victim is considered an aggravating circumstance upon the determination of the penalty for this crime, or is considered as a separate crime, namely infliction of severe or medium bodily injury to the victim. In the latter case it could be that together with the indictment for human trafficking, another indictment for infliction of a bodily injury is initiated. Such information would facilitate the decision as to whether this recommendation should be implemented.

On point 183:

GRETA considers that Bulgarian legislation needs to include forced criminality as a form of exploitation as a constitutive element of the crime “traffic in human beings”.

After the amendments of 2013, the definition of the crime “traffic in human beings”, provided in art. 159a of the Criminal Code reflects in full all elements of this crime, present in art. 4, letter “a” of the Convention on Action against Trafficking in Human Beings. Forced criminality as a form of exploitation is not mentioned therein, which is why we consider such recommendation as lacking legal standing.

I consider unnecessary to accept the recommendation of GRETA in point 183, insofar as the aim of the Report is to assess the application solely of the Convention.