



G R E T A

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 Slovenia

First evaluation round

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Preamble

As the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) and the monitoring mechanism to evaluate its implementation are relatively new, it is appropriate to set out their salient features at the beginning of the first report to each Party to the Convention.

The Convention was adopted by the Committee of Ministers of the Council of Europe on 3 May 2005, following a series of other initiatives by the Council of Europe in the field of combating trafficking in human beings. The Convention entered into force on 1 February 2008. It is a legally binding instrument which builds on already existing international instruments. At the same time, the Convention goes beyond the minimum standards agreed upon in other international instruments and aims at strengthening the protection afforded by them.

The main added value of the Convention is its human rights perspective and focus on victim protection. The Convention clearly defines trafficking as being first and foremost a violation of human rights and an offence to the dignity and integrity of the human being; greater protection is therefore needed for all of its victims. The Convention also has a comprehensive scope of application, encompassing all forms of trafficking (whether national or transnational, linked or not linked to organised crime) and taking in all persons who are victims of trafficking (women, men or children). The forms of exploitation covered by the Convention are, at a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.

As trafficking in human beings is a world-wide phenomenon, one of the express purposes of the Convention is to promote international co-operation in the efforts to combat trafficking. In this context, it is noteworthy that the Convention is not restricted to Council of Europe member states; non-member states and the European Union also have the possibility of becoming Parties.

To be effective, and given the nature of the phenomenon, a strategy for combating trafficking in human beings must adopt a co-ordinated and multidisciplinary approach, incorporating prevention, protection of victims’ rights and prosecution of traffickers. The Convention contains various provisions in each of these three areas, placing obligations on States to take appropriate measures, in partnership with civil society and in co-operation with other States.

The measures provided for by the Convention in the area of prevention include awareness-raising for persons vulnerable to trafficking; economic and social initiatives to tackle the underlying causes of trafficking; actions aimed at discouraging demand; and putting in place border control measures to prevent and detect trafficking in human beings.

The Convention also provides for a series of measures to protect and promote the rights of victims. Victims of trafficking must be identified and recognised as such in order to avoid police and public authorities treating them as “irregular migrants” or criminals. Victims should be granted physical and psychological assistance and support for their reintegration into society. Further, by virtue of the Convention, victims are entitled to a minimum of 30 days to recover and escape from the influence of the traffickers and to take a decision about their possible co-operation with the authorities. A renewable residence permit should be granted if their personal situation so requires and/or if their continued presence is needed in order to co-operate in a criminal investigation. In addition, the Convention establishes the right of victims to receive compensation and provides for measures for their repatriation and return with due regard to the rights, safety and dignity of the victims.

In the area of substantive and procedural criminal law, the Convention places on Parties a series of obligations aimed at enabling the effective prosecution of traffickers and ensuring that they are punished in a proportionate and dissuasive manner. Particular attention is paid to the issue of victim and witness protection during investigation and court proceedings. Parties should also provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities.

Another important added value of the Convention is the monitoring system set up to supervise the implementation of the obligations contained in it, which consists of two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.

GRETA is composed of 15 independent and impartial experts chosen for their recognised competence in the fields of human rights, assistance and protection of victims, and action against trafficking in human beings, or because of their professional experience in the areas covered by the Convention. The task of GRETA is to evaluate the implementation of the Convention by the Parties, following a procedure divided into rounds. At the beginning of each round, GRETA defines autonomously the provisions to be monitored and determines the most appropriate means to carry out the evaluation, being guided by the Rules of procedure for evaluating implementation of the Convention adopted at GRETA's 2nd meeting (16-19 June 2009). GRETA has decided that the duration of the first evaluation round shall be four years starting at the beginning of 2010 and finishing at the end of 2013.

In carrying out its monitoring work, GRETA has the right to avail itself of a variety of means for collecting information. As a first step, GRETA sends a detailed questionnaire to the authorities of the Party undergoing evaluation. It may also make additional requests for information. By virtue of the Convention, Parties are obliged to co-operate with GRETA in providing the requested information. Another important source of information is civil society and, indeed, GRETA maintains contacts with non-governmental organisations which can provide relevant information. In addition, GRETA may decide to carry out a visit to the country concerned in order to collect additional information or to evaluate the practical implementation of the adopted measures. This visit allows for direct meetings with the relevant bodies (governmental and non-governmental) and is also an occasion for GRETA to visit facilities where protection and assistance are provided to victims of trafficking and other related structures. Furthermore, GRETA may decide to organise hearings with various actors in the field of action against trafficking in human beings.

GRETA's evaluation reports are thus the result of information gathered from a variety of sources. They contain an analysis of the situation in each Party regarding action taken to combat trafficking in human beings and suggestions concerning the way in which the country may strengthen the implementation of the Convention and deal with any problems identified. In its assessment, GRETA is not bound by the case law of judicial and quasi-judicial bodies acting in the same field, but may use them as a point of departure or reference. The reports are drawn up in a co-operative spirit and are intended to assist States in their efforts; they can offer support for the changes on which the national authorities have already embarked, and lend legitimacy to the direction of national policies. Because of its multidisciplinary and multinational composition, and as a consequence of its independent approach, GRETA provides a professional and impartial international voice in this process.

As regards the procedure for the preparation of reports, GRETA examines a draft report on each Party in plenary session. The report is sent to the relevant government for comments, which are taken into account by GRETA when establishing its final report. This 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 for the Party to make comments, the report and conclusions by GRETA, together with eventual comments made by the national authorities, are made public and sent to the Committee of the Parties. In the context of the first evaluation round, this completes GRETA's task in respect of the Party concerned, but it is only the first stage in an on-going dialogue between GRETA and the authorities.

The second pillar of the monitoring mechanism, the Committee of the Parties, is composed of the representatives in the Committee of Ministers of the Parties to the Convention and of representatives of Parties non-members of the Council of Europe. On the basis of GRETA's reports, the Committee of the Parties may adopt recommendations addressed to a Party concerning the measures to be taken to implement GRETA's conclusions.

Executive summary

The Slovenian authorities have taken a number of steps to prevent and combat trafficking in human beings. In addition to the criminalisation of human trafficking, provisions pertaining to the rights of victims of trafficking have been introduced in a number of legal acts. Further, a National Co-ordinator has been appointed and national action plans for combating trafficking have been drafted and implemented by the Inter-ministerial Working Group for Combating Trafficking in Human Beings since 2004. The existing institutional framework brings together in a co-ordinated effort all relevant actors, including non-governmental organisations. That said, GRETA considers that the Slovenian authorities should pay increased attention to human trafficking for the purpose of labour exploitation, trafficking in children, trafficking in persons from vulnerable groups, including Roma, and trafficking within Slovenia.

GRETA welcomes the efforts made to prevent human trafficking through awareness-raising measures, education and training of professionals. Future actions in the area of prevention should be designed in the light of the assessment of previous measures and target vulnerable groups. GRETA also considers that the efforts to discourage demand for services from trafficked persons need to be strengthened.

GRETA notes that the victim identification process in Slovenia is not formalised and is based on a number of agreements. GRETA urges the Slovenian authorities to strengthen multi-agency involvement in victim identification by introducing a clear national referral mechanism, defining the roles of all frontline staff who may come into contact with victims of trafficking. Further, law enforcement officials, social workers, labour inspectors and other relevant actors should adopt a more proactive approach to the identification of victims of trafficking. Increased attention should be paid to detecting victims of trafficking among unaccompanied minors, involving child specialists and ensuring respect for the best interests of the child.

Victims of trafficking co-operating in the criminal investigation have access to assistance and protection measures, funded by the state budget and provided by NGOs contracted for this purpose. However, GRETA urges the authorities to ensure that access to assistance for victims of trafficking is not made conditional on their co-operation in the investigation and criminal proceedings. The Slovenian authorities should offer a recovery and reflection period to all possible victims of trafficking and ensure that victims can benefit from the right to obtain a residence permit, particularly when they are unable to co-operate with the authorities.

Despite the existence of legal possibilities for compensation, GRETA is concerned that no victims of trafficking have obtained compensation in Slovenia. GRETA urges the Slovenian authorities to facilitate and guarantee access to compensation for victims of trafficking including by providing them with legal aid and enlarging the scope of application of the Crime Victim Compensation Act.

As regards the substantive criminal law provisions, GRETA asks the Slovenian authorities to ensure that all the aggravating circumstances included in the Convention are taken into account. Further, GRETA urges the Slovenian authorities to provide for a possibility of not punishing victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, through either the adoption of a provision on non-punishment of victims of trafficking or by developing relevant guidance for public prosecutors to that end.

While taking note of the existing legal possibilities for providing victims and witnesses with protection measures before, during and after criminal proceedings, GRETA urges the Slovenian authorities to make full use of these measures. The special protection procedures envisaged for children should be available for all persons below 18 years of age.

Finally, GRETA stresses the need to strengthen the training provided to judges, prosecutors and other relevant professionals on the issue of human trafficking, and to encourage the law enforcement and prosecution services to develop their specialisation with a view to improving the collection of evidence to enable the successful prosecution of traffickers.

I. Introduction

1. Slovenia deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) on 3 September 2009. The Convention entered into force for Slovenia on 1 January 2010.¹

2. As established in Article 36(1) of the Convention, the Group of Experts on Action against Trafficking in Human Beings (“GRETA”) monitors the implementation of the Convention by the Parties. GRETA does so in conformity with the procedure laid down in Article 38 of the Convention and the Rules on the evaluation procedure of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties. For the first evaluation round (2010-2013), GRETA drew up a monitoring timetable according to which the Parties to the Convention were divided into groups, Slovenia being in the third group of 10 Parties to be evaluated.

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by Slovenia to implement the provisions set out in the Convention. The “Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties – first evaluation round” was sent to Slovenia on 31 January 2012. The deadline for replying to the questionnaire was 1 June 2012. Slovenia submitted its reply on 28 May 2012.

4. In preparation of the present report, GRETA used the reply to the questionnaire by Slovenia, other information collected by GRETA and information received from civil society. In addition, an evaluation visit to Slovenia took place from 10 to 13 December 2012, carried out by the following delegation:

- Mr Davor Derenčinović, Second Vice-President of GRETA;
- Ms Alexandra Malangone, member of GRETA;
- Mr David Dolidze, Administrator at the Secretariat of the Convention on Action against Trafficking in Human Beings.

5. During the visit, the GRETA delegation held meetings with officials from relevant ministries and public agencies, the judiciary and representatives of the Office of the Human Rights Ombudsman of Slovenia (see Appendix II). These meetings took place in a spirit of close co-operation.

6. The GRETA delegation held separate meetings with representatives of non-governmental organisations (NGOs) and other members of civil society. GRETA is grateful for the information provided by them.

7. Further, in the context of the evaluation visit to Slovenia, the GRETA delegation visited a shelter for victims of trafficking and an accommodation facility for asylum seekers.

8. GRETA is grateful for the valuable assistance provided by the contact person appointed by the Slovenian authorities, Mr Sandi Čurin, National Co-ordinator for Combating Trafficking in Human Beings, and Ms Maja Lipovača, Adviser in the European Affairs and International Co-operation Office of the Ministry of the Interior.

9. The draft version of the present report was adopted by GRETA at its 17th meeting (1-5 July 2013) and was submitted to the Slovenian authorities for comments. The authorities’ comments were received on 30 September 2013 and were taken into account by GRETA when drawing up its final evaluation report, which was adopted at GRETA’s 18th meeting (4-8 November 2013).

¹ The Convention as such entered into force on 1 February 2008, following its 10th ratification.

II. National framework in the field of action against trafficking in human beings in Slovenia

1. Overview of the current situation in the area of trafficking in human beings in Slovenia

10. According to information provided by the Slovenian authorities, Slovenia is primarily a country of destination and transit of victims of trafficking in human beings (THB) and to a lesser extent a country of origin. There were 33 formally identified victims of trafficking in 2010, 21 in 2011, four in 2012 and 32 in the first six months of 2013. The majority of the victims were women subjected to sexual exploitation. Further, five men were identified as victims of trafficking for the purpose of labour exploitation and two children as victims of trafficking for sexual exploitation. The main countries of origin of the victims were Romania, Hungary, Ukraine and the Dominican Republic. In 2011, eight of the identified victims were Slovenian women trafficked within the country for the purpose of sexual exploitation.

11. GRETA notes that the above figures may not reflect the actual scale of trafficking in Slovenia due to lack of attention to trafficking for purposes other than sexual exploitation, certain shortcomings in the victim identification procedure and the co-ordination of anti-trafficking action, and insufficient awareness among the general public about THB. According to the Slovenian authorities, the identification of victims of THB is rendered more difficult in recent years as traffickers under the pretence of employment use non-violent methods to control victims, such as deception and debt bondage, and the latter do not consider themselves as victims.

2. Overview of the legal and policy framework in the field of action against trafficking in human beings

a. Legal framework

12. At the international level, in addition to the Council of Europe Convention on Action against Trafficking in Human Beings, Slovenia is Party to the United Nations Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (both of which it ratified in 2004). Slovenia is also Party to the UN Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (ratified in 1992 and 2004, respectively), the Convention on the Elimination of All Forms of Discrimination against Women (ratified in 1992), as well as conventions elaborated under the International Labour Organisation (ILO).² Further, Slovenia is Party to a number of Council of Europe conventions in the criminal field which are relevant to action against THB.³

² Convention concerning Forced or Compulsory Labour (No.29), Convention concerning the Abolition of Forced Labour (No.105) and Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No.182).

³ In particular, the European Convention on Mutual Assistance in Criminal Matters and its Additional Protocol; the European Convention on Extradition and its Additional Protocols; and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism.

13. As a member of the European Union (EU), Slovenia is bound by 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 victims⁴, Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, and who co-operate with the competent authorities, Directive 2004/80/EC relating to compensation to crime victims, and Directive 2012/29/EU of the European Parliament and the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings.⁵

14. As regards the national legal framework in the field of action against THB, Article 113 of the Criminal Code (CC) establishes THB as a criminal offence. Other internal legal acts of relevance to action against THB include:

- the Act Ratifying the Council of Europe Convention on Action against Trafficking in Human Beings, which defines the responsibilities of ministries in the implementation of the Convention and regulates the organisation of assistance to victims of trafficking;
- the Criminal Procedure Act (CPA), which provides in Article 65 that child victims of THB are entitled to have an authorised person assisting them;
- the Aliens Act, which provides for measures and procedures regarding victims of trafficking, including a three-month recovery and reflection period and the possibility to obtain a temporary residence permit (Articles 30 and 50);
- the Witness Protection Act, which includes provisions referring to the protection of witnesses of trafficking in human beings;
- the Act on Compensation of Victims of Crime, which provides for State compensation to victims who are Slovenian and EU nationals, including in cases of THB (Article 5);
- the State Prosecutor Act, which envisages that the criminal offences of trafficking in human beings and establishing slavery relations are dealt with by the Specialised Office of the State Prosecutor of the Republic of Slovenia (Article 192).

b. National Action Plans

15. Since 2004 Slovenia has adopted and implemented four Action Plans for Combating Trafficking in Human Beings. The current Action Plan for 2012-2013 covers the areas of prevention, detection and prosecution of THB-related offences, assistance and protection of victims, co-operation among stakeholders in Slovenia, as well as international co-operation and support activities. The Action Plan contains specific measures which are funded by the state budget. The chapter on prevention refers to activities aimed at raising awareness on THB among the general public, high-risk groups such as young people and migrant workers, and relevant professionals through the use of the media and Internet. The chapter concerning prosecution puts an emphasis on investigating trafficking for labour exploitation, enhancing co-operation with the Labour Inspectorate and ensuring supervision of all trafficking cases by prosecutors. As regards assistance to victims, it is envisaged to continue the state-funded programme for accommodation and assistance of victims co-operating with the law enforcement authorities and improve the re-integration of victims of THB.

16. Once adopted by the Government, action plans become binding on all public bodies involved in their implementation. The implementation of the action plans is supervised by the Inter-ministerial Working Group (see paragraph 17), which submits annual reports to the Slovenian Government. These reports are made public on the anti-trafficking website⁶ of the Slovenian Government.

⁴ According to the Slovenian authorities, the transposition of Directive 2011/36/EU into national legislation is planned to be completed in the first half of 2014.

⁵ Directive 2012/29/EU of the European Parliament and of the Council, of 25 October 2012, establishing minimum standards on the rights, support and protection of victims of crime, replaces Council Framework Decision 2001/220/JHA.

⁶ http://www.vlada.si/en/projects/fight_against_trafficking_in_persons/#c1057.

3. Overview of the institutional framework for action against trafficking in human beings

a. Inter-ministerial Working Group for Combating Trafficking in Human Beings

17. The Slovenian Government set up the Inter-ministerial Working Group for Combating Trafficking in Human Beings in December 2003.⁷ The composition of the current Working Group includes representatives of the Ministry of the Interior, Ministry of Foreign Affairs, Ministry of Justice, Ministry of Labour, Family and Social Affairs, Ministry of Education and Sport, Ministry of Health, National Assembly, General Police Directorate, Office of the State Prosecutor General, Government Communication Office and Labour Inspectorate. Further, several NGOs active in the field of action against THB, namely Society Ključ, Karitas Slovenia and Slovenian Philanthropy, are members of the Working Group.

18. According to the Governmental Decision of 5 July 2012 concerning the composition and tasks of the Working Group, its responsibilities consist of drafting action plans which are submitted to the Government for approval, supervising their implementation, preparing annual reports to the Government and assisting the National Co-ordinator in preparing proposals to strengthen the efficiency of policy and measures against trafficking in human beings, especially in the areas of prevention and assistance to victims.

19. The Working Group meets five to six times a year at the Ministry of the Interior in order to co-ordinate anti-trafficking activities and discusses operational issues. The different ministries are represented by senior officials at the operational level, mostly heads of sectors. The Secretariat of the Working Group is ensured by the National Co-ordinator for the Fight against Trafficking in Human Beings and a part-time assistant.

b. National Co-ordinator for the Fight against Trafficking in Human Beings

20. The post of National Co-ordinator for the Fight against Trafficking in Human Beings was created by the Slovenian Government in February 2002. The National Co-ordinator is appointed from among the staff of the Ministry of the Interior's European Affairs and International Co-operation Service. The current National Co-ordinator holds the post of Undersecretary of the Ministry of the Interior. The National Co-ordinator chairs the Inter-ministerial Working Group.

c. Office of the State Prosecutor General

21. Prosecution of THB cases falls within the competence of the Specialised Office of State Prosecutor of the Republic of Slovenia which deals with organised crime, terrorism, corruption and other crimes requiring special competences. There are 11 prosecutors within this Specialised Service, two of whom deal with THB offences.

d. Police

22. There are officers with special training on combating THB within each of the eight regional divisions of the criminal police (Murska Sobota, Maribor, Celje, Ljubljana, Koper, Kranj, Nova Gorica and Novo Mesto). In addition, groups of specialised police officers investigating THB offences operate in the larger divisions of the criminal police in Maribor, Ljubljana and Koper.

e. NGOs

23. NGOs have played an instrumental role in action against trafficking in human beings in Slovenia. As noted in paragraph 17, three of them - Society Ključ, Karitas Slovenia and Slovenian Philanthropy - have full membership on the Inter-ministerial Working Group.

⁷ Prior to this date, as of 2001, a working group operated on an *ad hoc* basis within the framework of the Ministry of Foreign Affairs.

24. Society Ključ specialises in activities relating to trafficking in human beings and has been providing assistance to victims of THB since 2001. It implements public awareness activities and has developed programmes to prevent THB among school children between 14 and 18 years of age. Further, Society Ključ runs an emergency telephone line for victims of THB and provides legal, psychological and psycho-social assistance to victims, emergency accommodation for up to five days and long-term accommodation in a safe house. Most of these activities are funded by foreign donors. Society Ključ is also involved in providing training on THB to different professionals, including school teachers and police officers. It has signed agreements with the Directorate General of the Police, the Ministry of the Interior and the Prosecutor General's Office concerning the provision of assistance to victims of THB during criminal proceedings and their representation.

25. Karitas Slovenia has worked in the anti-trafficking field since 2005. Its main activities include prevention of THB through awareness-raising and training activities in schools, provision of emergency and long-term accommodation for victims of THB, and legal counselling to victims of trafficking. Karitas Slovenia co-operates closely with other Karitas organisations in South-Eastern Europe.

26. Slovenian Philanthropy carries out activities to prevent trafficking among foreign workers and vulnerable migrants in Slovenia by raising awareness about their rights and informing them about assistance available for victims of trafficking and labour exploitation. Its awareness-raising work also targets unaccompanied minors and asylum seekers.

27. In addition, the Slovenian Jesuit Refugee Service implemented between November 2010 and November 2012 a project on combating sexual violence (PATs), which aimed at informing applicants for asylum in Slovenia about the risks of THB. (see paragraph 111).

III. Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Slovenia

1. Integration of the core concepts and definitions contained in the Convention in the internal law

a. Human rights-based approach to action against trafficking in human beings

28. Article 1(1)(b) of the Convention establishes as one of its purposes the protection of the human rights of the victims of trafficking. Further, Article 5(3) includes the obligation for Parties to promote a human rights-based approach in the development, implementation and assessment of the policies and programmes to prevent THB. The Explanatory Report on the Convention states that the main added value of the Convention is its human rights perspective and focus on victim protection. In the same vein, the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking emphasise that “the human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims”⁸.

29. THB constitutes an offence to the dignity and fundamental freedoms of the human being and thus a grave violation of human rights. GRETA emphasises the obligations of States to respect, fulfil and protect human rights, including by ensuring compliance by non-State actors, in accordance with the duty of due diligence. A State that fails to fulfil these obligations may, for instance, be held accountable for violations of the European Convention on Human Rights and Fundamental Freedoms (the ECHR). This has been confirmed by the European Court of Human Rights in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the European Convention on Human Rights⁹ (which prohibits slavery, servitude and forced or compulsory labour). The Court further concluded that Article 4 entails a positive obligation to protect victims or potential victims, as well as a procedural obligation to investigate trafficking.¹⁰

30. GRETA considers that the human rights-based approach to action against THB requires States to set up a comprehensive framework for the prevention of THB, the protection of trafficked persons as victims of a serious human rights violation, and the effective investigation and prosecution of traffickers. Such protection includes steps to secure that all victims of trafficking are properly identified. It also involves measures to empower trafficked persons by enhancing their rights to adequate protection, assistance and redress, including recovery and rehabilitation, in a participatory and non-discriminatory framework, irrespective of their residency status. Further, measures to prevent THB should be taken in the field of socio-economic, labour and migration policies.

31. GRETA wishes to stress the need for States to also address THB as a form of violence against women and to take account of gender-specific types of exploitation, as well as the particular situation of child victims of trafficking, in line with the relevant international legal instruments.¹¹

⁸ Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

⁹ *Rantsev v. Cyprus and Russia*, application No. 25965/04, judgment of 7 January 2010, ECHR 2010, paragraph 282.

¹⁰ See also *Siliadin v. France*, application No. 73316/01, judgment of 26 July 2005, ECHR 2005 VII; *C.N. and V. v. France*, application No. 67724/09, judgment of 11 October 2012; and *C.N. v. the UK*, application No. 4239/08, judgment of 13 November 2012.

¹¹ Such as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the United Nations Convention on the Rights of the Child and the Optional Protocol thereto on the sale of children, child prostitution and child pornography, and the United Nations Convention on the Elimination of All Forms of Discrimination against Women.

32. Slovenian legislation does not contain direct references to trafficking in human beings as a violation of human rights. THB as a criminal offence is included in the chapter of the CC entitled “Criminal Offences against Humanity”. According to the Slovenian authorities, placing THB in this chapter, which includes the gravest violations of human rights, is an indication of the seriousness of its consequences for the human rights of its victims. The Slovenian authorities have specified that the internal legal remedies against human rights violations include judicial review by the administrative court, complaint to the Constitutional Court and complaint to the Human Rights Ombudsperson. The last two Action Plans (2010-2011 and 2012-2013) underline that THB violates the human rights of victims.

33. Slovenian legislation provides for direct application by courts of international conventions to which Slovenia is a Party. According to the Slovenian authorities, there is no case-law in Slovenia referring to rights under the Council of Europe Convention on Action against Trafficking in Human Beings. The Slovenian authorities have indicated that the ECHR judgment on the case of *Rantsev v. Cyprus and Russia* was translated into Slovenian, disseminated among professionals and used for trainings of judges and prosecutors

34. The human rights-based approach to action against THB entails transparency and accountability on the part of the State through the adoption of a national policy and action plans for combating trafficking in human beings, the co-ordination of the efforts of all relevant actors, the regular training of relevant professionals, research and data collection, and the provision of adequate funding for the implementation of all these measures. The following sections of this report examine in detail the effectiveness of the policies and measures taken by the Slovenian authorities in these fields.

b. Definitions of “trafficking in human beings” and “victim of THB” in Slovenian law

i. *Definition of “trafficking in human beings”*

35. In accordance with Article 4(a) of the Convention, trafficking in human beings includes three components: an action (“the recruitment, transportation, transfer, harbouring or receipt of persons”); the use of certain means (“threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”); and the purpose of exploitation (“at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”). In the case of children, pursuant to Article 4(c) of the Convention, it is irrelevant whether the means referred to above have been used.

36. Under Slovenian legislation, the definition of THB is provided in Article 113(1) of the Criminal Code (CC) which states: “Whoever purchases another person, takes possession of them, accommodates them, transports them, sells them, delivers them or uses them in any other way, or acts as a broker in such operations, for the purpose of prostitution or another form of sexual exploitation, forced labour, enslavement, servitude, commission of criminal offences or trafficking in organs, human tissues or blood, shall be, notwithstanding possible consent by this person, given a prison sentence of between one and ten years.”¹²

37. As regards the action of “harbouring” in the definition of THB in the Convention, according to the Slovenian authorities, it is covered by the Slovenian term “*nastani*” which has been translated into English as “accommodate”.

38. GRETA notes with interest that, in addition to the types of exploitation referred to in Article 4(a) of the Convention, Article 113(1) of the CC criminalises trafficking for the purpose of the commission of criminal offences. According to the Slovenian authorities, the term “forced labour” covers the exploitation of begging.

¹² Unofficial translation provided by the Slovenian authorities.

39. The use of means is not a constituent element of the basic offence of THB and is considered as an aggravating circumstance under Article 113(2) of the CC, carrying heavier penalties (see paragraph 151). The means listed include the use of force, threats, deception, kidnapping or exploitation of a subordinate or dependent position, and giving or receiving payments or benefits to achieve the consent of a person having control over another person. GRETA notes that Article 113(2) of the CC does not refer to “abuse of power or of a position of vulnerability” as means for committing THB. According to the Slovenian authorities, in practice, the term “exploitation of a subordinate or dependent position”, applied in conjunction with the actions listed in Article 113(1), allows to cover situations of abuse of power or position of vulnerability.

40. According to the Slovenian definition of THB, it is not necessary to prove the use of any means in order to establish a trafficking offence. While acknowledging that this may contribute to making the prosecution of traffickers easier in terms of evidential requirements, GRETA stresses the need for the Slovenian authorities to keep under review whether this may lead to confusion with other criminal offences, or to possible difficulties when it comes to mutual assistance in the anti-trafficking field with countries which have incorporated the means in their own definition of THB, as well as to the interpretation of Article 4(b) of the Convention on the consent of victims.

41. GRETA notes with satisfaction that the definition of THB states explicitly the irrelevance of the consent of a victim of trafficking to the intended exploitation.

42. Trafficking in minors¹³ is qualified as an aggravating circumstance under Article 113(2), the use of any means being irrelevant.

43. For further analysis of the definition of THB and related offences from a substantive criminal law perspective, see paragraphs 151-156.

ii. *Definition of “victim of THB”*

44. The Convention defines “victim of THB” as “any natural person who is subjected to THB as defined in Article 4 of the Convention”. Recognition of victims of trafficking as such is essential as it gives rise to their entitlement to the broad range of protection and assistance measures set out in the Convention.

45. The Aliens Act defines a victim of trafficking in human beings for the purpose of that Act as “a third-country national who, as a result of prostitution or other forms of sexual abuse, forced labour, slavery, servitude or trafficking in human organs, tissue or blood, is either bought, acquired, installed, transported, sold, handed over or treated in some other manner.”¹⁴ According to the Slovenian authorities, any person subjected to acts prescribed by Article 113 of the CC is considered a victim of THB. It is not necessary for a criminal case to be initiated in order to begin the process of identification of a victim of THB. However, in practice, there are differences in access to assistance depending on whether a criminal case is initiated or not (see paragraph 119).

46. GRETA recalls that it is sufficient for persons to present reasonable grounds that they have been subjected to a combination of the three elements of the definition of THB referred to in paragraph 36 (action, means and exploitation) in order to be considered as victims of trafficking. In this context, GRETA refers to the 1985 United Nations Declaration on the Basic Principles of Justice for Victims of Crime and Abuse of Power, according to which a person may be considered a victim “regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted”.

47. The question of the definition of victim of THB will be further discussed in the sections of this report dealing with the identification of victims and the assistance measures provided to them, along with the related proposals made by GRETA.

¹³ In Slovenian law, a minor is a person under 18 years of age.

¹⁴ Unofficial translation provided by the Slovenian authorities.

- c. Comprehensive approach to action against THB, co-ordination of all actors and actions, and international co-operation

- i. *Comprehensive approach and co-ordination*

48. One of the aims of the Convention is to design a comprehensive framework for the protection and assistance of victims and witnesses. To be effective, any national action to combat THB must be comprehensive and multi-sectoral, and take on board the required multidisciplinary expertise. Article 29(2) of the Convention requires Parties to take measures to ensure the co-ordination of national policies and actions against THB, including through the setting-up of specific co-ordinating bodies. Further, the Convention refers to the need to co-operate and build strategic partnership with civil society through co-operative frameworks that can help governments fulfil their obligations under the Convention (Article 35).

49. The legal and policy framework in the field of action against THB in Slovenia, outlined above, is intended to cover all victims of THB subjected to different types of exploitation, both transnationally and within Slovenia. The current Action Plan (2012-2013) is comprehensive in nature and aims to involve all relevant stakeholders, covering prevention of trafficking, protection of victims and prosecution of traffickers, as well as international co-operation.

50. The Act Ratifying the Council of Europe Convention on Action against Trafficking in Human Beings lays down the modalities for the implementation of the Convention and indicates the ministries responsible for its implementation. GRETA notes with satisfaction that this Act explicitly refers to co-operation with NGOs as one of the prerequisites for the implementation of the Convention, in particular when it comes to identification, assistance to victims, repatriation, protection and representation of victims and witnesses during legal proceedings.

51. All members of the Working Group regularly report about the activities carried out by them and on the basis of these reports annual reports are drawn up and submitted to the Slovenian Government. The 2011 Annual Report was also presented to the Commission for Petitions, Human Rights and Equal Opportunities of the National Assembly. That said, no independent evaluation of the implementation of the Action Plan has been carried out.

52. GRETA notes that most anti-THB activities, including those implemented by NGOs, are financed from the state budget. This includes preventive measures, victim assistance and protection measures, and training. Funds for these activities are allocated in the budgets of the ministries responsible for the implementation of activities assigned to them by the Action Plan.

53. As noted in paragraph 15, the Action Plan for 2012-2013 contains measures related to trafficking for the purpose of labour exploitation, such as strengthening the investigation of such cases and increased co-operation with the Labour Inspectorate. Labour inspectors must report *ex officio* criminal offences they come across, including THB, and submit to the investigating body any evidence they have obtained. In 2012 and the first half of 2013, the police carried out a number of investigations into suspected cases of THB with the participation of labour inspectors, but none of them resulted in criminal proceedings concerning THB.. During the country visit, GRETA was informed that the police, labour inspectors and prosecutors had difficulties in distinguishing cases of labour exploitation from labour disputes. Further, according to information provided by representatives of NGOs, certain cases of child marriages in the Roma communities result in their exploitation, but are not considered as human trafficking by the authorities.

54. GRETA welcomes the efforts of the Slovenian authorities to ensure that action against THB is comprehensive and involves all relevant stakeholders in a co-ordinated manner. That said, GRETA notes that the current human and financial resources of the secretariat of the Working Group and the National Co-ordinator are insufficient, considering the volume of the work carried out by these structures. **GRETA invites the Slovenian authorities to invest in the human and financial resources of the secretariat of the Working Group and the National Co-ordinator so that they can effectively carry out the full range of tasks within their mandate.**

55. GRETA considers that the Slovenian authorities should pay increased attention to human trafficking for the purpose of labour exploitation, trafficking in children, trafficking in persons from vulnerable groups, including Roma, as well as trafficking within Slovenia.

56. Further, GRETA invites the Slovenian authorities to introduce a periodic independent evaluation of the Action Plan as a tool for assessing the impact of the activities and for planning future policies and measures to combat THB, and to consider the establishment of an independent National Rapporteur or other mechanism for monitoring the anti-trafficking activities of State institutions (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).

ii. Training of relevant professionals

57. According to information provided by the Slovenian authorities, all newly employed police officers receive training on THB. An anti-trafficking handbook for frontline police officers which was developed in 2003 is part of the police training curriculum. Training covers the identification of different forms of human trafficking and the procedure and methods of gathering evidence. Trainings are organised annually, covering all eight regional police directorates. In 2011, some 300 frontline police officers received such training. Further, the Police and the Ministry of the Interior organise regular meetings to discuss issues related to combating THB, with the participation of representatives of all public bodies involved in the prosecution of criminal offences.

58. In the framework of training organised by Frontex in 2009-2010, the Slovenian police officers responsible for border control attended modules concerning identification of potential victims of THB during border control procedures. Part of training was devoted to creating profiles of victims and offenders with the aim to facilitate identification by frontline border police officers. In 2011-2012, further training on THB was organised for 292 border officers and 50 senior police officers and managers at border crossings, as well as 40 police officers of the special state border control unit. Further, training on trafficking issues was provided in 2013 to 121 border officers and senior police officers.

59. Training for judges and prosecutors is organised by the Judicial Training Centre of the Ministry of Justice. Annual training programmes are designed on the basis of the needs expressed by these professionals through surveys, as well as suggestions of the Ministry of Justice. The most recent training on THB for judges and prosecutors was held in 2011. GRETA was informed that the Judicial Training Centre conducted two training courses for judges and state prosecutors in November 2013.

60. The training of police officers and other relevant professionals forms part of agreements between public bodies and NGOs (such as the NGOs Ključ and Karitas Slovenia and the Ministry of the Interior). Further, under an agreement between the NGO Ključ and the Ministry of Education, training for trainers was provided to 300 school teachers throughout Slovenia in 2011. As part of the project "Professional training of education workers to strengthen competences for preventing violence", carried out between 2010 and 2012, a total of 3 380 teachers were trained in five programmes. One of the programmes carried out by the NGO Ključ was entitled "I choose non-violence" and included the subject of human trafficking. Under this programme 287 participants received training and were qualified as trainers for trainers. Even though the official training programme ended in 2012, trainers are expected to continue training their colleagues at schools and pre-school institutions.

61. The Criminal Police Directorate organises annual two to three-day training for police officers investigating THB cases. Representatives of the Office of the State Prosecutor General, Specialised State Prosecutor's Office, Uniformed Police Directorate and other inspection services, as well as the NGOs Society Ključ and Karitas Slovenia, participate as trainers. In addition, police officers responsible for border control and immigration are trained to identify victims of trafficking in human beings.

62. Since 2007, the Ministry of Foreign Affairs has organised annual training for consular staff deployed abroad, which includes an anti-trafficking component. Representatives of public bodies informed GRETA that there was a need for training on THB for staff of administrative units responsible for issuing residence permits. The need for training of social workers has not yet been adequately addressed, even though the Action Plan for 2012-2013 contains training activities for such professionals. Social workers participated in expert discussions and education on protecting unaccompanied foreign minors in 2012. According to the Slovenian authorities, training for social workers providing primary social assistance services is planned for 2014 and will include a module on identification and protection of victims of THB.

63. GRETA welcomes the efforts made in Slovenia to train relevant professionals involved in action against THB. **GRETA considers that the Slovenian authorities should take further steps to provide periodic training on THB and the rights of victims to all relevant professionals (such as judges, prosecutors, lawyers, staff of administrative units responsible for issuing residence permits, labour inspectors, child protection authorities and social workers). Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking for all forms of exploitation and assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.**

iii. Data collection and research

64. The human rights-based approach to anti-trafficking policies advocated by the Convention requires adequate monitoring and evaluation. An essential element is the regular availability of comprehensive statistical information on both trends in human trafficking and the performance of the main actors in the fight against trafficking. The collation of data from different state institutions and NGOs raises concerns about data protection, especially when personal data are involved. International standards have been set for the collection, storage, transfer, compilation and dissemination of data. In order to ensure full compliance with these standards, Parties are expected to apply appropriate measures and techniques of data protection. An additional requirement for human rights-based anti-trafficking policies is the conduct of research and analysis with special attention to the rights and interests of victims.

65. Statistical information on THB is collected by the Police and the State Prosecutor's Office as regards the investigation and prosecution of THB offences, and from NGOs concerning the provision of assistance to victims. The data relating to criminal offences is broken down into sex, age, nationality, etc. The Supreme State Prosecutor's Office, the Specialised State Prosecutor's Office and the District State Prosecutor's Offices ensure the protection of the personal data collected concerning the participants in criminal proceedings, including "injured parties". In addition, under the agreement on co-operation concluded between the police and the NGO Society Kluč, victims are guaranteed protection of their personal data pursuant to the Personal Data Protection Act.

66. As regards research, the most recent study on THB in Slovenia was carried out in 2003 by the International Organization for Migration (IOM). In 2007 the Peace Institute carried out research on international indicators of THB which examined the influence of new technologies on migration, prostitution and human trafficking. According to representatives of NGOs, trafficking for the purpose of labour exploitation and internal trafficking have not been researched in Slovenia. An independent study entitled "Identification of victims of trafficking in human beings in international protection and forced return procedures" by the Legal Information Centre was completed at the end of October 2013 as part of the European Migration Network project.

67. **GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Slovenian 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, including NGOs involved in victim identification, and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination, etc.).**

68. Further, GRETA considers that the Slovenian authorities should conduct and support research on trafficking-related issues as an important source of information for future policy measures. Areas where research is particularly needed at present to shed more light on the extent and nature of the problem include trafficking for labour exploitation, trafficking in children and trafficking within Slovenia.

iv. International co-operation

69. The Convention requires Parties to co-operate with each other “to the widest extent possible” in order to prevent and combat THB, protect and assist victims, and investigate related criminal offences (Article 32).

70. The Criminal Procedure Act (CPA) contains provisions enabling the police to co-operate with law enforcement authorities of another country on the territory of Slovenia or abroad. Co-operation agreements have been concluded with most states in Europe, including Austria, the Czech Republic, Germany, Greece, Hungary, Italy, Romania, the Slovak Republic and Switzerland. These agreements cover issues relating to police co-operation, combating organised crime, terrorism, drug trafficking, transborder co-operation and readmission.

71. Slovenia participates in joint investigation teams (JITs) on the basis of the Council Framework Decision on joint investigation teams of 13 June 2002 or bilateral agreements with non-EU states. Police officers, prosecutors and other competent authorities carry out their activities on the territory of Slovenia and abroad in the framework of these agreements under the supervision of the Prosecutor General and the Director General of the Police. Further, Slovenia participates in international co-operation on preventing and combating THB as a member of Interpol, Europol and Eurojust. Co-operation at the police level is also carried out through Interpol Offices and the Southeast European Law Enforcement Centre (SELEC).

72. GRETA was informed that there had been positive examples of co-operation in the field of law enforcement with Germany, Switzerland, Croatia and Italy. However, the Slovenian authorities have referred to certain problems in the exchange of information as regards previous convictions with some other countries, in particular the Dominican Republic.

73. Further, Slovenia participates actively in the network of National Co-ordinators for South-East Europe, which brings together Albania, Bosnia and Herzegovina, Bulgaria, Croatia, “the former Yugoslav Republic of Macedonia”, the Republic of Moldova, Montenegro, Romania, Serbia and Slovenia. On 28 February 2011 on the occasion of a ministerial conference in Ljubljana, representatives of relevant ministries of these countries signed a Memorandum of Understanding allowing them to establish JITs. On 18 October 2012 the national anti-trafficking co-ordinators of South-East Europe issued the Joint Declaration on Enhancing Transnational Referral Mechanisms and Strengthening Co-operation in Cases of Human Trafficking. As part of the activities of this network, three ministerial conferences and five workshops were organised addressing, *inter alia*, legal and practical aspects of establishing JITs, bearing in mind the national legislative frameworks.

74. Further, since August 2013 the Ministry of the Interior and the Office of the State Prosecutor General are implementing an EC-funded project entitled “The Use of Joint Investigation Teams to fight Trafficking in Human Beings in Western Balkans¹⁵ at the local level” which will continue for two years.

75. According to NGO representatives, international co-operation is lacking in areas such as the exchange of information concerning identified victims of THB, their families, the circumstances of their recruitment, the economic and political conditions in countries of origin, as well as risk assessments when deciding to return victims of THB to their countries of origin.

¹⁵ Albania, Bosnia and Herzegovina, Croatia, Montenegro, Serbia and “the former Yugoslav Republic of Macedonia”.

76. **GRETA invites the Slovenian authorities to continue exploring further possibilities for strengthening international co-operation in the investigation and prosecution of human trafficking cases, as well as developing international co-operation for the purpose of preventing THB and providing assistance to victims.**

2. Implementation by Slovenia of measures aimed to prevent trafficking in human beings

77. According to Article 5 of the Convention, Parties must take co-ordinated action to prevent THB, with the involvement of relevant NGOs, other organisations and members of civil society as appropriate. The Convention requires Parties in particular to take measures to discourage demand, strengthen border controls and ensure the integrity, security and validity of travel or identity documents (Articles 6 to 9).

78. In accordance with the Convention, measures to discourage demand for the services of victims of trafficking, especially women and children, should be understood as a positive obligation on Parties to adopt and reinforce such measures as regards THB for the purpose of any form of exploitation (see paragraph 108 of the Explanatory Report of the Convention). As it is stated in the Recommended Principles and Guidelines on Human Rights and Human Trafficking, strategies aimed at preventing THB shall address demand as a root cause of trafficking.¹⁶

a. Measures to raise awareness and discourage demand

79. Every year on the occasion of the EU Anti-Trafficking Day (18 October) the Slovenian authorities organise public events to raise awareness about THB. In 2010 the Working Group organised a symposium entitled "Labour exploitation, forced labour and its link to trafficking in human beings". In 2011 a public discussion entitled "A decade of fight against trafficking in human beings in Slovenia" was organised. The anti-trafficking website¹⁷ of the Slovenian Government provides information on the activities of the Working Group and the most important publications, including international instruments and studies. The website also contains the contact details of NGOs providing assistance to victims of THB in Slovenia.

80. Specific measures to prevent THB among young people have involved the projects Vijolica and "Youngsters against Trafficking in Human Beings", which were launched in 2010. The project Vijolica targeted children in elementary schools and covered 11 towns in Slovenia. The project "Youngsters against Trafficking in Human Beings" involved screening of a documentary film made after a true story of a Slovenian woman victim of THB, followed by round-table discussions. It involved some 531 secondary school students from eight towns in Slovenia. Both projects were implemented by the NGO Society Ključ on the basis of a public tender and were co-financed by public funds (total cost 9 980 euros).

81. In 2010 the NGO Karitas Slovenia published information materials to increase awareness among young people and professionals working with them about the dangers of THB and the prohibition of the sale of children, child prostitution and child pornography. This activity was co-financed by the Ministry of Labour, Family and Social Affairs. Brochures were disseminated to 478 elementary schools, 160 secondary schools, 24 student accommodation facilities, 62 social work centres, 59 job centres, 62 youth centres, 21 crisis centres, safe houses and maternity homes, 20 youth homes, education institutions and youth housing groups.

¹⁶ Principle 4 of Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), www.ohchr.org/Documents/Publications/Traffickingen.pdf

¹⁷ www.vlada.si/en/projects/fight_against_trafficking_in_persons/

82. In 2011 the Slovenian Government financed three awareness-raising initiatives implemented by NGOs (total cost 14 687 euros), of which two were about the dangers of THB and methods of recruiting victims, and one about appropriate action and self-protective behaviour. The project, entitled "Be(come) Free", was implemented by Society Ključ and included awareness raising of young people through social networks and Facebook where news, video spots, trailers and cartoons on THB were posted daily. During its functioning, the Facebook page of the project generated 233 fans, 232 comments and 55 744 views.

83. The second project was entitled "Stop Trafficking in Human Beings" and was carried out by Primorski Legal Centre in Koper. It consisted of a series of 20 lectures attended by about 600 students from the region of Koper, a network game (played by 255 persons), and the publication of a brochure "The Dangers of Trafficking in Human Beings" and its wide distribution to primary and secondary schools, libraries, social work centres and NGOs. The project ended with a round-table discussion with the participation of the National Co-ordinator for Combating THB and other experts.

84. The third project targeted migrant workers in Slovenia and aimed at informing them about their rights with a view to protecting them from exploitation, forced labour and THB. This project was carried out by the Slovenian Philanthropy and consisted of preparing and disseminating a leaflet entitled "Stop Exploitation of Migrant Workers", produced in Albanian, English, Bulgarian, Bosnian, French, Macedonian, Romanian and Russian. Other visibility materials, including T-shirts with the same slogan, were produced and distributed and over 20 visits to residence and working areas of foreign workers were organised as part of this project, reaching out to some 1 000 workers.

85. The Slovenian authorities have taken certain measures to discourage demand for services of trafficked persons. In 2010 social advertising was placed on one of the Slovenian general internet search engines (www.najdi.si), aimed at reducing demand and raising awareness about the dangers of THB. The advertising took up the official logo of the Working Group "Let's Act against Trafficking in Human Beings" and included contact information of organisations providing assistance to victims. This information was displayed 300 000 times.

86. Despite the above-mentioned activities, according to representatives of public authorities, the awareness of the general public about THB remains unsatisfactory. In the opinion of the National Co-ordinator greater focus should be placed on preventive activities targeting migrant workers and young people in elementary and secondary schools, and more financial resources should be allocated to improving public knowledge about trafficking. The knowledge and capacity of the media on how to report trafficking cases also need to be improved.

87. GRETA welcomes the measures taken by the Slovenian authorities and NGOs to increase awareness among young people and migrant workers about the dangers of THB. **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. Awareness raising should continue targeting vulnerable groups and inform the public of forms of THB which are on the rise, such as labour exploitation, forced begging and forced criminality.**

88. **Further, GRETA considers that the Slovenian authorities should strengthen their efforts to discourage demand for services from trafficked persons, in partnerships with the private sector and civil society.**

b. Social, economic and other initiatives for groups vulnerable to THB

89. The Slovenian authorities have informed GRETA of initiatives to alleviate the economic situation of the most vulnerable social groups by means of social benefits and pensions. Social benefit regulations envisage certain measures for the prevention and alleviation of poverty and social exclusion. The system of social security is in line with ILO Convention No.102 on Social Security and Social Assistance and since 1999 Slovenia is Party to the European Social Charter (revised). On 11 February 2010 the Minimum Wage Act was approved by the National Assembly of the Republic of Slovenia, which established a gross minimum wage of 763.06 euros (584.29 euros net). That said, in 2010 the Government reported 12.7% at-risk-of-poverty rate among the population, which represented a 1.4% increase in comparison with 2009.

90. The Programme for Active Employment Policy measures for 2007-2010 promoted direct employment measures, programmes of information and vocational advice and programmes of education, development and training, public work and programmes for the disadvantaged and severely disadvantaged workers. Active employment measures were also linked to incentives for social entrepreneurship intended to create jobs for vulnerable groups. Identified victims of THB holding residence permits issued on this basis were eligible for the Programme for Active Employment Policy measures under the same conditions as Slovenian nationals. Following the entry into force of the Labour Market Regulation Act (1 January 2011), the Programme for Active Employment Policy measures was substituted by the Guidelines for the Implementation of Active Employment Policy Measures for the period 2012–2015, adopted by the Slovenian Government in December 2011.

91. In order to improve the protection of the rights of foreign employees in Slovenia, the new Employment and Work of Aliens Act removed the condition of a minimum of 22-month uninterrupted employment with one employer, previously necessary to obtain a work permit. The authorities consider that this change, which enables foreign workers to change employers, has improved their position vis-à-vis the employers, allowing them to refuse job offers under unfavourable conditions without jeopardising their chances of obtaining a work permit.

92. GRETA notes that according to the Annual Report of the Human Rights Ombudsman of Slovenia for 2011¹⁸, child begging has not been properly examined. None of the 19 centres for social work have registered cases of child begging in 2009-2011. The police keep overall records on instances of begging in the streets which constitutes a breach of the Law on the Protection of Public Order and Peace; 499 instances of begging were recorded in 2010, but there is no data as regards child begging. According to the Human Rights Ombudsman, even though the regulatory framework preventing the economic exploitation of children is well developed, the detection of child begging, especially organised by the child's own family, is extremely difficult. According to information provided by the Slovenian authorities, the law enforcement authorities responsible for identifying trafficking cases have observed a trend of forced begging being carried out in an organised manner, in almost all towns of Slovenia, involving persons from Slovenia, the Slovak Republic and Romania. These groups are characterised by a high level of mobility. Attention is reportedly being paid by the police to improving the identification of victims of trafficking for the purpose of forced begging and detecting offenders.

¹⁸

Available at: www.varuh-rs.si/index.php?id=1&L=6

93. One of the minorities in Slovenia is the Roma community, which consists of autochthonous Roma, mostly living in rural areas, and Roma originating from other countries of former Yugoslavia, who live in cities. During the evaluation visit GRETA raised with the Slovenian authorities the issue of the vulnerability of persons from Roma communities to THB.¹⁹ According to representatives of public bodies and NGOs, the Roma who are Slovenian nationals are not particularly vulnerable to or affected by THB. No difficulties were reported as regards the registration of Roma children at birth. GRETA was informed of cases of Roma originating from Romania, Bulgaria and the Slovak Republic exploited in begging in Slovenia. According to the Slovenian authorities, in 2012 two victims of THB for forced begging and one trafficker were identified by the police, all of them Slovak nationals, as well as one Bulgarian child victim of trafficking for forced criminality.

94. GRETA's attention has been drawn to the issue of the so-called "erased" persons, i.e. persons, whose records were removed from the register of permanent residents in Slovenia in 1992, following the secession of Slovenia from Yugoslavia. ECRI's Third Report on Slovenia recommended to the Slovenian authorities to implement in good faith and without further delay the decision of the Constitutional Court of April 2003 concerning measures to provide these persons with the possibility to restore their permanent residence rights, including through the adoption of a legal framework enabling "erased" persons who have not yet secured permanent residence or Slovenian citizenship to have their rights reinstated in a manner that is as fair and generous as possible.²⁰ GRETA takes note of the judgement of 26 June 2012 in the case of *Kurić and others vs. Slovenia*²¹ of the European Court of Human Rights. According to information provided by the Slovenian authorities, the problem of the "erased" persons has decreased considerably, as many of them have obtained permanent residence permits or left the country. According to information provided by the Slovenian authorities, the total number of persons erased from the Permanent Population Register on the day the respective provisions of the Aliens Act entered into force was 25 671 (of which 24 369 were alive). By 24 April 2013, some 10 046 "erased" persons regularised their residence status by either acquiring permanent residence or nationality of Slovenia.

c. Border measures to prevent THB and measures to enable legal migration

95. There is no special border police structure in Slovenia and state border control tasks may be performed by police officers in accordance with their statutory powers. Immigration control measures are taken at border police stations at the land and sea borders and airports, as well as within the territory of Slovenia, through co-operation between police officers from state border surveillance groups and other police units covering areas of the external EU border. In the performance of border control duties one of the functions of the police is the detection and identification of victims of THB.

¹⁹ The European Commission against Racism and Intolerance (ECRI) in its Third Report on Slovenia (published on 13 February 2007) referred to measures to improve the situation of Roma, in particular the need to avoid using the distinction between autochthonous and non-autochthonous Roma, to introduce comprehensive strategies which address all areas where Roma experience disadvantage and discrimination, and to strengthen efforts to combat prejudice and stereotypes towards Roma.

²⁰ According to ECRI's Third Report on Slovenia, "Many of these persons – for the most part reportedly persons without good levels of education -- had been living in Slovenia for a long time and some of them were even born in the country. However, as a result of the erasure from the registers, they became foreigners without legal status in Slovenia from one day to the next, in many cases without being aware of it. Loss of legal status meant for them loss of access to fundamental rights attached to residence, including the right to work and access to healthcare and other social rights, along with the annulment of personal documents and exposure to a risk of deportation."

²¹ In this judgment the European Court of Human Rights held that there had been a violation of Article 8 (right to respect for private and/or family life) of the European Convention on Human Rights, a violation of Article 13 (right to an effective remedy) in combination with Article 8 of the Convention, and a violation of Article 14 (prohibition of discrimination) in combination with Article 8. The Court held that, despite efforts made since 1999, the Slovenian authorities had failed to remedy comprehensively and with the requisite promptness the grave consequences for the applicants of the erasure of their names from the Slovenian Register of Permanent Residents.

96. Slovenia is a Party to the Schengen Agreement and has signed agreements on cross-border police co-operation with all its neighbouring countries. The law enforcement authorities of these countries responsible for border control hold regular co-ordination meetings. When performing border checks police officers act in accordance with the Schengen Borders Code, State Border Control Act and Aliens Act, and have access to national databases, Schengen Information System (SIS), Europol's and Interpol's databases. As already mentioned in paragraph 57, officers in charge of border control are regularly trained on issues concerning THB.

97. In identifying victims of THB at the border the police use common indicators elaborated by Frontex. According to representatives of the police, during the period of 2006-2011 there were five cases of identification of victims of THB at the border.

98. In order to ensure that migration to Slovenia takes place legally, Slovenian consulates provide relevant information to visa applicants. Information materials in six languages concerning dangers of THB, targeting young migrants and persons wishing to travel to Slovenia for employment, are also disseminated in consulates. As mentioned in paragraph 62, consular staff undergoes annual trainings, including on trafficking in human beings. Should a potential victim of THB be identified by a consulate, the information is transmitted to the Ministry of Foreign Affairs and referred to competent authorities in charge of action against THB.

99. GRETA takes note of the issuing of work permits by employment services and resulting issuing of temporary residence permits by administrative units, to be subsequently delivered to women from the Dominican Republic by the Embassy of the Republic of Slovenia in Buenos Aires, Argentina. These temporary residence permits enabled their trafficking to Slovenia for the purpose of sexual exploitation. The Annual Report of the Working Group notes that the lack of co-ordination among the competent authorities (consulates, administrative units, employment services) on the one hand, and the abuse of legislation by employers on the other, lead to shortcomings in the identification of alleged or potential victims of trafficking. In reaction to this challenge the Working Group at its meeting on 23 April 2012 decided to initiate work on the adoption of a decree restricting and temporarily prohibiting the employment of foreign nationals in the nightclub entertainment area, in particular those from the Dominican Republic. **GRETA would like to be kept informed of the developments on this issue.**

d. Measures to ensure the quality, security and integrity of travel and identity documents

100. The Slovenian authorities have informed GRETA that applications for an identity card or a passport must be submitted in person and proof of identity is required. The official records concerning passports and identity cards are stored in the information system of the Ministry of the Interior, which ensures traceability of all actions in the records.

101. Passports and identity documents are prepared in accordance with EU Council Regulation No.2252/2004 on standards for security features and biometrics in passports and travel documents, ensuring their increased security by means of a chip capable of storing two types of biometric data: facial image and fingerprints. Both the identity card and passport have a high level of protection, featuring personal registration number, laser two-level print of the serial number, micro texts and particular symbols seen under UV light, a laser-printed photograph and other machine readable data. Information concerning a missing document is made available at the dedicated website which is intended for the verification of the status of such documents.

102. In 2003, the police prepared a special training programme (entitled "PROGLIS") for police officers conducting border control which aims at providing them with theoretical and practical knowledge for the efficient identification of false documents. Under this programme after the initial training the police officers are required to attend advanced course at least once every five years. Officer training lasts five days and is attended by more experienced police officers with several years' experience who are selected in a competition.

103. Consular staff must undergo training at the Ministry of the Interior prior to being deployed abroad. This training includes a module on identifying false documents, which includes presentation of known methods of falsification.

3. Implementation by Slovenia of measures to protect and promote the rights of victims of trafficking in human beings

a. Identification of victims of trafficking in human beings

104. Article 10 of the Convention requires Parties to adopt measures to identify victims. In order to do so, Parties must provide their competent authorities with persons who are trained and qualified in preventing and combating THB and in identifying and helping victims, including children. Identifying a trafficking victim is a process which takes time, and therefore the Convention provides for the rights of potential victims by establishing that when the competent authorities have reasonable grounds to believe that a person has been a victim of trafficking, he/she must not be removed from the country until the identification process is completed and must receive the assistance required by the Convention.

105. The process of identification of a victim of THB may be initiated by the police or competent NGOs. The police establishes whether the person is a victim of THB, refers the person for assistance which is provided by NGOs and collects evidence necessary to initiate a criminal case. The criteria for the identification of victims of THB are listed in guidelines prepared for various professionals (police officers, labour inspectors, etc.), as well as in contracts concluded with NGOs concerning assistance and accommodation of victims. The police use indicators for identification and instructions for the protection of THB victims developed in co-operation by the International Centre for Migration Policy Development (ICMPD).

106. The procedure of identification of victims is not formalised. According to the Slovenian authorities, once a THB offence is detected and a victim is found, the police inform the Specialised State Prosecutor's Office, which further directs the investigation into the case. The victim is put under protection by the police and is provided with accommodation in a crisis centre run by an NGO contracted by the Ministry of the Interior for this purpose. The police also inform the National Co-ordinator and the Inter-ministerial Working Group about the placing of victims in crisis accommodation. The members of the Working Group concerned meet on an *ad hoc* basis to assess whether a person is a victim of THB and decide upon the next steps to be taken. Victims who co-operate in the investigation are offered long-term accommodation and a range of assistance measures, while other victims are assisted by NGOs (see paragraph 119).

107. The involvement of NGOs in the identification and referral of victims of THB is governed by specific agreements. The agreement between the Ministry of the Interior and Society Ključ on co-operation in the field of assistance to victims of trafficking in human beings, concluded in 2004, sets out specific procedures for the exchange of information. It is specified that Society Ključ alert the police in writing, or in urgent cases orally, of any information they come across which would suggest that "an offence against sexual integrity or humanity or a violation of international law" has been committed. The agreement stipulates that all information relating to victims of trafficking will be treated as confidential and lays down procedures for co-operation in concrete cases, including the possibility for representatives of Society Ključ of interviewing possible victims of THB in police facilities. According to the agreement, Society Ključ undertakes to provide victims of THB referred to it by the police with emergency accommodation for up to five days. The police undertake to inform possible victims of THB orally and by providing relevant material concerning the assistance provided by Society Ključ.

108. GRETA notes that the majority of victims identified in Slovenia were trafficked for the purpose of sexual exploitation. Since the decriminalisation of prostitution, the number of women reporting sexual abuse and sexual exploitation has reportedly increased. However, representatives of public bodies and NGOs shared the view that more should be done to identify cases of THB for labour exploitation. Labour inspectors are entitled to visit any enterprise or business without prior notification, but they have no competence to identify victims of THB.

109. Pursuant to the Labour Inspection Act, labour inspectors have the right, without prior notice or the employer's permission, and irrespective of business hours, to enter work or other premises where economic or non-economic activities are conducted, including in the agricultural sector and private homes. Should an employer or an employee in a private house object to an inspection, the labour inspector must seek a court decision in order to access such premises. Labour inspectors may take all documents necessary to establish the actual situation, for the duration of up to eight days, if they believe that the employee's rights have been violated or if there are suspicions of serious violations of the law, other regulations or collective agreements. The Labour Inspectorate must inform the police of any suspected cases of THB. According to the Slovenian authorities, labour inspectors at the regional level co-operate with the police by providing them with relevant information obtained as a result of inspections of night clubs in order to assist the police in conducting investigations into suspected cases of THB.

110. The process of identification of child victims of trafficking is initiated by NGOs or the police, in co-operation with centres for social work and other organisations specialised in working with children. Unaccompanied children are appointed a guardian. According to the authorities, Slovenia is a transit country for unaccompanied foreign children and soon after arrival they leave the country and continue their journey towards Northern and Western Europe. Prosecutors met during the evaluation visit admitted that the identification of victims of THB among these children is difficult because they rarely bear external signs of coercion or physical violence.

111. The Slovenian authorities have taken steps to identify victims of THB among applicants for international protection. The Project on fighting trafficking in persons and sexual violence (PATS), implemented by the Asylum Centre as of 2004, establishes mechanisms to inform applicants for asylum in Slovenia about the risks of THB, interview them with a view to identifying possible victims of THB and inform them about the assistance available to victims. The PATS project, which is co-funded by the Ministry of the Interior and the European Refugee Fund, was implemented by the NGO Slovenian Jesuit Refugee Service from November 2010 to November 2012 and is currently carried out by the Institute for African Studies. Since November 2010, 113 persons were interviewed in the framework of this project, resulting in the identification of seven possible victims of THB, of whom three were placed in a safe house (the other four refused assistance).

112. GRETA notes that the victim identification process in Slovenia is not formalised and is based on a number of agreements. The professionals involved in the identification process apply different sets of indicators and do not seem to be fully aware of how the identification of victims of THB functions as a whole and what their respective tasks are in this context.

113. **GRETA urges the Slovenian authorities to:**

- **strengthen multi-agency involvement in victim identification by introducing a clear national referral mechanism, defining the roles of all frontline staff who may come into contact with victims of trafficking;**
- **provide frontline staff with operational indicators, guidance and toolkits to be used in the identification process; these indicators should be regularly updated in order to reflect the changing nature of human trafficking and types of exploitation;**
- **ensure that law enforcement officials, social workers, labour inspectors and other relevant actors adopt a more proactive approach and increase their outreach work to identify potential victims of trafficking, in particular as regards forms of exploitation other than sexual (labour exploitation, forced begging, etc.);**

- **pay increased attention to detecting victims of THB among unaccompanied minors and set up a specific identification mechanism which takes into account the special circumstances and needs of child victims of trafficking, involves child specialists and ensures that the best interests of the child are the primary consideration.**

b. Assistance to victims

114. The Convention requires Parties to take measures to assist victims in their physical, psychological and social recovery, taking account of the victim's safety and protection needs, in co-operation with NGOs and other organisations engaged in assistance to victims. This assistance must be provided on a consensual and informed basis, taking account of the special needs of persons in a vulnerable position, as well as children, and it must not be made conditional on the victim's willingness to act as a witness (Article 12). The need to take account of victims' needs is also referred to in the Convention's provisions concerning temporary residence permits (Article 14) and the rights of children victims of trafficking (Article 12(7)). The Convention also establishes that the assistance to victims of THB must include appropriate and secure accommodation.

115. In Slovenia, the organisation of assistance to victims of THB is regulated by the Act on Ratifying the Council of Europe Convention on Action against Trafficking in Human Beings. According to this Act, the implementation of the Convention is ensured by the Ministry of the Interior in co-operation with the Ministry of Labour, Family and Social Affairs and the Ministry of Justice. Article 4 of the Act states that "non-governmental and humanitarian aid organisations in Slovenia involved in protecting human rights or fundamental freedoms, in particular in the field of preventing trafficking in human beings or providing assistance to victims of trafficking, may cooperate with the two ministries [Ministry of the Interior and Ministry of Labour, Family and Social Affairs] and, as such, provide care for victims of trafficking, detect victims of trafficking, provide safe and crisis accommodation, assist victims and protect them in pre-trial, criminal and judicial proceedings, help them access the labour market, education and training, assist them with regularising their status in Slovenia, inform them and assist them in returning to their home country". The Act stipulates that organisations involved in providing assistance are selected by means of public tender procedures with the Ministry of the Interior and the Ministry of Labour, Family and Social Affairs with a view to concluding two or three-year assistance contracts. Tender documentation lays down the operational procedures and types of assistance provided by the NGOs under these contracts.

116. The services funded by the Ministry of the Interior are envisaged for victims who co-operate in criminal proceedings. It is stated that the assistance provided aims at the victims' physical, psychological and social recovery, as well as the regulation of their residence status during criminal proceedings. Services include appropriate accommodation, catering, psychological assistance, primary health care, ensuring the safety of victims, 24-hour availability of professionals trained to work with victims in crisis situation, counselling and information regarding victims' rights in a language that the victim understands, assistance to return to the country of origin, etc. Specific assistance measures are envisaged for child victims, such as providing them with legal guardians, informing them about their rights and the conduct of proceedings, and ensuring support throughout the legal proceedings.

117. The provision of assistance under the contract funded by the Ministry of Labour, Family and Social Affairs is envisaged for all victims of THB regardless of whether they co-operate in the criminal proceedings. Services include urgent assistance and safe accommodation for up to five days in order to remove victims from the influence of traffickers and help their initial recovery. According to public officials and NGO representative met during the evaluation visit, such emergency accommodation is provided to all victims of THB in order to identify their needs.

118. In 2012 and 2013, the Slovenian authorities earmarked 170 000 euros to finance assistance measures for victims of THB (90 000 euros from the Ministry of Labour, Family and Social Affairs and 80 000 euros from the Ministry of the Interior). The funding is channelled through two NGOs, Society Kluč and Karitas Slovenia, which have concluded contracts with the above-mentioned ministries.

119. Access to long-term state-funded assistance is limited to victims who co-operate in criminal proceedings. Victims of THB who do not co-operate are nonetheless assisted by NGOs outside their contractual arrangements with the two Ministries. In such cases NGOs use funding obtained from other sources, such as foreign donors or local municipalities. GRETA is concerned that access to long-term assistance covered by the state budget is reserved to victims of THB who co-operate with the law enforcement authorities. GRETA stresses that the Convention's provisions (Article 12) apply to all victims of trafficking, regardless of whether they co-operate with the authorities.

120. During the evaluation visit the GRETA delegation visited a specialised shelter for victims of THB run by Karitas Slovenia. The shelter was originally designed to accommodate women victims of THB benefitting from long-term assistance and rehabilitation programme and was subsequently adapted to accommodate men victims of THB in addition to women. The shelter has accommodation capacity for four persons, but there are two additional rooms that can be used in case of need. The shelter's staff comprise a doctor, a psychologist and a lawyer.

121. The GRETA delegation also visited an accommodation facility for asylum seekers where the PATS project (see paragraph 111) is being implemented in co-operation with NGOs.

122. GRETA welcomes the provision of public funding for victim assistance and the fact that the tender documentation sets out specific standards and requirements for the provision of services to victims. Provision of assistance to victims of THB by contracted NGOs is supervised by the Ministry of Labour, Family and Social Affairs (as regards urgent assistance) and the Ministry of the Interior (as regards long-term assistance), in accordance with the terms set out in the respective contracts.

123. As regards child victims of THB, GRETA was informed that they are in principle accommodated in social work centres. The Asylum Centre can also accommodate any identified foreign child victim of THB. The guardianship of children is regulated by the Marriage and Family Relations Act, Article 5a of which places an obligation upon the state authorities to act in the best interests of the child in all activities and procedures affecting a child. Social work centres are required to provide guardianship to children who have no parents or if the best interests of the child so require. The social work centres should also take necessary measures to provide protection to any unaccompanied foreign minors in Slovenia. That said, according to NGO representatives, the appointment of legal guardians for unaccompanied foreign minors by social work centres is problematic in practice.

124. While noting the efforts made by the Slovenian authorities to provide assistance to victims of THB, **GRETA urges the Slovenian authorities to ensure that access to assistance for victims of THB is not made conditional on their co-operation in the investigation and criminal proceedings. GRETA also urges the authorities to ensure that safe and suitable accommodation is provided to victims of trafficking depending on their needs, which may require the provision of accommodation and assistance beyond the five-day period of emergency assistance.**

125. **Further, GRETA considers that the Slovenian authorities should step up their efforts to provide assistance to victims of trafficking and in particular to facilitate the reintegration into society of victims of trafficking and help them to avoid re-trafficking by providing them with access to education, vocational training and the labour market.**

126. **GRETA also invites the Slovenian authorities to invest in the human and financial resources of centres for social work so that they can effectively provide support and assistance to child victims of trafficking.**

c. Recovery and reflection period

127. As victims of trafficking are extremely vulnerable after the trauma they have experienced, Article 13 of the Convention introduces the obligation for Parties to provide in their internal law for a recovery and reflection period of at least 30 days. The recovery and reflection period, in itself, is not conditional on co-operation with the investigative or prosecution authorities and should not to be confused with the issue of a residence permit under Article 14(1) of the Convention. Pursuant 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. During this period, Parties must authorise the person concerned to stay on their territory and expulsion orders cannot be enforced.

128. In Slovenia, pursuant to Article 50 of the Aliens Act, the police *ex officio* or upon the victim's request provides victims of THB whose stay in the country is irregular with the right to remain in Slovenia for up to 90 days in order to decide whether to participate in criminal proceedings. Article 50(3) of the Aliens Act stipulates that victims of THB allowed to stay in Slovenia are to be provided with free of charge translation and interpretation and information concerning the possibility of being granted a residence permit. According to the Slovenian authorities, in 2009-2011, two victims of THB were granted a recovery and reflection period every year, in 2012 - seven victims of trafficking, and in the first half of 2013 - four victims. The majority of the victims reportedly refused to benefit from this period because they did not consider themselves as victims of THB.

129. The provisions of the Aliens Act concerning victims of THB apply only to non-EU nationals. The Slovenian authorities have indicated that if the competent authorities encounter a victim who is an EU citizen, the person is provided with all urgent assistance in accordance with the established practice (including a recovery and reflection period of at least 30 days).

130. While welcoming the provision in Slovenian law of a recovery and reflection period longer than the minimum of 30 days envisaged in the Convention, **GRETA urges the Slovenian authorities to ensure that all possible victims of trafficking are offered a recovery and reflection period, in compliance with the obligations under Article 13 of the Convention. Further, GRETA considers that the Slovenian authorities should systematically inform victims of trafficking of the possibility of a recovery and reflection period and effectively grant such a period.**

d. Residence permits

131. Article 14(1) of the Convention provides for two possibilities when it comes to the issuing of renewable residence permits to victims of trafficking: on the basis of their personal situation and/or their co-operation with the competent authorities in the investigation or criminal proceedings.

132. In Slovenia, pursuant to Article 50(4) of the Aliens Act, a temporary resident permit may be issued to victims of THB if they are willing to co-operate as a witness in criminal proceedings and their testimony is considered important by the authority conducting the criminal case. Article 50(7) of the Aliens Act stipulates that the duration of the residence permit granted to a victim of THB will be the same as the foreseen duration of the criminal proceedings, but not less than six months and not more than one year. The residence permit may be extended upon the victim's request until the criminal proceedings are concluded.

133. According to information provided by the Slovenian authorities, appeals can be lodged against decisions concerning the issuing of residence permits in first instance with the issuing authority (police or administrative unit) and on appeal with the Ministry of the Interior (Article 87b of Aliens Act). The decision of the Ministry of the Interior may then be appealed against before the administrative court. According to the administrative records, no requests for a residence permit made by victims of THB have been refused so far.

134. GRETA notes that the condition of the victim's testimony being "important in the opinion of the authority in charge of the criminal case" represents an additional, subjective element, not included in the Convention and going beyond the victim's will to co-operate in the investigation. **GRETA urges the Slovenian authorities to remove this condition from the Aliens Act.**

135. During the temporary residence in Slovenia, a victim of THB who has no means of subsistence is entitled to emergency health care, which includes urgent dental care, psychiatric treatment and social assistance. Further, victims of THB are entitled to receive a work permit with the same validity as the temporary residence permit. According to the Slovenian authorities, in 2009-2013 four victims of THB from Ukraine and the Dominican Republic were granted residence permits.

136. GRETA notes that the Human Rights Ombudsman of Slovenia has proposed an amendment to the Aliens Act with regard to the permitted stay of unaccompanied foreign minors when the decision-making procedure is not completed in time, since, according to the Ombudsman, their stay is of "essential importance for this category of aliens"²² due to the risks they would face in case of deportation. So far, no residence permit has been granted to an unaccompanied foreign child victim of trafficking in Slovenia.

137. **GRETA urges the Slovenian authorities to ensure that victims of trafficking can fully benefit from the right to obtain a renewable residence permit, particularly when they are unable to co-operate with the authorities.**

e. Compensation and legal redress

138. Article 15 of the Convention establishes the obligation for Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. Parties must also provide for the right of victims of trafficking to compensation from the perpetrators as well as adopt legislative or other measures to guarantee compensation for victims from the State. A human rights-based approach to action against THB entails the effective prosecution of traffickers, putting the emphasis on the right to effective remedy for the victim. Further, Article 15(1) of the Convention establishes that victims of trafficking must have access to information on relevant judicial and administrative proceedings in a language which they can understand.

139. According to the provisions of Chapter X of the CPA, a victim of a criminal offence may in the course of the criminal proceedings seek damages from the perpetrator through a compensation claim. Such a claim is dealt with as part of the criminal procedure, provided that its consideration does not unduly prolong the procedure. The compensation claim has to be filed with the authority responsible for receiving reports on offences or with the court conducting the criminal proceedings prior to the end of the main hearing in the first instance court. In its judgment, the court may grant compensation in full or in part and may refer the victim to claim the remainder or any other damages through civil proceedings. The court may also refer the injured party to seek compensation through civil proceedings altogether.

140. In addition, victims of THB may obtain compensation in accordance with the Crime Victims Compensation Act. GRETA notes that the application of this Act is limited only to victims of violent intentional crimes defined as "an act committed with a direct attack on life and body, with the use of force or violation of sexual integrity". GRETA stresses that while the commission of THB may involve such acts, this is not always the case, in particular when a person is subjected to trafficking for labour exploitation. Further, Article 5 of the Act limits the scope of its application to EU nationals.

²²

www.varuh-rs.si/fileadmin/user_upload/pdf/lp/Annual_Report_for_the_year_2011_-_Slovenia_Ombudsman_-_Abbreviated_Version.pdf, page 85, first paragraph of chapter 2.6.2 Aliens.

141. According to representatives of the Prosecutor's Office and NGOs, obtaining compensation for victims of THB is very difficult in practice. Despite the previously mentioned legal possibilities to claim compensation, not a single victim of THB has received compensation in 2009-2011. Further, according to information provided by the Slovenian authorities, from January 2012 to August 2013 no victims of THB applied for compensation.

142. **GRETA urges the Slovenian authorities to adopt measures to facilitate and guarantee access to compensation for victims of trafficking, and in particular to:**

- **ensure that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;**
- **enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid;**
- **include all victims of trafficking in the scope of the Crime Victim Compensation Act, irrespective of their nationality and of whether force or violation of the sexual integrity has been used.**

f. Repatriation and return of victims

143. Article 16 of the Convention requires Parties to establish repatriation programmes which aim at avoiding re-victimisation and involve relevant national or international institutions and NGOs, as well as to make efforts to favour the reintegration of victims into the society of the State of return. Parties must also make available to victims of trafficking contact information or structures that can assist them in the country of return, such as law enforcement offices, NGOs, legal professionals and social welfare agencies. The return of victims of trafficking must preferably be voluntary and needs to be carried out with due regard for the rights, safety and dignity of the person and for the status of any legal proceedings related to the fact that the person is a victim of THB. Furthermore, a victim may not be returned where such action would be in contravention of the State's obligation of international protection, recognised in Article 40, paragraph 4 of the Convention.

144. According to the Slovenian authorities, victims of THB wishing to return to their country of origin are assisted in organising their return (including the provision of relevant documents, ticket, contacts with victim protection organisation in the country of return, contacts with family members) as soon as they are placed in emergency accommodation, provided the return is in their interest.

145. As a rule, the return of victims of THB is voluntary. During the return the victim is assisted by professionals and, if necessary, the police are involved in making security arrangements. Upon arrival in their country of return the victims are taken over by local organisations in charge of victim protection. The return of victims is carried out in co-operation with the police and victim assistance organisations in the receiving country. Prior to the return, the police verify the available information and evaluate risks connected to the victim's return.

146. In the course of 2013, the Ministry of the Interior co-operated with 28 countries of the European Migration Network on preparing the questionnaire-based study entitled "Identification of victims of trafficking in human beings in international protection and forced return procedures" (see paragraph 66). The study aimed at enabling the exchange of best practices on issues concerning the return and repatriation of victims of THB, including risk assessment. According to the Study frontline officials apply indicators for identifying THB victims developed by Frontex.

147. In certain cases victims of THB may be forced to leave Slovenia. The provisions of the Aliens Act state that the annulment of a long-stay visa or residence permit, termination of residence, refusal or dismissal of an application for a residence permit are among the grounds for obliging a victim of THB to leave the country within a reasonable time. The time provided to a person to leave Slovenia may not be shorter than seven days and longer than 30. Failure to leave within the specified time may result in deportation.

148. According to the authorities, Slovenian victims of THB repatriated to Slovenia are recognised as victims on the condition that pre-trial proceedings have been initiated in the country where they were identified. Some protection of victims of THB coming back to Slovenia may be provided under the Witness Protection Act. The three agreements signed between the Police and Prosecutor's Office with Society Ključ (see paragraph 24) are also relevant to the protection of victims of THB repatriated to Slovenia. During the evaluation visit, GRETA was informed that there were no specific guidelines concerning the return and referral of victims of THB identified abroad. Staff of consulates and embassies may assist such victims on a case-by-case basis. So far no case of return of a Slovenian victim of THB has been recorded by the Slovenian authorities.

149. In GRETA's view, the condition of criminal proceedings having been initiated in another country deprives victims of trafficking returning to Slovenia from access to assistance and protection. GRETA also notes that the protection provided to such victims depends on their participation in criminal proceedings. **GRETA considers that the Slovenian authorities should enhance the protection of victims of THB returning to Slovenia and ensure their access to assistance, protection and reintegration measures regardless of whether criminal proceedings have been initiated in the country where the victims were identified.**

4. Implementation by Slovenia of measures concerning substantive criminal law, investigation, prosecution and procedural law

a. Substantive criminal law

150. Pursuant to Article 18 of the Convention, Parties have the obligation to establish THB as a criminal offence when committed intentionally. Further, the Convention requires Parties to consider taking measures to criminalise the use of services which are the object of exploitation, with the knowledge that the person is a victim of THB (Article 19). In addition, forging travel or identity documents, removing, concealing or destroying them, as well as procuring or providing them, must also be established as criminal offences, when committed intentionally and for the purpose of enabling THB (Article 20).

151. As already mentioned in paragraph 36, trafficking in human beings is established as a criminal offence by virtue of Article 113 of the CC. The basic offence, which contains no reference to means, is punishable by imprisonment from one to 10 years. The aggravating circumstances, listed in paragraph 2 of Article 113, include the trafficking of children and the commission of the offence by means of use of force, threat, deception, kidnapping, exploitation of a subordinate or dependent position, by giving or receiving payments or benefits to achieve the consent of a person having control over another person, or in order to force a victim to become pregnant or be artificially inseminated. The penalty envisaged is imprisonment from three to 15 years. Further, pursuant to Article 113, paragraph 3, of the CC, the commission of THB by a member of a criminal organisation or by gaining large pecuniary benefit is punishable by imprisonment from three to 15 years.

152. GRETA notes that two aggravating circumstances included in Article 24 of the Convention are omitted from the text of Article 113 of the CC, namely when the offence is committed by a public official in the performance of his/her duties and when the life of the victim has been deliberately endangered or by gross negligence. The Slovenian authorities have referred to Article 266 of the CC (violation of human dignity by abuse of an official position or official rights) and have indicated that in case of a THB offence being committed by a public official, there would be a concurrence of offences and the sentence would be a combination of sentences for each offence. **GRETA considers that the Slovenian authorities should ensure that the commission of THB by a public official in the performance of his/her duties and deliberately or by gross negligence endangering the victim's life as aggravating circumstances are effectively taken into account as aggravating circumstances of THB offence, in order to meet the requirements of Article 24 of the Convention.**

153. As to taking into account previous convictions for THB handed down by courts of other parties, the Slovenian authorities have referred to the general rules on sentencing set out in Article 49 of the CC, according to which the court has to take into consideration all circumstances which have an influence on the grading of the sentence, paying particular attention to whether the earlier offence was of the same type as the one in question. GRETA was informed by representatives of the judiciary and the Prosecutor's Office that obtaining information on previous convictions from other countries was at times difficult not only as regards THB, but in general.

154. According to the Slovenian authorities, acts relating to travel or identity documents committed intentionally and for the purpose of enabling THB referred to in Article 20 of the Convention, have not been established as criminal offences under Slovenian legislation. GRETA was informed that such acts would be punishable under Article 133 (false imprisonment) and Article 143 (abuse of personal data) of the CC. Bearing in mind that one of the ways of achieving control over trafficked persons consists of various acts relating to their travel and identity documents, **GRETA considers that the Slovenian authorities should introduce a specific criminal offence regarding the concealment, damaging or destruction of travel or identity documents in relation to THB.**

155. The use of services of a trafficked person with the knowledge that the person was a victim of THB is not criminalised in Slovenian legislation. According to representatives of the judiciary, Article 172 of the CC (sexual abuse of a person with a mental illness or disorder or any other state due to which the person is not capable of resisting) could be applied to a person who uses the services of a THB victim, but is not intended to include victims of THB. **GRETA invites the Slovenian authorities to consider establishing as a criminal offence the use of services which are the object of exploitation as defined in Article 4 of the Convention, with the knowledge that the person is a victim of trafficking in human beings.**

156. Slovenian legislation establishes the criminal liability of legal persons by virtue of the Liability of Legal Persons for Criminal Offences Act. Trafficking in human beings is included among the offences covered by this Act. The sanctions envisaged include a fine, confiscation of property and closing of the legal person. Additional measures such as prohibition of specific commercial activity, prohibition of activity on the basis of licenses, authorisations or concessions granted by state bodies, and prohibition of acquisition of such licenses, authorisations or concessions may also be imposed in case of conviction. GRETA notes that in 2012 there were two trials related to THB against legal persons and three investigations were initiated against legal persons in 2013; however, there have been no convictions so far. **GRETA would like to be kept informed about the outcome of these cases.**

b. Non-punishment of victims of trafficking in human beings

157. Pursuant to Article 26 of the Convention, Parties must provide for the possibility of not imposing penalties on victims of trafficking for their involvement in unlawful activities, to the extent that they have been compelled to do so.

158. Slovenian legislation does not contain a specific provision concerning the non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they have been compelled to do so. The Slovenian authorities have referred to several general provisions of the CC which may be applied in such cases, in particular Article 23²³ (coercion), Article 32²⁴ (necessity) and Article 33²⁵ (limits of punishability). Further, pursuant to Article 163(2) of the CPA, a prosecutor may choose not to start a prosecution or discontinue the initiated prosecution in cases where the CC envisages a fine or imprisonment of up to one year and the suspect or accused, having genuinely regretted the offence, has prevented harmful consequences or compensated for damage and in the prosecutor's assessment a criminal sanction would not be justified. According to the Slovenian authorities, Article 33 of the CC allows for non-prosecution of victims of THB for acts containing elements of a criminal offence, due to their personal relations, characteristics or special circumstances. This, however, does not exclude possible non-criminal liability.

²³ Article 23 (coercion): "Any act committed under coercion, which the perpetrator was not able to withstand, shall not constitute a criminal offence."

²⁴ Article 32 (necessity):

159. The Slovenian authorities have indicated that they have not encountered any cases of victims of THB who were forced to commit offences by the traffickers. In criminal proceedings where the trafficker pleaded guilty, two victims of THB who were forced into begging (a misdemeanour under the Slovenian legislation) were not prosecuted.

160. **GRETA urges the Slovenian authorities to ensure compliance with Article 26 of the Convention through the adoption of a provision on non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, or by developing relevant guidance for public prosecutors on this issue. While the identification procedure is on-going, potential victims of trafficking should not be punished for immigration-related offences.**

c. Investigation, prosecution and procedural law

161. One of the purposes of the Convention is to ensure the effective investigation and prosecution of THB (Article 1(1)(b)). In this context, Parties are required to co-operate with each other regarding investigations or criminal proceedings related to THB (Article 32). Further, the Convention establishes that the investigation or prosecution of THB offences must not be dependent on victims' reports, and that associations or NGOs aimed at fighting THB or protecting human rights must be able to assist and support victims during criminal proceedings, in accordance with the conditions established in the internal law and with the victim's consent (Article 27).

162. In Slovenia, a criminal investigation into trafficking in human beings is initiated ex officio by the prosecutor. If the prosecutor decides that there are no grounds to institute criminal proceedings, the injured party may request that private prosecution be initiated. According to representatives of the Prosecutor's Office, THB cases are often re-qualified into exploitation of prostitution (Article 175 of the CC) which is reportedly easier to prove and more likely to result in a conviction. GRETA was informed that forthcoming amendments to the criminal legislation will restrict the possibilities for such a requalification.

"(1) Any person who shall commit an act, which shall have elements of a criminal offence to avert an immediate threat to his life, physical integrity, personal freedom or property necessary for survival, which he has not caused himself, shall not be found guilty if such threat could not have been averted in any other way, and the perpetrator was not obliged to expose to it as well.

(2) Any person who shall commit a criminal offense out of necessity under the conditions referred to in paragraph 1 of this Article in order to avert the threat to other values recognised by law, shall not be punished provided that the evil thus incurred does not exceed the evil which threatened him.

(3) A reduced sentence may be imposed on any perpetrator who in cases under paragraphs 1 and 2 of this Article, by reason of negligence, has caused the danger himself or whose conduct has exceeded the limits of necessity, and if the perpetrator has acted beyond such limits under particularly mitigating circumstances, his sentence may be withdrawn."

²⁵ Article 33 (limits of punishability):

"(1) If the statute determines that an act with elements of a criminal offence due to special circumstances, relations, or characteristics of the perpetrator is not punishable by law, the perpetrator shall not be prosecuted because of such criminal offence.

(2) If because of the exclusion of punishability under paragraph 1 of this Article the perpetrator is not criminally liable, this shall not present an obstacle for another legal liability to be imposed against him for the committed criminal offence."

163. According to representatives of the police and the Prosecutor's Office, THB is one of the most complex offences to investigate and few victims are prepared to give evidence. Special investigation techniques, such as covert surveillance, use of undercover agents and phone tapping, are considered indispensable in THB cases to obtain evidence. When investigating THB cases the police can use covert investigative measures by authorisation of the State Prosecutor's Office or court. The Prosecutor's Office issues authorisations for covert surveillance, covert investigation and fictitious purchases. Upon a motion from the prosecutor, the competent court may authorise the following special investigation techniques: surveillance of electronic communications by tapping and recording, and review and protection of evidence in all forms of communication transferred in the electronic communication network; review of letters and other deliveries; computer system control of a bank or another legal person which conducts banking or other economic activity; tapping and recording of conversations with the approval of at least one of the people involved in the discourse; electronic eavesdropping and surveillance at the dwelling or premises of another person with the use of technical means for recording and, if necessary, with a secret entry to the aforementioned premises.

164. THB offences fall under the primary jurisdiction of district courts (11 in total in Slovenia), the decisions of which can be appealed in four appellate courts and, ultimately, the Supreme Court. The Supreme Court has the power to interpret domestic legal provisions and lower courts are strongly advised to follow its interpretation. GRETA was informed that two cases concerning THB had been considered by the Supreme Court which gave interpretation of certain legal provisions in this respect.

165. According to statistical information provided by the Slovenian authorities, criminal proceedings for the offence of THB were initiated in 28 cases in 2009, 12 cases in 2009, 15 cases in 2011 and 27 in 2012. The number of convictions was respectively four in 2009, 10 in 2009, six in 2011 and eight in 2012 (including convictions in relation to cases on which criminal proceedings were initiated prior to the respective year). The terms of imprisonment ranged from two years to three years and two months in 2009, from one month to three years in 2010, from one year and four months to four years in 2011, and from six months to one year and six months in 2012. Confiscation of assets was ordered in two judgments in 2009, three in 2010, six in 2011 and two in 2012.

166. During the evaluation visit GRETA sought to obtain clarification as regards the reasons for the lenient sentences in cases of THB. According to representatives of the prosecution and the judiciary, this was due to criminal law provisions which used to make it possible to lower the sentence below the minimum envisaged in law in case of mitigating circumstances. However, these provisions were reportedly no longer in force. The Slovenian authorities have indicated that the sentencing policies pertain to the competences of courts which independently establish and develop case law.

167. The 2012-2013 Action Plan of the Inter-ministerial Working Group points out the relatively small number of criminal prosecutions for THB and the long duration of the legal proceedings. The Action Plan envisages that the Office of the Prosecutor General, the General Police Directorate and the Ministry of Justice and Public Administration carry out regular monitoring of individual cases of THB until final convictions.

168. GRETA's attention has been drawn to the need to continue raising the awareness of judges and prosecutors as regards the offence of THB and the human rights of victims. GRETA takes note of the intention of the Slovenian authorities to provide periodic training for judges and prosecutors at the Judicial Training Centre of the Ministry of Justice.

169. **GRETA considers that the Slovenian authorities should step up the training provided to judges, prosecutors and other relevant professionals on the issue of THB with a view to improving their knowledge and sensitivity about THB and the rights of victims of trafficking and ensuring practical application of existing anti-trafficking provisions so that traffickers are prosecuted effectively and receive sentences commensurate with the seriousness of this offence.**

170. **GRETA also considers that the Slovenian authorities should encourage the law enforcement and prosecution services to develop their specialisation in THB with a view to improving the collection of sufficient evidence to successfully prosecute more traffickers.**

d. Protection of victims and witnesses

171. By virtue of Article 28 the Convention, Parties must take measures to provide effective and appropriate protection from potential retaliation or intimidation in particular during and after the investigation and prosecution of perpetrators. This protection can be of various types (physical, relocation, identity change, etc.) and is to be provided to victims of trafficking, to those who report it or otherwise co-operate with the investigating or prosecuting authorities, to witnesses who give testimony and, when necessary, to members of the families of those listed above. Further, Article 30 of the Convention includes a provision requiring Parties to take measures to protect victims' private life and identity and to provide for their safety and protection from intimidation in the course of judicial proceedings, including special protection measures for child victims of THB.

172. Pursuant to Article 141a and 240a of the CPA, if the disclosure of personal data or the identity of a witness represents a serious danger to the person's life or physical integrity, or those of his/her family or other witnesses, at the request of the prosecutor, the witness or the injured party, the investigating judge may order one or more of the following measures: deletion of all or certain data concerning the witness from the criminal file (personal data including name, last name, date of birth, address, place of work, etc.), classifying all or part of this data as secret, assigning a pseudonym to the witness, or taking testimony by means of technical devices (protective screen, devices for disguising the voice, transmission of sound from separate premises and other similar technical devices). According to information provided by the Slovenian authorities, one of the fundamental principles of public court hearing is providing evidence personally. However, this principle is considered satisfied if a witness is heard via video-conference. Thus in a recent case a foreign victim of THB who returned to the country of origin before the end of criminal proceedings was interviewed as a witness via a video-conference.

173. The decision on the use of protective measures is issued by the investigating judge after a special hearing and if the judge considers that there is a serious danger to the life and physical integrity of the witness, his/her family or other persons acting as witnesses, that the witness's testimony is important for the criminal proceedings, that the witness shows a sufficient level of credibility, or that the interests of justice and the successful conduct of criminal proceedings outweigh the interests of the defence in knowing the identity of the witness.

174. The Witness Protection Act provides for a range of protection measures for witnesses and other persons endangered due to their co-operation in criminal procedures. Under this Act, protection is provided at the pre-trial stage as well as during and after criminal procedures. To benefit from protection the person concerned must give a written consent. Pursuant to Article 15 of this Act, admission into the protection programme is determined by the Commission for the Protection of Endangered Persons. Measures of protection, depending on the circumstances of a person concerned, may include relocation, alteration of documents, concealment of identity during judicial procedures, change of identity, use of video and telephone conference, economic and social support. A special police unit (Endangered Persons Protection Unit) is in charge of co-ordinating the provision of special protection measures. GRETA was informed by representatives of the Prosecutor's Office that no victims of THB have been included in the protection programme under the Witness Protection Act.

175. A child victim of trafficking has, from the outset of criminal proceedings, the right of legal representation. Further, at the main hearing the court may order that the defendant be removed from the hearing if the witness is not willing to give a testimony in his/her presence or if the circumstances indicate that the witness will not speak the truth in his/her presence. The defendant must not be present at the examination of a child under 15 years of age who is a victim of THB, nor can such a witness be exposed to direct examination at the main hearing. In such cases a recorded testimony should be used. If the child participating in criminal proceedings is under 14 years of age the court may decide to close the hearing to the public. When interviewed, a minor who is a victim of a criminal offence should be treated with consideration in order to avoid adverse effect to his his/her mental condition. If necessary, a pedagogue or another expert is called to assist the interview with a minor.

176. GRETA was informed that no child victims of trafficking had benefited from special protection provisions so far. Representatives of the judiciary and NGOs stated that all district courts were equipped with video conferencing devices and that centres for social work, prosecutor's offices and the Ministry of the Interior have the necessary equipment for interviewing children without direct contact with perpetrators. According to representatives of the prosecution, in one case of THB involving a child older than 16 the child concerned refused to have recourse to the special protection measures applicable to children. At the time when the child was interviewed the Slovenian authorities did not have reasonable grounds to believe he might be a victim of THB and therefore no special protection measures were offered.

177. The Slovenian authorities have informed GRETA that a victim of crime may choose any person (including an NGO representative) to assist him/her in dealing with the criminal justice institutions. The assistance includes emotional and other forms of support, including accompanying the victim during any informal dealings and/or formal proceedings. GRETA was informed that there had been no instances of victims of THB being represented by NGOs in legal proceedings.

178. GRETA urges the Slovenian authorities to make full use of the available measures to protect victims during the investigation and during and after the court proceedings. In this context, the Slovenian 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.

179. Further, GRETA considers that the Slovenian authorities should extend the special protection procedures to cover all child victims of THB up to the age of 18, taking into account the best interest of the child.²⁶

²⁶ Reference is also made to the [Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice](#), adopted by the Committee of Ministers on 17 November 2010.

5. Concluding remarks

180. The legal and institutional framework for combating trafficking in human beings put in place by the Slovenian authorities is comprehensive and provides a good basis for tackling this phenomenon from a human rights-based perspective.

181. GRETA considers that the Slovenian authorities should take further steps to ensure that the human rights-based and victim-centred approach underpinning the Convention is fully reflected and applied in the national policy to combat THB, from prevention to protection, prosecution and redress. This includes taking measures to strengthen the aspect of prevention amongst groups vulnerable to THB and increasing awareness about trafficking for the purposes of non-sexual exploitation, such as forced labour, forced begging and forced criminality. Further training of law enforcement officials, prosecutors, judges, labour inspectors, social workers and other relevant professionals should stress the need to apply a human rights-based approach to action against THB on the basis of the Council of Europe Anti-Trafficking Convention and the case-law of the European Court of Human Rights.

182. The human rights-based approach to THB also requires taking further steps to secure that all victims of THB are properly identified and protected. The current practice of making the formal identification of victims of trafficking and their access to long-term assistance dependent on their participation in the criminal investigation is not consistent with the human rights-based approach to combating THB and may leave some trafficked persons without the protection and assistance they are entitled to under the Convention.

183. Further, more should be done to empower victims of THB by providing them with effective access to compensation. To this end, victims need to be provided with information concerning ways they can claim compensation, as well as legal aid.

184. GRETA invites the Slovenian authorities to keep it regularly informed of developments as regards the implementation of the Council of Europe Anti-Trafficking Convention and looks forward to continuing its good co-operation with the Slovenian Government for achieving the purposes of this Convention.

Appendix I: List of GRETA's proposals

Comprehensive approach and co-ordination

1. GRETA invites the Slovenian authorities to invest in the human and financial resources of the secretariat of the Working Group and the National Co-ordinator so that they can effectively carry out the full range of tasks within their mandate.
2. GRETA considers that the Slovenian authorities should pay increased attention to human trafficking for the purpose of labour exploitation, trafficking in children, trafficking in persons from vulnerable groups, including Roma, as well as trafficking within Slovenia.
3. Further, GRETA invites the Slovenian authorities to introduce a periodic independent evaluation of the Action Plan as a tool for assessing the impact of the activities and for planning future policies and measures to combat THB, and to consider the establishment of an independent National Rapporteur or other mechanism for monitoring the anti-trafficking activities of State institutions (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).

Training of relevant professionals

4. GRETA considers that the Slovenian authorities should take further steps to provide periodic training on THB and the rights of victims to all relevant professionals (such as judges, prosecutors, lawyers, staff of administrative units responsible for issuing residence permits, labour inspectors, child protection authorities and social workers). Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking for all forms of exploitation and assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.

Data collection and research

5. GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Slovenian 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, including NGOs involved in victim identification, and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination, etc.).
6. Further, GRETA considers that the Slovenian authorities should conduct and support research on trafficking-related issues as an important source of information for future policy measures. Areas where research is particularly needed at present to shed more light on the extent and nature of the problem include trafficking for labour exploitation, trafficking in children and trafficking within Slovenia.

International co-operation

7. GRETA invites the Slovenian authorities to continue exploring further possibilities for strengthening international co-operation in the investigation and prosecution of human trafficking cases, as well as developing international co-operation for the purpose of preventing THB and providing assistance to victims.

Measures to raise awareness

8. 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. Awareness raising should continue targeting vulnerable groups and inform the public of forms of THB which are on the rise, such as labour exploitation, forced begging and forced criminality.

9. Further, GRETA considers that the Slovenian authorities should strengthen their efforts to discourage demand for services from trafficked persons, in partnerships with the private sector and civil society.

Identification of victims of trafficking in human beings

10. GRETA urges the Slovenian authorities to:

- strengthen multi-agency involvement in victim identification by introducing a clear national referral mechanism, defining the roles of all frontline staff who may come into contact with victims of trafficking;
- provide frontline staff with operational indicators, guidance and toolkits to be used in the identification process; these indicators should be regularly updated in order to reflect the changing nature of human trafficking and types of exploitation;
- ensure that law enforcement officials, social workers, labour inspectors and other relevant actors adopt a more proactive approach and increase their outreach work to identify potential victims of trafficking, in particular as regards forms of exploitation other than sexual (labour exploitation, forced begging, etc.);
- pay increased attention to detecting victims of THB among unaccompanied minors and set up a specific identification mechanism which takes into account the special circumstances and needs of child victims of trafficking, involves child specialists and ensures that the best interests of the child are the primary consideration.

Assistance to victims

11. GRETA urges the Slovenian authorities to ensure that access to assistance for victims of THB is not made conditional on their co-operation in the investigation and criminal proceedings. GRETA also urges the authorities to ensure that safe and suitable accommodation is provided to victims of trafficking depending on their needs, which may require the provision of accommodation and assistance beyond the five-day period of emergency assistance.

12. Further, GRETA considers that the Slovenian authorities should step up their efforts to provide assistance to victims of trafficking and in particular to facilitate the reintegration into society of victims of trafficking and help them to avoid re-trafficking by providing them with access to education, vocational training and the labour market.

13. GRETA also invites the Slovenian authorities to invest in the human and financial resources of centres for social work so that they can effectively provide support and assistance to child victims of trafficking.

Recovery and reflection period

14. GRETA urges the Slovenian authorities to ensure that all possible victims of trafficking are offered a recovery and reflection period, in compliance with the obligations under Article 13 of the Convention. Further, GRETA considers that the Slovenian authorities should systematically inform victims of trafficking of the possibility of a recovery and reflection period and effectively grant such a period.

Residence permits

15. GRETA urges the Slovenian authorities to remove the condition of the victim's testimony being "important in the opinion of the authority in charge of the criminal case" from the Aliens Act.

16. GRETA urges the Slovenian authorities to ensure that victims of trafficking can fully benefit from the right to obtain a renewable residence permit, particularly when they are unable to co-operate with the authorities.

Compensation and legal redress

17. GRETA urges the Slovenian authorities to adopt measures to facilitate and guarantee access to compensation for victims of trafficking, and in particular to:

- ensure that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;
- enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid;
- include all victims of trafficking in the scope of the Crime Victim Compensation Act, irrespective of their nationality and of whether force or violation of the sexual integrity has been used.

Repatriation and return of victims

18. GRETA considers that the Slovenian authorities should enhance the protection of victims of THB returning to Slovenia and ensure their access to assistance, protection and reintegration measures regardless of whether criminal proceedings have been initiated in the country where the victims were identified.

Substantive criminal law

19. GRETA considers that the Slovenian authorities should ensure that the commission of THB by a public official in the performance of his/her duties and deliberately or by gross negligence endangering the victim's life as aggravating circumstances are effectively taken into account as aggravating circumstances of THB offence, in order to meet the requirements of Article 24 of the Convention.

20. GRETA considers that the Slovenian authorities should introduce a specific criminal offence regarding the concealment, damaging or destruction of travel or identity documents in relation to THB.

21. GRETA invites the Slovenian authorities to consider establishing as a criminal offence the use of services which are the object of exploitation as defined in Article 4 of the Convention, with the knowledge that the person is a victim of trafficking in human beings.

Non-punishment of victims of trafficking in human beings

22. GRETA urges the Slovenian authorities to ensure compliance with Article 26 of the Convention through the adoption of a provision on non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, or by developing relevant guidance for public prosecutors on this issue. While the identification procedure is on-going, potential victims of trafficking should not be punished for immigration-related offences.

Investigation, prosecution and procedural law

23. GRETA considers that the Slovenian authorities should step up the training provided to judges, prosecutors and other relevant professionals on the issue of THB with a view to improving their knowledge and sensitivity about THB and the rights of victims of trafficking and ensuring practical application of existing anti-trafficking provisions so that traffickers are prosecuted effectively and receive sentences commensurate with the seriousness of this offence.

24. GRETA also considers that the Slovenian authorities should encourage the law enforcement and prosecution services to develop their specialisation in THB with a view to improving the collection of sufficient evidence to successfully prosecute more traffickers.

Protection of victims and witnesses

25. GRETA urges the Slovenian authorities to make full use of the available measures to protect victims during the investigation and during and after the court proceedings. In this context, the Slovenian 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.

26. Further, GRETA considers that the Slovenian authorities should extend the special protection procedures to cover all child victims of THB up to the age of 18, taking into account the best interest of the child.²⁷

²⁷ Reference is also made to the [Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice](#), adopted by the Committee of Ministers on 17 November 2010.

Appendix II: List of public bodies and intergovernmental and non-governmental organisations with which GRETA held consultations

Public bodies

- Ministry of the Interior
 - Criminal Police Directorate
 - Asylum authorities
 - Immigration Police
 - Service for National Minorities;
- Ministry of Justice and Public Administration;
- Ministry of Labour, Family and Social Affairs, including representatives of the Labour Inspectorate
- The Ministry of Foreign Affairs;
- Ministry of Education and Sport
- Supreme Court of Slovenia;
- Centre for Education of Judges
- Office of the State Prosecutor General
- Specialised State Prosecutor's Office
- Government Communication Office
- Ombudsman of Slovenia

Non-governmental organisations

- Society Ključ
- Peace Institute
- Slovenian Karitas
- Slovenian Philanthropy

Government's comments

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

GRETA engaged in a dialogue with the Slovenian 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 Slovenian authorities on 29 November 2013 and invited them to submit any final comments. The comments of the authorities of Slovenia, submitted on 31 December 2013 are reproduced hereafter.



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COUNCIL OF EUROPE

**SECRETARIAT OF THE COUNCIL OF EUROPE CONVENTION ON
ACTION AGAINST TRAFFICKING IN HUMAN BEINGS
GRETA and Committee of the Parties**

Ms Petya Nestorova
Executive Secretary
petya.nestorova@coe.int

Number: 500-93/2012/ 38 (102-05)
Date: 10. 1. 2014

Dear Ms Nestorova,

I would like to thank you and the GRETA members for the efforts made during the evaluation process concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings. The Republic of Slovenia received the final report on 29 November 2013.

The report of the Group of Experts on Action against Trafficking in Human Beings – GRETA gives a thorough assessment of the success and shortcomings in the implementation of the convention provisions and objectively reflects the situation in this field in the Republic of Slovenia.

The Slovenian authorities essentially agree with the report, as most of the comments to the previous draft report, including the comments to the final report dated on 30 December 2013, were taken into account.

The constructive nature of the comments highlighted by GRETA in the report and the recommendations in the appendix, which were both passed through governmental procedure, will undoubtedly represent guidance to the Slovenian authorities towards eliminating deficiencies and consequently enforce the convention provisions more efficiently.

With Regards,

Sandi Čurin, M Sc
National Anti-Trafficking Coordinator

