

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



CP(2015)8

**Report submitted by the Maltese authorities
on measures taken to comply with
Committee of the Parties Recommendation CP(2013)3
on the implementation
of the Council of Europe Convention
on Action against Trafficking in Human Beings**

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Areas where further action is required	Implementing Entity/Entities
<p>Taking note in particular:</p> <ul style="list-style-type: none"> - reinforcing prevention through measures to raise awareness about human trafficking and discourage demand for the services of trafficked persons; - applying a proactive approach to the identification of victims of trafficking by ensuring multi-agency involvement, with clearly defined responsibilities and procedures of all relevant actors and providing them with operational indicators, guidance and toolkits; - improving the identification of victims among irregular migrants and ensuring that potential victims benefit from a recovery and reflection period; 	<p>Awareness campaign as envisaged by the NAP 2012-2014 TV advert running for 3 months everyday on the national TV station Awareness amongst stakeholders During the reporting period information cards were distributed to stakeholders in the sector, including relevant NGOs. The aim of the cards is to draw attention to possible human trafficking situations and to induce potential victims to report.</p> <p>The National Indicators, the National Victim Referral Map as well as a set of Standard Operating Procedures and other information was collated in a booklet and disseminated, amongst all possible stakeholders and a wider range of officials working with various agencies, to serve as a toolkit for proactive identification of victims amongst their client group.</p> <p>Moreover Government continued with its actions with a view to implementing Malta's second National Action Plan for Human Trafficking (January 2013 – December 2014). Such actions addressed measures requiring ongoing attention throughout the term of implementation of the Action Plan, as well as other measures, in particular those that were to be concluded during 2014.</p> <p>A list of National Indicators for identifying victims of human trafficking has been developed. The list of National Indicators was disseminated amongst local stakeholders who are considered as working in areas where they may encounter potential victims or victims of human trafficking for adoption. These are the Police (Vice Squad, Immigration and Border Control), Appoġġ Agency, Health, and the Agency for the Welfare of Asylum Seekers (AWAS), the office of the Commissioner for Refugees, the Employment and Training Corporation (ETC) and the Jesuit Refugee Services (JRS) and Caritas Malta, amongst others. The list of National Indicators was also disseminated amongst professionals who are considered as front-liners, including NGOs who work in the detention and open centers, the Case Workers of the Officer of the Refugee Commissioner and the Case Workers of the Agency for the Welfare of Asylum Seekers. All these professionals have undertaken training in this regard and involved in drawing up of the Indicators. Furthermore a Victim Referral Mechanism was mapped out for victim referral. In order to consolidate this mechanism and streamline operations between the stakeholders Standard Operating Procedures (SOPs) have been developed.</p> <p>The Standard Operating Procedures (SOPs) officially formalized by the Anti-Human Trafficking Monitoring Committee. The SOPs partly transposed and implemented the administrative procedures emanating of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.</p> <p>Refer to answer to Point 9 which refers to a study conducted among the migrant population in Malta.</p>

<p>- stepping up efforts to provide assistance to victims of trafficking, from their identification through to their recovery, including the provision of information on the services and assistance measures available and how to access them;</p> <p>- adopting a clear framework for the return of victims of trafficking, with due regard to their rights, safety and dignity, and in co-operation with the countries of origin of victims to ensure proper risk assessment and avoid re-trafficking;</p> <p>- taking steps to ensure that crimes related to human trafficking are investigated and prosecuted promptly and effectively, including through improving the knowledge and sensitivity of judges, prosecutors, police investigators and lawyers regarding human trafficking and the rights of victims of trafficking.</p>	<p>During 2014, 16 third country nationals were formally identified as victims of THB. These all entered Malta with a regular visa, valid passport and permission to work in Malta. These were all granted a reflection period and the Police further report that 4 victims were referred to the Principal Immigration Officer for the issuing of a Temporary Residence Permit. Other 10 identified victims will be referred to the PIO soon for the issuing of a Temporary Residence Permit. Most of the victims are still in Malta and groundwork is ongoing for them to remain in Malta as they wish. 4 victims were assisted to remain in Malta and are currently employed with the private sector.</p> <p>The 3rd National Action Plan envisages forthcoming refresher training events on the use of Standard Operating Procedures.</p> <p>The International Organisation for Migration (IOM) assists in the utilisation of the Assisted Voluntary Return (AVR) scheme if and when a potential/victim of THB wishes to take up such an opportunity.</p> <p>Further to the comprehensive training conducted during the past 2 years no other training initiative was conducted during 2014. However, the new Action Plan will provide for training over the course of the coming year.</p> <p>However, Police officials attended CEPOL training held in Vilnius, Lithuania. One member of the judiciary attended training in Strasburg held by the Council of Europe.</p> <p>Moreover, two Govt officials, one from the Ministry for Home Affairs and National Security and another from <i>Agenzija Appogg</i>, delivered human trafficking awareness training on child trafficking in the context of a project, with three Police officers, Social Workers and NGO representatives being among the beneficiaries. The total of persons trained was approximately 20.</p>
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Core concepts and definitions	
1. GRETA urges the Maltese authorities to include the action of “abuse of a position of vulnerability” in the legal definition of trafficking in human beings.	Included in amendments of 6 December 2013 to Criminal Code Article 248A (2)
2. GRETA urges the Maltese authorities to explicitly include forced labour or services amongst the forms of exploitation in the definition of trafficking in human beings.	Included in amendments of 6 December 2013 to Criminal Code Article 248A (1)
3. GRETA considers that spelling out the irrelevance of the consent of the victim to the intended exploitation where any of the means have been used would improve the implementation of anti-trafficking legislation.	Included in amendments of 6 December 2013 to Criminal Code Article 248A (3)
Comprehensive approach and co-ordination	
4. GRETA urges the Maltese authorities to strengthen co-ordination between the national authorities and civil society and to ensure that NGOs are involved in the planning and implementation of national anti-trafficking policy. This could involve the conclusion of written agreements between government departments and NGOs setting out the specific framework for co-operation, as well as periodic reviews of their application.	So far NGOs are represented on the Task Force and on the Anti Human Trafficking Monitoring Committee. NGOs have been involved in the formulation of the National Action Plan, tools and any other document which are developed for the purpose.

<p>5. Further, GRETA urges the Maltese authorities to take further steps to ensure that national action to combat THB is comprehensive, in particular by:</p> <ul style="list-style-type: none"> - adopting a proactive approach to detecting human trafficking for the purpose of labour exploitation and child trafficking, as well as re-trafficking cases within Malta; - ensuring that the gender dimension is reflected in all elements of Malta's anti-trafficking policy. <p>6. Further, GRETA invites the Maltese authorities to introduce an independent evaluation of the Action Plan as a tool for assessing the impact of its activities and for planning future policies and measures to combat THB.</p>	<p>Joint inspections were conducted jointly by Labour Department Officials and Police Officers which resulted in 11 arraignments on charges of irregular employment and employment conditions.</p> <table border="1" data-bbox="510 304 2107 448"> <thead> <tr> <th>Inspections</th> <th>Individuals EU</th> <th>Individuals Maltese</th> <th>Individuals Non EU</th> <th>Individuals Refugee</th> <th>Individuals Refugee (Italy)</th> <th>Arraignments</th> </tr> </thead> <tbody> <tr> <td>33</td> <td>26</td> <td>27</td> <td>28</td> <td>3</td> <td>5</td> <td>11</td> </tr> </tbody> </table> <p>Internal training was conducting in the context of an EU project on the subject of child trafficking.</p> <p>The national legal framework recognises that human trafficking is a gender-specific phenomenon. For the purpose Bill 66 which shall transpose the Victims of Crime Directive, makes provision for the rights, support and protection of victims, including victims of human trafficking. Special mention is made to gender-based violence and minor victims of human trafficking. The Bill has been recently passed from second reading in Parliament and is now in consultation phase.</p> <p>A research is also envisaged to be conducted during 2016 concerning minors and women in open centres specifically their current situation and plans about their future.</p> <p>It is considered that this is a matter of priority given that relevant resources would be directed elsewhere to the benefit of victims.</p>	Inspections	Individuals EU	Individuals Maltese	Individuals Non EU	Individuals Refugee	Individuals Refugee (Italy)	Arraignments	33	26	27	28	3	5	11
Inspections	Individuals EU	Individuals Maltese	Individuals Non EU	Individuals Refugee	Individuals Refugee (Italy)	Arraignments									
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<p>Training of relevant professionals</p>															
<p>7. GRETA considers that the Maltese authorities should take further steps to provide specialised, regular training about THB and the rights of victims of trafficking to all relevant authorities and professionals (such as law enforcement officials, labour inspectors, visa officers, judges and prosecutors). Future</p>	<p>The Ministry for Home Affairs contracted the services of a former IOM expert for a period of nine months running from November 2012 till July 2013. He was assigned several tasks, including the provision of on-the-ground training for stakeholders in the sector and mentoring of professionals like social workers, psychologists and care workers, working with vulnerable persons, including victim identification and assistance thereby addressing also administrative capacity requirements. It is considered that such action is an investment in the human resources of the entities concerned. On-site visits were conducted whereby meetings were held with the officials of each entity to identify the training needs and resultantly targeted training events were held. Amongst other, training has been held with the management and personnel of Aġenzija Appoġġ, the Agency for the Welfare of Asylum Seekers (AWAS), Caritas and the Jesuit Refugee Service (JRS). Other training events targeted officials working in One-Stop-Shop Community Centres. Over 150 professionals have undertaken this training and it is considered that this would benefit victims of sexual exploitation, as well as victims of other forms of exploitation. The training events were spread over 5 months from January till April. This training was Government</p>														

<p>training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking and assist and protect them, as well as to secure convictions of traffickers. During the training, particular attention should be paid to overcoming negative attitudes and prejudices vis-à-vis victims of trafficking.</p>	<p>funded under the budget allocated to the Ministry for Home Affairs and National Security.</p> <p>Further training will be delivered as envisaged by the 3rd National Action Plan on combating human trafficking January 2015 – December 2015. The Ministry for Home Affairs and National Security is also in the process of contracting the International Organisation for Migration (IOM) in relation to a 2nd Project . Request for assistance regarding training on child trafficking and training on THB for the judiciary was made by the Ministry for Home Affairs and National Security to the GRETA Committee.</p>
<p>Data collection and research</p>	
<p>8. GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Maltese 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, etc.). 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 of trafficking are asked to provide information for the national database.</p> <p>9. GRETA considers that the Maltese authorities should conduct and support research on THB-related issues as an</p>	<p>A new database was set up in order to ensure the availability of up-to-date information. Currently work is ongoing with a view to ensuring that harmonised data is available. It is envisaged that further progress will be achieved in this regard in the coming reporting periods. Another action taken in respect of tasks foreseen by the contract with the foreign expert was the conducting of a research on human trafficking scenario. The agreed title for the study was ‘Assessing the presence of persons having experienced human trafficking before their arrival in Malta or vulnerable to be trafficking in the future, among the population of undocumented immigrants arriving in Malta by sea’. Meetings were held between the researcher and the relevant authorities in connection with data collection and analysis prior to the commencement of study.</p> <p>Research concerned both sexual and labour exploitation. Conclusions from the study reveal that a most migrants did not experience forced or deceitful recruitment and conditions of dependence before they landed in Malta. Thus indicators of human trafficking do not subsist. However the second hypothesis tested reveals that since the migrants who arrive in Malta generally did not wish to come to Malta, many want to leave Malta as a matter of priority. This fact may make them vulnerable to exploitation.</p>

<p>important source of information for future policy measures. Areas where research is needed, in order to shed more light on the extent of the problem of THB, include trafficking for the purpose of sexual and labour exploitation, both to and within Malta, child trafficking, and trafficking among irregular migrants and asylum seekers.</p>	<p>The final report and the results of the research were presented to the Ministry at the end of the term of the contract.</p> <p>Another study is envisaged to be conducted during 2016 concerning minors and women in Open Reception Centres with a view to obtaining information concerning their plans for the future, as well as about their current situation.</p>
<p>International co-operation</p>	
<p>10. GRETA considers that the Maltese authorities should continue to explore further possibilities for international co-operation to investigate and prosecute trafficking cases, as well as develop international co-operation to protect and assist victims of trafficking, in particular with the countries of origin of victims of trafficking.</p>	<p>The Maltese authorities will continue cooperating with authorities of other States as necessary.</p>
<p>Measures to raise awareness</p>	
<p>11. GRETA considers that future actions in the area of awareness raising should be designed in the light of the assessment of previous measures and be focused on the needs identified. Increased emphasis should be placed on awareness-raising and education aimed at eradicating gender-based violence and the stigmatisation of victims of trafficking.</p>	<p>TV advert screened every day between June and September 2013 had the avoidance of stigmatization as one of its main aims.</p> <p>Further awareness raising shall be conducted during 2015 as envisaged in the 3</p>

<p>Border measures to prevent THB and measures to enable legal migration</p>	
<p>12. GRETA considers that the Maltese authorities should make further efforts to:</p> <ul style="list-style-type: none"> - detect cases of THB in the context of border control, including through the provision of regular training to immigration officers and staff employed in diplomatic and consular offices; - introduce a checklist to identify potential THB-related risks during the visa application system; - provide information to foreign nationals planning to travel to Malta, in a language that they can understand, in order to alert them about the risks of THB for sexual and labour exploitation, inform them of their rights and where to turn to for advice and assistance. 	
<p>Identification of victims of trafficking</p>	
<p>13. GRETA urges the Maltese authorities to involve child specialists in the development and assessment of anti-trafficking policies, including in the preparation of the manual of procedures and guidelines to identify victims of trafficking, which should include a special referral mechanism for unaccompanied children.</p>	<p>Training focusing exclusively on victim identification and support was delivered on 17-20th July 2012. Participants included Police Officers and AWAS personnel among others. Refer also to (7) for information regarding targeted training events for professionals who may encounter unaccompanied children in their day to day work.</p> <p>Furthermore Bill 45 shall bring into force the Child Protection Act (out of home care) pertaining to the protection of separated and unaccompanied children. This law aims to strengthen the Care Order issued for the protection of such children as well as provide for guardianship, placement, age assessment and other related issues. The Bill is on Parliament's agenda awaiting its second reading.</p> <p>Moreover training on child trafficking for front line stakeholders is envisaged by the 3rd National Action Plan to be conducted during 2015.</p>

<p>14. GRETA urges the Maltese authorities to improve the identification of victims of trafficking by ensuring:</p> <ul style="list-style-type: none"> - multi-agency involvement in victim detection and identification, with clearly defined responsibilities and procedures of all frontline actors who may come into contact with victims of trafficking (including law enforcement officials, labour inspectors, social workers, medical staff and NGOs); - the provision of operational indicators, guidance and toolkits to frontline staff for the identification of victims of trafficking for sexual and non-sexual forms of exploitation, and training on how to use those identification tools in order to ensure that they adopt a proactive approach to detecting potential victims of trafficking; - improved identification of victims of trafficking among irregular migrants in detention and asylum seekers, including through regular training of immigration police officers and AWAS staff, and enhanced co-operation with UNHCR. 	<p>Achieved through SOPs and Victim Referral System</p> <p>A Professionals' Handbook has been published and distributed to stakeholders working in the field.</p> <p>Research and training as mentioned above address this concern.</p>
<p>15. Further, GRETA considers that the Maltese authorities should:</p> <ul style="list-style-type: none"> - ensure that clear instructions are given to all relevant officials involved in the identification of 	<p>It is considered that both items are addressed. Officials concerned are required to pursue THB cases in a proactive manner whilst interpretation services are made available as necessary by all entities concerned.</p>

<p>victims of trafficking so that the identification procedure is carried out in a proactive manner and regardless of the willingness of potential victims to co-operate with the authorities in the criminal investigations;</p> <p>- address the need for interpretation services regarding the languages of the main countries of origin of victims of trafficking identified in Malta.</p>	<p>NGOs, Appogg Agency as well as the Police provide interpretation services as the case may be.</p>
<p>16. GRETA encourages the Maltese authorities to ensure that all relevant professionals are informed of the new indicators and receive instructions to apply them consistently.</p>	<p>The new Indicators have been developed in cooperation with stakeholders. These were communicated to them and now also included in the handbook for professionals.</p> <p>Refresher training is planned for 2015.</p>
<p>Assistance to victims of trafficking</p>	
<p>17. GRETA urges the Maltese authorities to ensure that all persons who have been subjected to THB as defined in Article 4 of the Convention are granted access to the assistance and protection they are entitled to under the Convention.</p>	<p>The current set-up ensures that victims are assisted whenever identified even when they do not wish to take their case to the police.</p>
<p>18. Further, GRETA urges the Maltese authorities to step up their efforts to provide assistance to victims of trafficking, from their identification through to their recovery, and in particular to:</p> <p>- ensure that safe and suitable temporary accommodation is provided to all victims of trafficking, adapted to their special</p>	<p>Accommodation is provided. Use is made of Domestic Violence Centre and other premises as required.</p>

<p>needs, gender and age;</p> <ul style="list-style-type: none"> - ensure that the system for providing assistance to child victims of trafficking is specifically tailored to their needs; - provide training to all professionals responsible for the provision of assistance and protection to victims of trafficking; - ensure that victims of trafficking are provided with information on the services and assistance measures available, including the provision of legal advice or assistance, and how to access them. In this context, written information materials on the rights of potential and identified victims should be drawn up in an appropriate range of languages; - facilitate the reintegration into society of victims of trafficking who are lawfully resident in the country and help them avoid re-trafficking by giving them access to education, vocational training and the labour market. 	<p>So far no such cases have been encountered.</p> <p>Training was provide – refer to above. Further training is planned for 2015.</p> <p>Victims and potential victims are assisted as required by Standard Operating Procedures and the Victim Referral Map. A Manual relating to rights of victims was developed and disseminated amongst stakeholders and a wider range of professionals who during their course of duty may encounter potential/victims of human trafficking.</p> <p>NGOs on their own or together with Appogg Agency assist victims and potential victims with their integration into Maltese society as the case may be.</p>
<p>19. In addition, GRETA considers that the Maltese authorities should conclude protocols of co-operation with NGOs in order to provide assistance to victims, complementing the services provided by the Appogg Agency.</p>	<p>2 NGOs are working with the authorities in the context of the Stakeholders' Task Force. They are also involved in training, consultation and other activities. NGOs working in this sphere are regulated by published Standard Operating Procedures.</p>

<p>The application of such protocols should be regularly monitored and assessed.</p>	
<p>20. GRETA also invites the Maltese authorities to invest in the human and financial resources of the Appogg Agency so that it can effectively carry out the task of providing support and assistance to adult and child victims of trafficking.</p>	<p>Appogg Agency provided emergency, shelter accommodation; linked up with medical services for the provision of medical assessments and treatment; liaised with Immigration Police and Visa Department with regards to residents' permit and visas, as well as with the Employment and Training Corporation regarding the possibility of new employment for victims. It also worked with N.G.O's for the provision of legal services. Basic needs such as clothing and culturally appropriate food was also provided as necessary for victims encountered during 2014.</p> <p>Appogg agency's shelter has a mixed client group, such as victims of domestic violence</p>
<p>Recovery and reflection period</p>	
<p>21. GRETA urges the Maltese authorities to:</p> <ul style="list-style-type: none"> - ensure that all victims and potential victims of trafficking are systematically informed of the possibility to use a recovery and reflection period and its implications, and are effectively granted such a period; - remove the need to co-operate with the authorities as a pre-condition for being granted a recovery and reflection period; - establish the minimum duration of the recovery and reflection period at 30 days, during which time it is not possible to remove the victim or potential victim of trafficking from the country's territory; - ensure that victims and potential victims of trafficking have access to all the assistance measures provided for in Article 12 (1) and (2) of the Convention during the recovery and reflection period; - ensure that no termination of the 	<p>It should be noted that:</p> <ul style="list-style-type: none"> -potential victims of human trafficking are already being informed of the possibility to avail themselves of the recovery and reflection period. This will be confirmed by the SOPs presently being discussed. -the "Permission to reside for victims of trafficking or illegal immigration who co-operate with the Maltese authorities Regulations" (SL 217.07) transposes into Maltese legislation EU Council Directive 2004/81/EC. The Maltese transposition seeks to ensure that the objectives of the Directive are attained. - the Maltese authorities consider the present provisions to be adequate, as in each individual case the Principal Immigration Officer may grant a recovery and reflection period of up to two months. - as indicated in preceding replies, potential victims of human trafficking are accorded such assistance independently of whether use is made of the "Permission to reside for victims of trafficking or illegal immigration who co-operate with the Maltese authorities Regulations" (SL 217.07). Such assistance would also be granted to victims who avail themselves of the recovery and reflection period. - It should be noted that the Directive which is transposed by Maltese legislation provides that the recovery and reflection period would be terminated if the presumed victim has actively sought, of his or her own initiative, contact with the trafficker. Evidently, in each case, the competent authorities would take into account the relevant circumstances. -the provisions of the relevant Legal Notice have been brought to the attention of Police Officers concerned during the training sessions that were held in 2012. <p>The authorities are aware of this requirement however plans are in hand to provide training in this period.</p>

<p>recovery and reflection period is carried out on the ground that victims or potential victims have “actively, voluntarily and on their own initiative renewed contact with the perpetrators” without due regard to the person’s individual situation, which involves an examination of his/her case;</p> <p>- ensure that law enforcement officials are aware of the need to grant and respect the recovery and reflection period.</p>	
<p>22. GRETA also invites the Maltese authorities to address the reasons why victims of trafficking refuse the recovery and reflection period.</p>	<p>The research conducted did not shed light on this matter. However victims encountered seemed willing to distance themselves from the place they encountered exploitation.</p> <p>The reflection period was applied with the majority of cases encountered during 2014.</p>
<p>Residence permits</p>	
<p>23. GRETA urges the Maltese authorities to ensure that victims of trafficking can take full advantage of the right to be granted a temporary residence permit.</p> <p>24. Further, GRETA invites the Maltese authorities to consider granting a temporary residence permit not only to victims of trafficking who co-operate with the authorities but also on the basis of the vulnerable situation of victims of trafficking.</p>	<p>2 victims of trafficking have been granted permission to stay and work in Malta and residence permits were issued by the Citizens and Expatriates Division in the light of the circumstances of these persons.</p> <p>The Police report that during 2014, 4 victims were referred to the Principal Immigration Officer for the issuing of a Temporary Residence Permit. Other 10 identified victims will be referred to the PIO soon for the issuing of a Temporary Residence Permit. Moreover most of the victims encountered during the same reporting period are still in Malta and groundwork is ongoing for them to remain in Malta as they wish.</p> <p>4 victims were assisted to remain in Malta and are currently employed with the private sector.</p> <p>The Reflection Period was also applied.</p>

Compensation and legal redress	
<p>25. GRETA urges the Maltese authorities to provide information to victims of trafficking about their right to compensation and ways to access it, and to ensure that victims have effective access to legal aid in this respect.</p> <p>26. Further, GRETA considers that the Maltese authorities should amend the Criminal Injuries Compensation Regulations (S.L. 9.12) so that all victims of trafficking have access to State compensation, without needing to have sustained grievous bodily harm as a result of THB.</p>	<p>The Criminal Injuries Compensation Regulations (SL 9.12) have been amended and they now provide for access to compensation by victims of human trafficking.</p>
Repatriation and return of victims of trafficking	
<p>27. GRETA urges the Maltese authorities to develop the institutional and procedural framework for the repatriation and return of victims of trafficking, with due regard for their rights, safety and dignity, which implies protection from re-victimisation and re-trafficking and, in the case of children, full respect for the principle of the best interest of the child. Particular attention should be paid to ensuring financial means for the travel of victims of trafficking.</p> <p>28. Further, GRETA encourages</p>	<p>Cooperation with third countries is pursued as necessary.</p> <p>When a victim wishes to return to the country of origin measures are taken to ensure safe return of victims. Procedures are laid down in the Standard Operating Procedures concerning preparation and assistance to be provided in such cases. Assistance from the International Organisation for Migration is also sought for assisted voluntary return to country of origin for third country nationals. As a matter of fact currently arrangements are being made by the Maltese authorities in conjunction with IOM for the return of a person to Sri Lanka.</p>

<p>the Maltese authorities to develop co-operation with countries of origin of victims of trafficking in order to ensure proper risk assessment and safe return, as well as their effective reintegration.</p>	
<p>Substantive criminal law</p>	
<p>29. GRETA urges the Maltese authorities to:</p> <ul style="list-style-type: none"> - introduce as an aggravating circumstance the offence of THB committed against a child, for any type of exploitation; - introduce a specific criminal offence regarding the concealment, damaging or destruction of travel or identity documents in relation to THB. 	<p>Recent amendments to Article 248A (1) of the Criminal Code (Cap 9 of the Laws of Malta) which came into effect on the 6 December 2013, impose higher punishments, when:</p> <p style="padding-left: 40px;">... whosoever traffics a person of age, by any of the following means for the purpose of exploitation in:</p> <ul style="list-style-type: none"> (a) the production of goods or provision of services; or (b) slavery or practices similar to slavery; or (c) servitude or forced labour; or (d) activities associated with begging; or (e) any other unlawful activities not specifically provided for elsewhere under this sub-title, <p>shall on conviction be liable to the punishment of imprisonment from four to twelve years.</p> <p>Even if none of the means mentioned in Article 248A (1) do not subsist but the trafficked person is a minor the punishment shall be increased by one degree. Moreover Article 248DA of the Criminal Code provides that when a person acts as an intermediary to induce a minor for the purpose of exploitation is liable for the punishment as laid down by Article 248A (1) above.</p> <p>Travel documents and identity documents are currently regulated by the Passport Ordinance (Cap 61 of the Laws of Malta) and by the Identity Card Act (Cap 258 of the Laws of Malta) respectively. The application of these provisions can be extended to vulnerable victims and victims of human trafficking. Maltese law imposes liability on any person who being in possession of a travel document, transfers such travel document to any other person; or receives a travel document transferred to him by another person.</p> <p>A punishment shall also be imposed on any person who being in possession of such a travel document, makes use of such document or forges, alters or tampers with it or is in possession of any travel document which he knows to be forged, altered or tampered with.</p> <p>Furthermore with regard to identity documents, Maltese law (Cap 258 of the Laws of Malta) imposes liability on any person who with the intention to deceive, makes any mark or entry upon, or erases, cancels, alters or substitutes or otherwise defaces or destroys an identity card. A punishment shall also be imposed on any person who makes any false statement, or gives any false information or produces false documents, forges an identity card or in any other way aids or abets any other person with a view to procuring, altering or damaging any such document.</p> <p>In addition, liability shall also arise if a person other than the holder of such identity document is in possession or makes use whatsoever of an identity card belonging to another holder.</p>

<p>30. GRETA considers that the Maltese authorities should conduct an assessment of the Criminal Code provisions concerning THB and the provisions of the White Slave Traffic (Suppression) Ordinance, with a view to avoiding any overlaps and improving legal clarity and certainty.</p>	<p>The Criminal Code provisions relating to the trafficking in persons have recently been amended (6 December 2013).</p>
<p>31. GRETA also invites the Maltese authorities to review the adequacy of legislation concerning the confiscation of criminal assets and the reasons for the lack of confiscation orders in THB cases.</p>	<p>New provisions in Article 121D of the Criminal Code shall apply, when the person found guilty of an offence as specified in 248A and 248D, is the director, manager, secretary or other principal officer of a body corporate or is a person having a power of representation of such a body or having an authority to take decisions on behalf of that body or having authority to exercise control within that body and the offence of which that person was found guilty was committed for the benefit, in part or in whole, of that body corporate of the; the body corporate shall be liable for the payment of a fine of not less than 11,646.87 euro and not more than 1,863,498.72 euro.</p> <p>Also, the person who has the power of representation of the body corporate and has the authority to take decisions on behalf of the body corporate, when found guilty as aforesaid shall be liable to the payment of a fine of not less than 10,000 euro and not exceeding 2,000,000 euro.</p>
<p>Non-punishment of victims of trafficking</p>	
<p>32. GRETA urges the Maltese authorities to provide 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.</p>	<p>It should be noted that Maltese legislation already provides that victims of human trafficking would not be prosecuted for offences committed under compulsion; provided that it is proven that victims of THB have in fact been compelled to undertake such actions. It should be noted moreover that Article 33 of the Criminal Code (Cap. 9 of the Laws of Malta) provides that:</p> <p>“Every person is exempt from criminal responsibility if at the time of the act or omission complained of, such person -</p> <p>(a) was in a state of insanity; or</p> <p>(b) was constrained thereto by an external force which he could not resist.”</p> <p>Moreover new amendments to the Criminal Code to transpose EU Directive on victims of trafficking provide that:</p> <p>Article 284A (d) (3) The consent of a victim of trafficking to the exploitation, whether intended or actual, shall be irrelevant where any of the means set forth in sub-article (2) has been used.”</p>
<p>33. Further, GRETA urges the Maltese authorities to improve the identification of victims among irregular migrants in order to ensure that victims of trafficking are not punished for immigration-related offences. GRETA recalls</p>	<p>Research among irregular migrant population has been conducted. Moreover targeted training to agencies and NGOs concerned namely case workers at Refugee Commissioner, AWAS and Jesuit Refugee Services has been provided.</p> <p>Further research is planned for 2016 among migrant women and minors in Open Reception Centres with a view to obtaining information concerning their plans for the future, as well as about their current situation vis-à-vis employment and/or training/education, their social life in Malta; and their contacts in other European countries, including family members and friends.</p>

<p>that while the identification procedure is on-going, potential victims of trafficking should benefit from a recovery and reflection period and should not be removed from the Maltese territory.</p>	<p>Moreover NGOs and other Agencies who work with migrants are involved in training about human trafficking and are on the lookout for potential victims. In fact during 2014 2 Nigerian women, one being a minor were treated as victims of human trafficking, however the alleged exploitation did not happen in Malta, but prior to their coming to Malta.</p>
<p>Investigation, prosecution and procedural law</p>	
<p>34. GRETA urges the Maltese authorities to take measures to ensure that crimes related to THB are investigated and prosecuted promptly and effectively, in order to speed up criminal proceedings.</p>	<p>Cases of human trafficking are investigated and prosecuted as early as possible.</p>
<p>35. Further, GRETA considers that the Maltese authorities should facilitate the stay in Malta of victims of trafficking, so that they can testify and assist those victims who have returned to their countries of origin before the court proceedings to testify through video-conference or travel back to Malta.</p>	<p>This is done even though accommodation and other support is offered to victims and potential victims. 1 victim was brought back to Malta to testify in Court with the assistance and support of the Police.</p>
<p>36. Further, GRETA considers that there is need for improvement of the knowledge and sensitivity of judges, prosecutors, police investigators and lawyers about THB and the rights of victims of trafficking (see paragraph 7 above).</p>	<p>Training was provided to Police and AG prosecutors and Police investigators. One Magistrate received training conducted by Council of Europe in Strasbourg about the standing of victims of human trafficking in criminal cases. Moreover further training is envisaged for prosecutors, police and investigators by means of the 3rd National Action Plan (January 2015 – December 2015)</p>

Protection of victims and witnesses	
<p>37. GRETA considers that the Maltese authorities should make full use of the available measures to protect victims and to prevent intimidation during the investigation and during and after the court proceedings. In this context, the Maltese authorities should take additional measures to ensure that victims of trafficking are adequately informed of their rights and existing remedies, and assisted during the pre-trial and court proceedings.</p>	<p>Measures are taken to protect victim from traffickers once the former are identified. Safe accommodation and assistance is provided to victims by Appogg Agency.</p> <p>Victims encountered are informed about their rights by Appogg Agency, the NGOs as well as by the Police as per Standard Operating Procedures in place. All precautions are taken by the entities involved when victims are required to attend court sessions as witnesses. These are always accompanied by social workers or other officials representing NGOs.</p>