



G R E T A

Group of Experts on Action
against Trafficking in Human Beings

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Reply from Georgia to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties

Third evaluation round

Thematic focus: Access to justice and effective remedies for
victims of trafficking in human beings

Reply submitted on 2 July 2019

Introduction

In accordance with Article 38, paragraph 1, of the Convention on Action against Trafficking in Human Beings ("the Convention"), GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions on which the evaluation procedure is based.

The first round of monitoring of the Convention provided an overview of its implementation by State Parties. The second evaluation round of the Convention examined the impact of legislative, policy and practical measures on the prevention of trafficking in human beings (THB), the protection of the rights of victims of trafficking, and the prosecution of traffickers, paying particular attention to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking.

GRETA has decided that the third evaluation round of the Convention will focus on trafficking victims' **access to justice and effective remedies**, which is essential for victims' rehabilitation and reinstatement of rights and reflects a victim-centred and human-rights based approach to the fight against human trafficking. A number of provisions of the Convention establishing substantive and procedural obligations are relevant to this topic. Moreover, victims of trafficking, by virtue of their status as victims of human rights violations, are entitled to effective remedies under the European Convention on Human Rights. Access to justice and effective remedies must be guaranteed, in a gender- and age-sensitive manner, to all victims of trafficking subject to the jurisdiction of State Parties, irrespective of their immigration status or presence on the national territory and notwithstanding their capacity or willingness to co-operate in any criminal investigation.

Access to justice and effective remedies is contingent on the fulfilment of a number of preconditions, including prompt and accurate identification of victims of trafficking, the provision of a recovery and reflection period, the availability of material, psychological, medical and legal assistance, regularisation of the victim's stay, the right to seek and enjoy asylum, and the application of the principle of *non-refoulement*. These preconditions, corresponding to different provisions of the Convention, have been examined at length during the first and second evaluation rounds of monitoring of the Convention. Consequently, GRETA has decided to ask each State Party for an update on the implementation of GRETA's previous recommendations on selected topics, through a separate country-specific part of the questionnaire, rather than including once again questions related to the same provisions in the general questionnaire for the third evaluation round.

States Parties are requested to transmit to GRETA a reply to this questionnaire **within four months** from the date it was sent. The reply to the questionnaire should be submitted in one of the official languages of the Council of Europe (English and French), and preferably also in the original language. Where appropriate, in order to avoid unnecessary repetition, the reply may refer to information contained in the report submitted by the national authorities on measures taken to comply with the Committee of the Parties' recommendation concerning the implementation of the proposals made in GRETA's second evaluation report. States Parties should provide links, copies or extracts of relevant legislation, regulations, national action plans and case law mentioned in the reply to the questionnaire, in the original language and, wherever possible, also in one of the official languages of the Council of Europe.

A variety of stakeholders and civil society representatives should be effectively consulted in the preparation of the reply to the questionnaire, to ensure that the information provided is as comprehensive as possible.

Part I - Access to justice and effective remedies

1. Right to information (Articles 12 and 15)

1.1 How, at what stage and by whom are presumed victims and victims of THB informed of their rights, the relevant judicial and administrative proceedings, and the legal possibilities for obtaining compensation and other remedies, in a language that they can understand? Please provide copies of any information materials developed to inform victims of THB, including any materials specifically developed for child victims, in the languages in which they exist.

1.2 How is the obligation to provide translation and interpretation services, when appropriate, met at different stages of the legal and administrative proceedings by different agencies?

Georgian legislation ensures the protection and assistance of potential victims, as well as the victims and statutory victims of trafficking in human beings (THB).

Notably, the Georgian National Referral Mechanism ensures two possible ways to be involved in state run services. Law of Georgia on Combatting Trafficking in Human Beings (*hereinafter* – Anti-Trafficking Law) adopted in 2006 differentiates status of victim of trafficking and status of statutory victim of trafficking. The status of victim of trafficking is granted to the person by a Permanent Working Group of the Interagency Council on Combating Trafficking in Human Beings (*hereinafter* - THB Council) consisted of 3 NGOs and 2 IOs within 48 hours based on the questionnaires of mobile group of the LEPL State Fund for Protection and Assistance of (Statutory) Victims of Human Trafficking (*hereinafter* – State Fund) operating under the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia. The status of statutory victim of trafficking is granted by law enforcement authorities in accordance with Criminal Procedure Code of Georgia (CPC). The victim/statutory victim is enjoying the services (free legal aid, psychological and medical assistance, rehabilitation and reintegration measures, one-off compensation, shelters and crisis centres) of the State Fund after a person is granted the status of victim or statutory victim.

The aim of the two existing statuses is to ensure victim-centred approach and immediately assist and provide the services, including accommodation with those persons who are THB victims and have no will to cooperate with law enforcements.

Currently, the State Fund operates 2 shelters in Tbilisi and Batumi and 5 Crisis Centers for Victims of THB in Tbilisi, Kutaisi, Gori, Marneuli, and Ozurgeti. The shelter is available for those persons who have already been granted the status of victim and/or statutory victim, while Crisis Centers have been functioning for presumed victims and victims. The centers can provide anyone with any kind of information/consultation about human trafficking and State Fund`s services.

Regardless to the difference in the procedure of granting the status, there is no difference between their rights during the protection, process of investigation and/or prosecution.

The Anti-Trafficking Law provides the obligation of the law enforcement bodies, as well as the State Fund to provide immediately the victims and statutory victims of human trafficking with full information about the Georgian legislation with respect to human trafficking.

Law enforcement bodies immediately explain the victim/statutory victim of trafficking that he/she has a right to enjoy the reflection period (30 days) whether he/she wants to cooperate with law enforcements and that he/she has right to address the State Fund and enjoy the State run services. From the very first moment, when law enforcements or the State Fund has contact with the presumed victim, they provide the presumed victims/statutory victims of trafficking with full information on Georgian legislation on human trafficking and the services available for them.

Furthermore, the Anti-Trafficking Law obliges an investigator, prosecutor and judge to provide the statutory victim with information on his/her rights, obligations and legal status, as well as with information on other issues regarding the progress of investigation and judicial proceedings in his/her native or other language he/she understands.

It should be noted that before the access to THB Shelters, beneficiaries are interviewed and informed about internal rules and regulations, and sign agreement with the State Fund. According to the internal regulations (*see Appendix 1-5*) the State Fund provides beneficiaries legal assistance, which includes: awareness raising on legal issues, preparing all the necessary legal documents, legal assistance including representation/advocacy at the courts and other related agencies (if necessary, referral). Beneficiaries are informed (in written form) about all the services provided by the state fund through the Crisis Centers (*see appendix 6*). If the victim is juvenile, his/her legal representative/guardian chooses relevant services; the State Fund helps to prepare a civil lawsuit in order to receive compensation from the perpetrator and it represents the victim in the court.

The victims/statutory victims and witnesses have the right to request protection of their own security and security of their family members at any time, in accordance with the procedures established by the Georgian legislation. Identity, address and other personal data of (statutory) victims and witnesses of trafficking are confidential and the disclosure is strictly prohibited except in cases envisaged by law. Upon the request of statutory victim, witness or their legal representative, special protection measures may be applied in accordance with the procedures established by the Criminal Procedure Code of Georgia.

Ministry of Internal Affairs (MIA) has permanent service contract with the organizations, which provides translation/interpretation upon the needs.

The interpreter services are also provided by the State Fund in case a beneficiary cannot communicate in Georgian. This service is determined under internal regulations of the Shelters and the Crisis Centers and the agreement is signed by the beneficiary. The victim is well informed about all kind of services provided by the state fund.

With regard to interpretation during the trials in the court, according to Article 53 of the Criminal Procedure Code of Georgia, an interpreter shall be called when:

- a) a trial participant has no or insufficient command of the language of the criminal procedure;
- b) it is necessary to translate a text in the language of the criminal procedure.

When it comes to the protection and assistance of child victims of human trafficking, according to paragraph 6 of Article 18 of the Anti-Trafficking Law mechanisms for protection of children's rights under the United Nations Convention of 29 November 1989 on the Rights of the Child and under the Council of Europe Convention on Action against Trafficking in Human Beings, and the Guidelines adopted by the international organisations on protecting the rights of child victims of human trafficking shall apply to child

(statutory) victims of human trafficking. Furthermore, Article 21¹, paragraph 3 of the Anti-Trafficking Law obliges the State to provide the child (statutory) victims with information on their legal status, as well as on measures to be implemented for their support and rehabilitation. The information shall be provided to minors in the language they understand, considering their age (*see Appendix 7 – Law of Georgia on Combatting Human Trafficking*).

2. Legal assistance and free legal aid (Article 15)

2.1 How, by whom and from what moment is legal assistance provided to victims of trafficking? How is legal assistance provided to children?

2.2 Do all presumed victims of THB have access to legal assistance, irrespective of immigration status or type of exploitation?

2.3 What are the conditions for access to free legal aid for victims of THB, including children? For which types of proceedings is free legal aid available? Is free legal aid available to help victims claim compensation and execute compensation orders? Please provide the text of the relevant provisions.

2.4 Are there lawyers specialised to provide legal aid and represent victims of THB in court? What regulations, if any, are applicable to the provision of such legal aid/representation?

2.5 How is the provision of legal assistance and free legal aid for victims of THB funded? Do victims have to pay a fee to obtain legal assistance or start a procedure, or are there other financial barriers in place? If yes, please specify the amount(s).

Joint Answer for Q.Q. 2.1 -2.5

As noted above the State Fund offers free legal consultation and legal aid to the potential victims, as well as the victims and statutory victims of human trafficking. According to the regulations of the State Fund, Article 6 Paragraph 2 Subparagraph "b¹", approved by the Government of Georgia (*See Appendix 8 – Statute of the State Fund*), in accordance with Georgian legislation, the director of the State Fund assigns the staff legal authority to protect the legitimate interests of the beneficiary in the relevant investigative and/or judicial institutions. Legal services include representation/advocacy in court / law enforcement agencies, as well as preparation of civil case appeal (including compensation for damages) and legal consultations on legal procedures for adopting one-off state compensation.

According to the rules prescribed by the legislation of Georgia, legal services of the State Fund shall be provided to any person who has the status of a (statutory) victim or alleged victim of human trafficking. The services are provided regardless person's immigration status or the form of exploitation. All services, including legal aid of the state Fund shall be equally distributed to the adult and minor victims of human trafficking without discrimination.

With regard to child victims of trafficking, in case of receiving child beneficiary in the services of the State Fund, the case is immediately referred to LEPL Social Service Agency (SSA) of the Ministry of IDPs from Occupied Territories, Labour, Health and Social Affairs of Georgia. SSA is a responsible entity for protection

of children. SSA and the State Fund jointly plan and deliver all relevant services to child victims based on their needs, including legal aid.

The legal services of the State Fund are free of charge for beneficiaries and financed from the State Fund's budget.

Apart from the State Fund, LEPL Legal Aid Service also provides free of charge legal consultations for everyone and the free of charge legal aid for children statutory victims at every stage of criminal proceedings. The Legal Aid Service also provides free of charge legal aid in civil lawsuits in case of the insolvency of a person.

LEPL Legal Aid Service is also funded from the State's Budget.

Lawyers of the State Fund, as well as the lawyers of the Legal Aid Service are annually trained on Human Trafficking Issues. This commitment is also enshrined from each 2-year National Action Plans on Combatting Trafficking in Human Beings approved by the THB Council (Currently the NAP for 2019-2020 is in place) (see Appendix 9 – GEO and ENG).

Furthermore, according to the Juvenile Justice Code of Georgia which entered into force since 1st of January, 2015, only persons specialised in juvenile justice shall administer juvenile justice proceedings. The Juvenile Justice Code requires all persons, including prosecutors, investigators, judges and even lawyers to be specialised in Juvenile Justice.

According to Article 20 of the Juvenile Justice Code, juvenile cases shall be administered by lawyers specialised in juvenile justice, who shall, together with other documents provided for by law, present a document certifying their specialisation in juvenile justice. The form of such document is approved by the Georgian Bar Association.

There is a permanent group of lawyers specialised in juvenile justice available in the LEPL Legal Aid Service, which provides legal assistance to minors on their first request in the shortest possible time in cases provided for by law (*see Appendix 10 – Juvenile Justice Code- GEO and ENG*).

3. Compensation from the perpetrators (Article 15)

3.1 What measures are in place to enable courts to award compensation to victims of THB, including children, from the perpetrators as part of criminal proceedings? What is the role of prosecutors in this respect?

According to Article 16 of the Anti-Trafficking Law victim/statutory victim of human trafficking has the right to claim for the compensation from the trafficker. For that aim, he/she has to refer to the court and request the reimbursement of the moral, physical or property damage through the civil proceedings. Under Article 309¹⁷ of the Civil Procedure Code of Georgia, a victim/statutory victim can claim the damage through the court in case of the conviction of the trafficker (*see Appendix 11 - Civil Procedure Code of Georgia – GEO and ENG*).

According to Articles 32 and 33 of the Criminal Procedure Code of Georgia the Prosecutor's Office is a prosecuting authority and the Prosecutor as a public prosecutor in court bears the burden of proof for the

prosecution. As the reimbursement of the damages to the THB (statutory) victims is claimed through the civil proceedings, the prosecutor is not involved in the civil procedures (*see Appendix 12 - Criminal Procedure Code of Georgia – GEO and ENG*).

3.2 How is the amount of compensation calculated and are there specific criteria or models for calculating it? What types of injury/damage and costs are covered? Are there any circumstances/conditions that would lead to a reduction of the amount of compensation?

There are neither specific criteria and/or models for calculating the amount of compensation for the crime of human trafficking prescribed under the Georgian legislation, nor any specific circumstances/conditions that would lead to a reduction of the amount of compensation.

The court is entitled to make a decision on the amount of compensation for the victims and statutory victims of human trafficking based on and within the scope of the claims of the parties (claimants). Therefore, in order to determine the amount of compensation, the court is authorized to have an individual approach and consider the specific circumstances of each case, *i.e.* the age of the victim and person affected by the crime of human trafficking (whether he/she is minor or adult), the duration of the crime, types of exploitation used, etc.

3.3 How are compensation orders/verdicts enforced? What measures are in place to guarantee and ensure effective payment of compensation?

The Law of Georgia on Enforcement Proceedings governs the procedures and conditions for the enforcement of acts adopted by the common courts, administrative authorities (officials), arbitration, the restitution and compensation commission and its committee, the European Court of Human Rights, and by the International Criminal Court, as well as the procedures and conditions for enforcement of decisions enforceable under this Law.

In particular, the Law regulates the enforcement of a court judgement, decision and decree in force in private and administrative law cases except for decisions made in cases related to child transfer and/or the exercise of the right of the other parent or other family member to interact with the child; a court judgment of conviction in force delivered against a natural and/or legal person in a criminal case imposing a fine and/or deprivation of property as a measure of punishment; a decision referred by court for immediate enforcement under Article 268 of the Civil Procedure Code of Georgia; a court ruling in force in an administrative case in the part of recovery of property and imposition of a fine as an administrative penalty; etc.

The enforcement of the above-mentioned judgements, including on compensation from the traffickers is carried out by the LEPL National Bureau of Enforcement operating under the Ministry of Justice of Georgia (MOJ).

In case of the judgement of the Court on reimbursement of moral, physical or property damage from the trafficker, the National Bureau of Enforcement will carry out all necessary procedure for recovery of a monetary amount (searching the property, seizure, public auction, distribution of funds) (*see Appendix 13 – Law on Enforcements Proceedings – GEO and ENG*).

3.4 When foreign victims of THB are removed from or choose to leave the country where the exploitation took place, what measures are in place to enable them to obtain compensation and other remedies?

Government of Georgia would like to note that Georgian Legislation prohibits the deportation of a (statutory) victim from Georgia. To ensure his/her legal stay in Georgia, the LEPL Public Service Development Agency of the Ministry of Justice of Georgia issues residence permit for the (statutory) victim for the term of maximum 6 years. The term can also be expanded for the same time.

Civil Procedure Code of Georgia regulates the conditions when the court terminates or suspends the court proceedings. In particular, according to Article 272 of the Code a court shall, on the petition of the parties or on its own initiative, terminate the proceedings, if:

- a) the court before which the action was brought is not competent according to law to review the case and the case is under the jurisdiction of another entity;
- a¹) there is no subject matter of the dispute;
- b) there is a binding and final judgement or ruling delivered on a dispute between the same parties, on the same subject matter and on the same grounds;
- c) the plaintiff renounced his/her claim;
- d) the parties reached an amicable agreement;
- e) following the death of one of the citizens who was a party to the case, or in the event of the liquidation of a legal person, succession in title is inadmissible due to the disputed legal relationships;
- e¹) there is a case under Article 281(a) (regulated the time frames for suspending the proceedings);
- f) when reviewing an application for declaration of a person as a beneficiary of support, the opinion issued by a Legal Entity under Public Law – the Levan Samkharauli National Forensics Bureau is negative;
- g) in other cases as determined by law.

Article 279 of the Code sets forth that a court shall be obliged to suspend the proceedings in the following circumstances:

- a) upon the death of a citizen, if the disputed legal relationship allows succession in title, or when the legal person that is a party to the case ceases to exist;
- b) if the court finds that a party is a beneficiary of support and the support has been established for him/her for exercising procedural representation, but the support has not been received;
- c) when the defendant serves in the active units of the Defence Forces of Georgia, or at the request of the plaintiff serving in the same kind of units;
- d) when the dispute depends on the decision delivered in another dispute that is pending in a civil court or in an administrative agency;
- d¹) if the case is reviewed by the Commission on Restitution and Compensation commission or a Committee of the Commission;
- e) in the cases provided in Article 6(2) (if, in the opinion of a reviewing court, the law to be applied to the matter fails to comply with or contradicts the Constitution, the court shall suspend the hearing until the Constitutional Court makes a decision on this issue. After that the hearing shall be resumed)
- f) if in the case provided in Article 1873(2) of this Code, the dispute has been referred to a mediator with a view to concluding the dispute by agreement between the parties.

The court proceeding for reimbursement of damages to the (statutory) victim of THB will not be terminated or suspended if he/she decides to leave Georgia where he/she was exploited (*see Appendix 11- Civil Procedure Code of Georgia –GEO and ENG*).

3.5 What procedures are in place to ensure effective access to compensation for victims of THB for the purpose of labour exploitation? Can such victims bring civil claims for compensation and/or recovery of unpaid wages and social contributions on the basis of tort, labour, employment or other laws? Please specify the relevant measures. Can victims of THB working in irregular employment or without a contract claim unpaid wages and other compensation and if yes, how is the amount of unpaid wages and other compensation established?

Government of Georgia underlines, that the right to compensation from the trafficker applies to the victims of human trafficking regardless the type of exploitation. The victims/statutory victims of labour exploitation as well as the victims of sexual or other kind of exploitation is entitled to apply to the court and claim the reimbursement for moral, physical or property damages incurred due to the crime of human trafficking. It also includes the right of a victim to claim compensation for unpaid wages or for violation of any other labour rights.

3.6 What training is provided to build the capacity of relevant professionals, such as lawyers, law enforcement officers, prosecutors and judges, to enable victims of THB to obtain compensation and other remedies?

Government of Georgia pays particular attention to the capacity development for the officials working on THB issues. The line ministries closely cooperate with each other as well as NGOs and international organizations to identify training needs on THB issues. The cooperation foresees well-structured training planning and needs determination process for trainings, identification of the topic, relevant target group, cooperation and communication with relevant agencies and trainers, developing training modules/curriculum/agenda and implementing such trainings on later stage. As a result of such cooperation with International Organization for Migration (IOM), International Center for Migration Policy Development (ICMPD), International Labor Organization (ILO), INL, EU, etc. trainings, study visits and seminars have been conducted for the Georgian law enforcement officers, labor inspectors, State Fund staff, Staff of Legal Aid (lawyers), judges, social workers, staff working on asylum seekers, etc. The purpose of trainings is to deliver deep knowledge to the relevant target groups on legal and operational level. The trainings with the involvement of the local and international experts are focused on the sharing of the best practice of foreign countries on combating THB, assisting victims of human trafficking and also on acknowledgment of the new trends of the crime.

It should be underlined, that the governmental officials from Ministry of Justice, Ministry of Interior and State Fund with or without involvement of foreign experts are delivering the trainings to their colleagues to share the knowledge and experience they gained during the past couple of years.

During the trainings, special attention is paid to the rights of the victims of THB and the services available for them, including compensation (*see Appendix 14 for the list of trainings conducted for different target groups in 2015-2018*).

4. State compensation (Article 15)

4.1 Do the eligibility criteria for State compensation schemes for victims of crimes exclude some victims of THB (e.g. due to irregular residence status, nationality, nature of the

offence)? Does access to State compensation depend on the outcome of the criminal case and on failure to obtain compensation from the offenders?

4.2 How is the amount of State compensation calculated so as to address the gravity of the harm endured by the victim?

4.3 Is it possible for foreign victims of trafficking to submit claims for State compensation in your country after being returned or repatriated to their countries of origin? Please provide examples of any such cases and indicate the measures stipulating such a possibility.

4.4 Are victims seeking State compensation liable for lawyers' costs and fees? Are State compensation awards subject to taxation? Does the receipt of compensation have consequences for access to social security or other benefits?

Joint Answer for Q.Q 4.1-4.4

According to Georgian Legislation there are two types of compensation available for victims and statutory victims of human trafficking: compensation from the perpetrator claimed through the civil lawsuit (as mentioned above) and one-off State compensation amounting to 1000 GEL and provided by the State Fund.

Article 16 of the Anti-Trafficking Law states that if a (statutory) victim is not able to get the reimbursement from the trafficker for moral, material or property damage resulted from being trafficked, he/she is entitled to request one-off compensation from the State Fund.

We have 2 following alternative ways, when it is impossible to reimburse the damage from the trafficker:

- If, after three months of investigation, it was impossible to identify alleged trafficker and detain him or her;
- For six months after the conviction of a trafficker, it is impossible to enforce the reimbursement of damage from the trafficker.

Currently, the Government of Georgia works on improvement of the system of granting the State Compensation.

The one-off compensation is provided to victims and statutory victims of human trafficking without any discrimination, regardless of their residence status, nationality or the nature of the crime of trafficking in human beings.

A foreign citizen has the right to claim compensation regardless of his whereabouts, if she/he got the status under the Georgian legislation. In the practice of the State Fund, there has not yet been a case for foreign victims to compensate in a foreign country as the victims did not apply to the State Fund for compensation after returning to their home country.

Every victim and statutory victim is granted 1000 GEL as one-off State compensation and its amount does not depend on gravity of the harm. Compensation shall not be taxed and any preliminary fee is not established by the State. The compensation amount will be transferred to the bank account provided by

the (statutory) victim and he/she uses it according to his/her will (*see Appendix 15 - the Rules on provision of State Compensation to the (stautory) victims of THB – GEO*).

Furthermore, according to the Article 9³ of the Governmental Decree N145 on the Social Assistance, since January 1, 2019 any income, including one-off compensation granted to the socially vulnerable persons have no consequences for access to living allowance (*see Appendix 16 - Governmental Decree N145 on Social Protection- GEO*).

5. Sanctions and measures (Article 23)

5.1 Please describe the legislative and other measures adopted by your country which allow to: i) confiscate or otherwise deprive perpetrators of the proceeds of criminal offences, or property of an equivalent value to those proceeds; and ii) identify, trace, freeze or seize rapidly property which is liable to confiscation, in order to facilitate the enforcement of a later confiscation. Do these measures allow the identification, tracing and seizure of property into which the proceeds of illicit activities have been converted?

5.2 In what way do victims of THB benefit from seized and confiscated assets of perpetrators of THB? Do the confiscated assets go directly to victims, to a compensation fund or scheme for victims of trafficking or to other programmes for the assistance or support of victims of THB? Please provide information on seizures and confiscations of assets in THB cases and how they were used.

Joint Answer for Q.Q. 5.1 and 5.2

According to Article 151 of the Criminal Procedure Code of Georgia, in order to ensure the possible forfeiture of property, as a coercive measure of criminal procedure, the court may, upon motion of a party, seize the property, including bank accounts, of the accused, of the person materially responsible for the accused person's actions, and/or of the person related to the accused person, if there is information to suggest that the property will be concealed or destroyed, and/or the **property has been obtained in a criminal way**. If there is information to suggest that the property has been obtained in a criminal way, but the property cannot be found, the court may seize property, the value of which is equivalent to the value of the property in question. If the accused is an official, under the conditions referred to in this paragraph, the prosecutor shall be obliged to file a motion with the court requesting the seizure of property (including bank accounts) of that official, also the suspension of the fulfilment of obligations assumed under agreements entered into by that official on behalf of the State, or the taking of other interim measures.

The property seizure provided for by this Code shall also be applied in the case of preparation of any other particularly serious crime, as well as for their prevention, if there is sufficient information to believe that the property in question could be used for the commission of a crime.

A party shall prepare and submit, according to the place of investigation, to the court a motion to seize property, and information required for its review. Not later than 48 hours after receiving the motion and the information required for its review, a judge shall decide the motion without an oral hearing. The judge may review a motion with the participation of the party that filed the motion.

In urgent necessity, if there is probable cause to believe that property will be concealed or destroyed, the prosecutor may issue a reasoned decree to seize the property.

In urgent necessity, within 12 hours after the execution of a decree for the seizure of property (if the expiration of that period falls during non-working hours, within not later than an hour after that period expires), the prosecutor shall inform the court of the seizure of property according to the place of investigation, or the court under the jurisdiction of which the procedural action has been carried out, and shall file a motion requesting the examination of the lawfulness of the seizure, and submit to the court the criminal case materials (or their copies) that prove the necessity of conducting the investigative action. Not later than 24 hours after receiving the materials, the court shall decide the motion without an oral hearing. The court may review the motion with the participation of the prosecutor and of the person against whom the investigative action has been carried out.

A party shall submit a court ruling, and in the case of urgent necessity, a decree of a prosecutor on the seizure of property, to the person who keeps the property, and request delivery of the property. If that request is denied or there is reliable information that the entire property has not been delivered, a search shall be conducted in accordance with this Code.

When seizing property, it shall be determined what items and valuables are to be seized within the limits of the amount indicated in the ruling (decree). An expert may be invited to participate in the seizure of property, and he/she shall assess the value of the property. The extent of the damage caused as a result of a crime and the value of the property subject to seizure shall be determined according to the average market prices.

If a bank account is seized, the person's right to administer the funds available on or transferred to his/her bank account shall be restricted. If only a certain amount is seized, the person's right to administer the funds available on or transferred to his/her account shall be restricted within the limits of the seizure. If property has been acquired or increased with the resources obtained in a criminal way, the entire property or its major part may be seized. Seizure shall apply to the property (including that of a legal person and its subsidiary companies) of the accused, his/her family member, close relative, related person and/or of a racketeering group, regardless of the share of the accused in that property, provided that there is sufficient evidence to believe that the property or its part has been obtained as a result of racketeering.

The seized property, except for immovable and large things, shall be taken. Property shall be seized until a judgement is enforced, until a criminal prosecution and/or an investigation is terminated.

According to article 81 (1d) of the Code, the income/property obtained in a criminal way shall be used to indemnify the damage inflicted as a result of an offence, or to indemnify procedural costs - after the damage has been indemnified, or shall be transferred to the state budget of Georgia - if the person which has incurred the damage has not been identified;

5.3 Is it possible to use plea bargaining or some other form of settlement in cases of THB? If yes, please provide the relevant provisions. What protections are in place for victims of THB to ensure that their right of access to justice and effective remedies is not compromised by the plea bargaining or settlement in the legal process?

The Criminal Procedure Code of Georgia foresees the use plea bargaining in case of commission of any crime, including human trafficking. According to article 209, a plea bargain under which the accused pleads guilty and agrees with the prosecutor to a sentence, to mitigation or to partial removal of charges is the basis for the court to render judgement without main hearing of the case.

When requesting a reduction of a sentence, or when making a decision to mitigate or partially remove the charges against the accused, the prosecutor shall take into account the public interest, which he/she shall determine based on the legal priorities of the State, the crime committed and the gravity of the potential sentence, the nature of the crime, the degree of culpability, public danger posed by the accused, personal characteristics, record of conviction, collaboration with the investigation, and the assessment of the conduct of the accused with respect to the indemnification of damages caused as a result of the crime.

A plea bargain may not be entered into without direct involvement of the defence lawyer or without the prior consent of the accused. Furthermore, the judge shall deliver a decision on a plea bargain based on law and shall not be obliged to approve the agreement reached between the accused and the prosecutor.

In order to ensure that victim's right of access to justice and effective remedies is not compromised by the plea bargaining or settlement in the legal process, article 217 of the Criminal Procedure Code of Georgia obliges the prosecutor, before entering into a plea bargain, to consult the victim prior to and notify him/her on the conclusion of the plea bargain, and prepare the relevant record.

When the court approves a plea bargain, the victim may provide information to the court in writing, or to the judge, orally, at a court trial, on the damage that he/she has sustained as a result of the crime.

A plea bargain shall not deprive a victim of the right to file a civil claim (e.g. ask for compensation from the perpetrator).

5.4 What is the average duration of court proceedings in THB cases? In which circumstances are such cases given priority? Do you have a system to fast-track human trafficking-related prosecutions in order to improve the trial process and reduce the burden on victims and witnesses, including children? What safeguards are in place to ensure that judges deal with cases of THB without undue delay?

Over the recent years the High Council of Justice (HCJ) has taken significant measures to resolve the problems related to the case management in courts and fight against backlog. Various amendments have been introduced to law. There are two main reasons causing backlog in courts: the enormous amount of cases filed before courts and the insufficient number of judges.

In August 2018, the USAID/PROLoG expert, together with the national experts of the European Union and the Council of Europe conducted research to identify the optimal number of judges throughout the country based on the comparative analysis of the number of judges in other European countries in combination with a substantial number of the relevant social-economic and demographic variables. As a result, the council delivered the comprehensive and high-qualified research, which proves that Georgian judiciary necessitates in at least one hundred more judges. Currently the experts are conducting the second phase of the research, which will be oriented on assessment of the distribution of judges and staff among courts with the intent being to construct a smart version of a case weighting system and analyzing the court workflow process.

In line with the recommendations made by the international experts and organizations, the HCJ started working on rationalizing the number of court staff as well, which lightens the workload of judges and ensures timely proceedings. For this reason, the number of Drafting Assistants to judges was increased.

The analysis of the THB cases for 2012-2019 (as of 14 June) shows that the average time of court proceedings (from the time when the case is sent to the court till the conviction is achieved) is 6 months.

5.5 How do you ensure that sanctions for THB offences are effective, proportionate and dissuasive?

The legislation of Georgia does not define the specific formula for imposing a sentence for THB offences. The sentence is imposed on a case by case basis.

The judge applies the common procedure set forth in the Articles 53 and 53¹ of the Criminal Code of Georgia (the CCG) for sentencing. According to article 53, paragraph 3 when imposing a sentence, the court shall take into consideration circumstances that mitigate or aggravate liability of the offender, in particular, the motive and aim of the crime, the unlawful intent demonstrated in the act, the character and degree of the breach of obligations, the modus operandi and unlawful consequence of the act, prior history of the offender, personal and financial circumstances, and conduct of the offender after the offence, in particular, the offender's desire to indemnify the damage and reconcile with the victim.

The more severe sentence will be applied in case any aggravating circumstances defined under Article 53¹ of the CCG are revealed, such as discrimination on any grounds and crime committed by the family member against another family member. In such case, when imposing a fixed term imprisonment for a crime committed with this aggravating factor the term of a sentence to be served shall exceed at least by one year the minimum term of sentence provided for the committed crime.

If, after committing a crime, the offender appears and pleads guilty, actively assists in the discovery of a crime and there are no aggravating circumstances, the term or measure of the sentence shall not exceed three fourths of the maximum term or measure of the most severe sentence prescribed under the relevant article or part of an article of the special part of Code.

In addition, a judge is entitled to impose the ancillary penalty such as "deprivation of right to carry out particular activities". The purpose of the ancillary penalty is to prevent the convicted person from carrying out a specific activity (after leaving the penitentiary facility), through which she/he had committed the trafficking (for instance, the doctor who had sold the infant will be deprived the right to medical activity).

6. Ex parte and ex officio applications (Article 27)

6.1 What is the procedural position of a victim of THB in criminal proceedings? What steps are taken to assist victims of THB, including children, to enable their rights, interests and views to be presented and considered during the criminal proceedings against offenders? Who is entitled to assist victims of THB in court? Can victims of THB be represented by NGOs in criminal proceedings?

According to Georgian Criminal Procedure Code, statutory victim of THB is not the party at the court, however, he/she has the following rights:

- a) To be informed about the essence of the charges brought against the accused;
- b) To be informed about the procedural actions provided for by Article 58 of this Code (information on the place and time of each trial);
- c) During the hearing of a case on the merits, during the review of a motion for rendering a ruling without hearing the merits and at the sentencing hearing, give a testimony concerning the damage he/she has incurred as a result of the offence, or submit, in writing, that information to the court;
- d) To obtain, free of charge, copies of a decree/ruling, and/or of a judgement on the termination of investigation and/or criminal prosecution, or of other final court decisions;
- e) To be indemnified for the expenses incurred as a result of participating in the proceedings;
- f) To recover his/her own property that was temporarily confiscated during the investigation and court hearing for the needs of the case;
- g) To request the application of special protective measures if his/her or his/her close relative's or family member's life, health and/or property is endangered;
- h) To be informed on the progress of the investigation and review the materials of the criminal case, unless this contradicts the interests of the investigation;
- i) upon request, to obtain information on the measure of restraint applied against the accused, and information on the leaving of a penitentiary facility by the accused/convicted person, unless this creates a risk for the accused/convicted person;
- j) To review the materials of the criminal case at least 10 days before a preliminary hearing;
- k) To request the prosecution to file a motion for closing, in part or in full, a court hearing for the purpose specified in Article 182(3) of this Code;
- l) To receive explanations as to his/her rights and obligations;
- m) To enjoy other rights granted under Criminal Procedure Code.¹

As mentioned above, the State Fund is entitled to provide free of charge legal assistance to statutory victim of THB and LEPL Legal Aid Service is entitled to provide legal aid to children statutory victims at every stage of criminal proceedings.

Apart from it, on 4 May 2018 Chapter VII¹ (with articles 58¹ and 58²) was added to Criminal Procedure Code of Georgia, which enhanced the role of the Witness and Victim Coordinators.

Witness and Victim Coordinators have become the participant of the proceedings who protect interests of witnesses and victims involved in criminal law proceedings, to support them and to avoid victimization and secondary victimization, to ensure their awareness at the investigation and court hearing stages. This also encourages the potential victim/statutory victim of trafficking to cooperate with law enforcements. A prosecutor shall make the decision to involve the Witness and Victim coordinator in the criminal case by taking into consideration of the interests of the witness and the victim.

The Witnesses and Victim Coordination Service operates in different regions of Georgia.

According to Georgian Legislation, the statutory victims of THB can also be represented by their lawyers during the criminal proceedings in order to protect their interests and rights. NGO representative can also

¹ Article 57 of the Criminal Procedure Code of Georgia

represent the statutory victim of THB during the criminal proceedings if he/she have passed the bar exams and is a member of the Georgian Bar Association.

6.2 If the authorities fail to discharge their obligation to effectively investigate and prosecute suspected cases of trafficking, what possibilities for redress exist for victims of THB and their families? To what extent have victims of trafficking, including children, access to complaint mechanisms, such as Ombudsman institutions and other national human rights institutions?

Each governmental institution, including the Ministry of Internal Affairs and the General Prosecutor's Office has internal monitoring mechanism (General Inspection Departments), which controls the behaviour of the public servants. In case of any misconduct, the General Inspection Department initiates investigation.

General Inspection of the Ministry of Internal Affairs of Georgia examines all facts of alleged violations and misconducts (including neglect, inhuman treatment or violation of human rights) by the police, notified through hotlines ("126", "112"), along with open source or operational information. On each fact, General Inspection, within its competence, scrutinizes circumstances (including examination of the records of body cameras) and if there are signs of criminal offence, it delivers collected information to the General Prosecutor's Office of Georgia. In addition, MIA General Inspection supervises that all the information about body injuries of detained person are provided to the General Prosecutor's Office of Georgia.

Moreover, since January of 2018, the Department of Human Rights Protection and Investigation Monitoring is functioning within the Ministry of Internal Affairs. This non-operative department aims to ensure prompt response and quality of investigation of domestic violence, hate crime, violence against women, human trafficking, crimes committed by/towards minors and those based on discrimination. The Department also receives information on incidents/reports from all police departments throughout the country. In case the employee of the Department reveals gaps or problems in the investigation process or investigation was not launched when necessary, he/she reacts promptly, contacts the relevant police officer, provides legal consultations, discusses the issue with co-workers and decides on the future course of action. Cases of misconducts or neglects are forwarded to the General Inspection of the Ministry for further response.

Along with the abovementioned, the Department serves as a consultative body for the police and stands as a contact point for civil society and pertinent public agencies.

6.3 What reporting and complaint mechanisms are in place for victims of trafficking who are in an irregular migration situation and/or in detention?

Georgian Legislation does not punish the victims and statutory victims of human trafficking for committing any crime or administrative violation, including for being in irregular migration, if they had to behave so because of their being victims or statutory victims of human trafficking. In such case the victim and statutory victim will not be prosecuted in case of a crime or will not be punished or detained in case of administrative violation (*for detailed information please refer to question 7.1 on non-punishment*).

Victims and statutory victims of Human Trafficking are not subject of expulsion and placement at a Temporary Accommodation Centre (TAC). The Temporary Accommodation Centre provides free access to psychologist for all detainees including vulnerable persons.

In general, according to Georgian Law on “Legal Status of Aliens and Stateless Persons” an alien has a right to appeal decision on his/her detention in the manner prescribed by the legislation of Georgia. Any person has right to appeal his/her irregular status (*see Appendix 17 - Law on the Legal Status of Aliens and Stateless Persons – GEO and ENG*).

According to the Law on “Legal Status of Aliens and Stateless Persons”, Court and Migration Department of the Ministry of Internal Affairs of Georgia are responsible to issue an expulsion decision. Expulsion decision made by Migration Department can be appealed in court in 10 calendar days, and expulsion decision made by court can be appealed in higher court in 5 calendar days. The appeal process suspends the expulsion before the final decision.

Migration Department has its own internal monitoring mechanism and the rights of foreigners at TAC overseen by Foreigners Rights Protection and Monitoring Unit. Also, TAC of MIA are overseen by General Inspection of the Ministry of Internal Affairs and Public Defender (Ombudsmen) of Georgia. In addition, United Nations Refugee Agency (UNHCR) conducts permanent visits to monitor protection of rights of detained asylum seekers and existing conditions at TAC. Upon detention foreign nationals are informed of available ways of complaint (both internal and external) and could make use of confidential complaints boxes located in the corridors of the TAC beyond the CCTV coverage. Further, the Centre received frequent visits by a range of bodies including the Public Defender/NPM and the relevant international and non-governmental organisations.

According to the Georgian Law on “Legal Status of Aliens and Stateless Persons” and Order of the Minister of Internal Affairs of Georgia “On approval of the rule of detention and placement of aliens in the Temporary Accommodation Centre” considers best interests of women especially pregnant women and women with children. The applicable legislation provides for the detention of the pregnant women and women with children in exceptional cases and for a short period, considering their best interests.

Before placement at Temporary Accommodation Center, a person of the same gender conducts inspection of detained women in presence of an individual of the same gender.

In addition, an authorized person (medical personnel of the center) questions detainees concerning their health condition; examination performed carefully in a separate room without presence of other persons (in case of request the issue of gender is taken into consideration).

In the Temporary Accommodation Center, there are separate blocks for women and families where the women with children are placed.

6.4 Can victims of THB bring claims against the State or its officials for: i) direct involvement in THB; ii) failure to prevent THB or protect them from THB? Have there been cases where State agents or persons acting on behalf, or at the direction, of the State were found responsible for engagement in THB and/or failure to prevent it or protect victims from THB by third parties? Please provide information on any prosecutions against diplomatic and consular staff for alleged involvement in THB.

As mentioned above, each governmental institution has internal monitoring mechanism (General Inspection Departments), which controls the behaviour of the public servants. In case of any misconduct,

the General Inspection Department initiates investigation. If there are signs of criminal offence, it delivers collected information to the General Prosecutor's Office of Georgia.

Every person from 14 years old, including the state officials will be imposed criminal responsibility for committing THB.

Engagement of public officials in THB cases are not identified/confirmed by General Inspection Departments or proactive/reactive investigation of THB cases.

There were no investigations/prosecutions/convictions against diplomatic and consular staff for (alleged) involvement in trafficking or criminal activities linked to trafficking

6.5 What steps have been taken to strengthen and maintain the capacity of prosecutors to effectively prosecute trafficking cases?

As mentioned above, Government of Georgia pays particular attention to the capacity development for the officials working on THB issues, including prosecutors.

Since the previous, second evaluation round of Georgia (2015), a number of training activities were conducted on the topic of human trafficking for prosecutors, investigators and Witness and Victim coordinators of the General Prosecutor's Office of Georgia. Training activities were conducted in various thematic directions: Combatting Human Trafficking in adults and minors for the purpose of labour and sexual exploitation, review of legislative novelties on human trafficking and crimes adjacent to it; the significance of interagency coordination in combating human trafficking, illegal transportation of migrants across the border, etc.

The training activities were accomplished using own resources as well as the financial support of donor organizations.

In addition, annually Prosecutors Office of Georgia hire up to 100 trainee-prosecutors with a possibility of their future appointments as prosecutors. Trainee-prosecutors are provided with the special course before starting practicing. The curriculum of the course includes topics regarding THB.

Please refer to Appendix 14 for detailed information on trainings conducted with the participation of prosecutors.

7. Non-punishment provision (Article 26)

7.1 Please indicate what measures are taken to ensure that victims of THB, including children, are not punished for their involvement in unlawful activities (criminal, civil, administrative offences), to the extent they were compelled to do so, providing any concrete examples of their implementation.

Georgian Legislation does not punish the victims and statutory victims of human trafficking for committing any crime or administrative violation if they had to behave so because of their being victims or statutory victims of human trafficking.

According to Article 15 of the Anti-Trafficking law victims and statutory victims of human trafficking shall be discharged from liability for committing actions under Article 344 (Illegal crossing of the state border of Georgia) and Article 362 (Making, sale or use of a forged document, seal, stamp or blank forms) of the Criminal Code of Georgia, Article 172³ (Prostitution) and Article 185 (Residing in Georgia in violation of the registration rules established for Georgian citizens and aliens residing in Georgia) of the Code of Administrative Offences of Georgia. Nor shall they be held liable for participating in illegal acts, if they had to behave so because of their being victims or statutory victims of human trafficking.

Example: In 2018, Ministry of Internal Affairs of Georgia conducted investigation on the sexual exploitation of two female Georgian citizens, they were compulsory engaged in the prostitution. Females were granted the statuses of statutory victim and were released from administrative liability envisaged for prostitution by the article 172³ of the code of administrative offences of Georgia.

7.2 Can persons who have breached national laws in the course, or as a consequence, of being trafficked have access to remedies for victims of trafficking, including State compensation?

Yes. Whether the victim or statutory victim of human trafficking breached the law or not, he/she has access to remedies and all services available without any discrimination.

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

8.1 How are victims of THB protected in practice against potential retaliation or intimidation before, during and after legal proceedings? How is the assessment of the needs for protection performed and who recommends the application of the protection measures? Who is responsible of the implementation of the protection measures?

Chapter IX of the Criminal Procedure Code of Georgia lays down the conditions and procedure for applying special protection measures to a participant of criminal proceedings. According to Article 67 special measures for protecting a participant of criminal proceedings may be applied if:

- a) the proceedings concern the commission of such an act, the public hearing of which, due to its nature, will substantially harm the personal life of the participant of the proceedings;
- b) by making public the identity and the involvement in the case of a participant of the proceedings, will considerably endanger his/her or his/her close relative's life, health or property;
- c) the participant of the proceedings depends on the accused;

The special protection measures include:

- a) taking measures preventing the location [of participants of the proceedings] - replacing or removing from the public registry or any other public record the data that make it possible to recognise and identify a participant of the proceedings, in particular, the participant's name, address, work place, occupation or other relevant information;

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- b) changing the identity and issuing new documents - assigning a pseudonym, changing the physical appearance, classifying as secret the procedural and other documents that make it possible to recognise and identify the person;
 - c) taking safety measures (personal protection, emergency call, etc.);
 - d) changing temporarily or permanently the place of residence;
 - e) removing (relocating) to another state.

A prosecutor may, with the consent of the General Prosecutor of Georgia or his/her deputy, apply special protection measures for participants in the proceedings and include a participant of criminal proceedings in the special protection programme or a person who may become a participant of the proceedings, or any other person related to the person, and/or his/her close relative, with their consent

The Ministry of Internal Affairs of Georgia shall ensure the enforcement of special protection measures and the enforcement of specific protection measures taken within the limits of those measures.

Furthermore, to ensure (statutory) victims` security the addresses of shelters are confidential. It is forbidden to give information about the locations of these institutions to third parties. The staff members and beneficiaries are informed about this prohibition. Visitors shall have limited accessibility to the shelter.

The administration ensures the protection of victims in the shelters in spite of the stages of investigation. If the beneficiary temporary wants to leave the territory of the shelter, the administration suggests an accompanying person for protecting his safety. In the case of refusing this suggestion, the beneficiary is obliged to fill the special form (see Appendix 18 - the Form for temporary leave of the Shelter- GEO) about understanding of all risks and threats and taking responsibilities for own security. The beneficiary has to fill also a leave-returning form to note estimate time of returning. If 2 hours later after the expiration of the noted time, the administration cannot contact beneficiary the information is sent to the special division of The Ministry of Internal Affairs and to The State Fund.

8.2 How do you ensure that victims are provided with realistic and practical information about the progress of the case and whether the perpetrator has been detained or released?

As mentioned above, Georgian legislation ensures the Witness and Victim Coordination Service, which is functioning in the system of the Prosecution Office and the Ministry of Internal Affairs of Georgia. The main function of Witness and Victim Coordinators is to protect interests of witnesses and victims involved in criminal law proceedings, to support them and to avoid victimization and secondary victimization, to facilitate communication between citizens and prosecutor/court and to provide them with detailed information related to the progress of proceedings. This also encourages the potential victim/statutory victim of trafficking to cooperate with law enforcement.

The Witnesses and Victim Coordination Service operates in different regions of Georgia.

8.3 How do you ensure respect for the victims` right to safety, privacy and confidentiality during court proceedings?

Georgian legislation ensures the protection and assistance of witness/presumed victims or statutory victims of human trafficking. Law enforcement bodies immediately explain the victim/statutory victim of

trafficking that he/she has a right to enjoy the reflection period (30 days) whether he/she wants to cooperate with law enforcement and that he/she has right to address the State Fund and enjoy the State run services (shelter, crisis center, free legal aid, medical and psychological assistance, rehabilitation and reintegration programs). Law enforcement Agencies and the State Fund provide the victims/statutory victim of trafficking with full information on Georgian legislation on human trafficking. The investigator, prosecutor and judge with the assistance of interpreter inform the statutory victim of trafficking, in his/her native language or in a language he/she understands, of his/her rights and legal status as well as information on matters relating to the investigation and judicial proceedings. The victims/statutory victims and witnesses as well as persons providing legal services and assistance to them have the right to request protection of their own security and security of their family members at any time, in accordance with procedures established by the Georgian legislation. Identity, address and other personal data of (statutory) victims and witnesses of trafficking is confidential and its disclosure is prohibited except in cases envisaged by law. At the request of statutory victim, witness or their legal representative, special protection measures may be applied in accordance with procedures established by the Criminal Procedure Code of Georgia (see answer on Question 8.1).

8.4 In how many cases were witness protection measures used for the protection of victims and witnesses of THB, including children? If witness protection measures/programmes are not applied to victims of trafficking, what are the reasons?

There was no need to use the measures described under question 8.1 in practice for protection of victims and witnesses of THB.

8.5 When victim protection is provided by NGOs, how are NGOs resourced and supported to perform this function and how do the police and the prosecution co-operate with NGOs?

Government of Georgia pays particular attention to close cooperation with NGOs and International Organizations working in the field of combatting human trafficking. They are actively involved not only in Anti-Trafficking policy-making processes, but also different Governmental Agencies, including Ministry of Justice, Ministry of Internal Affairs, General Prosecutor's Office, LEPL Social Service Agency and the State Fund closely cooperate with them to prevent and protect the THB (statutory) victims from human trafficking.

Notably, the Interagency Council on Combating Trafficking in Human Beings (THB Council) set up in 2006 and chaired by the Minister of Justice of Georgia is inclusive and includes representatives not only from all line ministries and agencies but NGOs (Georgian Young Lawyers' Association, the Center for Information and Counseling on Reproductive Health –Tanadgoma, Civil Development Agency (CIDA), Anti-Violence Network of Georgia) and international organizations, including International Organization for Migration (IOM), International Centre for Migration Policy Development (ICMPD), the missions of EU and CoE to Georgia are the invited members of the THB Council (see Appendix 19 – the Statute of the Inter-Agency Council on Combatting Trafficking in Human Beings - GEO).

Apart from the Interagency platform, temporary working groups under the THB Council is periodically established, where thematic NGOs and IOs are also invited for their involvement in drafting legislative amendments, strategic documents, guidelines, etc. For example, in 2014 a working group tasked to identify the challenges and to elaborate the legislative amendments with regard to better protection of

children in street situations from any kind of violence, including the Human Trafficking was consisted of not only the Governmental Agencies, but also NGOs and IOs working on children's rights (e.g. UNICEF, NGO "Child and Environment", "Caritas Georgia", "World Vision Georgia", "Save the Children", etc).

Furthermore, a Permanent Group operating under the THB Council is the main body which grants the persons the status of THB victim based on the questionnaires of mobile group of State Fund. It consists of 5 members only from NGOs and IOs (International Organization of Migration (IOM), International Centre for Migration Policy Development (ICMPD), NGO Georgian Young Lawyers' Association, NGO the Center for Information and Counseling on Reproductive Health –Tanadgoma and NGO the Anti-Violence Network of Georgia). Granting the status of the victim from NGOs and IOs is one of the main basis for the State Fund services, including compensation to be provided to victims of THB (see Appendix 20 - Composition and the rule of procedure of the Permanent Working Group-GEO).

Additionally, the State Fund actively cooperates with international and non-governmental organizations working on human trafficking issues under the memorandum of understandings concluded with IOM, NGO "Georgian Young Lawyers' Association", NGO "Anti-Violence Network of Georgia", NGO "Women's Information Centre" and NGO "Women for Future".

Ministry of internal affairs, as well as the General Prosecutor's Office of Georgia has also a close cooperation with the non-governmental organizations working on human rights protection issues. Due to the cooperation, several joint projects were implemented successfully. Law enforcements with partner NGOs conducts public awareness campaigns in order to raise awareness of the population on the THB issues. The NGOs are proper sources to assist enhancement of victim's trust to law-enforcement agencies and support the victim and his/her family during the investigation. If NGO also suspects that a person is a victim of THB, it immediately refer the case to the Ministry of Internal Affairs for further investigation.

Mainly, NGOs providing the services to THB victims/statutory victims are financially supported by donor organizations, however, the 6 shelters and 6 day-care centres run by the NGO "Child and Environmet," "Caritas Georgia" and "World Vision Georgia" for children working and/or living in the streets are financially supported jointly by the LEPL Social Service Agency of the Ministry of IDPs from the Occupied Territories, Labour, Health and Social Affairs and these NGOs.

Furthermore, the Ministry of Justice of Georgia annually holds grant contests for NGOs aiming at prevention of THB and protection of the victims.

Notably, in 2015-2018 Ministry of Justice of Georgia issued in total 89,000 GEL to different NGOs for conducting awareness raising activities on THB, as well as on protection of children in street situations.

In particular, MOJ provided the following grants to NGOs:

- In 2015 MOJ granted 5000-5000 GEL to two NGOs for conducting awareness raising activities in Imereti and Adjara Regions. Within the Grant Programs NGOs conducted information meetings with different target groups and disseminated leaflets among the local population.
- In 2016 MOJ granted in total 54,000 GEL to two NGOs aiming at identification of and supporting of reintegration of the homeless children in the society. Within the framework of identification of homeless children, the NGO conducted research and elaborated recommendations on better

protection of children in street situations. Aiming at supporting of reintegration of the homeless children in the society, second NGO provided such children with educational, social, cultural, sports or other kinds of programs.

- In 2018, the MOJ issued a one-off grant of GEL 25,000 to one NGO in order to conduct awareness raising activities in ten big cities of Georgia and to make a video. Within the grant project, in April–May, 2018 NGO conducted information meetings with different target groups, such as students, pupils, teachers, local population, etc., produced and disseminated information materials in 6 languages (Georgia, English, Russian, Azeri, Armenian and Turkish). The aim of the grant project was to raise awareness of population about THB related issues, especially THB risks related to children in street situations.

8.6 How do you ensure that child victims of THB are treated in a child-sensitive way and are provided with protection before, during and after judicial proceedings in accordance with the Council of Europe Guidelines on Child Friendly Justice? Are interviews with children conducted in specially designated and adapted spaces by professionals trained to interview children? What measures are taken in order to ensure a limited number of interviews?

The Juvenile Justice Code, based on the UNODC Model Law on Juvenile Convention on the Rights of the Child and other international standards, was adopted by the parliament on 12 June, 2015. The Code sets even higher standards for protecting juvenile victims/witnesses.

The Juvenile Justice Code provides for the better procedural guarantees for juvenile victim and juvenile witness giving the best interests of the child the utmost importance in every matter.

According to the code, to prevent secondary and re-victimization of a juvenile victim/witness, a legal representative and a counsel as well as a psychologist shall attend his/her examination. In order to protect a juvenile witness judge can make a decision to:

- a. use image or sound substitute equipment, opaque screen or examine witness remotely;
- b. examine a juvenile witness before the court hearings and use the video-recording afterwards rather than conduct the examination in the courtroom;
- c. close the court hearing in full or in part;
- d. remove the accused from the courtroom while examining the juvenile witness.

Most importantly, Juvenile Justice Code obligates relevant law enforcement agencies to specialize/train professionals according the Code. Academy of the Ministry of Internal Affairs provides special training course for the professionals dedicated to work with juveniles.

Child friendly environment (room and cell) has been created in the police unit and temporary detention isolators of Rustavi with a great support of UNICEF. The room is equipped with audio and video equipment and has separate entrance. It is planned to create the similar facility in Tbilisi and other big cities of Georgia.

In order to improve prevention, detection and protection mechanisms against violence, in 2016 Government adopted new child protection (referral) procedures, which has extended the list of responsible entities to refer the child violence cases, including human trafficking to relevant agencies. The document clearly determines all forms of violence against child, describes competence and responsibility of each public agency and defines mechanism of separation of a child from an abuser. Ministry of IDPs from the Occupied Territories, Labour, Health and Social Affairs provides special assistance to the child victims of violence and abuse regardless of the type of the violence used against the child (see Appendix 21 - Child Protection Referral Procedures – GEO and ENG).

9. Specialised authorities and co-ordinating bodies (Article 29)

9.1 What budget, staff and resources, including technical means, are put at the disposal of law enforcement bodies specialised in combating and investigating THB?

Within the MIA, Division for Combating Trafficking in Human Beings and Illegal Migration of Central Criminal Police Department is in charge of detection and investigation of trafficking offences, detection and apprehension of criminals and/or organized criminal groups, despatch and respond to requests of international cooperation within its competence, as well as continuous preventive activities.

Apart from of the above-mentioned division, special Anti-Trafficking unit of Adjara's police department is in charge to fulfil the same duties. All other relevant structural units of the Ministry are involved in detection and response to trafficking offences within their respective competences. If a criminal offence that is investigated by relevant structural unit of the Ministry reveals signs of human trafficking, the case is referred to the Anti-Trafficking unit.

Ministry of Internal affairs of Georgia defines necessary annual budget for the units/divisions responsible for investigation of crimes. In accordance to Georgian legislation, investigations of the trafficking cases are supported with proper amount of funds. Ministry of Internal Affairs is fully equipped with essential transportations, fuel, relevant equipment, office facilities to carry out investigation of trafficking cases

9.2 If your country has specialised units for financial investigations, financial intelligence units and asset and recovery units, please describe whether and how are they used in investigating and prosecuting THB cases. Which special investigation techniques do these units use? Which public and/or private bodies do these specialised financial investigation units co-operate with in relation to THB cases?

According to the Law on "Investigation Service of the Ministry of Finance of Georgia" investigation service is a special law enforcement body with the status of a state sub-agency within the system of the Ministry of Finance of Georgia. It shall combat crime in the areas of finance and economy, investigate cases falling within its jurisdiction under the criminal procedure legislation, and perform other functions determined by the legislation of Georgia. Within the scope of its authority, the Investigation Service is entitled to carry out operative-investigative activities, detect, solve and prevent crime in the areas of finance and economy, conduct investigation, and take coercive measures in compliance with law; if a delay poses a threat to

human life or health, freely enter dwellings and quarters owned by citizens, premises of enterprises, institutions and organisations (except for premises of diplomatic missions, consular offices and international organisations which enjoy diplomatic immunity) in order to prevent a crime or detain a person who has committed a crime or is charged with a crime, etc.

Furthermore, there is a special unit in the General Prosecutor's Office of Georgia - Division of Criminal Prosecution against Legalization of Illegal Income, which exclusively deals with money laundering.

Both the Investigation Service of the Ministry of Finance and the Division of Criminal Prosecution against Legalization of Illegal Income are vested to conduct investigation in full manner, including secret investigative actions, which are stipulated under article 143¹ of Criminal Procedure Code of Georgia as follows:

- a) Secret eavesdropping and recording of phone conversations;
- b) Removal and recording of information from a communications channel (by connecting to the communication facilities, computer networks, line communications and station devices), computer system (both directly and remotely) and installation of respective software in the computer system for this purpose;
- c) Monitoring of post and telegraphic communications (except for a diplomatic post);
- d) Secret video and audio recording, film and photo shooting;
- e) Electronic surveillance through technical means, which do not endanger human life, health or the environment

If financial investigation reveals facts of THB, the case will be detached and referred to the Central Criminal Police Department of the MIA for further investigation.

10. International co-operation (Article 32)

10.1 How does your country co-operate with other countries to enable victims of THB to realise their right to redress and compensation, including recovery and transfer of unpaid wages after they leave the country in which the exploitation occurred?

Based on the Article 22 of the Anti-Trafficking Law of Georgia the state bodies of Georgia cooperate with appropriate foreign state bodies in preventing and combating human trafficking, of protection, support and rehabilitation of victims and statutory victims under the United Nations Convention against Transnational Organised Crime and its Additional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Council of Europe Convention on Action against Trafficking in Human Beings; under agreements concluded on mutual legal assistance between Georgia and respective states, and other treaties and international agreements of Georgia.

Furthermore, Georgia is a state party to multilateral and bilateral international treaties on legal assistance in civil and criminal matters. Such multilateral agreement is the **Convention on Mutual Assistance and Legal Relations in Civil Family and Criminal Matters from 1993** (hereinafter "the Minsk Convention"). Under the Minsk Convention citizens of each Contracting Party and persons residing on its territory, have the right to protect their personal and property rights on the territories of all Contracting Parties as their native citizens. Citizens of each Contracting Party and persons residing on its territory have the right to apply freely and without obstacles for the courts, prosecutor's offices and other agencies, the

competence of which covers civil, family and criminal cases. Also, they may make petitions, bring lawsuits and fulfill other procedural activities on the same conditions as the native citizens.

According to Minsk Convention the Contracting Parties grant legal aid to each other by way of carrying out procedural and other actions envisaged by national legislation of Contracting Party, in particular: compiling and service of documents, conducting searches, requisition, conducting expertise and interrogations of the parties, accused, witnesses, experts, as well as starting criminal prosecution, recognition and enforcement of court decisions in civil cases.

Within the implementation of the abovementioned Agreements, the competent authorities of the Contracting Parties communicate with each other through their central authorities (Ministries of Justice).

In case Georgian citizen becomes the victim of THB in any country party to the Minsk Convention and based on the decision of the court of the destination State he/she is entitled to, but could not get compensation or unpaid wages, the Ministry of Justice of Georgia can refer to the Ministry of Justice of the destination country and request the destination country to take all relevant measures under its legislation in order Georgian citizen to get his/her compensation or unpaid wage.

Bilateral Agreements providing the same provisions as the Minsk Convention is also concluded between Georgia and the following countries: Turkey, Hellenic Republic, Bulgaria, Ukraine, Azerbaijan, Armenia, Turkmenistan, Kazakhstan, Uzbekistan, Czech Republic and Cyprus.

10.2 Has your country co-operated with other countries in the investigation and prosecution of THB cases through financial investigations and/or Joint Investigation Teams? Please provide statistics on such cases and examples from practice.

10.3 How many mutual legal assistance requests and/or European Investigation Order have you made in THB cases and what was their outcome?

10.4 What forms of international co-operation have proven to be particularly helpful in upholding the rights of victims of trafficking, including children, and prosecuting alleged traffickers?

Joint Answer to Q.Q 10.2 – 10. 4

Expanding international cooperation in combating cross-border trafficking is one of the important dimension of Georgian Anti-Trafficking Policy. In this regard, General Prosecutor's Office actively cooperates with partner states through mutual legal assistance in criminal matters, as well as the Ministry of Internal Affairs of Georgia – within the framework of police cooperation.

Notably, Georgia has concluded international agreements/MoUs on cooperation in the field of combating crime and police cooperation with 32 countries - Armenia, Austria, Azerbaijan, Belarus, Bulgaria, China, Egypt, Estonia, Fiji (MoU), France, Germany, Greece, Hungary, Israel, Italy, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Malta, Moldova, Poland, Qatar (MoU), Romania, Slovakia, Spain, Sweden, Turkey, Ukraine, UK (MoU), USA (MoU) and Uzbekistan.

Draft Agreements are also prepared for the signature with some other European and Asian countries - Czech Republic (prepared for the signature), Serbia (prepared for the signature), Belgium (negotiated), Albania, Croatia, Cyprus, Denmark, Finland, Ireland, Iceland, Luxembourg, Netherlands, Norway, Portugal, Slovenia and Switzerland (initiated via diplomatic channels), and UAE (negotiated), Saudi Arabia (under negotiations), India and Jordan (MoU) (initiated via diplomatic channels).

Furthermore, Georgian law enforcement agencies closely cooperate with partner countries with police attaches. **16 Georgian police attachés** are deployed in the following countries: Armenia, Austria, Azerbaijan, Belarus, Belgium (simultaneously a MIA liaison officer to NATO), Czech Republic, France, Germany, Greece, Italy, Netherlands (simultaneously a Georgian liaison officer to EUROPOL), Poland (covering Estonia, Latvia and Lithuania), Spain, Sweden (covering Denmark and Finland), Turkey and Ukraine.

In April 2018, the MIA transformed International Criminal Cooperation Center into International Law Enforcement Cooperation Center, and thus incorporated all units' competent for international operational cooperation under one center. The National Central Bureau of INTERPOL, which previously acted as a separate unit at the Ministry, was integrated in the center and new structural units: National Contact Point of EUROPOL and single 24/7 unit (serving for EUROPOL, INTERPOL and GUAM) were established within the new center. This structural change enhanced the coordination and effectiveness of international operational law enforcement cooperation.

On April 4, 2017, Georgia signed Agreement on Operational and Strategic Cooperation with EUROPOL. On March 9, 2018, the Memorandum of Understanding on Secure Communication Line and Liaison Agreement were signed with EUROPOL. The Parliament of Georgia ratified the Memorandum, which entered into force on June 20, 2018. On September 1, 2018, Georgian liaison officer was deployed to EUROPOL's Headquarters. The liaison officer also serves as a police attaché to the Netherlands.

The 4-years process of negotiations on conclusion of bilateral Agreement between Georgia and EUROJUST was also finalized successfully by signature of the Agreement on 29 March, 2019, in the Hague, Netherlands.

Cooperation with EUROPOL and EUROJUST will further develop existing legal and institutional mechanisms so that to provide for convergence with EU standards and policies within the framework of judicial cooperation in criminal matters. This cooperation will strengthen joint EU/Georgia institutional and policy capacity to deal with transborder crimes, including human trafficking.

There were no cases of international cooperation in practice for the investigation and prosecution of THB cases through financial investigations and/or Joint Investigation Teams.

Please see below the Statistical data of MLA Requests received on THB cases

2015		
Number of requests	Country	Status
6	Republic of Turkey	6 executed

1	Republic of Azerbaijan	1 executed
1	Republic of Uzbekistan	1 executed
2016		
8	Republic of Turkey	8 executed
2017		
5	Republic of Turkey	5 executed
1	Republic of Moldova	1 executed
1	Republic of Azerbaijan	1 executed
1	Republic of Armenia	1 executed
2018		
1	Ukraine	1 executed
8	Republic of Turkey	3 executed, 5 ongoing

10.5 What international co-operation measures are in place to ensure protection and assistance to victims on return from your country to their countries of origin following their participation in criminal proceedings?

Government of Georgia pays particular attention to the protection of THB victims abroad through the consular units. The main competence of Diplomatic Representations/Consular posts of Georgia abroad in terms of protecting and assisting victims of trafficking abroad is to ensure their safe return on the territory of Georgia, provide them with the travel document for return to Georgia, and if required cooperate with the competent authorities of the host state.

The assistance and protection of the victims of the THB by the diplomatic mission/consular post of Georgia includes the following procedures:

- assisting the victims/possible victims of THB, upon their request, to find temporary safe placement;
- after receiving information on such facts immediately and afterwards as well, informing the relevant authorities of Georgia;
- within the competence, paying attention to the process of investigation;
- assisting the victims in safe return to the territory of Georgia, providing them with the necessary documentation (including Emergency Travel Document).

All the services funded by the Government of Georgia are also available for Georgian citizens trafficked abroad without discrimination.

Government of Georgia also assists foreign THB victims/statutory victims of trafficking and if they wish, GOG ensures their safe return to their country of origin and cooperate with the partner states to provide

them with the subsequent documentations to travel. For the safe return of the THB victim/statutory victims, GOG closely cooperates with IOM.

10.6 What international co-operation measures are in place to protect and assist victims of THB for the purpose of sexual exploitation through online streaming where the perpetrator is a national or habitual resident of your country and elements of the crime have occurred in your country's jurisdiction?

Taking into account that cybercrime and crimes committed by using ICTs constitutes one of the main challenges for 21st century, in December of 2012 Special Cybercrime Unit was established within the Central Criminal Police Department of the Ministry of Internal Affairs of Georgia (MIA). The Unit is responsible for detection, suppression and prevention of illegal activities committed in cyberspace including child pornography and online sexual abuse.

Moreover, Special Subunit for Computer-Digital Forensics was created within the system of MIA Forensics-Criminalistics Main Division, which has the function of first handling and further forensic examination of digital evidences.

In February 2014, Mutual Agreement was signed between National INTERPOL Bureau and the National Center for Missing and Exploited Children (NCMEC). NCMEC is subordinated to US Congress and constitutes the national resource center and information bank for missing and exploited children. Based on this, internal standards of the Ministry of Internal Affairs were adopted and correspondingly, MIA has the access to sexually exploited children's database, which is elaborated by the Division of Exploited Children.

Georgia has ratified the Convention on Cybercrime of the Council of Europe (known as the Budapest Convention). Georgia co-operate with other parties of the Convention.

Referring to obligations set by the abovementioned convention, the 24/7 National Contact Point is operating at the Cyber Crime Division of the Central Criminal Police Department at the Ministry of Internal Affairs of Georgia.

In case of requests for preservation of data, the request is recorded and receipt is confirmed by email upon delivery/opening report (if requested by sender). The next step is an initial review as to dual criminality for which the judicial cooperation central authority may be consulted. If approved, the relevant ISP is approached and requested to preserve data, and if ISP confirms data preservation, requesting authority will be notified accordingly. If preservation is not available, requesting country is offered urgent MLA procedures.

Given the nature of preservation requests, they are all treated as urgent.

11. Cross-cutting questions

11.1 What steps are taken to ensure that victims of THB have equal access to justice and effective remedies, irrespective of their immigration status and the form of exploitation?

Right to Equality is one of the main constitutional principle regulated under article 11 of the Constitution of Georgia. According to the article, all persons are equal before the law. Any discrimination on the grounds of race, colour, sex, origin, ethnicity, language, religion, political or other views, social affiliation, property or titular status, place of residence, or on any other grounds shall be prohibited.

Furthermore, Anti-Discrimination Law adopted in 2014 ensures elimination of all forms of discrimination in public and private sector irrespective of race, skin colour, language, sex, age, citizenship, origin, place of birth or residence, property or social status, religion or belief, national, ethnic or social origin, profession, marital status, health, disability, sexual orientation, gender identity and expression, political or other opinions, or other characteristics.

Any form of discrimination, being direct, indirect or multiple, is prohibited in Georgia and it vests the authority to monitor its implementation with the Public Defender's Office.

As mentioned above, all services of the State Fund, including legal aid is provided to victims/statutory victims and presumed victims without discrimination on any ground and regardless of his/her immigration status and the form of exploitation.

11.2 What steps are taken to ensure that criminal, civil, labour and administrative proceedings concerning victims of THB are gender-sensitive?

Taking into account the nature of the THB and the analyses of statistical data, majority of the victims are females, who became victims of sexual exploitation. Ministry of Internal Affairs ensures to provide female investigator in the cases were, the victim is a woman. Additionally, all police staff and prosecutors receive permanent trainings on gender issues. The module of the training is designed in a way to enhance gender sensitivity of the law enforcements.

Within the special training module called „Supporting Justice through Gender Equality“ that was created in 2014 by the High School of Justice in close cooperation with USAID judges and their assistants are annually trained on gender equality issues and the rights of women aiming at increasing gender sensitivity among them.

11.3 What steps are taken to ensure that procedures for obtaining access to justice and remedies are child-sensitive, readily accessible to children and their representatives, and give weight to the child's views?

As already mentioned above. the Parliament adopted Georgia's first separate and specialized Juvenile Justice Code on 12 June 2015. The new Code expands the alternatives to criminal prosecution, such as diversion and mediation, and diversifies the sanctions available to judge to ensure that the detention and imprisonment are used only as the measures of the last resort as derived from the principle of the best interests of the child and other international standards under the UN Convention on the Rights of the Child and relevant international instruments.

As a result of adoption of the Juvenile Justice Code, the number of Juveniles sentenced imprisonment is dramatically decreased. In 2012 – 89; in 2014 – 47; in 2018 – 30.

One of the main principles of the Juvenile Justice Code (JJ Code) is the protection of the best interests of the child. According to article 4 of the Juvenile Justice Code, in juvenile justice procedure, the best interests of minors shall be considered as a priority. The JJ code defines the best interests of the child as it follows: the interests of safety, well-being, healthcare, education, development, re-socialisation and rehabilitation and other interests that are determined in accordance with international standards and the individual characteristics of the minor, and taking into account his/her opinion.

Furthermore, according to the Juvenile Justice Code of Georgia only persons specialised in juvenile justice shall administer juvenile justice proceedings. The Juvenile Justice Code requires all persons, including prosecutors, investigators, judges and even lawyers to be specialised in Juvenile Justice.

Apart from the legislation, as already mentioned above child friendly environment (room and cell) has been created in the police unit and temporary detention isolators of Rustavi with a great support of UNICEF. The room is equipped with audio and video equipment and has separate entrance. It is planned to create the similar facility in Tbilisi and other big cities of Georgia.

Within the framework of the Judiciary Strategy for 2017-2021 the Georgian Judiciary is actively working on developing a child-friendly environment in courts corresponding to international standards. In 2018 child-friendly environment was formed at Rustavi City Court. As regards the Tbilisi City Court, in order to ensure access to justice for juveniles in civil litigation, judges working on cases related to family disputes had been positioned in a specialized building, formed on the basis of the previous building of the High School of Justice. The building provides three court rooms, five workrooms and a room for meetings with juveniles in line with the international standards for child-friendly environment. A child-friendly courtroom is available at the premises of the Supreme Court of Georgia as well.

It should be also noted that in June 2018 the HCJ adopted the decision and tasked the High School of Justice to prepare curricula (training module) of a course for judges in the field of the rights of a child in accordance with the judges' specialization standard.

11.4 What steps are taken to ensure that private entities take steps to prevent and eradicate trafficking from their business or supply chains and to support the rehabilitation and recovery of victims? What options exist for victims of trafficking to access effective remedies from businesses implicated in human trafficking?

As mentioned above, the Criminal Code of Georgia impose liability not only on individuals, but also on legal persons for committing human trafficking. Legal person shall be punished by deprivation of the right to carry out activities or with liquidation and a fine.

Article 2 paragraph 6 of the Labor Code of Georgia obliges the Parties, in particular employers and employees to safeguard the basic human rights and freedoms under the legislation of Georgia (*see Appendix 22 - Labour Code of Georgia – GEO and ENG*).

Furthermore, the Law of Georgia on Labour Migration was adopted by the Parliament of Georgian on 1st of April, 2015. The Law regulates relations falling within the field of labour migration which are related to the provision of employment for persons (citizens of Georgia, aliens holding a permit for permanent residence in Georgia, and stateless persons having status in Georgia) and to their paid labour activities outside Georgia.

According to article 7 of the Law on Labour Migration a legal person, an individual entrepreneur, or a branch (representation, permanent office) of a foreign enterprise, or of a non-entrepreneurial (non-commercial) legal entity acting in the field of providing employment and/or assistance in the provision of employment outside Georgia, is obliged to register the relevant activity in the registry of economic activities in accordance with procedures and provisions established by the legislation of Georgia.

Employment and/or assistance in the provision of employment outside Georgia without registration of the relevant activity in the registry of economic activities is prohibited and punishable by the administrative liability, in particular, by a fine in the amount of 500 GEL. The same offence committed repeatedly shall result in the imposition of a fine in amount of 1000 GEL.² (*see Appendix 23 – Law on Labour Migration-GEO and ENG*).

Notably, the mobile groups of the Ministry of Internal Affairs of Georgia and the Task Force regularly monitor persons and organizations which offer employment in or outside of the country; organizations which ensure transportation for persons leaving the country; travel agencies; enterprises which employ foreigners, organizations and persons provided visa assistance.

Apart from it, the Labour Inspectorate Department of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia keeps checking of private and state institutions in order to reveal the facts of forced labour and labour exploitation. From January 2019, under the department, there is one special group dedicated to this issue. If the Labour Inspector, while checking the private companies, doubts that there are some signs of forced labour or labour exploitation, he/she immediately refers the case to the Central Criminal Police Department of the Ministry of Internal Affairs of Georgia for further check.

The Labour Inspectorate Department also conducts awareness raising activities for employers and employees on the risks of forced labour and labour exploitation (*the detailed information on the functions and work of the Labour Inspectorate Department with regard to identification of labour exploitation cases is below*).

11.5 What legal, policy and practical measures are taken in your country to prevent and detect situations where corruption facilitates human trafficking and infringes the right of victims of THB of access to justice and effective remedies? Please provide information on any known or proven cases of corruption or related misconduct of public officials in THB cases and any sanctions issued.

Georgia has a comprehensive framework for combatting corruption and money laundering, which has been subject to constant reviews and upgrades throughout the recent years in order to ensure its effectiveness and compliance with international standards, including the FATF recommendations.

The investigation and prosecution of corruption and money laundering are among the highest priorities of the General Prosecutor's Office (PSG), as it is also noted in the PSG Strategy and Action Plan for 2017-2021. In line with the policy priority, throughout the recent years PSG has continued implementation of the routine measures for increasing the effectiveness of corruption investigations and prosecutions as well

² Article 15 of the Law of Georgia on Labour Migration

as related asset tracing and confiscation. Some of the examples of these measures include the issuance of recommendation for prosecutors and investigators on asset confiscation, designation of the PSG structural unit as a contact point for cooperation with the EU asset recovery offices, development of guidelines for practitioners on investigation and prosecution of crimes committed by legal entities and extensive capacity building activities of investigators and prosecutors.

Furthermore, The **Interagency Anti-Corruption Council (ACC)** chaired by the Minister of Justice, is the main policy-shaper body, which includes all relevant Governmental agencies, NGOs and International Organizations.

At the end of December, 2018 Georgia has completed implementation process of the Anti-Corruption Action Plan 2017-2018. At this moment, as a result of intensive and collaborative work within the ACC, the Government of Georgia is at the process of adoption of **the new Anti-Corruption Strategy and 2019-2020 Action Plan**.

Notably, as a result of extensive reforms, Georgia has transformed from a corrupt post-Soviet state to one of the least corrupt countries in the world. Georgia's success in eradicating corruption is reflected in various international surveys and rankings:

- Experience of bribery according to the **Global Corruption Barometer Survey 2017** prepared by Transparency International is 7%;
- According to the **World Justice Report Rule of Law Index 2019**, Georgia is the strongest overall rule of law performer within Eastern Europe and Central Asia, holding 1st place and globally 41st place among 113 states. In the dimensions of the absence of corruption and open government Georgia ranks 24th and 39th respectively.
- According to the **Corruption Perception Index of 2018** prepared by the **Transparency International**, Georgia ranks 41st among 180 states and constantly remains the first in the region with the score of 58;
- According to 2018 **Business Bribery Risk Index** by Trace International, Georgia is ranked 27th out of 200 countries with the risk score of 26 out 100. Business interactions with government is assessed as the lowest corruption risk domain in Georgia with the risk score of 17 out of 100.

Until now, there have been no corruption investigations in connection with trafficking in persons.

Part II – Country-specific follow-up questions

12. Please provide information on new developments in your country since GRETA's second evaluation report concerning:

- **emerging trends of trafficking in human beings (new forms of exploitation, new recruitment methods, vulnerable groups, gender-specific aspects of trafficking, child trafficking);**

The Secretariat (Public International Law Department of the Ministry of Justice of Georgia) of the THB Council collects the THB related statistics from different responsible Agencies into single integrated database. The Ministry of Internal Affairs, General Prosecutor's Office and the State Fund for Protection and Assistance of (Statutory) Victims of Human Trafficking proactively provide the Secretariat with the following information:

- 1) information on the human trafficking cases – number of investigations, prosecutions, cases sent to the court and convictions segregated by forms of exploitation;
- 2) information on alleged perpetrators (prosecuted persons and convicted traffickers) – number, citizenship, age, sex and imposed sanctions;
- 3) information on THB statutory victims (status granted by the law enforcement under Criminal Procedure Code of Georgia) – citizenship, sex, age, type of exploitation, country where the person was exploited, the type of service provided from the State Fund (legal consultation, court representation, medical service, psychological assistance, shelter, compensation);
- 4) information on THB victims (status granted by the permanent group under THB council, when the person does not want to cooperate with the law enforcements) – citizenship, sex, age, type of exploitation, country where the person was exploited, the type of service provided from the State Fund (legal consultation, court representation, medical service, psychological assistance, shelter, compensation).
- 5) Police Cooperation and cooperation within the framework of mutual legal assistance on criminal matters – statistics segregated by number and countries of incoming and outgoing MLA and extradition requests, statistics segregated in number, countries and form of exploitation of outgoing police cooperation requests.

Based on the database and the identified cases, the Secretariat makes analysis of the recent THB trends, means and methods of exploitation in and outside of Georgia, profiles of the prosecuted and convicted persons, victims and statutory victims, as well as services of State Fund provided to them.

The analysis of the detected THB cases and the profiles of THB (statutory) victims) shows that most victims and statutory victims are sexually exploited women in Georgia. In 2016- 2019 (As of 2 May, 2019) 5 Uzbek women and 1 Georgian woman were granted the status of victim of sexual exploitation, 6 Uzbek and 6 Georgian women were granted the status of statutory victim of sexual exploitation and 2 Ukrainian women were the statutory victims of labour exploitation. Out of six Uzbek statutory victims, two were also granted the status of victim and one Georgian statutory victim was granted the status of victim too.

When it comes to the child trafficking, 2 Georgian female children were granted the status of statutory victim of forced labour (forced begging), 1 Georgian girl was granted the status of victim of sexual exploitation and 1 new-born boy was granted the status of statutory victim for being sold.

The means of recruitment for the purpose of sexual exploitation are following: traffickers promise victims to be employed in hospitals, beauty salons, restaurants and hotels in Georgia, and be paid high salaries; however, they are not paid adequately of the promises. Traffickers take victims to various disco clubs, bar-restaurants, where pre-selected clients meet them, and the trafficker forces the victim to follow the client to various hotels in order to have sexual intercourse with him, and the trafficker takes the money from client in advance. There still are the several cases of deprivation of passports/identification documents; restriction and control of free movement and communication, psychological coercion and blackmailing and/or physical violence. To enslave the statutory victims, traffickers used Debt bondage and forced them to cover unreal debts.

- **the legislation and regulations relevant to action against THB (e.g. criminalisation of THB, identification and assistance of victims of THB, recovery and reflection period, residence permit, supply chains, public procurement);**

Georgian legislation remains high sanctions for the crime of human trafficking. In case of trafficking of adults, the sanctions vary from 7 years to 15 years of imprisonment³. While the liability for trafficking of minor vary from 8 years to life imprisonment⁴. Article 143³ of the Criminal Code of Georgia also impose criminal liability for using the services of the victim and statutory victim of human trafficking. The penalties varies from 3 to 15 years of imprisonment (*see Appendix 24 – THB Crimes under the Criminal Code of Georgia – GEO and ENG*).

Since 2016 relevant legislative amendments were introduced in Georgian legislation for more effective fight against Human Trafficking.

1. Protection of children working and/or living in the streets

On 22 June, 2016 relevant legislative amendments were adopted by the Parliament of Georgia in up to 10 legal acts aiming at better **protection of children working and/or living in the streets** from any kind of violence, including human trafficking.

Government of Georgia identifies the children living and/or working in the streets as one of the vulnerable groups for human trafficking, especially for forced labour and labour exploitation. To address the issue, a special working group composed of all relevant Governmental Agencies, NGOs and International Organizations working in the field of children's rights was set up under the THB Council. The working group elaborated draft legal amendments in up to 10 legal acts aiming at creating legal framework to **provide children living and/or working in the streets with identification documents** and **strengthen the role of social workers to separate minor from perpetrator/remove the child from family or other environment where the violence was committed**.

In particular, the elaborated legislative package had two main dimensions:

- a) It provides the legal definition of children living and/or working in the streets, who are identified and granted the status of homeless children by the Social Worker. Granting the status of homeless children aims at laying down a legal framework for providing children in street situations with identification documents at no charge, making thereby education, healthcare, social security and other government services available for such children who by then had had no access to those services because of the lack of ID documents. As a result of the current amendments the Social Service Agency is authorized to apply to the LELP Public Service Development Agency (PSDA) operating under the Ministry of Justice of Georgia, for the civil registration/identification documents for homeless children. Before then, only a child's parent or other legal representative was entitled to apply to the Public Service Development Agency.
- b) Legal amendments aim at strengthening the role of social worker. In particular, according to the new regulations, the social worker is authorized to remove the child from family or environment where the violence was committed. This also includes the case when the violence against child takes place in the streets. Before then, only police was entitled to remove a child from the abuser or violent environment.

These legal amendments came into force on 10 August 2016.

³ Article 143¹ of the Criminal Code of Georgia

⁴ Article 143² of the Criminal Code of Georgia

2. New Child Protection Referral Mechanism

The new **Child Protection Referral Mechanism** was adopted on September 12, 2016. It is noteworthy that unlike the previous referral instrument which was adopted by the heads of three line ministries (Minister of Interior, Minister of Healthcare, Minister of Education), the new one is upgraded to a higher level and has been approved by the Government of Georgia. The Child Protection Referral Mechanism expanded the responsible entities for referring child violence cases to the relevant agencies. In particular, all governmental institutions and their structural units, LEPLs, medical institutions and local municipalities have become obliged to refer the possible case of child violence to the Social Service Agency and the police. The failure to report such cases to the relevant state bodies by persons involved in the child referral mechanism will invoke administrative liability.

Based on the new Child Protection Referral Mechanism, all involved agencies approved internal instruction.

Furthermore, the new referral mechanism foresees development of an integrated database of the child violence cases. The database will put together information about the child victims, perpetrators, forms of violence, etc. It will be technically administrated by the police and will be accessible to all the agencies involved in the referral proceedings.

3. Protection of Children born through extracorporeal fertilization (surrogacy)

On 22 March 2016 legal amendments were introduced to the Law of Georgia on the Rules of Leaving Georgia and Arrival to Georgia by Citizens of Georgia and the Law of Georgia on the Legal Status of Foreigners and Stateless Persons.

The aim of the amendments was to prevent committing any illegal acts against children born in Georgia through extracorporeal fertilization (surrogacy), including violence, pornography, sexual exploitation, trafficking, etc.

According to the amendments, taking of a child born in Georgia through extracorporeal fertilization (surrogacy) is possible only when both parents are indicated in a duly issued birth certificate.

In addition, the rules on the removal of a child born in Georgia through extracorporeal fertilization (surrogacy) was approved upon the Joint Order of the Minister of Justice of Georgia and the Minister of Internal Affairs of Georgia (1133, 1144; **5 April and 11 April 2016**). This Joint Order regulates the procedures for taking a child born in Georgia through extracorporeal fertilization (surrogacy), the grounds of the restriction of right to take the child from Georgia and important aspects of cooperation between the respective units of the Ministry of Internal Affairs and the PSDA to protect the rights and best interests of a child.

In particular, the data of the children born in Georgia through extracorporeal fertilization (surrogacy) developed by the PSDA is available for the Ministry of Internal Affairs of Georgia which controls the Passport at the Border Crossing Points. If during the passport control the respective employee of MIA finds out that the child who is leaving Georgia for the first time is born in Georgia through extracorporeal fertilization (surrogacy) and is included in PSDA database but both parents are not indicated in the birth certificate or PSDA has not registered the Civil Act of Birth on behalf of a child, the authorized official of MIA is obliged to prevent the leaving of child from Georgia.

The above-mentioned rule on the removal of a child born in Georgia through extracorporeal fertilization (surrogacy) is in force and applicable since 12 April, 2016.

4. New Crime - Pimping

On 17 May, 2018 the Parliament of Georgia adopted legislative changes in Criminal Code and Criminal Procedure Code of Georgia. The legal amendments were developed by a temporary Working Group under the THB Council based on the analysis of legislative and practical THB related challenges. In particular, **pimping, as a crime was introduced in Georgian legislation** (Article 254, paragraph 1 of CCG) and the articles of THB related crimes (e.g. involvement of a child in anti-social activities (article 171 of CCG), engagement in prostitution (article 253 of CCG) and engagement of a minor in making and selling of the pornographic work or other item of pornographic nature (article 255¹ of CCG)) were amended aiming at ensuring of proper qualification of THB Cases. The amendments also aimed at promotion and simplifying the collection of evidences. The draft amendments were distributed among all stakeholders, including NGOs and International Organizations, for comments and feedback. The legislative changes came into force on 12 June, 2018 (*see Appendix 24*).

After enactment of the legislative amendments, on July 11-12, 2018, Ministry of Justice of Georgia conducted training for investigators and prosecutors aiming at introducing them the new crime – pimping and accompanied legislative changes in the criminal and criminal procedure codes of Georgia. In total 55 participants (36 investigators and 19 prosecutors) attended the training;

Since the new crime came into force, investigations started on 7 alleged cases of pimping and 9 persons were prosecuted. Out of 9 prosecuted persons, 2 of them are already convicted. Other cases are pending in the court.

- **the institutional and policy framework for action against THB (bodies responsible for co-ordinating national action against THB, entities specialised in the fight against THB, national rapporteur or equivalent mechanism, involvement of civil society, public-private partnerships);**

Combating Trafficking in human beings (THB) is one of the key priorities for the Government of Georgia (GoG). In this regard the governmental policy is entirely focused on so called 4 Ps and GoG is committed to adopt efficient measures in order to enhance Prevention, Protection, Prosecution and Partnership.

Government of Georgia acknowledges that combating human trafficking requires concerted interagency policy in implementation of the law and the above-mentioned principles. In this regard, the role of the THB Council set up in 2006 remains indispensable in adopting serious and sustainable measures and coordinating inter agency policy in combating THB. The THB Council chaired by the Minister of Justice of Georgia is inclusive and includes representatives from all line ministries and agencies (Ministry of internal Affairs, General Prosecutor's Office, Ministry of Foreign Affairs, Ministry of IDPs from Occupied territories, Labour, Health and Social Affairs, Ministry of Economy and Sustainable Development, Ministry of Education, Science Culture and Sports, Parliamentary Secretary of Government of Georgia, LEPL State Fund for the Protection and Assistance of (statutory) Victims of Trafficking, Parliamentarians and Public Defender's Office). Furthermore, NGOs (Georgian Young Lawyers' Association, the Center for Information and Counseling on Reproductive Health –Tanadgoma, Civil Development Agency (CIDA), Anti-Violence

Network of Georgia) and international organizations, including International Organization for Migration (IOM), International Centre for Migration Policy Development (ICMPD), the missions of EU and CoE to Georgia, as well as the US Embassy to Georgia are the invited members of the THB Council.

The THB Council has the both mandate – Coordination and Monitoring. In particular, the THB Council:

- a) supports and coordinates the implementation of the measures taken by relevant Governmental Agencies for prevention, investigation and prosecution of THB cases, as well as protection and assistance of victims and statutory victim of THB;
- b) identifies the THB related challenges, elaborates the legislative and practical measures in response to them and submits the proposals and recommendations to the Government of Georgia;
- c) cooperates with State institutions, NGOs, International Organizations and partner states;
- d) approves the Anti-Trafficking National Action Plans (NAP) and monitors their implementation;
- e) monitors the implementation process of the national action plan, recommendations and commitments;
- f) prepares and adopts the progress reports for the implementation of the Action Plan and State reports for international actors/monitoring bodies, including GRETA.

A Permanent Group operating under the THB Council is the main body which grants the persons the status of THB victim based on the questionnaires of mobile group of State Fund. It consists of 5 members from the following organizations: International Organization of Migration (IOM), International Centre for Migration Policy Development (ICMPD), NGO Georgian Young Lawyers' Association, NGO the Centre for Information and Counselling on Reproductive Health –Tanadgoma and NGO the Anti-Violence Network of Georgia.

Additionally, temporary thematic working groups under the THB Council is periodically established. Working groups are consisted of relevant Governmental Agencies, NGOs and International Organizations.

Notably, current Anti-Trafficking National Action Plan for 2019-2020 provides the commitment of the THB Council to create the **NGO platform on human trafficking** under the THB Council. Creation of such platform will promote more involvement of Civil Society Organizations in Anti-Trafficking.

Notably, Georgia is in **Tier 1** according to the 2016, 2017,2018 and 2019 US Reports on Trafficking in Human Beings and shares leading position among other western countries, including the EU member states. It should be underlined that according to the 2018 and the latest US THB reports only Georgia takes the position in Tier 1 comparing to other EAP states. Furthermore, **Georgian Anti-Trafficking Referral Mechanism** and the **Grants issued** by the Ministry of Justice for identification and resocialization of **children in street situations** are considered as one of the **best practices**.

OSCE ODIHR has chosen the **Georgian Anti-Trafficking national referral mechanism** as one of the **successful** and decided **to reflect it in the revised Practical Handbook on National Referral Mechanisms of OSCE/ODIHR**. With the special invitation of the ODIHR, the representative of the Ministry of Justice also participates in the revision process of the Handbook.

According to the **Global Slavery Index 2018**, the Government of Georgia was placed among those ones that have been taking the most effective actions to end human trafficking. Specifically, Georgia holds the 15th position among 167 countries (in 2016 it took 17th position). According to the same source, when it

comes to the regional level Georgia ranks 1st in terms of strong governmental counter-trafficking responses.

➤ **the current national strategy and/or action plan for combating trafficking in human beings (objectives and main activities, bodies responsible for its implementation, budget, monitoring and evaluation of results);**

In every two years, the THB Council approves 2-year National Action Plans under which responsible Governmental Agencies undertake commitments regarding Prevention, Prosecution, Protection and Partnership. In addition, particular attention is also paid to the capacity building activities and the development of Anti-Trafficking Policy through researches.

The Action Plan is elaborated with the active involvement of all Governmental Agencies, Public Defender's Office, Parliament of Georgia, NGOs, and International Organizations. Their recommendations and feedback are reflected to the NAP. Furthermore, during the elaboration process of the draft NAP recommendations of GRETA, US State Department and International Organizations are taken into consideration and reflected to the NAP. Notably, we also take into account the practice of the ECHR and incorporate the standards of the Court case law while designing the Anti-Trafficking policy.

Since GRETA's Second Evaluation report on Georgia, THB Council approved the NAPs for 2017-2018 and 2019-2020 (*for detailed information on the objectives and activities of the NAPs, please see Appendix 9 and 25*).

The Secretariat of the THB Council (the Public International Law Department of the Ministry of Justice of Georgia) monitors the implementation of the activities and elaborates the implementation reports once a year. Within the year, the Secretariat also collects information on the Anti-Trafficking Activities taken by the Governmental Agencies on the ad hoc bases aiming at drafting the public information for stakeholders, including Public Defender and reports for US embassy and various international organizations.

Apart from the reports, as already mentioned above, the Secretariat of the THB Council collects the THB related statistics from different responsible Agencies into single integrated database and makes analysis on the recent trends THB, means and methods of exploitation in and outside of Georgia, profiles of the prosecuted and convicted persons, victims and statutory victims, as well as services of State Fund provided to them.

➤ **recent case law concerning THB for different forms of exploitation.**

Case 1. On December 23, 2016, 1 Uzbek woman was charged *in absentia* for sexual exploitation of two Uzbek women under Article 143¹ paragraph 3(c) of Criminal Code of Georgia. According to the indictment, the facts of case are following:

Uzbek national with the purposes of trafficking, on August 2016, contacted another Uzbek national in Fergana, Uzbekistan. With the promise that she will transport the victim in Georgia with her own funds and provide her position as a cook in one of the restaurants in Batumi, the trafficker gained the victim's consent, bought the travel tickets and arrived to Georgia with her on August 16, 2016.

After arrival, the trafficker placed the victim in rented flat in Batumi, seized the passport, and restrained her freedom of movement. While being in slavery-alike conditions, the victim was forced to engage in prostitution and offer sexual services to clients in various nightclubs and restaurants located in Batumi and

Khelvachauri, while the trafficker collected all her earnings. The given situation continued from August 16 to August 31.

With the similar promises, the trafficker persuaded another victim (Uzbek national as well) and provided her arrival to Georgia on September 13, 2016. Afterwards, the trafficker used the same methods, as in case of the first victim. Second woman was the victim of sexual exploitation from September 13, 2016 to October 9, 2016.

On 4 July 2017, Batumi City Court found the trafficker guilty of committing trafficking in persons (two counts) and sentenced her to imprisonment for the term of thirteen years. As far as the trafficker was absconding justice, she was convicted *in absentia*.

Case 2. During the proactive inspection of the risk places by the mobile groups of the Division of Combating Human Trafficking and illegal Migration of the Central Criminal Police Department, the members of the mobile group identified 3 Georgian women in one of the bars in Georgia. Being in slavery–alike conditions, the women were deprived of their right to freedom of movement; they were forcibly engaged in prostitution and coerced to offer sexual services to clients. The perpetrators collected all their earnings. To enslave the statutory victims alleged traffickers used Debt bondage and forced them to cover unreal debts.

In this case, 2 individuals (Georgian man and woman) were prosecuted and convicted under paragraphs 3(b) (trafficking committed against two or more persons) and 4 (a) (committed by an organized group) of the article 143¹ of the Criminal Code of Georgia. The Conviction was achieved in 2018. Georgian man was sentenced 6 years and 6 months of imprisonment and the Georgian woman was sentenced 15 years of imprisonment.

All 3 women were granted the statuses of statutory victim. Based on their will they were provided with legal aid. Two of them were also placed in the Tbilisi shelter.

It was the first organized THB case revealed in Georgia and its worth mentioning that traffickers were arrested while committing the crime. The statutory victims were rescued by the police.

Case 3. 2 individuals were prosecuted for child exploitation (forced begging) under article 143² §2 (b) (knowingly by the offender against a helpless person or a person who financially or otherwise depends on the offender), §3 (c) (against two or more children), (e) (using violence or threat of violence dangerous for life or health), §4 (a) (committed by an organized group) of Criminal Code of Georgia (Both of them were Georgian nationals, adults, one was male and the other was female). With the threat of violence dangerous for their lives and health, the traffickers forced children to beg in the streets, while all the money earned was collected by the traffickers. Each trafficker was sentence to 10 years of imprisonment. The children were granted the status of statutory victim. They were referred to Social Service Agency and have been provided with shelter and psychologists and social workers are working with them. These children have also been enrolled at school.

Case 4. 2 individuals were prosecuted for sale of a child under article 143² §2 (b) (knowingly by the offender against a helpless person or a person who financially or otherwise depends on the offender), §3 (d) (by taking the victim abroad), (f) (with a prior agreement by a group) of Criminal Code of Georgia

(both of them were Georgian women). In this case, mother and her pregnant daughter agreed to sell a child, The daughter was bearing, after his birth. On August 14, 2018, as agreed in advance, mother and daughter met two Georgian citizens in Kutaisi, and sold a child for 1000 gel. They transferred the newborn boy to Georgian citizens, knowingly with the purpose to take him abroad.

Investigation on this case started on 19 July 2018 and Conviction achieved on 20 December 2018 (each of them were sentenced 9 years of imprisonment).

13. Please provide information on measures taken in your country in respect to the following recommendations made in GRETA's second evaluation report:

- **ensure the timely identification of victims of human trafficking among foreign workers, asylum seekers and persons placed in immigration detention centres;**
- **ensure that cases of human trafficking are investigated proactively, prosecuted successfully and result in effective, proportionate and dissuasive convictions;**

Joint Answer

Reinforcing proactive identification of the victims is one of top priorities for Georgian Government. Therefore, since 2013, 4 THB inspection mobile groups composed of representatives of law enforcements agencies (detective-investigators) created under Central Criminal Police Department of the Ministry of Internal Affairs of Georgia regularly operate in the high risk areas (hotels, bars, bathes, casinos, etc.). The mobile groups detect and record trafficking risk-bearing areas, and check and study persons, including persons engaged in prostitution, working in organizations that have suspicious reputation. They also monitor persons and organizations which offer employment in or outside of the country; organizations which ensure transportation for persons leaving the country; travel agencies; enterprises which employ foreigners, organizations and persons provided visa assistance. The mobile groups interview those persons which have been employed outside of the country through employment agencies operating in Georgia. The aim of the interview is to ensure, that each worker has identity cards, they exercised their right to freedom of movement, they have been receiving the full remuneration for their work, and they were engaged in work voluntarily.

In addition, on February 27, 2014 Memorandum of Understanding was signed between the Ministry of Internal Affairs, the General Prosecutor's Office and the International Organization for Migration on the principles of cooperation in the area of capacity building of law enforcement agencies in combating trafficking of human beings. On the base of the memorandum, the **Task Force** consisted of investigators and prosecutors has been established in Adjara region.

Like the mobile groups, Task Force also proactively checks the risk places, interview the employees there and in case of any suspicion, investigates and prosecutes human traffickers.

In order to reveal the fact of labour exploitation mobile groups and Task force systematically interview deported citizens from Turkey and other countries. Particular attention is paid to interviewing citizens which were deported as a reason of illegal working or prostitution. Law enforcements provide them with full information on human trafficking issues, legislation and rights of victims.

Notably, on 19 December, 2017 the THB Council approved the **revised Guideline for the Law Enforcements** on the Investigation and Prosecution of Trafficking Cases and Treatment with Victims and

Statutory Victims of Trafficking in human beings, which was adopted by the THB Council in February, 2014. The main aim of the revision was to reflect the legal amendments introduced to the Criminal Procedure Code of Georgia and respond the current trends of human trafficking. We have taken into account the practice of the ECHR and incorporated the standards of the Court case law while designing the guidelines. The document was revised by a Working Group composed of the representatives from the Ministry of Justice, Ministry of Internal Affairs and the General Prosecutor's Office of Georgia.

Standard Operation Procedures (SOPs) adopted in 2015 is also actively used by the investigators, patrol police officers, staff of migration department and mobile groups of State Fund to proactively identify potential THB victims and collect all relevant information related to THB case.

Law enforcements are permanently trained in order to develop their skills and promote their capacity building with regard to detection of THB cases. Guidelines and SOPs are the part of each training module devoted to human trafficking.

In addition, aiming at proactively identification of THB victims among the migrants and asylum seekers, on 19 December 2017 the THB Council also approved the Guidelines on Identification of Victims of Trafficking in human beings at the Border of Georgia (border crossing and customs crossing points, land and coastal border). These **Guidelines were adopted for border police officers and Customs officials** and sets forth indicators of alleged victims and standards of interrogation/interview of THB victims, including minors and to whom to refer for assistance of alleged victim (see Appendix 26 – Guidelines for border police and customs officials- GEO and ENG).

For effective use of the Guidelines on 26-27 June 2018 training on human trafficking issues were held for border police and customs officials. The training was delivered by the Swedish experts and the representative of the Ministry of Justice of Georgia aiming at discussion of both Swedish and Georgian experience on identification of potential victims of THB at borders. One of the session of the Training was also dedicated to detailed discussion of the Guidelines on Identification of Victims of Trafficking in Persons for border police officers and Customs officials.

GOG also acknowledges the training of staff working with and interviewing with asylum seekers and refugees.

On 22-23 June, 2016 the Ministry of Justice in close cooperation with ICMPD and with the financial support of EU for Georgia organized the training on "Legal Mechanisms and Modern Trends on combatting Human Trafficking" for the staff working with asylum seekers and refugees (9 participants). The training was delivered by the representatives of the Ministry of Justice, Ministry of Internal Affairs, State Fund, the Secretariat of the State Commission on Migration Issues, Public Service Development Agency and the Labour Inspectorate Department.

On 27 April, 2017 in close cooperation with ICMPD and financial support of EU Delegation to Georgia a training on Trafficking in Persons was organized for the staff working with asylum seekers and refugees, the Ministry of Labour, Health and Social Affairs, State Fund and Public Defender's Office of Georgia. The training was delivered by two experts from ICMPD and Austria. In total 30 participants attended the training.

On 5 July, 2018 the workshop was held for the personnel working on the issues of asylum seekers and refugees. The name of the workshop was "Human Trafficking and Domestic Violence in the Context of Determining Refugee Status". The representative of the Ministry of Justice, Ministry of Internal Affairs and State Fund covered the Anti-Trafficking Policy and Legal mechanisms, as well as the state funded services available for (potential) victims and statutory victims of THB (Number of Attendees-20);

It should be noted that multilingual **information leaflets** (Georgian, English, Turkish, Azeri, Armenian, Arab and Russian languages) are widely disseminated at state border, airports, shelter for asylum seekers and the Temporary Accommodation Centre (TAC) for detained migrants.

In addition, since 2017 IOM with the financial support of INL and in close cooperation with the Government of Georgia has started an information campaign in Sarpi and Vale border check points. The information campaign has been conducted within the project "Combating Trafficking in Persons in Georgia and Addressing the Demand Side of Trafficking." The leaflets, Banners, Stands and videos were produced and distributed in five languages (Georgian, Russian, Turkish, English and Persian).

All these efforts brought tangible outcomes and the number of investigations, prosecutions and convictions have raised.

- **increase efforts to proactively identify victims of human trafficking for the purpose of labour exploitation, including by enhancing the role of labour inspectors and providing them with clear instructions on how to proceed when detecting possible victims of trafficking;**

Government of Georgia acknowledges the importance of increased effort and attention to detection of labour exploitation cases. In this regard, Labour Inspectorate Department of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia keeps checking of private and state institutions in order to reveal the facts of forced labour and labour exploitation. From January 2019, under the department, there is one special group dedicated to this issue. The Labour Inspectorate Department carries out scheduled and unscheduled visits to the companies. Schedule visit is conducted based on the annual list of companies; the list is non-public, even for social partners and is adopted by the Minister of the IDPs from the Occupied Territories, Labour, Health and Social Affairs of Georgia. The unscheduled visits are conducted based on the "hot-line" or written information. Inspection visits are carried out on non-voluntary basis, without any prior notification of the organization and includes monitoring of labour conditions, labour legislation, check employees' identity, citizenship, in case of foreigners the date of arrival, the country the employee comes from, identified documents and the terms of the employment contract.

In case of absence of any mentioned documents or suspicion of forced labour or labour exploitation, the Labour Inspectorate Department immediately refers the alleged THB case to the Central Criminal Police Department (CCPD) under the "Memorandum of Mutual Cooperation on promotion of detection of cases of trafficking in human beings" signed on August 13, 2015 between the Labour Inspectorate Department and CCPD.

Furthermore, it's planned to create special joint group composed of the Labour Inspectors and CCPD and conduct inspection visits to the companies together, in order to effectively detect forced labour and labour exploitation cases.

While checking the companies, Labour Inspectorate Department also conducts information meetings with the employers and employees of the company on the issues of Labour exploitation and Forced Labour and disseminate the informational leaflets on labour rights and the risks of labour exploitation and forced labour.

Notably, the number of labour inspectors has been recently increased up to 40 (before only 25 labour inspectors were employed).

Aiming at increasing the capacities of the labour inspectorates the following trainings were held with the participation of labour inspectors:

- In September, 2015, training on "Labour Rights, Forced Labour and Human Trafficking" was conducted for 25 labour inspectors;
- In September, 2015, training on "Human Trafficking and labour Safety" was conducted for 25 Labour inspectors;
- On 29 May- 1 June, 2017, in close cooperation with IOM training on forced labour and labour exploitation was conducted by Georgian and the Belgian trainers for 25 labour inspectors;
- On 19-20 June, 2018, the training with the involvement of Georgian and foreign trainers on "the Importance of Inter-Agency Coordination in the Fight Against Human Trafficking" was organized by the Ministry of Justice of Georgia in close cooperation with ICMPD. The training was conducted for investigators, prosecutors, labour inspectors, social workers and the personnel of the State Fund. In total 40 persons were trained, out of which 11 were labour inspectors.
- On 19 April, 2019 basic training on Human Trafficking was conducted for new labour inspectors by the representatives of Ministry of Justice, Ministry of Internal Affairs and the State Fund (21 participants).

Furthermore, in close cooperation with IOM currently an expert conducts the research on best practices of EU countries on the role of the labour inspectors for identification of labour exploitation cases. Based on the research, it is planned to elaborate the guidelines for labour inspectors that is also enshrined from the THB NAP 2019-2020.

A special thematic working group is also functioning under the General Prosecutor's Office of Georgia aiming at identification of main practical challenges and deficiencies related to labour exploitation. The working group is composed of all relevant Governmental agencies, including Ministry of Justice, Ministry of Internal Affairs and Ministry of IDPs, Labour, Health and Social Affairs (Labour Inspectorates Department and LEPL Social Service Agency). Three meetings have already been conducted. The last meeting was held on 4-5 December, 2018, in Borjomi with the support of the Department of Justice of the US Embassy in Georgia. Based on identification of challenges, the working group elaborated one-year Action Plan for 2019 aiming at more effective response to labour exploitation by each Governmental Agency working in the field.

- **ensure that relevant actors take a proactive approach and increase their outreach work to identify child victims of human trafficking by paying particular attention to children in care institutions, children living and working in the street, and unaccompanied children;**

Government of Georgia pays particular attention to protect and prevent trafficking among minors, especially those who are living and working in the streets. To address the issue, as mentioned above, On 22 June, 2016 relevant legislative amendments were adopted by the Parliament of Georgia in up to 10 legal acts aiming at (1) providing children in street situation with **free of charge identification documents** and (2) **strengthening the role of social workers** to remove the child from the family or separate minor from the perpetrator. The relevant bylaws were also amended aiming at creating legal basis to provide the children in street situations with free of charge ID cards. The legal amendments were enacted on 10 August, 2016.

As a result of new amendments in 2016 -2019 (as of 21 May) the LELP Public Service Development Agency operating under the Ministry of Justice of Georgia issued temporary identification documents for 28 children (19 homeless and 9 victim of violence) based on the application of LEPL Social Service Agency of the Ministry of Healthcare.

On September 12, 2016, the Government of Georgia approved a **new Child Protection Referral Mechanism** which has extended the list of responsible entities to refer the child violence cases, including THB related cases, to relevant agencies. In particular, all governmental institutions and their structural units, public law legal entities subordinate to government agencies, kindergartens, general educational institutions, sports and arts schools, medical service providers of all kinds, including community physicians, as well as local municipalities have a duty to refer the possible cases of child violence to both the Social Service Agency and the police. The failure to report such cases to the relevant state bodies by persons involved in the child referral mechanism will invoke administrative liability. It is noteworthy that unlike the previous referral instrument which was adopted by the heads of three line ministries, the new one is upgraded to a higher level and has been approved by the Government of Georgia

The new referral mechanism foresees development of an integrated database of the child violence cases by January 2019. The database will put together information about the child victims, perpetrators, forms of violence, etc. It will be technically administrated by the police and will be accessible to all the agencies involved in the referral proceedings.

In order to identify children working and/or living in the streets, 6 mobile groups under the Ministry of IDPs, Labour, Health and Social Affairs is in place since 2013. These mobile groups work in Tbilisi, Kutaisi and Rustavi and are comprised of psychologist, peer educator, driver/logistics officer. Mobile Teams are spearheaded by state senior social workers. The teams conduct the mapping and identify most populated and visited places by the beneficiaries to provide outreach service for children in street situations. Initially, the mobile teams introduce the approach, vision and mission of the sub program and if a child obeys the mobile team senior social worker becomes authorized to asses him/her with the special assessment tool created by all state and non-state stakeholders. After child is identified he/she can be enrolled by an authorized State Senior Social Worker at the appropriate service (6 day care centres and 6 shelters).

Starting from 2014 the state senior social workers of SSA have reached and identified about 1494 children living or working in the streets in 3 cities Tbilisi and Kutaisi and Rustavi. In 2015 232 children have been enrolled in various services of State sub-program (Day-care Services and 24 Hour Shelters), in 2016 – 239, in 2017 – 270, in 2018 – 280 and in 2019 (As of April) – 196 children used the services.

Apart from the SSA, mobile groups of MIA and Task Force also proactively interview children working and/or living in the streets.

It should be noted that in order to improve the identification process of homeless children and make it more effective, on October 13, 2016, the Ministry of Justice announced grant contest for NGOs aiming at identification of and supporting of reintegration of the homeless children in the society. The Grant Program amounted of total 54000 GEL. Within the framework of the project the NGOs were tasked to identify new places where children work and/or live, identify the kids and new locations of children during the nights and weekends, support the reintegration of the homeless children in the society, provide children with educational, social, cultural, sports or other kinds of programs.

As a result of the quantitative research NGO identified about 105 children in street situations. Among the children there were Georgian, Azeri, Moldavian, Roma and a several other nationals. Most of the children aged up to 14 are girls, while majority of the identified boys are from 16 to 18 years old. These children are mostly from dysfunctional families, where a child has only one parent or has another guardian, not a biological parent.

The research also identified economic conditions, low level of education of the family and cultural matters (especially in case on minorities) as the factors making the kids to work and/or live in streets.

According to the research, the children are mostly occupied by begging, selling various items (flowers, icons, etc.) and physical work (e.g. transportation of goods).

In 2018, the Ministry of Justice issued another one-off grant of GEL 25,000 to one NGO in order to conduct awareness raising activities in ten big cities of Georgia and to make a video. Within the grant project, in April–May, 2018 NGO conducted information meetings with different target groups, such as students, pupils, teachers, local population, etc., produced and disseminated information materials in 6 languages (Georgia, English, Russian, Azeri, Armenian ad Turkish). The aim of grant project was to raise awareness of population about THB related issues, especially THB risks related to children in street situations.

Currently, Government of Georgia is in the process of elaboration of the Governmental Strategy on how to better protect and promote the effective integration of children working and/or living in the in street.

Apart from it, as also mentioned above, in 2018 pimping was criminalized. One of the main aims of introduction of new crime was prevention and protection of children from involvement in prostitution.

In order to protect children born through extracorporeal fertilization (surrogacy) from any type of violence, including trafficking and pornography, on 22 March 2016 legal amendments were introduced to the relevant Georgian Laws and the Joint Order of the Minister of Justice of Georgia and the Minister of Internal Affairs of Georgia (1133, 1144; **5 April and 11 April 2016**) was approved. The Joint Decree regulates the procedures for taking a child born in Georgia through extracorporeal fertilization (surrogacy), the grounds of the restriction of right to remove the child from Georgia and important aspects of cooperation between the respective units of the Ministry of Internal (MIA) Affairs and LELP Public Service Development Agency operating under the Ministry of Justice of Georgia to protect the rights and best interests of a child.

The Central Criminal Police Department (CCPD) closely cooperates with LEPL Social Service Agency of the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs in order to prevent and reveal the facts of buying or selling of minors or any other unlawful transaction with respect to minor for the purpose of their adoption. Relevant law enforcements study the cases of adoption and interview adoptive and biological parents. For example, in 2018 law enforcements have examined

more than 32 cases of child adoption. As a result of conducted investigative and operative activities 1 investigation has been launched on the fact of selling minor under Article 143² of the Criminal Code of Georgia (child trafficking), 6 investigations have been initiated on unlawful transactions with respect to minors for the purpose of their adoption and making and use of forged documents under article 172 (Unlawful transactions with respect to minors for the purpose of their adoption) and 362 (Making, sale or use of a forged document, seal, stamp or blank forms) of the Criminal Code of Georgia.

As a result, in 2015 – 2019 (As of 6 May) investigations on alleged child trafficking started in total 16 cases (6 for selling of minor and 10 for forced labour/labour exploitation (forced begging)). 3 persons (1 Georgian woman and 2 Georgian men) in 1 case was prosecuted and convicted for selling 2 minors. According to the factual circumstances of the case 2 infants were sold/bought by medical personnel of the hospital in Rustavi. Two of them were imprisoned for 5 years and one for 3 years. The conviction achieved in 2016. The children were granted the statuses of statutory victim.

In 2018 in total 4 Georgian citizens were prosecuted for child trafficking. Out of 4 prosecutions:

- as already mentioned above, 2 individuals were prosecuted for child exploitation (forced begging) and each trafficker was sentenced to 10 years of imprisonment. The children were granted the status of statutory victim. They were referred to Social Service Agency and have been provided with shelter and psychologists and social workers are working with them. These children have also been enrolled at school
- 2 individuals were prosecuted for sale of a child under article 143² §2 (b) (knowingly by the offender against a helpless person or a person who financially or otherwise depends on the offender), §3 (d) (by taking the victim abroad), (f) (with a prior agreement by a group) of Criminal Code of Georgia (both of them were Georgian women). Investigation on this case started on 19 July, 2018 and Conviction achieved on 20 December, 2018 (each of them were sentenced 9 years of imprisonment).

In addition, to prevent the THB among minors public awareness raising campaigns on trafficking issues are regularly conducted throughout Georgia. For the effective implementation of the preventive measures, THB Council elaborated Common Information Strategy on combating trafficking with specially identified vulnerable target groups, regions and implementation means. The strategy was approved by THB Council on February 12, 2014. It should be underlined that such information strategy and action plan is quite unique in our region.

Within the framework of the Strategy various awareness raising activities, including information meetings, conferenced, round tables, discussions and moot court competitions with different target groups such as pupils, students, children in street situations, minorities, employers and employees, IDPs and rural population are organized throughout Georgia jointly or separately by Ministry of Justice, Ministry of Internal Affairs, General Prosecutor's Office, State Fund, Labour Inspectorate Department and Social Service Agency. In 2015-2018 up to 9500 persons participated (direct participation) in awareness raising activities throughout Georgia.

Information leaflets (on Georgian, English, Russian, Azeri, Armenian and Turkish languages) are largely being disseminated in big cities and rural areas, at state borders and consular units.

TV and radio shows and advertisements are frequently devoted to THB issues.

Government of Georgia also prioritizes prevention of trafficking through enhancement of education in secondary and high schools. In this regard, issues related to human trafficking is largely covered by the national curriculum for 2017-2023.

- **ensure that the recovery and reflection period is offered to all possible victims of human trafficking, as well as persons in respect of whom the competent authorities have reasonable doubt that they may be victims, by spelling out the procedure for granting such a period, and issuing clear instructions to the authorities in charge of identification on the need to offer the recovery and reflection period;**

According to the Georgian legislation, the reflection period starts from the moment of applying to the State Fund, Shelter or law enforcement agency. Since the first contact of the potential victim/statutory victim of human trafficking with the law enforcements, they clarify all his/her rights including the right to reflection period. This information is provided to THB (potential) victims in written form, as well as orally during the first interview. According to the Georgian legislation, the victim enjoys up to 30 days of reflection period.

There is clear and explicit instruction in the Guidelines for law enforcements that (potential) victim has 30-day recovery and reflection period aiming the (potential) victim to decide whether he/she wants cooperation with law enforcements. The law enforcements are also given clear instruction during the trainings that they are obliged to explain the (potential) victim about the right to the recovery and reflection period. If he/she does not want to cooperate with law enforcements, a (potential) victim can apply to the Permanent Group under the THB Council for being granted the status of victim and the services of the State Fund.

- **bring the interpretation of the abuse of a position of vulnerability in full conformity with the Convention.**

According to article 3, paragraph "c" of the Anti-Trafficking Law abuse of vulnerability is defined as a state when:

- a) a person is materially or otherwise dependent on another person;
- b) a person is not able to realistically assess the existing situation due to his/her physical or mental defect;
- c) when a person has no option other than to obey violence used against him/her;

These conditions are alternative and one of the above mentioned is enough to qualify the situation as an abuse of vulnerability.

Therefore, position of vulnerability is not only related to physical or mental disability, but also to any kind of situation when a victim is dependent on the trafficker materially, socially or because of any other circumstances.

Part III - Statistics on THB

14. Please provide the following statistics, **per year starting with 2015**, where available disaggregated as indicated below:

- a. Number of presumed victims and identified victims of THB in the sense of having been recognised by a state institution or mandated NGO as bearers of rights to services provided for by the Convention (with breakdown by sex, age, nationality, form of exploitation, internal or transnational trafficking, and body which identified them).**
- b. Number of victims of THB who received assistance (disaggregated by sex, age, nationality, form of exploitation, internal or transnational trafficking).**
- c. Number of child victims of THB who were appointed legal guardians.**

For the statistics requested under issues (a), (b) and (c), please see Appendix 27.

- d. Number of victims of THB granted a recovery and reflection period (disaggregated by sex, age, nationality, form of exploitation).**

As already mentioned above, according to the Georgian legislation, the reflection period starts from the moment of applying to the State Fund, Shelter or law enforcement agency. Since the first contact of the potential victim/statutory victim of human trafficking with the law enforcements, they clarify all his/her rights including the right to reflection period. This information is provided to THB (potential) victims in written form, as well as orally during the first interview.

All victims/statutory victims before granted the official statute of the victim/statutory victim were informed about the reflection period, however, they did not apply to this period.

- e. Number of victims of THB granted a residence permit, with an indication of the type of the permit and its duration (disaggregated by sex, age, nationality, form of exploitation).**

For the statistics requested under issue (e), please see Appendix 27.

- f. Number of victims of THB who claimed compensation, who were granted compensation and who effectively received compensation (disaggregated by sex, age, nationality, form of exploitation, with an indication of whether the compensation was provided by the perpetrator or the State, and the amount awarded).**

For the statistics requested under issues (f), please see Appendix 27.

- g. Number of victims of THB who received another form of financial support from the State, with the indication of the amount received.**

There was no additional financial support rather than compensation granted to the victims and statutory victims of THB. For the statistics on compensation, please see Appendix 27.

- h. Number of victims of THB who received free legal aid.**
- i. Number of victims of THB who were returned or repatriated to/from your country (disaggregated by sex, age, country of destination, form of exploitation).**

For the statistics requested under issues (h) and (i), please see Appendix 27

- j. Number of victims of THB identified as part of the asylum procedure (disaggregated by sex, age, nationality, form of exploitation).**
- k. Number of persons given refugee status or subsidiary/complementary protection on the grounds of being victims of THB (disaggregated by sex, age, nationality, form of exploitation).**

There were no victims/statutory victims identified as part of asylum procedure or granted the refugee status.

- l. Number of investigations into THB cases (disaggregated by type of exploitation, with an indication of the number of victims concerned).**
- m. Number of prosecutions in THB cases (disaggregated by type of exploitation, with an indication of the number of victims and defendants concerned).**
- n. Number of convicted perpetrators of THB (disaggregated by sex, age, nationality, form of exploitation).**
- o. Number of convictions for THB, with an indication of the form of exploitation, whether the victim was adult or child, the type and duration of the penalties, and whether they were effectively enforced or suspended.**

For the statistics requested under issues (l), (m), (n) and (o), please see Appendix 27.

- p. Number of judgments in THB cases resulting in the confiscation of assets.**

There were no judgements in THB cases resulting in the confiscation of assets.

- q. Number of convictions of legal entities for THB.**

There were no cases of THB committed by the legal entities.