

COUNCIL OF EUROPE



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# **GRETA**

Group of Experts on Action  
against Trafficking in Human Beings

GRETA(2014)17

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

First evaluation round

Adopted on 4 July 2014

Published on 23 September 2014

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## Preamble

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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## Executive summary

The Icelandic authorities have taken a number of important steps to prevent and combat trafficking in human beings. The national legal framework in the field of action against human trafficking has evolved in the light of the country's international commitments. Two national action plans have been adopted since 2009 and structures to ensure the co-ordination of their implementation have been set up. However, GRETA considers that the Icelandic authorities should take further steps to involve non-governmental organisations and trade unions in the development, implementation and evaluation of anti-trafficking policy.

The focus of anti-trafficking policy in Iceland has been on trafficking for the purpose of sexual exploitation and legislative measures have been taken to discourage demand for sexual services. However, the two national action plans have not specifically addressed trafficking for the purpose of labour exploitation and GRETA urges the Icelandic authorities to strengthen action to combat this form of trafficking by raising awareness about it and discouraging demand for the services of trafficked persons in economic sectors at higher risk of human trafficking, such as construction, hotels, catering and entertainment.

Moreover, GRETA urges the Icelandic authorities to carry out information and awareness-raising campaigns on trafficking with the involvement of civil society and on the basis of previous research and impact assessment. GRETA also considers that the Icelandic authorities should integrate the prevention of human trafficking in the policies for unaccompanied children, migrant workers and asylum seekers.

There has been only one officially recognised victim of trafficking in Iceland in a case which resulted in the conviction of the traffickers in 2010. Although there have been a number of other suspected cases of trafficking, the absence of victim identification procedure which is independent of the criminal justice process and the lack of a centralised data collection system make it difficult to assess the scale of human trafficking in Iceland. GRETA urges the Icelandic authorities to set up a formalised national referral system defining clear procedures and roles of all frontline actors who may come into contact with victims of trafficking. GRETA stresses that victim identification should be independent of the initiation of criminal proceedings and should follow a multi-agency approach. Further, GRETA asks the Icelandic authorities to improve the identification of victims of trafficking among migrant workers and asylum seekers, and to set up a procedure for the identification of child victims of trafficking which takes into account the special circumstances and needs of child victims and involves child specialists.

When it comes to the provision of assistance to victims of trafficking, GRETA urges the Icelandic authorities to provide safe and suitable accommodation for all victims of trafficking which is adapted to their needs, gender and age, and to ensure access to education, vocational training and the labour market for victims who are lawfully resident in the country in order to help their reintegration into society and to avoid re-trafficking.

GRETA welcomes the provision in Icelandic law of a recovery and reflection period of six months, which is longer than the minimum of 30 days envisaged in the Convention. However, GRETA urges the Icelandic authorities to ensure that all possible victims of trafficking are offered such a period, regardless of their co-operation in the investigation and formal statements are made to investigators.

Furthermore, GRETA welcomes the fact that Icelandic legislation envisages the issuing of residence permits to victims of trafficking both on the basis of their personal situation and when co-operating in the investigation or criminal proceedings, and encourages the authorities to ensure that victims of trafficking can fully benefit in practice from the right to obtain a renewable residence permit.

GRETA welcomes the framework for State compensation of victims in Iceland and invites the authorities to ensure that victims of trafficking are systematically informed of the possibilities for compensation and are ensured effective access to legal aid.

The first and only conviction for a human trafficking offence in Iceland was delivered in March 2010. While there have been other investigations into possible trafficking cases, they did not result in convictions for human trafficking. GRETA urges the Icelandic authorities to take additional measures to ensure that trafficking offences are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions, by encouraging the police and the Prosecutor's Office to develop their specialism in trafficking and by improving the knowledge of investigators, prosecutors and judges about human trafficking, the severe impact of exploitation on the victims and the need to respect their human rights.

## I. Introduction

1. Iceland deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) on 23 February 2012. The Convention entered into force for Iceland on 1 June 2012.<sup>1</sup>

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

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by Iceland to implement the provisions set out in the Convention. The “Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties – first evaluation round” was sent to Iceland on 3 June 2013. The deadline for replying to the questionnaire was 3 October 2013. Iceland submitted its reply on 27 September 2013.

4. In preparation of the present report, GRETA used the reply to the questionnaire by Iceland, other information collected by GRETA and information received from civil society. In addition, an evaluation visit to Iceland took place from 21 to 24 October 2013, carried out by the following delegation:

- Ms Leonor Ladrón de Guevara y Guerrero, member of GRETA;
- Mr Jan van Dijk, member of GRETA;
- Ms Petya Nestorova, Executive Secretary of the Convention on Action against Trafficking in Human Beings.

5. During the visit, the GRETA delegation held meetings with officials from relevant ministries and public agencies, as well as with members of the Icelandic Parliament, *Alþingi* (see Appendix II). These meetings took place in a spirit of close co-operation.

6. The GRETA delegation held separate meetings with representatives of non-governmental organisations (NGOs) and trade unions, as well as with lawyers. GRETA is grateful for the information provided by them.

7. Further, in the context of the evaluation visit to Iceland, the GRETA delegation visited a shelter for women exiting prostitution and trafficking, run by the NGO Stigamót.

8. GRETA is grateful for the assistance provided by the contact person appointed by the Icelandic authorities to liaise with GRETA, Ms Aðalheiður Þorsteinsdóttir of the Ministry of Foreign Affairs, and by Ms Hildur Dungal of the Ministry of the Interior.

9. The draft version of the present report was adopted by GRETA at its 19th meeting (17-21 March 2014) and was submitted to the Icelandic authorities for comments on 1 April 2014. The authorities’ comments were received on 20 June 2014 and were taken into account by GRETA when drawing up its final evaluation report, which was adopted at the 20th meeting (30 June - 4 July 2014).

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

## **II. National framework in the field of action against trafficking in human beings in Iceland**

### **1. Overview of the current situation in the area of trafficking in human beings in Iceland**

10. Iceland is a country of destination and transit for victims of trafficking in human beings (THB). According to information provided by the Icelandic authorities, there has been only one victim of THB (a woman from Lithuania) in a case which resulted in the conviction of the traffickers in 2010. There have been a number of other suspected cases of THB and related police investigations, but due to the absence of victim identification procedure which is independent of the criminal justice process and the lack of a centralised data collection system, it is difficult to assess the scale of THB in the country. According to NGOs and media reports, a number of women from Africa and Eastern Europe have been trafficking to Iceland for forced prostitution.<sup>2</sup> Further, there are reports suggesting that Iceland is a destination country for women and men from Eastern Europe and Asia who are subjected to forced labour, in particular in restaurants, massage parlours, the construction industry and fish factories. There have also been NGO reports about possible trafficking for forced marriage and domestic servitude. Iceland is part of the Schengen Zone and is reportedly being used by traffickers to exploit people arriving from EU countries for short periods of time, making use of the three-month rule for registration-free residence. Due to its geographic situation, Iceland is also believed to be a transit country for people trafficked to Northern America, but there is no official data.

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

#### **a. Legal framework**

11. At the international level, in addition to the Council of Europe Convention on Action against Trafficking in Human Beings, Iceland is Party to the United Nations Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the Palermo Protocol), both of which it ratified in 2010. Iceland is also Party to the UN Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (ratified in 1990 and 2002, respectively), the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol (ratified in 1981 and 2000, respectively), as well as conventions elaborated under the International Labour Organisation (ILO).<sup>3</sup> Further, Iceland is Party to a number of Council of Europe conventions in the criminal field which are relevant to action against THB.<sup>4</sup>

<sup>2</sup> Possible victims of trafficking have included seven women from Nigeria, two women from Ghana, one woman from Tanzania, one woman from Sierra Leone, one woman from Equatorial Guinea, two women from Latvia, one woman from the Republic of Moldova, one woman from Slovenia, and one woman from Haiti.

<sup>3</sup> Convention concerning Forced or Compulsory Labour (No.29), Convention concerning the Abolition of Forced Labour (No.105) and Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No.182).

<sup>4</sup> In particular, the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse; the European Convention on Mutual Assistance in Criminal Matters and its Additional Protocols; the European Convention on the International Validity of Criminal Judgments; the European Convention on Extradition and its Additional Protocols.

12. The Icelandic legislation in the field of action against trafficking in human beings has evolved over the years in the light of the country's international commitments. In 2003, the General Penal Code No. 19/1940 was amended, by means of Act No. 40/2003, to add a new provision, Article 227.a, which established THB as a criminal offence. The Minister of Justice presented a bill during the 135th legislative assembly in 2007-2008 for the amendment of the Penal Code with a view to harmonising the definition of THB with the Palermo Protocol and the Council of Europe Anti-trafficking Convention. In 2010, Article 227.a of the Penal Code was amended to add the criminalisation of acts related to travel or identity documents for the purpose of enabling THB. Further, in 2011, the maximum penalty for THB was increased from eight to 12 years' imprisonment.

13. Other internal legal acts relevant to action against human trafficking include the Act on Foreigners No. 96/2002 and the Municipalities' Social Services Act No. 40/1991. As regards children, the Child Protection Act No. 80/2002 applies to all children within the territory of Iceland, irrespective of citizenship, and provides the legal basis for their protection and support.

#### b. National Action Plans

14. The process of preparation of Iceland's first Action Plan against THB was triggered by a Government Resolution of 7 December 2007, following a recommendation of the Minister of Social Affairs and the Minister of Justice. In January 2008, the Minister of Social Affairs and Social Security appointed a working group tasked to prepare a comprehensive Action Plan against human trafficking in Iceland. The working group submitted its recommendations on 16 March 2009 and on the following day, the Government of Iceland approved at a cabinet meeting the first national Action Plan against human trafficking, covering the period 2009-2012.

15. The declared objective of the first Action Plan was "to enhance the co-ordination of actions that are necessary in order to prevent trafficking in Iceland and to further study trafficking in human beings".<sup>5</sup> Its aim was also to initiate necessary legislative amendments with a view to ratifying the UN Convention against Transnational Organised Crime and its Palermo Protocol, the Council of Europe Convention on Action against Trafficking in Human Beings and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. Furthermore, the plan aimed at counteracting demand for sexual services through the adoption of legislation criminalising the clients of prostitutes.

16. The first Action Plan was divided into nine chapters (ratification of international treaties and harmonisation of Icelandic legislation; a specialist and co-ordination team and the supervision of affairs concerning human trafficking; education of professionals and public officials; protection of victims and aid to victims; police provisions and investigation into alleged THB; actions against demand in the prostitution and pornography industry; international co-operation; proactive search and emergency phone numbers; registration of information and intelligence gathering). A total of 25 actions were specified in the previously mentioned areas and responsibility for their implementation was assigned to different State actors, in the first place the Ministry of Social Affairs and Social Security, but also the Ministry of Justice, the Ministry of Foreign Affairs and the Prime Minister's Office.

17. As part of the first Action Plan, the Minister of Social Affairs and Social Security established a "specialist and co-ordination team" of relevant stakeholders (see paragraph 21) tasked with supervising matters regarding THB in Iceland and ensuring that alleged victims of THB, including children, are provided with assistance, shelter and protection.

18. On 26 April 2013 the Icelandic Government adopted a second Action Plan to combat THB for the period 2013-2016.<sup>6</sup> It follows on the first Action Plan, specifying which of the actions contained in it have been completed (11 out of 25) and which are to be carried over in the new plan.

<sup>5</sup> Report of the Minister of Social Affairs and Social Security, Ásta R. Jóhannesdóttir, on the Action Plan against Human Trafficking. Presented before the *Althingi* in its 136th legislative session 2008-2009.

<sup>6</sup> *Áætlun ríkisstjórnar Íslands um aðgerðir gegn mansali 2013-2016*. Available in Icelandic at: <http://www.innanrikisraduneyti.is/frettir/nr/28544>

19. The second Action Plan contains 25 actions in four areas (prevention and training; assistance and protection of victims; investigation and prosecution of THB cases; co-ordination, co-operation and evaluation). In the area of prevention, it is envisaged to provide training to relevant professionals, to publish a manual for front-line professionals on the identification of victims and their referral to assistance, to issue a brochure for possible victims of THB, to organise annual conferences on THB, to set up an internet page with educational materials and information for the general public and professionals, and to secure funding for academic research. In the area of assistance to victims, reference should be made of plans to ensure safe housing to all victims of THB, to finalise the procedures concerning unaccompanied minors, and to draw up guidelines for dealing with cases where the possible victim of THB is an asylum seeker. When it comes to investigation and prosecution, it is envisaged, *inter alia*, to update the guidelines on police procedures in THB cases, to make regular risk assessment of THB cases in Iceland, and to develop procedures for the protection of witnesses. Finally, in the area of co-ordination and co-operation, the plan contains actions aimed at establishing registration of THB cases, setting up regular consultation of stakeholders under the supervision of the Ministry of the Interior as well as a consultative group of professionals involved in the investigation and prosecution of THB cases. It is also envisaged to evaluate the implementation of the Action Plan and its measures.

20. The Ministry of the Interior is responsible for the overall implementation of the second Action Plan. Some of the above-mentioned actions are to be carried out by the Ministry of Welfare and the Ministry of Education, Science and Culture. The budget proposed for the implementation of the second Action Plan over the three year period was 8 million ISK (approximately 48 000 euros), but it was not allocated.

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

#### **a. Stakeholder co-ordination team and steering group**

21. As part of the first Action Plan, the Minister of Social Affairs and Social Security established a “specialist and co-ordination team” to facilitate co-operation between different stakeholders and supervise matters regarding THB. The team consisted of representatives of relevant ministries, law enforcement agencies, social services, health-care providers, NGOs, trade unions, labour organisations and airlines. Four NGOs were represented in the co-ordination team. The criteria for NGO membership were the provision of some kind of service or work regarding possible victims of THB.

22. The co-ordination team was charged with supervising the implementation of the first Action Plan and providing advice to the Government. It was expected to establish procedures and checklists of indicators for identifying victims of THB and referring them to assistance, but this task was not completed. Initially the team met frequently, but subsequently the meetings were reduced to about twice a year. The team did not have a formal status or dedicated funding. According to the first Action Plan, the team was expected to operate on a trial basis and an evaluation was to be conducted after three years to decide if it should be formalised through law. At the time of GRETA’s visit to Iceland in October 2013, the co-ordination team had not met since the expiry of the first Action Plan earlier that year.

23. After GRETA’s evaluation visit to Iceland, the authorities informed GRETA that they were in the process of reactivating the co-ordination of stakeholders by setting up a “steering group” in charge of the implementation of the second Action Plan. The steering group is made up of representatives of the Ministry of the Interior, the Ministry of Welfare, the National Commissioner of the Icelandic police, the District Commissioner of the police in Suðurnes, the District Commissioner of Reykjavik police, the Directorate of Immigration, and the Icelandic Human Rights Centre. The steering group is to hold monthly meetings, but at the beginning of 2014 the meetings were more frequent while prioritising the next steps. Since the budget that was proposed for the implementation for the second Action Plan was not allocated (see paragraph 20), the steering group decided that education and awareness-raising would be at the top of the priority list and an education group was formed to decide what could be done.

24. GRETA was informed that the education group consists of representatives of the Ministry of the Interior, the Ministry of Welfare, the Icelandic Human Rights Centre, the human rights office of Reykjavik City, the Federation of general and special workers in Iceland, the District Commissioner of Suðurnes Police and the District Commissioner of Reykjavik Police. The education group has reportedly met frequently and has set up a programme focusing on bringing together different entities working in the same geographical region that may come into contact with possible victims of THB. The first such meeting was held in Árborg (see paragraph 72) and there are plans to hold similar meetings in Reykjavik and other parts of the country.

b. Ministry of the Interior

25. Pursuant to the second Action Plan (2013-2016), the Ministry of the Interior is responsible for co-ordinating all national actors and actions against THB. Since September 2013, one official at the Ministry of the Interior's Department of Public Security has been assigned to anti-trafficking co-ordination work (the equivalent of 20% of a full-time position).

c. Police

26. There are no specialised anti-trafficking units within the Icelandic Police, but at Reykjavik Metropolitan Police, there is an organised crime unit which deals, *inter alia*, with THB offences. In 2011, this unit was assigned the investigation of offences committed by motorcycle gangs coming to Iceland and in this context it has investigated several suspected cases of THB (concerning both sexual and labour exploitation). The organised crime unit assists police units in other parts of the country.

27. Suðurnes District Police Department, which includes Keflavík International Airport (the main point of entry into Iceland), has built up experience in the investigation of THB cases, including through the only case which has resulted in the conviction of traffickers (see paragraph 175). It co-operates closely with the organised crime unit of Reykjavik Metropolitan Police and the two hold weekly meetings to co-ordinate their activities and avoid duplication. There is also a specialised police unit at Keflavík International Airport for the verification of falsified documents.

d. Directorate of Immigration

28. The Directorate of Immigration is a division of the Ministry of the Interior and operates according to the Act on Foreigners No. 96/2002, the Regulation on Foreigners No. 53/2003 and the Regulation on Visas No. 1160/2010. It handles all applications for residence permits, including in respect of victims of THB, as well as asylum applications. The Directorate of Immigration employs 25 staff and is working on building capacity on THB. GRETA was informed of the setting up of a working group between the Directorate of Immigration and the Prosecutor's Office to discuss how to handle witnesses of THB cases. The group held a number of meetings in 2013 and has drafted rules and guidelines concerning witness protection, which are in the process of implementation by the National Commissioner of the Icelandic Police in association with the Prosecutor's Office.

e. Ministry of Welfare

29. The Ministry of Welfare was established on 1 January 2011 as a result of the merger of the Ministry of Social Affairs and Social Security and the Ministry of Health and is responsible for administration and policy making in the areas of social affairs, health and social security. The Ministry of Social Affairs and Social Security was previously responsible for drawing up and implementing the first Action Plan (2009-2012). The Ministry partially funded the running of the shelter Kristínarhús (see paragraph 133).

30. The Department of Welfare of Reykjavik City is responsible for providing social services and financial assistance to presumed victims of trafficking.

31. The Administration of Occupational Safety and Health is an independent institution under the Ministry of Welfare. Pursuant to the Act on Working Conditions, Health and Safety in the Workplace No. 46/1980, it covers workplaces with a staff of one or more persons, checks compliance with health and safety regulations, work time, and the employment of children and young people. The scope of the law is restricted to employed persons and the Administration of Occupational Safety and Health cannot inspect private dwellings (which require authorisation by a judge). Further, it has no mandate to monitor the payment of wages, which is within the remit of the trade unions. Suspected cases of THB are referred to the police, tax authorities or the Directorate of Labour. GRETA was informed of plans to revise Act 46/1980 and include provisions relevant to combating THB.

32. The Directorate of Labour consists of eight regional employment offices responsible for issuing work permits to third-country nationals, registering unemployed people and finding suitable jobs for job seekers. It has no formal role in identifying victims of THB, but can detect possible cases of THB and refer them to the police for investigation.

f. NGOs and other civil society actors

33. As noted in paragraph 21, the stakeholder co-ordination team included representatives of NGOs and trade unions. Stígamót, the Icelandic Human Rights Centre and the Icelandic Red Cross were all members of the team. The steering group set up to implement the second Action Plan, as well as the education group mentioned in paragraph 24, involve the Icelandic Human Rights Centre.

34. Stígamót is a counselling and information centre for victims of sexual violence and abuse. The organisation regards prostitution as a form of sexual violence and annually counsels around 50 persons who either are or have been in prostitution or the sex industry. Since 2011, Stígamót has run the shelter Kristínarhús for potential victims of trafficking for sexual exploitation and women striving to leave prostitution (see paragraph 133).

35. The Icelandic Human Rights Centre (ICEHR) was set up in 1994 to promote human rights by collecting information on and raising awareness of human rights issues in Iceland and abroad. It has 14 affiliated organisations (including Amnesty International and the Icelandic Red Cross). ICEHR promotes legal reform and research on human rights and submits shadow reports to international monitoring bodies (CRC, CEDAW, ECRI). It also provides free legal counselling and interpretation services for foreign nationals through a service agreement with the Ministry of Welfare. ICEHR also has a service agreement with the Ministry of Foreign Affairs for expert services on human rights issues. ICEHR's operational costs are largely financed by the Ministry of the Interior.

36. The Icelandic Red Cross is implementing a project for asylum seekers and refugees through which it comes into contact with possible victims of THB. It is currently implementing a project on THB in Belarus, with financial support from the Ministry of Foreign Affairs. The project started in 2010 and has been extended until 2015. The Red Cross does not receive any public funding for their assistance and protection measures and all costs related to these services are covered by the organisation itself.

37. Trade unions in Iceland are entitled to inspect work places and work contracts in order to check if the minimum wages and collective agreements are respected by employers. The trade unions inspection teams include staff from the Revenue Office and notify the police in case of suspicion of an offence. They can also take cases to the labour courts. During the visit to Iceland, the GRETA delegation met representatives of Efling, which is the second largest trade union in Iceland, with some 19 000 members. Efling's members come from different areas of the labour market (Reykjavík harbour, fish factories, health sector, garbage collection, transport, catering, hotels). Around 33% of its members are foreign nationals.

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

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

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

38. Article 1(1)(b) of the Convention establishes as one of its purposes the protection of the human rights of the victims of trafficking. Further, Article 5(3) includes the obligation for Parties to promote a human rights-based approach in the development, implementation and assessment of the policies and programmes to prevent THB. The Explanatory Report on the Convention states that the main added value of the Convention is its human rights perspective and focus on victim protection. In the same vein, the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking emphasise that “the human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims”<sup>7</sup>.

39. THB constitutes an offence to the dignity and fundamental freedoms of the human being and thus a grave violation of human rights. GRETA emphasises the obligations of States to respect, fulfil and protect human rights, including by ensuring compliance by non-State actors, in accordance with the duty of due diligence. A State that fails to fulfil these obligations may, for instance, be held accountable for violations of the European Convention on Human Rights and Fundamental Freedoms (ECHR). This has been confirmed by the European Court of Human Rights in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the European Convention on Human Rights<sup>8</sup> (which prohibits slavery, servitude and forced or compulsory labour). The Court further concluded that Article 4 entails a positive obligation to protect victims or potential victims, as well as a procedural obligation to investigate trafficking.<sup>9</sup>

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

41. GRETA wishes to stress the need for States to also address THB as a form of violence against women and to take account of gender-specific types of exploitation, as well as the particular situation of child victims of trafficking, in line with the relevant international legal instruments.<sup>10</sup>

<sup>7</sup> Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

<sup>8</sup> *Rantsev v. Cyprus and Russia*, application No. 25965/04, judgment of 7 January 2010, ECHR 2010, paragraph 282.

<sup>9</sup> See *Siliadin v. France*, application No. 73316/01, judgment of 26 July 2005, ECHR 2005 VII; *C.N. and V. v. France*, application No. 67724/09, judgment of 11 October 2012, and *C.N. v. United Kingdom*, application No. 4239/08, judgment of 13 November 2012.

<sup>10</sup> Such as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the United Nations Convention on the Rights of the Child and the Optional Protocol thereto on the sale of children, child prostitution and child pornography, and the United Nations Convention on the Elimination of All Forms of Discrimination against Women.

42. According to the Icelandic authorities, THB is only considered a criminal offence pursuant to Article 227 a. of the Penal Code No. 19/1940. The European Convention for the Protection of Human Rights and Fundamental Freedoms was incorporated in Icelandic law by Act No. 62/1994. Following its incorporation, the ECHR provisions can be directly invoked in court as domestic legislation. Iceland adheres to the principle of dualism and therefore ratified international treaties do not assume the force of domestic law. The Supreme Court of Iceland has sought to interpret Icelandic law in conformity with Iceland's international obligations and has made several references to international obligations undertaken by Iceland, including instruments which have not been incorporated into Icelandic law.<sup>11</sup>

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

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

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

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

45. Article 227.a of the Icelandic General Penal Code defines THB as follows:

“Anyone found guilty of the following acts for the purpose of sexually using a person or for forced labour or to remove his/her organs shall be punished for trafficking in human beings with up to 12 years’ imprisonment:

1. Providing, transporting (transferring), delivering, housing or receiving a person who has been subjected to unlawful force under Article 225, or deprived of freedom as per paragraph 1, Article 226, or subject to threat as per Article 233, or unlawful deception through creating, encouraging or making use of the person’s lack of understanding of the situation or taking advantage of the person’s difficult circumstances.
2. Providing, transporting (transferring), delivering, housing or receiving an individual younger than 18 years of age.
3. Rendering payment or other gain in order to acquire the consent of those responsible for actions of another individual.

The same penalty shall be applied to a person accepting payment or other gain according to clause 3, paragraph 1.

If a violation according to paragraph 1 is committed against a child it shall be considered as an aggravating factor when deciding the severity of the punishment.

The same penalty shall be applied to anyone found guilty of one or more of the following acts, for the purpose of facilitating human trafficking:

1. The forging of a travel or identity document;

<sup>11</sup> *Rán Tryggvadóttir and Thordis Ingadóttir*, Researching Icelandic Law, published by Icelandic Human Rights Centre, <http://www.humanrights.is/english/laws/icelandic-law/>

2. The procurement or provision of such a document;
3. The retention, removal, damage or destruction of a travel or identity document of another person.”<sup>12</sup>

46. GRETA notes that the three constituent elements of the definition of THB under the Convention (i.e. action, means and purpose) are included in the definition of THB in the Icelandic Penal Code. As regards the means for committing the offence of human trafficking, Article 227.a of the Penal Code refers to “unlawful force”, “deprivation of freedom”, “unlawful deception”, “rendering payment or other gain in order to acquire the approval of those responsible for actions of another individual” and “taking advantage of the person’s difficult circumstances”. GRETA notes that “abduction”, “fraud” and “abuse of power” are not specifically mentioned. According to the Prosecutor’s Office, all means included in the Convention’s definition are covered by the concepts in Article 227.a of the Penal Code. Nevertheless, **in order to be fully consistent with the definition of THB in the Convention, GRETA considers that the Icelandic authorities should ensure that all the means included in the Convention are appropriately taken into account.**

47. The Icelandic authorities have stated that all actions in the Convention’s definition of THB are covered by the concepts in Article 227.a of the Penal Code, the Icelandic word “*útvega*” meaning “to provide” and also “recruit”, and the word “*flytja*” meaning both to transport and to transfer

48. Regarding the forms of exploitation, Article 227.a of the Penal Code refers to “forced labour” (*nauðungarvinnu*) but does not mention slavery or practices similar to slavery and servitude, which are specifically listed in Article 4(a) of the Convention. Given that Article 4(a) of the Convention provides the minimum content of the types of exploitation included in the definition of THB, **GRETA urges the Icelandic authorities to include slavery, practices similar to slavery and servitude as types of exploitation in the legal definition of trafficking in human beings.**

49. The definition of child trafficking in clause 2, paragraph 1, of Article 227.a of the Penal Code does not require the use of means, which is in line with the Convention. Child trafficking is considered as an aggravating circumstance, which is also in line with the Convention.

50. Although there is no reference to the issue of consent in Article 227.a of the Penal Code, the Icelandic authorities have specified that the consent of a person to intended or actual exploitation does not have a determining effect on whether that person will be recognised as a victim of THB under Icelandic law. **However, GRETA considers that stating explicitly in law the irrelevance of the consent of a victim to the intended exploitation could improve the implementation of anti-trafficking provisions and provide victims with greater confidence in self-reporting to NGOs and public authorities.**

51. GRETA notes that the second Action Plan envisages making a reassessment of the definition of THB in the Penal Code with regards to international treaties and trusts that GRETA’s report will be taken into consideration when making this assessment.

52. For further analysis of the definition of THB and related offences from a substantive criminal law perspective, see paragraphs 161-166.

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<sup>12</sup> Unofficial translation.

*ii. Definition of “victim of THB”*

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

54. The Icelandic authorities have indicated that while “victim of THB” is not specifically defined in Icelandic law, the term can refer to any person, regardless of gender, age, nationality, race or other identifying attributes. There are no common criteria in internal law for granting the legal status of victim of THB. The legal status of victim may be granted by the police or the Directorate of Immigration following an assessment by the police. A negative decision can be appealed to the Ministry of the Interior. However, the final declaration of victim status is in the hands of the courts. This accounts for the fact that there has been only one officially recognised victim of THB in Iceland, following the conviction of the perpetrators (see paragraph 10).

55. GRETA considers that the definition of “victim of trafficking” in Iceland is construed too narrowly as it is linked to the outcome of criminal proceedings. This has implications for the identification of victims of trafficking. In this context, GRETA refers to paragraph 134 of the Explanatory Report on the Convention on Action against Trafficking in Human Beings, which stresses that the identification process is independent of any criminal proceedings against those responsible for the trafficking and a criminal conviction is therefore not necessary for either starting or completing the identification process. Further, according to the 1985 United Nations Declaration on the Principles of Justice for Victims of Crime and Abuse of Powers, a person may be considered a victim “regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted”.<sup>13</sup> It is sufficient for persons to present reasonable grounds that they have been subjected to a combination of the three key elements of the definition of THB referred to in paragraph 44 (action, means and purpose) in order to be considered as victims of trafficking. This does not imply that they must provide proof that they have been injured or financially damaged, but it may involve providing some measure of independent evidence supporting their claim. It might sometimes be difficult for victims to justify one of the elements, e.g. the purpose of exploitation, prior to a criminal investigation, which is why it is important to apply operational indicators of THB (as designed by several international organisations, such as the ILO and ICMPD).

56. The question of the definition of victim of THB will be further discussed in the sections of this report dealing with the identification of victims and the assistance measures provided to them, along with the related proposals made by GRETA (see paragraphs 127 and 139).

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

*i. Comprehensive approach and co-ordination*

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

<sup>13</sup> Further, according to the UNODC Model Law against Trafficking in Persons, “a person should be considered and treated as a victim of trafficking in persons, irrespective of whether or not there is already a strong suspicion against an alleged trafficker or an official granting/recognition of the status of victim”.

58. The Icelandic authorities have taken a number of steps to develop the legal framework for action against human trafficking (see paragraph 12) and have also adopted two action plans against THB (see paragraphs 14-20). GRETA notes that a number of actions under the first Action Plan could not be implemented and were therefore carried over to the second Action Plan. In particular, the setting up of a procedure for the identification and referral to assistance on possible victims of THB remains to be implemented (see paragraph 115). GRETA is concerned by the lack of dedicated State funding for the activities under the second Action Plan and **stresses that securing funding will be indispensable for the implementation of anti-trafficking measures.**

59. An impact assessment of the preventive measures taken under the first Action Plan has not yet been carried out. GRETA notes that two of the actions in the second Action Plan regard assessment. The first assessment, which is to be completed in May 2015, is on the results of police actions and prosecutions. The second is to measure the impact of all the actions in the plan and is to be completed by the end of the duration of the action plan in 2016.

60. When it comes to co-ordination, at the time of GRETA's evaluation visit, the stakeholder co-ordination team was not operational. As noted in paragraph 23, the Icelandic authorities have since set up a steering group which is responsible for the implementation of the second Action Plan.

61. Regarding THB for sexual exploitation, the first Action Plan put an emphasis on combating it and the Icelandic authorities have taken steps to discourage demand for sexual services (see paragraphs 94 and 96). As regards THB for labour exploitation, during GRETA's evaluation visit to Iceland, various interlocutors referred to reports about exploitation of migrant workers (e.g. in fisheries, Chinese restaurants, massage parlours) and the police was reportedly investigating some possible cases of labour exploitation. GRETA notes that the second Action Plan does not address specifically THB for labour exploitation.

62. **GRETA urges the Icelandic authorities to strengthen action to combat THB for the purpose of labour exploitation.**

63. **GRETA also considers that the Icelandic authorities should take further steps to involve NGOs and trade unions in the development, implementation and evaluation of anti-trafficking policy.**

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

*ii. Training of relevant professionals*

65. The first Action Plan against THB (2009-2012) included as one of the actions the preparation of a comprehensive educational programme for professionals who deal with THB. The target groups included police, border guards, customs officers, prosecutors, judges, employees of other relevant institutions (e.g. Directorate of Immigration, Directorate of Labour), health-care staff, social service and child welfare personnel, and employees of the diplomatic service and other relevant ministries.

66. The Icelandic authorities have indicated that training on THB within the police forces has not been regular or systematic, but training courses and meetings are attended abroad. An information leaflet issued by the National Commissioner of Police in 2010 was distributed to all police districts and to the Police Academy. The leaflet provides information on the definition of THB and its various forms and explains the work practices established. Further, the Police Academy has held information sessions on THB in co-operation with OSCE.

67. In police districts where officers are more likely to meet potential victims of THB, staff have received special training. In the police district of Suðurnes, more than a dozen detectives have received training in identifying victims and investigating THB cases in co-operation with CEPOL, the Nordic Council of Ministers, Frontex and OSCE. One police detective has received special training by Frontex and will train other officers in identifying victims of THB. Police staff working in Keflavik International Airport has also received training in identifying victims of THB and in 2012 a training day was held for all members of staff.

68. Staff of the Department of Welfare of Reykjavik City has set up forums to exchange information and share experiences related to THB, including internal education programmes on how to detect THB cases and the procedures that should be initiated.

69. As regards training on THB provided to other relevant professionals, GRETA was informed that in 2012 the Ministry of the Interior provided training on forced labour. Further, staff working at the shelter Kristínarhús followed training through the Norwegian ROSA Project, which provides training to staff working at shelters for victims of trafficking in order to provide specialised services to them.

70. Training on THB is also being provided in the framework of the project ADSTRINGO (“Addressing trafficking in human beings for labour exploitation through improved partnerships, enhanced diagnostics and intensified organisational approaches”), which is a project of the European Union Strategy for the Baltic Sea Region focusing on trafficking for forced labour and labour exploitation in nine countries in the Baltic Sea region, including Iceland.<sup>14</sup>

71. GRETA notes that the second Action Plan Need envisages providing training to relevant professionals, especially police officers, investigators, prosecutors and judges. During GRETA’s evaluation visit to Iceland, both officials and civil society representatives stressed the need for more training on the identification of victims, especially for labour exploitation, and how to refer them to assistance and protection. Social workers, child welfare personnel and health-care staff were also mentioned as professional groups who could benefit from training on THB issues.

72. As noted in paragraph 23, following GRETA’s visit, an education group was set up to raise awareness and improve the exchange of information. It held a meeting in Árborg, which covers a large part of the south of Iceland and has a lot of foreign workers. The meeting brought together representatives of the district police, social services, health care officials and local labour unions. Lectures were given by a police detective from Suðurnes police (who had followed courses on THB and completed a “train the trainer” programme at Frontex) and officials from the Ministry of Welfare and the Human rights office of Reykjavik City. Information on indicators of THB and interviewing possible victims was distributed to the participants. Participants formed a network for exchanging information in case they come into contact with possible victims of THB.

**73. GRETA invites the Icelandic authorities to take further steps to ensure that all relevant professionals are trained periodically on preventing THB, identifying victims and referring them to assistance. Such training should be provided in particular to law enforcement officials, prosecutors, judges, border guards, customs officers, labour inspectors, social workers, child welfare staff, health-care staff, and diplomatic and consular staff. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking, to assist and protect them, to facilitate access to compensation and to secure convictions of traffickers. The training should also stress the need to apply a human rights-based approach to action against THB on the basis of the Council of Europe Convention and the case-law of the European Court of Human Rights.**

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<http://www.cbss.org/wp-content/uploads/2013/04/Info-Sheet-ADSTRINGO.pdf>

iii. *Data collection and research*

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

75. At the time of GRETA's evaluation visit, there was no central collection of administrative data or population survey data on THB. Establishing such a data collection mechanism is one of the actions in the second Action Plan against THB which should be completed by December 2015. It is noteworthy that the first Action Plan already envisaged the establishment of a co-ordinated registration system for cases where there is a suspicion of THB.

**76. GRETA urges the Icelandic authorities to develop and maintain a comprehensive and coherent data collection system on trafficking in human beings by compiling reliable statistical information from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination), for the purpose of preparing, monitoring and evaluating anti-trafficking policies. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database.**

77. Regarding research on THB issues, in 2009 the Icelandic Red Cross and the Centre for Women's and Gender Research carried out research into possible cases of trafficking that have occurred in Iceland. The research was based on interviews with 19 persons working for state institutions and NGOs. The research report refers to 59 persons who sought help over a period of three years and were possible victims of trafficking. While 18 of them were connected with organised prostitution, the other cases concerned female domestic workers, women who had moved to Iceland to marry Icelanders or foreign citizens, as well as people who had come to Iceland to work as construction workers, in restaurants or as cleaners.<sup>15</sup> Another researcher found faults with this report and believed that the numbers were inflated.<sup>16</sup>

78. A number of studies have been carried out on the issue of prostitution and the links between THB and sex services in Iceland, but little is known about THB for forced labour.<sup>17</sup>

79. Further, GRETA was informed of recent research commissioned by UNHCR on the situation of statelessness in Iceland, which was carried out by an Icelandic lawyer (Hrefna Dögg Gunnarsdóttir) and financed by a grant from the Ministry of the Interior. The research was based on a questionnaire sent to officials and NGOs working with asylum seekers as well as a review of available statistics. During the research, it transpired that women from Latvia of Russian origin had allegedly been trafficked to Iceland for forced prostitution.

<sup>15</sup> Fríða Rós Valdimarsdóttir, Also in Iceland. Report on the Nature and Scope of Trafficking in Persons, Icelandic Red Cross and Center for Women's and Gender Research, 2009. Available in Icelandic at: <http://www.jafnretti.is/D10/Files/mansalsskyrsla.pdf>

<sup>16</sup> Jóhann M. Hauksson, *Mansal, Líka á Íslandi?*, Acta Critica, nr. 1, vol. 1, 2010. Available in Icelandic at: <http://rafhladan.is/bitstream/handle/10802/724/Mansal,%20%C3%ADka%20%C3%A1%20%C3%8Dslandi%20-%20J%C3%B3hann%20M.%20Hauksson.pdf?sequence=1>

<sup>17</sup> Report of the Minister of Social Affairs and Social Security, Ásta R. Jóhannesdóttir, on the Action Plan against Human Trafficking. Presented before the *Althingi* in its 136<sup>th</sup> legislative session 2008-2009, p. 12.

80. GRETA notes that the second Action Plan envisages the carrying out of research on the scope and nature of THB in Iceland. **GRETA considers that the Icelandic authorities should conduct and support research on THB issues, including when such studies are carried out by civil society, as an important source of information for future policy measures. Areas where research is needed in order to shed more light on the extent of human trafficking in Iceland include trafficking for the purpose of labour exploitation and trafficking in children.**

*iv. International co-operation*

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

82. The Icelandic legislative basis for judicial co-operation in criminal matters is the Act on the Extradition of Criminals and Other Assistance in Criminal Proceedings No. 13/1984.<sup>18</sup> The Act, with subsequent amendments, implements the 1957 European Convention on Extradition<sup>19</sup> and its two additional protocols, the 1959 European Convention on Mutual Legal Assistance in Criminal Matters<sup>20</sup> and its first additional protocol (the second additional protocol has been signed, but not yet ratified), as well as implementing the relevant Schengen principles and the principles of the European Union Convention on Mutual Legal Assistance in Criminal Matters, which Iceland partially adhered to with an agreement concluded in December 2003.<sup>21</sup>

83. In the absence of bilateral agreements concluded between Iceland and other countries on mutual legal assistance in criminal matters, the police send a letter rogatory in case of THB involving a third country.

84. The police have put in place a procedure whereby all information regarding international co-operation is directed to the National Police Commissioner’s international division that delivers the information through the channels of Europol, Schengen or Interpol as appropriate. In accordance with the Act on the Extradition of Criminals and Other Assistance in Criminal Proceedings and relevant multilateral conventions on mutual assistance in criminal matters, requested states are obliged to promptly inform the requesting state of final results of the request for mutual assistance and forward to the requesting state all documents and evidence it has gathered when executing the request. It is also possible to transmit information by informal channels between police authorities and through a network of NGOs.

85. Iceland has a liaison officer at Europol, which has proved very useful for the information flow. Further, Iceland is a member of Frontex and through that forum Icelandic police officers have participated in joint projects, including with regard to THB.

86. Iceland has not yet participated in any Joint Investigation Teams (JITs), but there are no obstacles to participation in joint police action and it would be considered on a case by case basis. In one case of THB the Icelandic authorities worked closely with the police authorities in Lithuania, leading to the conviction of the perpetrators (see paragraph 176).

87. GRETA was informed of difficulties in co-operating with the Chinese authorities in obtaining information in possible cases of THB for labour exploitation, despite the sending of formal requests through letters rogatory. The need for agreement with China on this issue was highlighted. Further, there have been certain difficulties in obtaining information from Romania.

<sup>18</sup> See chapter IV of the Act, available in English at:

<http://eng.innanrikisraduneyti.is/laws-and-regulations/english/extradition-and-other-assistance/>

<sup>19</sup> European Convention on Extradition (CETS No. 24).

<sup>20</sup> European Convention on Mutual Assistance in Criminal Matters (CETS No. 30).

<sup>21</sup> Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the application of certain provisions of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union and the 2001 Protocol thereto.

88. Iceland is a member of the Council of Baltic Sea States Taskforce against Trafficking in Human Beings and has funded anti-trafficking activities abroad, in particular in Baltic States. Further, within the Nordic Council of Ministers, Iceland has been involved in several international co-operation projects aimed at combating THB and has participated in financing a number of projects in countries of origin of victims of THB. Iceland is also contributing through the EEA/Norway Grants to anti-trafficking projects in other countries. Moreover, the Icelandic authorities have supported financially the work of OSCE against human trafficking, e.g. in Bosnia and Herzegovina.

89. Further, as noted in paragraph 36, the Icelandic Red Cross is implementing a project on THB in Belarus. The project started in 2010 and after a three-year first phase, has been extended until 2015. It is funded 70% by the Ministry of Foreign Affairs and 30% by the Icelandic Red Cross.

90. **GRETA commends the efforts made by the Icelandic authorities in the area of international co-operation and invites them to continue developing this aspect with a view to preventing human trafficking, assisting victims of trafficking, and investigating and prosecuting human trafficking offences, including through exploring further possibilities for co-operation with governmental and non-governmental actors in the main countries of origin of persons trafficked to Iceland.**

## **2. Implementation by Iceland of measures aimed to prevent trafficking in human beings**

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

92. In accordance with the Convention, measures to discourage demand for the services of victims of trafficking, especially women and children, should be understood as a positive obligation on Parties to adopt and reinforce such measures as regards THB for the purpose of any form of exploitation (see paragraph 108 of the Explanatory Report of the Convention). As it is stated in the Recommended Principles and Guidelines on Human Rights and Human Trafficking, strategies aimed at preventing THB shall address demand as a root cause of trafficking.<sup>22</sup>

### **a. Measures to raise awareness and discourage demand**

93. No campaign to alert potential victims of THB to the various forms of exploitation has been carried out in Iceland in the last three years. The second Action Plan (2013-2016) puts an emphasis on prevention of THB and envisages several activities, such as issuing a leaflet for possible victims of THB which explains what THB is and the various forms the exploitation may take (by May 2014), organising annual conferences concerning THB, and setting up a web-page on THB with educational materials and information for the general public and professionals (by March 2014). In their comments on the draft report, the Icelandic authorities informed GRETA that due to funding issues (see paragraph 20), it was decided instead to allocate a special place on the home page of the Ministry of the Interior where guidelines and other information on THB can be found.

<sup>22</sup> Principle 4 of Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), available at: <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

94. The first Action Plan (2009-2012) paid particular attention to discouraging demand and included several actions to tackle demand in the prostitution and pornography industry. The first action was to introduce a bill criminalising the purchase of sex, similar to the approach taken in Sweden and Norway. In 2009 the purchase of sexual services was criminalised through Article 206 of the Penal Code. According to the report of the Minister of Social Affairs and Social Security on the first Action Plan, "it can be argued that prohibiting the purchase of sexual services may assist the police with finding those who are organising or acting as intermediaries of prostitution, provided that it might be so arranged that the buyers would receive reduced punishment if they provided information on the organisers of prostitution".<sup>23</sup> The report indicated that the criminalisation of the purchase of sex had the support of the majority of the public, according to a survey performed in March 2007, and that the argument that this would drive prostitution underground was rejected as prostitution in Iceland had never been on the streets and was already taking place in environments connected with the internet and underground.<sup>24</sup>

95. During the country visit, the GRETA delegation was informed that the legislation criminalising the purchase of sex had not been enforced in many cases.<sup>25</sup> Various interlocutors expressed reservations about the deterrent effect of the ban of purchasing sex and some were concerned that it might be distracting attention and resources from investigating THB cases. An evaluation of the impact of the ban on purchasing sex in reducing THB has not yet been carried out.

96. Another demand-discouraging activity was the amendment in 2010 of the Act on Restaurants, Accommodation Establishments and Entertainment No. 95/2007, by removing paragraph 4 of Article 4 which provided an exemption from the ban on strip shows.<sup>26</sup>

97. In 2011 the government granted 1 300 000 ISK (approximately 8 000 Euros) to the prevention centre STERK to conduct a competition among young people in making videos about prostitution and THB.

98. As part of the Government's initiative to prevent violence against children, educational material explaining the differences between sex, violence and pornography to adolescents was created and integrated into the school curriculum. Further preventative and educational measures on sexual health are planned, focusing on explaining to young people the connections between pornography, prostitution, violence and THB.

99. The first Action Plan also envisaged an educational campaign directed at buyers of prostitution services, pornography and other kinds of sex services and stepping up the fight against child pornography. Both actions are reported to have been completed according to the second Action Plan.

**100. GRETA urges the Icelandic authorities to carry out information and awareness-raising campaigns on THB with the involvement of civil society and on the basis of previous research and impact assessment. Special attention should be paid to raising awareness of THB for the purpose of labour exploitation.**

**101. Further, GRETA considers that the Icelandic authorities should strengthen their efforts to discourage demand for the services of trafficked persons for the purpose of labour exploitation in economic sectors at higher risk of human trafficking, such as construction, hotels, catering and entertainment. GRETA also invites the Icelandic authorities to consider establishing as a criminal offence the use of services which are the object of labour exploitation, with the knowledge that the person is a victim of trafficking in human beings.**

<sup>23</sup> Report of the Minister of Social Affairs and Social Security, Ásta R. Jóhannesdóttir, on the Action Plan against Human Trafficking. Presented before the *Althingi* in its 136th legislative session 2008-2009.

<sup>24</sup> *Ibid.*, p.18.

<sup>25</sup> A total of 23 cases were prosecuted, of which 14 were sent to court and fines of up to 80 000 ISK were handed down; 45 other cases were in the Prosecutor's Office awaiting the launch of proceedings.

<sup>26</sup> In June 2007 a magazine named *Ísafold* published an article discussing the links between strip clubs and prostitution. It maintained that the conditions of strip club dancers originating from Eastern Europe could be compared to human trafficking. See *Björk Eiðsdóttir v. Iceland*, application No. 46443/09, ECHR judgment of 10 July 2012.

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

102. As Iceland is primarily a destination and transit country, the authorities and the Icelandic Red Cross are providing funding for anti-trafficking activities in countries of origin (see paragraphs 87 and 88).

103. The Icelandic authorities have not referred in their reply to GRETA's questionnaire to any measures taken to address the vulnerability to THB of particular groups in Iceland. However, GRETA notes that the report of the Minister of Social Affairs and Social Security on the first Action Plan paid particular attention to the situation of children and indicated that "street children and unaccompanied children are considered by the international community as being especially at risk when it comes to human trafficking".<sup>27</sup> The first Action Plan envisaged improving the procedures for identifying and supporting alleged child victims of THB and ensuring the safe return of such victims. Both of these activities were carried over in the second Action Plan which includes as measures "to finish all procedures and organisational issues concerning unaccompanied children" and "to ensure that information on rights, assistance and support is available to children and parents of potential victims of THB".

104. The report of the Minister of Social Affairs and Social Security on the first Action Plan also noted that irregular migrants are particularly at risk of becoming victims of forced labour and that in Iceland there had been cases where foreign workers were subjected to poor conditions such as payment below the minimum wage and violations of the safety, health and working time rules. With this in mind, the education group referred to in paragraph 23 includes representatives of trade unions.

105. Asylum seekers are not allowed to work in Iceland. GRETA was informed that the asylum procedure is rather lengthy and it takes up to a year to be interviewed by the Directorate of Immigration. There were 137 asylum seekers in the first nine months of 2013; 128 of them were either denied asylum or sent to third countries in accordance with the Dublin regime for the examination of applications for asylum.

**106. GRETA considers that the Icelandic authorities should integrate the prevention of human trafficking in the policies for unaccompanied children, migrant workers and asylum seekers.**

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

107. About 95% of border traffic goes through Keflavik International Airport which is in the district of the Police Commissioner of Suðurnes in charge of border surveillance. The police commissioner has developed work procedures on screening for THB and staff members have received appropriate training.

108. Since 25 March 2001 Iceland has been involved in the Schengen Scheme, under which identification checks at the common borders were abolished, while border control was tightened on the perimeter of the area in an attempt to combat international crime. One of the pillars of this scheme is a central database containing information on wanted and missing persons, persons who are to be denied entry into the Schengen Area, and persons sought as witnesses in court cases and persons on whom judgments are to be served. The database is open to the police and to the Directorate of Immigration for use in cases they are handling. Each of the member states has established a domestic central office, known as a SIRENE office, where data are checked and evaluated before being sent to the main database. These offices form central points for dissemination of data via the database, both to the district police divisions in each individual state and between states. The SIRENE office in Iceland is under the International Department of the office of the National Commissioner.

<sup>27</sup> Report of the Minister of Social Affairs and Social Security, Ásta R. Jóhannsdóttir, on the Action Plan against Human Trafficking. Presented before the *Althingi* in its 136<sup>th</sup> legislative session 2008-2009, pp. 20-21.

109. Iceland is represented by other Schengen States in most countries, except in China and the Russian Federation. Most embassies forward questionable visa applications to Iceland for a decision. If the Directorate of Immigration has reasonable grounds to believe that a person is applying for a visa or a residence permit on grounds other than those given in the application, the application will be denied.

110. All applications for residence permits in Iceland are submitted directly to the Directorate of Immigration. Embassies and consulates do not accept or handle such applications. The decision on granting a residence permit is based on Article 34, paragraph 5, of the Regulation on Foreigners No. 53/2003, which provides that the purpose of stay must be in accordance with the requested residence permit. If the applicant is already in Iceland when the application is submitted, the Directorate of Immigration can conduct an interview where questions are asked to verify whether there is reason to believe that the person is a victim of THB. If there is, the Directorate of Immigration explains this to the applicant and provides information on human trafficking and the resources available in Iceland for victims of THB.

111. The Directorate of Immigration has drawn up an information sheet for possible victims of THB which is available in Icelandic and is introduced in an interview with an interpreter. The information sheet explains what trafficking is, when a person could be considered as a victim of trafficking, what the rights of a possible victim of trafficking are, how the government can support victims (access to services, health, protection, social cover and financial support, access to a temporary residence for six months while the case is being examined), what the conditions for a temporary residence permit are, what would happen if the person does not accept the assistance offered, and the conditions for a possible future stay in the country. **GRETA welcomes the drawing up of this information sheet and invites the Icelandic authorities to have it translated into a range of languages and to ensure that foreign nationals arriving in Iceland are provided with written information, in a language that they can understand, in order to alert them to the risks of THB, inform them of their rights and where to turn for advice and assistance.**

112. **GRETA also considers that the Icelandic authorities should make further efforts to:**

- **detect and prevent THB through border control measures;**
- **introduce a checklist to identify potential THB-related risks during the visa application system.**

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

113. Registers Iceland, which is an office within the Ministry of the Interior, issues ordinary passports and ID cards and provides services to other issuers of travel documents in Iceland. It has an Information Security Management System, certified according to ISO 27001, and has implemented all except one of the controls specified in ISO 27002. The security of Icelandic travel documents was evaluated by International Civil Aviation Organisation auditors in November 2011, with positive results.

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

#### **a. Identification of victims of trafficking in human beings**

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

115. The first National Action Plan against THB in Iceland envisaged that the stakeholder co-ordination team would identify possible victims of THB according to a checklist of indicators issued by the team and grant victims of THB a recognised status in order to ensure their assistance and protection. However, this activity was not completed and, at the time of GRETA's evaluation visit, there were no clear procedures and criteria for the formal identification of victims of trafficking and different agencies were using a variety of approaches.

116. In Iceland, the process of identifying a potential victim of THB can be initiated by any professional who though their work meets a person they suspect to be a victim. Further investigation is in the hands of the police which examines potential victims' declarations and evaluates their credibility. At border stations potential victims of THB are detected by police officers who bring the information to the attention of a lawyer or a prosecutor who is handling the investigation in order to make contact with relevant parties, ensure safe housing as well as that the other needs of the victim are met.-

117. The National Commissioner of Police has issued guidelines on the identification of victims of THB based on the Norwegian "Guide to the Identification of Possible Victims of Trafficking", drawn up in November 2008 by the Norwegian National Co-ordinating Unit for Victims of Trafficking (*Koordineringsenheten for Ofre for Menneskehandel*, KOM). According to this identification guide, a person who is detected as a possible victim of trafficking has to be verified by the police, the prosecution authorities, immigration authorities or, in the case of children, child welfare authorities. However, none of these agencies has a specific mandate to conduct formal identification of victims of trafficking.

118. Further, the Ministry of Welfare has drawn up a list of indicators for the identification of victims of THB which are being used without having been formally adopted.

119. As noted in paragraph 54, the legal status of victim of THB may be granted by the police or the Directorate of Immigration following an assessment by the police and pending final declaration of victim status by the courts. A person claiming to be a victim of THB is guaranteed the right to apply for a reflection period for six months (see paragraph 141) and while the application is being processed the applicant is permitted to stay in Iceland.

120. The first Action Plan envisaged the promotion of the emergency phone number 112 for calling in the event of suspected human trafficking. Staff were expected to receive training in receiving such phone calls and directing the caller to the proper channels. The emergency phone number was also to be advertised in an information leaflet on THB intended both for the general public and victims, to be published in several languages. The district police in Suðurnes has issued an information card containing a list of possible signs of THB and what people should do in that situation, i.e. which entity to contact and its phone number. This card will be issued and used in other places as well.

121. The organised crime unit of Reykjavik Metropolitan Police proactively investigates the market for sexual services for possible THB cases (including through analysing advertisements placed in the media and on the Internet), but none of the women identified as selling sex have been confirmed as victims of THB. The police use the services of Europol to obtain information from the countries of origin of the women selling sex in Iceland. The police have also investigated a number of “champagne clubs” but have not uncovered any cases of THB for sexual exploitation.

122. As noted in paragraphs 31 and 32, the Administration of Occupational Safety and Health and the Directorate of Labour perform functions which bring them into contact with possible victims of THB. However, neither has a formal role in identifying victims of THB. If they detect suspicious cases, they refer them to the police for investigation.

123. Trade unions can take cases of violation of collective agreements to the labour court, but GRETA was informed that most people are not willing to testify against their employer. The inspection teams of the trade union Efling have tried to inspect strip clubs, but did not have access to the contracts of the women working there and could not check if there were any violations.

124. The Icelandic Human Rights Centre (ICEHR) encounters possible victims of THB when they contact ICEHR for assistance. Possible victims are provided with legal counselling, counselling sessions are confidential and no further steps are taken without the victim’s approval. Possible victims may also be assisted in talking to the police and guided to other available assistance. ICEHR works in close relations with other NGOs working with victims of THB, such as the Icelandic Red Cross, Stígamót and the Women’s Shelter that also refer possible victims to ICEHR or ask for opinion in individual cases. Further, the NGO Stígamót meets possible victims through their expert counselling and the therapy they provide to victims of sexual violence and abuse as well as persons who either are or have been in prostitution.

125. The Red Cross provides asylum seekers with information about their rights and if there is a suspicion of THB the person is asked more detailed questions about their circumstances. Red Cross employees and volunteers refer cases where there is a suspicion of THB to a case handler responsible for refugees and asylum seekers. The second Action Plan envisages drawing up guidelines for dealing with cases where the possible victim of THB is an asylum seeker. In their comments to the draft GRETA report, the Icelandic authorities have indicated that this action will be undertaken in the context of the ongoing work on setting up new asylum procedures.

126. GRETA notes that the second Action Plan envisages updating the guidelines on procedures for police officers in THB cases. After GRETA’s evaluation visit, the Ministry of the Interior has published on its website the guidelines for the first-level identification of victims of THB which were developed through the Euro TrafguID Project (led by France and involving five other EU countries).<sup>28</sup>

**127. GRETA urges the Icelandic authorities to set up a formalised national referral system defining clear procedures and roles of all frontline actors who may come into contact with victims of trafficking, and in particular to:**

- **ensure that the formal identification of victims of human trafficking, including Icelandic and EU/EEA nationals, is not dependent on the initiation of criminal proceedings;**
- **promote multi-agency involvement in victim identification and referral to assistance by formalising the role and input of specialised NGOs and involving other relevant actors, such as labour inspectors;**
- **provide regular training on the identification of victims of THB to all frontline staff who may come into contact with possible victims, including operational indicators, guidance and toolkits for the identification of victims of trafficking;**

<sup>28</sup>

<http://www.innanrikisraduneyti.is/raduneyti/starfssvid/Mansal/handbaekur/>

- **ensure that law enforcement officials, social workers, labour inspectors and other relevant actors adopt a more proactive approach and increase their outreach work to identify possible victims of trafficking, regardless of the possibility of initiating criminal cases;**
- **improve the identification of victims of trafficking among migrant workers and asylum seekers;**
- **set up a procedure for the identification and referral of child victims of trafficking, which takes into account the special circumstances and needs of child victims and involves child specialists, child protection services and specialised police and prosecutors.**

b. Assistance to victims

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

129. The first Action Plan envisaged that the stakeholder co-ordination team would set up an emergency team capable of rendering assistance and protection to victims of THB within a period of 24 hours, including safe housing, emergency health care, interpretation and legal assistance. However, this activity was not completed. The second Action Plan stresses the importance of the Government defining the conditions that must be met if a person is to be considered a potential victim of THB, with associated rights. According to the Ministry of Welfare, defining the process is one of the most urgent tasks that must take place. The second Action Plan includes as activities "to ensure that all victims of trafficking have access to physical, social and psychological assistance regardless of whether the person is legally resident in Iceland or not" and "to ensure safe housing for all victims of human trafficking".

130. According to information provided by the Ministry of Welfare during GRETA's evaluation visit, assistance is provided to all victims and suspected victims of THB. The rights of victims of THB are not defined in law and the provision of funding for the different services is not regulated, which is why access to different services is arranged on a case-by-case basis. The Ministry of Welfare informed GRETA that it intends to improve the provision of information to victims of THB.

131. Pursuant to Ministry of Welfare Regulation 1176/2011, victims and possible victims of THB are entitled to emergency health care, regardless of their immigration status. The Ministry of Health has arranged for possible victims of THB to have access to health care at the local health clinic and psychological assistance is provided by a special team at Landspítali (the National University Hospital).

132. The Department of Welfare of the City of Reykjavik provides assistance to possible victims of THB who reside in the city. The assistance depends on the needs of the person in question. Victims are assigned a case handler who arranges for financial assistance and support sessions where rights and obligations are explained to ensure that lack of cultural understanding does not lead to further social disadvantages and that the victims receive the services they need. Victims are also provided with legal assistance and interpretation services when needed.

133. As noted in paragraph 34, in 2011 the NGO Stígamót started running Kristínarhús, a shelter for women striving to leave prostitution and possible victims of THB. The shelter was mainly funded through the State Budget, partly from the Ministry of Welfare and partly from the Ministry of the Interior, which granted 6 000 000 ISK (approx. 38 000 Euros) to the shelter in 2012. At the time of GRETA's visit, the

shelter Kristínarhús was staffed by one full-time person and a number of volunteers who ensured staff presence 24 hours per day. The shelter had five individual bedrooms and two women were resident in it at the time of the visit. Because Stígamót does not distinguish between prostitution and THB, it is difficult to know how many of the shelter's residents have been victims of trafficking. GRETA was informed that a total of 26 adult women had exited prostitution or THB since the shelter's opening; some 50% of them were Icelandic. Five Nigerian women had been accommodated in the shelter since its opening; some of them were pregnant upon arrival in Iceland and three babies were born while the women were staying at the shelter. Some of the women obtained asylum and moved to flats. There was no limitation on the length of stay and some women had stayed in the shelter for over a year.

134. The residents were free to leave the shelter during the day and had keys to their own rooms. A security system was operated by the police. An individual programme was drawn up for each woman and, if necessary, interpreters were provided free of charge. There was also the possibility to have consultations with a psychologist and to be referred to a rehabilitation centre for drug addiction.

135. Stígamót informed GRETA that they intended to discontinue the running of the shelter Kristínarhús as of 1 January 2014 due to various problems with its running. Subsequently, the Icelandic authorities confirmed that the shelter Kristínarhús had been closed. In their comments on the draft GRETA report, the Icelandic authorities indicated that while the Ministry of Welfare was looking into a long-term solution, arrangements had been made with the women's shelter (*Kvennaathvarfið*) to accommodate women who were possible victims of THB.

136. If the potential victim of THB is male, the local authorities services in Reykjavik will be expected to provide accommodation. There is no specialised resource available for accommodating male victims of THB at present and the second Action Plan envisages that safe housing should be ensured for all victims of THB, including men.

137. The Child Protection Act No. 80/2002 applies to all children within the territory of Iceland, irrespective of citizenship, and the Child Protection Service of the Ministry of Welfare is responsible for their protection. Education is guaranteed for all children in Iceland in accordance with the Convention on the Rights of the Child which Iceland incorporated into national law in 2013. In case the police or another body come across a potential child victim of THB, the case is referred to the child welfare authorities who are responsible for ensuring accommodation and other services. A representative of the child welfare authorities and a representative of the Icelandic Red Cross (who acts as the child's representative) are present during interviews of children seeking asylum or unaccompanied children. GRETA was informed that there had been only two unaccompanied children in Iceland in recent years and foster parents were assigned to both of them. As noted in paragraph 19, the second Action Plan envisages finalising all procedures and organisational issues concerning unaccompanied children.

138. Possible victims of THB are met by a counsellor who provides social counselling. The Directorate of Immigration provides information on legal rights (see paragraph 111). Further, on the basis of an agreement with the Ministry of Welfare, the Icelandic Human Rights Centre (ICEHR) provides free legal counselling to all people of foreign origin in Iceland and information about their legal rights and other services available to them. An interpreter is provided free of charge, if necessary.

139. **GRETA urges the Icelandic authorities to strengthen their efforts to provide assistance to victims of trafficking, including measures to:**

- **regulate the provision of assistance to victims of THB regardless of whether the person is legally resident in Iceland;**
- **provide safe and suitable temporary accommodation for all victims of trafficking, which is adapted to their needs, gender and age;**
- **provide information for victims on the services and assistance measures available and how to access them, in an appropriate range of languages;**
- **ensure access to education, vocational training and the labour market for victims of trafficking who are lawfully resident in the country in order to help their reintegration into society and to avoid re-trafficking.**

c. Recovery and reflection period

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

141. The Icelandic authorities have referred to Article 12.h of the Act on Foreigners as corresponding to the recovery and reflection period under the Convention, which reads as follows:

“After receiving an application to this effect, and obtaining the opinion of the police, the Directorate of Immigration shall grant a foreign national who is suspected of being a victim of human trafficking a temporary residence permit for six months even if all the requirements of Article 11 are not fulfilled. Notwithstanding the provisions of Article 20, the individual concerned may not be deported during this period. Should there be reasonable grounds to suspect a person is claiming to be a victim for the sole purpose of obtaining a temporary residence permit, and the opposite is not demonstrated indisputably, this shall not grant entitlement to a temporary residence permit. The same shall apply if the granting of a temporary residence permit is contrary to public order. A permit granted as referred to in this provision cannot serve as the basis for a permanent residence permit.”<sup>29</sup>

142. There is no minimum duration of the recovery and reflection period indicated in the law but in the explanatory memorandum on Article 12.h of the Act on Foreigners it is stipulated that the reflection period shall be at minimum 30 days and maximum six months.

143. GRETA notes that the purpose of the temporary residence permit under Article 12.h of the Act on Foreigners is not clearly stated as is done in the Convention, i.e. to enable possible victims of trafficking to recover and escape the influence of traffickers and/or to take an informed decision on co-operating with the competent authorities.

<sup>29</sup>

Unofficial translation provided by the Icelandic authorities.

144. GRETA was informed that no recovery and reflection periods had been issued in recent years. According to the Icelandic authorities, it is up to the police to apply for such a period on behalf of a possible victim of THB and in all cases the Directorate of Immigration has to consult the police before issuing a recovery and reflection period. If possible victims of THB ask for asylum, they are treated as asylum seekers and the recovery and reflection period under Article 12.h of the Act on Foreigners does not apply to them. This has reportedly been the case of the Nigerian women who were suspected of being victims of THB (see paragraph 133). GRETA is concerned that this approach leaves possible victims of THB without a formal status and access to the protection/assistance measures which should apply pursuant to Article 12, paragraphs 1 and 2, of the Convention.

145. GRETA was informed that the “reasonable ground” assessment for issuing a recovery and reflection period follows the same criteria as in asylum cases. According to the Icelandic authorities, in trafficking cases the testimony of the alleged victim is often the only evidence that is available and therefore the only element that the Directorate of Immigration has to base the assessment of the case on, which is why the person would always be allowed the benefit of the doubt.

146. GRETA welcomes the provision in Icelandic law for a recovery and reflection period longer than the minimum of 30 days envisaged in the Convention. However, **GRETA urges the Icelandic authorities to ensure, in compliance with Article 13 of the Convention, that all possible victims of trafficking are offered a recovery and reflection period as well as all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period. Police and immigration officers should be issued with clear instructions stressing the need to offer the recovery and reflection period as defined in the Convention, i.e. not making it conditional on the victim’s co-operation and offering it to victims before formal statements are made to investigators.**

d. Residence permits

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

148. In Iceland, the issuing of residence permits to victims of THB is regulated by Article 12.i of the Act on Foreigners, which reads as follows:

“In exceptional circumstances the Directorate of Immigration may grant a victim of human trafficking a renewable temporary residence permit for one year, even if the requirements of Article 11 are not fulfilled, if either of the following apply:

- a. it is considered necessary due to the personal circumstances of the person concerned;
- b. it is considered necessary in the opinion of the police due to co-operation with the authorities concerned in investigating and handling a criminal case.

A permit granted in accordance with this provision cannot serve as the basis for a permanent residence permit.”<sup>30</sup>

149. The maximum duration of the above-mentioned residence permit is one year. There is no minimum set by law, but the Directorate of Immigration does not issue residence permits for a shorter period than six months unless there are exceptional circumstances. The residence permit can be renewed if the conditions of Article 12.i of the Act on Foreigners are fulfilled. The decisions of the Directorate can be appealed to the Ministry of the Interior.

150. In addition to the above, the Directorate of Immigration may issue a victim of THB with a residence permit on humanitarian grounds on the basis of Article 12.f of the Act on Foreigners.

<sup>30</sup> Unofficial translation provided by the Icelandic authorities.

151. **GRETA welcomes the fact that Icelandic legislation envisages the issuing of residence permits to victims of trafficking both on the basis of their personal situation and when cooperating in the investigation or criminal proceedings related to THB and encourages the authorities to ensure that victims of trafficking can fully benefit in practice from the right to obtain a renewable residence permit.**

e. Compensation and legal redress

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

153. The Icelandic State has been paying compensation to victims of crime since 1996. Compensation is limited to persons who have been victims of an action that is punishable under the Penal Code, which includes victims of THB. Compensation is also paid if the offender is unknown, is a minor or is not *compos mentis*. The nationality of the victim has no bearing on the outcome. Compensation is paid only if the criminal incident has taken place in the jurisdiction of the Icelandic State. The treasury may, however, in special cases pay compensation for damages resulting from an offence committed outside Iceland and in such cases, the victim or claimant of the compensation must be a legal resident or Icelandic national. In cases where the identity of the offender is known, reimbursement of what has been paid is demanded by the state from that person as a general rule.

154. The claimant in each case has to claim compensation directly from the State and has no obligation to try to collect it first from the offender. When a crime is reported, the police are obliged to guide the victim on how compensation can be obtained. A claim for compensation has to be lodged no later than two years after the relevant offence took place. Under special circumstances an exception to this two-year rule can be made, such as when the victim is a minor. The litigant can put his/her claim forward on his/her own, but in practice about 95% of the claims come through solicitors on behalf of the claimants. In most cases the cost of the solicitor is also paid by the State. The claim is made during the criminal case but it is not part of the criminal case.

155. The conditions for free legal aid are laid down in Article 41 of the Law on Criminal Procedure. Legal aid is envisaged in criminal cases and is also given in civil cases if it is likely to have a positive outcome. In order to receive free legal aid, it is necessary to apply to a committee which applies certain criteria (e.g. the person's financial situation) to decide whether the person is eligible. In the case of victims of THB, the lawyer providing free legal aid has competences limited to claiming compensation but cannot intervene in the criminal case.

156. GRETA was informed that the only victim of THB formally identified in Iceland so far (see paragraph 10) was awarded compensation of 1 million ISK (approximately 6 500 euros).

157. **GRETA welcomes the framework for State compensation of victims in Iceland and invites the Icelandic authorities to ensure that victims of THB are systematically informed of the possibilities for compensation and are ensured effective access to legal aid.**

f. Repatriation and return of victims

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

159. The first Action Plan envisaged that victims of THB be ensured a safe return to their country of origin as well as rehabilitation in their own environment. In this connection, it was stressed in the plan that possible victims of THB should never be returned unless their safety in their country of origin is assured. However, the activity was not completed and was carried over to the second Action Plan, according to which procedures on the repatriation and return of victims of THB are to be established by December 2015. The focus will reportedly be on co-operation with the International Organization of Migration, social services in return countries, local NGOs and the Red Cross. Co-operation with local child protection agencies will also be ensured in cases involving children.

160. **GRETA urges the Icelandic authorities to set up the institutional and procedural framework for the repatriation and return of victims of trafficking in order to ensure that return is conducted with due regard to the rights, safety and dignity of the person and the principle of *non-refoulement*, as well as the status of relevant legal proceedings.**

#### **4. Implementation by Iceland of measures concerning substantive criminal law, investigation, prosecution and procedural law**

a. Substantive criminal law

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

162. As noted in paragraph 45, Article 227.a of the Penal Code provides for imprisonment of up to 12 years for the offence of THB. Committing the offence against a child is considered an aggravating circumstance which increases the severity of the punishment. No other aggravating circumstances are specified in Article 227.a of the Penal Code, but Chapter VIII of the Penal Code ("Factors influencing the determination of the penalty") sets out general aggravating circumstances, including committing the offence within the framework of a criminal organisation and the danger ensuing from the commission of the offence. **GRETA invites the Icelandic authorities to ensure that all the aggravating circumstances included in the Convention are appropriately taken into account in cases of THB.**

163. The Icelandic authorities have indicated that in addition to imprisonment, the sanctions envisaged for THB include the confiscation of assets. Pursuant to Article 69 of the Penal Code (“Confiscation by judgment”), confiscation is allowed in respect of objects originating from an offence or used for its commission, objects which may be assumed to be intended for a criminal purpose, and objects or proceeds acquired by a criminal offence to which no party has a lawful claim or a monetary amount corresponding to such proceeds. The confiscated property goes to the State Treasury, but if anyone has suffered loss by reason of the offence, they have to be compensated as a matter of priority if compensation cannot be obtained by other means.

164. In 2010, Article 227.a of the Penal Code was amended to add the criminalisation of acts related to travel or identity documents for the purpose of enabling THB, which read as follows:

“The same penalty shall be applied to anyone found guilty of one or more of the following acts, for the purpose of facilitating human trafficking:

1. The forging of a travel or identity document;
2. The procurement or provision of such a document;
3. The retention, removal, damage or destruction of a travel or identity document of another person.”<sup>31</sup>

165. Regarding corporate liability of legal persons for trafficking in human beings offences, pursuant to Article 19.d of Chapter II.A of the Penal Code, “If the requirements set forth in the provisions of this chapter are met, a legal person may be made criminally liable for violations of this Act and may be deprived of rights under paragraph 2 of Article 68”.<sup>32</sup> Till now there have been no such cases.

166. The Icelandic authorities have informed GRETA that a person who uses the services of a victim of THB with the knowledge that the person is a victim of THB could be found guilty of aiding in a criminal offence, according to Article 22 of the Penal Code, which reads as follows:

“Any person who by word or deed provides aid in the commission of a punishable act defined in this Act, or takes, by persuasion, exhortation or otherwise a part in committing such act, shall be punished as provided for in the provision applying to the offence.

If the role of a participant in the commission of an offence is of a minor nature, or if it involves the strengthening of another person's resolve already formed, if the offence has not been completed, or if the planned participation has failed, a lower penalty than that prescribed in the applicable provision may be imposed.

In a situation defined in paragraph 2 and also when a person has unintentionally become a participant in the commission of an offence, the penalty may be cancelled if the act comes under a penal provision providing for a penalty not heavier than one year's imprisonment.

If an offence has been completed, a person who aids the offender himself/herself or any other person in maintaining an unlawful situation created by the offence, or enjoys any profits created thereby shall be punished in accordance with the provisions of this article subject to any other statutory provisions which may apply to his/her act.”<sup>33</sup>

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<sup>31</sup> Unofficial translation provided by the Icelandic authorities.

<sup>32</sup> Unofficial translation provided by the Icelandic authorities.

<sup>33</sup> Unofficial translation provided by the Icelandic authorities.

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

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

168. There is no specific provision in Icelandic law on the non-punishment of victims of trafficking. The authorities have referred to several general provisions of the Penal Code and the Law on Criminal Procedure No. 88/2008, which could be applied in case a victim of THB commits an offence while being trafficked. Pursuant to Article 74, paragraph 5 and 6, of the Penal Code, “the penalty provided for by law in consequence of an offence may be reduced below the minimum provided for therein, in the following circumstances: [...] 5. If a person commits an offence as a result of dependence upon another person; 6. If a person has committed an offence as a consequence of duress which is not of such a nature as to make his/her act not punishable in any respect.” Further, Article 75 of the Penal Code provides that “if a person has committed an offence in a state of high mental agitation, by reason of other brief mental imbalance or if his/her offence is not deemed nearly as punishable as usual for similar offences, the penalty may be reduced and even cancelled if the penalty for that offence does not exceed [1 year in prison]. If the offender's condition is of his/her own making as a result of the use of alcohol the above provisions shall only be taken into consideration in cases of mitigating circumstances and if the offender has not been previously found guilty of the same or similar offence or of a violation of paragraphs 1 or 2 of Article 123”.<sup>34</sup>

169. Further, prosecutors can decide not to prosecute if special circumstances apply as per Article 146, paragraph 3.d, of the Law on Criminal Procedure (i.e. if the accused has suffered considerable pain or other reasons suggest that the case should not be prosecuted and public safety does not require that the case be prosecuted). To GRETA's knowledge, there are no guidelines for prosecutors on the steps to be taken when prosecuting suspects who might be victims of trafficking.

170. GRETA was informed of a case dating back to 2003 in which a group of Chinese people who were trafficked to the USA via Iceland were convicted for being in possession of illegal documents. GRETA is concerned that the absence of a specific provision on the non-punishment of victims of trafficking entails a risk of treating them differently depending on the prosecutor in charge of the case.

**171. GRETA urges the Icelandic authorities to ensure compliance with Article 26 of the Convention through the adoption of a provision on non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, or by further developing relevant guidance. Public prosecutors should be encouraged to be proactive in establishing whether an accused person is a potential victim of trafficking and to consider trafficking in human beings as a serious violation of the rights of the victim. While the identification procedure is ongoing, potential victims of trafficking should not be penalised for immigration-related offences.**

c. Investigation, prosecution and procedural law

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

<sup>34</sup>

Unofficial translation provided by the Icelandic authorities.

173. Icelandic law provides for the initiation of legal proceedings *ex officio* by a public prosecutor. The victim does not have to press charges in order for legal proceedings to be initiated.

174. The use of special investigation techniques is regulated by the Law on Criminal Procedure and the Rules on special methods and operations of the police during investigation of criminal cases, which spell out in detail the manner in which they can be used. Special investigation techniques can be authorised when there is a well-founded suspicion that a serious violation of the law is in progress that may result upon conviction in imprisonment for a minimum of eight years (therefore THB is covered). The decision to use special methods and operations is taken by the Commissioner of the Police or another senior officer at the discretion of the Commissioner of the Police. The Commissioner must inform the prosecutor of the application of special methods and operations in order for the latter to supervise their execution. The police can use a variety of special investigation techniques, including informers, secret surveillance, controlled delivery, shadowing and infiltrators. All these investigation techniques can be used in THB cases and the need for their use is evaluated on a case by case basis.

175. The first and only conviction for a THB offence in Iceland was delivered by the Reykjanes District Court on 8 March 2010. Five Lithuanian men had been accused of trafficking a 19-year-old Lithuanian woman in the autumn of 2009, who had been subjected to unlawful coercion, deprived of her freedom and subjected to improper treatment both before being sent, and when she was sent, to Iceland, and also at the hands of the accused when in Iceland. They had met her after her arrival in Iceland and taken her to premises for the purpose of exploiting her sexually. The case was subsequently heard by the Supreme Court (case No. 224/2010) and the five men involved were convicted of violations of Article 227.a of the Penal Code. One was sentenced to five years' and the other four to four years' imprisonment.

176. The above-mentioned case attracted a great deal of attention in Iceland and occupied the police in a large-scale and complex investigation which involved collaboration with the police in Lithuania and other European countries. Two Icelandic police officers were sent to Lithuania to collect evidence. Lithuanian police officers travelled to Iceland to act as witnesses. There was reason to suspect that the accused were connected with a criminal organisation in Lithuania. The police in Iceland considered that the victim and other witnesses in the case would be in substantial danger if the accused were to be released, and for this reason special security precautions were taken (see paragraph 183).

177. GRETA understands that there have been other investigations by the police into possible THB cases which did not result in convictions for THB. In a case heard by a district court in December 2009, a woman was accused of multiple offences connected with the running of organised prostitution, including trafficking in human beings, threats, assault and drug offences. The woman had brought women from Africa to Iceland, taken away their documents, kept them locked up and told them that they owed her debts. The court ruled that the prosecution evidence was insufficient and therefore acquitted the defendant of a human trafficking offence, but found her guilty of a drug offence and profiting from the prostitution of others, sentencing her to three and a half years' imprisonment.

178. The organised crime unit of Reykjavik Metropolitan Police carries out proactive investigations, including by following advertisements for sexual services on the Internet. This unit also investigated several cases which could involve THB (e.g. of Chinese workers employed in restaurants and massage parlours), but none of them have so far led to prosecutions for THB. The police are building up expertise on detecting and investigating cases of labour exploitation and there is awareness of the need to pay increased attention to it. However, there have been no prosecutions of cases of THB for the purpose of labour exploitation.

179. GRETA notes that the second Action Plan envisages the updating of the guidelines on procedures for the police in THB cases and the development of international police co-operation, in particular with Nordic countries. Further, it is planned to establish a consultative group of those involved in the investigation and prosecution of THB cases. In their comments on the draft GRETA report, the Icelandic authorities have indicated that work on this issue had been mostly moved to the steering group since all relevant parties are members of that group.

180. **GRETA urges the Icelandic authorities to take additional measures to ensure that THB offences are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions, in particular by:**

- **continuing efforts to train police officers to detect cases of THB and step up proactive investigations, including through co-operation with other relevant actors in the country and abroad;**
- **encouraging the police and the Prosecutor's Office to develop their specialism in THB with a view to successfully investigating and prosecuting trafficking cases;**
- **improving the knowledge of investigators, prosecutors and judges about THB, the severe impact of exploitation on the victims and the need to respect their human rights.**

d. Protection of victims and witnesses

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

182. Article 122, paragraph 8, in the Law on Criminal Procedure states that if a judge thinks that a witness or the witnesses' immediate family are in danger, it is possible to allow the witness to remain anonymous if the witness or the prosecutor request this. This means that the witness does not have to provide the court with his/her name, address or other personal information. Other protection measures include the use of video conferencing, giving separate evidence in court, change of identify and change of appearance.

183. The Icelandic authorities have indicated that the smallness of the country poses problems when victims of THB need to be protected. In the case of the Lithuanian victim of THB referred to in paragraph 175, in order to protect her from the perpetrators, she was moved to another Nordic country as a protected witness. Further, she gave evidence in court without the accused being present, underwent a change of appearance and received a new identity.

184. **GRETA invites the Icelandic authorities to make full use of all measures available to protect victims/witnesses of THB and to prevent intimidation during the investigation and during and after the court proceedings.**

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## 5. Concluding remarks

185. GRETA welcomes the steps taken by the Icelandic authorities to combat trafficking in human beings and support victims of trafficking, including through the adoption of legislation and national action plans and the setting up of co-ordination structures, as well as the efforts made in the area of international co-operation. GRETA also commends the provision in Icelandic law of a recovery and reflection period of six months and residence permits for victims of trafficking both on the basis of their personal situation and when co-operating in the investigation or criminal proceedings.

186. The Icelandic authorities have focused anti-trafficking action on sexual exploitation and discouraging demand for sexual services. GRETA draws attention to the need for adapting the existing anti-trafficking policies with a view to strengthening action against trafficking for the purpose of labour exploitation. The prevention of human trafficking should be integrated in the policies for unaccompanied children, migrant workers and asylum seekers.

187. In order to meet the requirements of the human rights-based and victim-centred approach followed by the Convention, GRETA calls on the Icelandic authorities to ensure that all victims of trafficking are properly identified and can benefit from the assistance measures provided for under the Convention, regardless of whether they co-operate with the investigation.

188. All professionals who may come into contact with victims of human trafficking, including law enforcement officials, prosecutors, judges, labour inspectors, social workers and medical staff, must be continuously informed and trained about the need to apply a human rights-based approach to action against human trafficking on the basis of the Convention and the case law of the European Court of Human Rights.

189. GRETA invites the Icelandic authorities to keep it informed on a regular basis of developments in the implementation of the Convention and looks forward to continuing the good co-operation in further efforts in achieving the purposes of the Convention.

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## Appendix I: List of GRETA's proposals

### Definition of "trafficking in human beings"

1. GRETA considers that the Icelandic authorities should ensure that all the means including in the Convention are appropriately taken into account.
2. GRETA urges the Icelandic authorities to include slavery, practices similar to slavery and servitude as types of exploitation in the legal definition of trafficking in human beings.
3. GRETA considers that stating explicitly in law the irrelevance of the consent of a victim to the intended exploitation could improve the implementation of anti-trafficking provisions and provide victims with greater confidence in self-reporting to NGOs and public authorities.

### Comprehensive approach and co-ordination

4. GRETA urges the Icelandic authorities to strengthen action to combat THB for the purpose of labour exploitation.
5. GRETA also considers that the Icelandic authorities should take further steps to involve NGOs and trade unions in the development, implementation and evaluation of anti-trafficking policy.
6. Further, GRETA invites the Icelandic authorities to introduce an independent evaluation of the implementation of the Action Plan as a tool for assessing the impact of the activities and for planning future policies and measures to combat human trafficking, and to consider the establishment of an independent National Rapporteur or designating an existing independent mechanism for monitoring the anti-trafficking activities of State institutions (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).

### Training of relevant professionals

7. GRETA invites the Icelandic authorities to take further steps to ensure that all relevant professionals are trained periodically on preventing THB, identifying victims and referring them to assistance. Such training should be provided in particular to law enforcement officials, prosecutors, judges, border guards, customs officers, labour inspectors, social workers, child welfare staff, health-care staff, and diplomatic and consular staff. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking, to assist and protect them, to facilitate access to compensation and to secure convictions of traffickers. The training should also stress the need to apply a human rights-based approach to action against THB on the basis of the Council of Europe Convention and the case-law of the European Court of Human Rights.

### Data collection and research

8. GRETA urges the Icelandic authorities to develop and maintain a comprehensive and coherent data collection system on trafficking in human beings by compiling reliable statistical information from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination), for the purpose of preparing, monitoring and evaluating anti-trafficking policies. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database.

9. GRETA considers that the Icelandic authorities should conduct and support research on THB issues, including when such studies are carried out by civil society, as an important source of information for future policy measures. Areas where research is needed in order to shed more light on the extent of human trafficking in Iceland include trafficking for the purpose of labour exploitation and trafficking in children.

### **International co-operation**

10. GRETA commends the efforts made by the Icelandic authorities in the area of international co-operation and invites them to continue developing this aspect with a view to preventing human trafficking, assisting victims of trafficking, and investigating and prosecuting human trafficking offences, including through exploring further possibilities for co-operation with governmental and non-governmental actors in the main countries of origin of persons trafficked to Iceland.

### **Measures to raise awareness and discourage demand**

11. GRETA urges the Icelandic authorities to carry out information and awareness-raising campaigns on THB with the involvement of civil society and on the basis of previous research and impact assessment. Special attention should be paid to raising awareness of THB for the purpose of labour exploitation.

12. GRETA considers that the Icelandic authorities should strengthen their efforts to discourage demand for the services of trafficked persons for the purpose of labour exploitation in economic sectors at higher risk of human trafficking, such as construction, hotels, catering and entertainment. GRETA also invites the Icelandic authorities to consider establishing as a criminal offence the use of services which are the object of labour exploitation, with the knowledge that the person is a victim of trafficking in human beings.

### **Social, economic and other measures for groups vulnerable to THB**

13. GRETA considers that the Icelandic authorities should integrate the prevention of human trafficking in the policies for unaccompanied children, migrant workers and asylum seekers.

### **Border measures to prevent THB and measures to enable legal migration**

14. GRETA welcomes the drawing up of this information sheet and invites the Icelandic authorities to have it translated into a range of languages and to ensure that foreign nationals arriving in Iceland are provided with written information, in a language that they can understand, in order to alert them to the risks of THB, inform them of their rights and where to turn for advice and assistance.

15. GRETA also considers that the Icelandic authorities should make further efforts to:

- detect and prevent THB through border control measures;
- introduce a checklist to identify potential THB-related risks during the visa application system.

## Identification of victims of trafficking in human beings

16. GRETA urges the Icelandic authorities to set up a formalised national referral system defining clear procedures and roles of all frontline actors who may come into contact with victims of trafficking, and in particular to:

- ensure that the formal identification of victims of human trafficking, including Icelandic and EU/EEA nationals, is not dependent on the initiation of criminal proceedings;
- promote multi-agency involvement in victim identification and referral to assistance by formalising the role and input of specialised NGOs and involving other relevant actors, such as labour inspectors;
- provide regular training on the identification of victims of THB to all frontline staff who may come into contact with possible victims, including operational indicators, guidance and toolkits for the identification of victims of trafficking;
- ensure that law enforcement officials, social workers, labour inspectors and other relevant actors adopt a more proactive approach and increase their outreach work to identify possible victims of trafficking, regardless of the possibility of initiating criminal cases;
- improve the identification of victims of trafficking among migrant workers and asylum seekers;
- set up a procedure for the identification and referral of child victims of trafficking, which takes into account the special circumstances and needs of child victims and involves child specialists, child protection services and specialised police and prosecutors.

## Assistance to victims

17. GRETA urges the Icelandic authorities to strengthen their efforts to provide assistance to victims of trafficking, including measures to:

- regulate the provision of assistance to victims of THB regardless of whether the person is legally resident in Iceland;
- provide safe and suitable temporary accommodation for all victims of trafficking, which is adapted to their needs, gender and age;
- provide information for victims on the services and assistance measures available and how to access them, in an appropriate range of languages;
- ensure access to education, vocational training and the labour market for victims of trafficking who are lawfully resident in the country in order to help their reintegration into society and to avoid re-trafficking.

## Recovery and reflection period

18. GRETA urges the Icelandic authorities to ensure, in compliance with Article 13 of the Convention, that all possible victims of trafficking are offered a recovery and reflection period as well as all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period. Police and immigration officers should be issued with clear instructions stressing the need to offer the recovery and reflection period as defined in the Convention, i.e. not making it conditional on the victim's co-operation and offering it to victims before formal statements are made to investigators.

## **Residence permits**

19. GRETA welcomes the fact that Icelandic legislation envisages the issuing of residence permits to victims of trafficking both on the basis of their personal situation and when co-operating in the investigation or criminal proceedings related to THB and encourages the authorities to ensure that victims of trafficking can fully benefit in practice from the right to obtain a renewable residence permit.

## **Compensation and legal redress**

20. GRETA welcomes the framework for State compensation of victims in Iceland and invites the Icelandic authorities to ensure that victims of THB are systematically informed of the possibilities for compensation and are ensured effective access to legal aid.

## **Repatriation and return of victims**

21. GRETA urges the Icelandic authorities to set up the institutional and procedural framework for the repatriation and return of victims of trafficking in order to ensure that return is conducted with due regard to the rights, safety and dignity of the person and the principle of *non-refoulement*, as well as the status of relevant legal proceedings.

## **Substantive criminal law**

22. GRETA invites the Icelandic authorities to ensure that all the aggravating circumstances included in the Convention are appropriately taken into account in cases of THB.

## **Non-punishment of victims of trafficking in human beings**

23. GRETA urges the Icelandic authorities to ensure compliance with Article 26 of the Convention through the adoption of a provision on non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, or by further developing relevant guidance. Public prosecutors should be encouraged to be proactive in establishing whether an accused person is a potential victim of trafficking and to consider trafficking in human beings as a serious violation of the rights of the victim. While the identification procedure is ongoing, potential victims of trafficking should not be penalised for immigration-related offences.

## **Investigation, prosecution and procedural law**

24. GRETA urges the Icelandic authorities to take additional measures to ensure that THB offences are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions, in particular by:

- continuing efforts to train police officers to detect cases of THB and step up proactive investigations, including through co-operation with other relevant actors in the country and abroad;
- encouraging the police and the Prosecutor's Office to develop their specialism in THB with a view to successfully investigating and prosecuting trafficking cases;
- improving the knowledge of investigators, prosecutors and judges about THB, the severe impact of exploitation on the victims and the need to respect their human rights.

## **Protection of victims and witnesses**

25. GRETA invites the Icelandic authorities to make full use of all measures available to protect victims/witnesses of THB and to prevent intimidation during the investigation and during and after the court proceedings.

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

### Public bodies

- Ministry of the Interior
  - Icelandic Directorate of Immigration
  - Reykjavík Police unit for combating organised crime, including human trafficking
  - District Commissioner of Reykjavík Police
  - District Commissioner of Police in Suðurnes
- Ministry of Welfare
  - Directorate of Labour
  - Administration of Occupational Safety and Health
- Social and child protection services of the City of Reykjavík
- State Prosecutor's Office
- Ministry of Education, Science and Culture
- Ministry of Foreign Affairs
- Icelandic Parliament (*Alþingi*)

### Non-governmental organisations

- Efling Trade Union
- Icelandic Human Rights Centre
- Icelandic Red Cross
- Stigamót

## Letter from the Icelandic authorities sent in response to GRETA's report



Ms Petya Nestorova  
Executive Secretary of the Council of  
Europe Convention on Action against  
Trafficking in Human Beings

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Reykjavík September 17, 2014  
Reference: IRR14040124/10.10.8

Subject: Final Report with Recommendations

Dear Ms Nestorova,

Iceland would like to thank GRETA for constructive comments, remarks and proposals set forth in GRETA's Final Report with Recommendations concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, from July 11th 2014.

After the adoption of a second Action Plan by the Icelandic government in 2013 a Steering group has been formed to oversee the implementation of the Action Plan. Raising awareness and knowledge about trafficking of human beings is one of the key components of the Action Plan. Currently an educational program is being set up as a co-operation forum for respective professionals within local communities. A representative from the labour union sector takes an active part in setting up the the educational program in order to highlight the need to adress trafficking for labour exploitation as well as other forms of trafficking.

As stated above, we welcome GRETA's remarks and proposals, which will be taken notice of in our continued endeavour to fight any forms of trafficking in human beings.

We will also appreciate a regular contact with GRETA for the purpose of informing GRETA about planned and implemented measures.

On behalf of the Minister of Justice

  
Þórunn J. Hafstein

  
Hildur Dungal