



GRETA

Group of Experts on Action
against Trafficking in Human Beings

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

First evaluation round

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Preamble

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Executive summary

The Irish authorities have taken important steps to develop the legal and institutional framework for action against human trafficking, with the adoption of anti-trafficking legislation and a comprehensive National Action Plan for 2009-2012, and the setting up of co-ordinating structures and specialised units. The Criminal Law (Human Trafficking) Act 2008 provides the legislative framework for the prosecution of traffickers and envisages penalties of up to life imprisonment and, at the discretion of the court, an unlimited fine. The anti-trafficking legislation has been amended in 2013 to include a definition of forced labour as well as two new forms of exploitation (for forced begging and criminal activities). However, GRETA stresses the importance of adopting new immigration legislation and putting on a statutory footing the rights of victims of trafficking to support and protection.

In 2008, a High Level Interdepartmental Group on Combating Trafficking in Human Beings was established to facilitate co-operation between Government departments and agencies and the Anti-Human Trafficking Unit was set up within the Department of Justice and Equality as a co-ordinating structure. Specialised units to combat human trafficking have also been established within An Garda Síochána, the Health Service Executive and the Legal Aid Board. A Roundtable Forum of State agencies, NGOs and international organisations has been set up to ensure effective implementation of the National Action Plan. However, GRETA considers that the Irish authorities should further involve non-governmental organisations and other members of civil society in the development and implementation of anti-trafficking policy, including evaluation of anti-trafficking efforts. Further, the authorities should strengthen action to combat trafficking for the purpose of labour exploitation and pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking and ensuring that the best interests of the child are fully taken into account.

GRETA commends the efforts made by the Irish authorities in the area of international co-operation and invites them to continue developing the aspect of international co-operation with a view to preventing human trafficking, assisting victims of trafficking, and investigating and prosecuting human trafficking offences.

A number of awareness-raising activities have been organised by the Irish authorities in recent years, in co-operation with NGOs and international organisations. GRETA considers that particular attention should be paid to raising awareness of human trafficking for the purpose of labour exploitation and child trafficking. Awareness-raising campaigns should target among others foreign nationals coming to work in Ireland, employers and employers' associations, trade unions, as well as labour and tax inspectors and medical professionals. Further, GRETA stresses that, in addition to discouraging demand leading to human trafficking for the purpose of sexual exploitation, the Irish authorities should make more efforts to discourage demand for the services of persons trafficked for the purpose of labour exploitation, in partnership with the private sector and civil society.

The power to make identification of victims of trafficking lies exclusively with a limited number of officers in the Human Trafficking Investigation and Co-ordination Unit of the Garda National Immigration Bureau. GRETA urges the Irish authorities to ensure that all victims of trafficking are properly identified and to promote multi-agency involvement in victim identification by formalising the role and input of specialised NGOs and involving other relevant actors, such as labour inspectors, social workers and medical staff. GRETA welcomes the attention paid to inspections of private homes and encourages the Irish authorities to continue using such inspections as a tool for preventing and detecting human trafficking cases, alongside labour inspections in other sectors at risk (e.g. service sector, construction, entertainment, care homes, agriculture).

GRETA welcomes the steps taken in respect of unaccompanied minors, which has limited to an important extent their disappearance. However, GRETA has stressed the need to set up a specific identification mechanism which takes into account the special circumstances and needs of child victims of trafficking, involves child specialists and ensures that the best interests of the child are the primary consideration.

Concerning the assistance provided to potential and suspected victims of trafficking, GRETA welcomes the care plans drawn up by the Health Service Executive, the availability of legal aid and the issuing of a range of information materials. However, GRETA urges the Irish authorities to review the policy of accommodating suspected victims of trafficking in accommodation centres for asylum seekers and to consider setting up specialised shelters for victims of trafficking, with the involvement of NGOs as support providers. GRETA also stresses the need to enact statutory rights to assistance and protection for possible victims of trafficking, as specified in Articles 10 and 12 of the Convention, regardless of the victim's nationality or immigration status.

GRETA welcomes the provision in Ireland of a recovery and reflection period longer than the minimum of 30 days envisaged in the Convention and the more flexible arrangements for child victims. However, this period is regulated by the Administrative Immigration Arrangements which apply to foreign nationals who have been identified as suspected trafficking victims and have no immigration status to remain in Ireland. As the majority of victims of trafficking are either asylum seekers or European Economic Area nationals, the recovery and reflection period is applied very rarely. GRETA urges the Irish authorities to ensure that all possible victims of trafficking, including EEA nationals, are offered a recovery and reflection period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.

Despite the existence of legal possibilities and the availability of free legal advice, victims of human trafficking in Ireland do not have effective access to compensation. GRETA asks the authorities to ensure that avenues for compensation are easily accessible to trafficked persons, and in particular to encourage prosecutors to request compensation orders in all relevant cases and to review the conditions of eligibility for the State compensation scheme.

GRETA commends the issuing of guidelines for public prosecutors instructing them not to prosecute victims of trafficking where this is not in the public interest. However, GRETA considers that the Irish authorities should take further steps 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 the guidelines for public prosecutors.

The number of prosecutions and convictions for human trafficking is still very low and the length of the criminal proceedings is also a matter of concern. GRETA urges the Irish authorities to take additional measures to ensure that human trafficking offences are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions. Further, GRETA invites the Irish authorities to make full use of all measures available to protect victims/witnesses of human trafficking and to prevent intimidation during the investigation and during and after the court proceedings.

I. Introduction

1. Ireland deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) on 13 July 2010. The Convention entered into force for Ireland on 1 November 2010.¹

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

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by Ireland 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 Ireland on 31 January 2012. The deadline for replying to the questionnaire was 1 June 2012. Ireland submitted its reply on 23 May 2012.

4. In preparation of the present report, GRETA used the reply to the questionnaire by Ireland, other information collected by GRETA and information received from civil society. In addition, an evaluation visit to Ireland took place from 5 to 9 November 2012, carried out by the following delegation:

- Ms Nell Rasmussen, member GRETA;
- Mr Jan van Dijk, member of GRETA;
- Ms Petya Nestorova, Executive Secretary of the Convention on Action against Trafficking in Human Beings (GRETA and Committee of the Parties).

5. During the visit, the GRETA delegation held meetings with officials from relevant ministries and public agencies (see Appendix II). Further, it met representatives of the Irish Human Rights Commission. The GRETA delegation also had the opportunity to hold discussions with members of the Joint Oireachtas (Irish Parliament) Committee on Justice, Defence and Equality. These meetings took place in a spirit of close co-operation.

6. The GRETA delegation held separate meetings with members of non-governmental organisations (NGOs) working in the field of action against trafficking in human beings, other members of civil society and representatives of the offices of the International Organisation for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR) in Ireland. GRETA is grateful for the information provided by them.

7. Further, the GRETA delegation visited the reception centre for asylum seekers at Baleskin (North Dublin), which also accommodates victims of trafficking.

8. GRETA is grateful for the valuable assistance provided by the contact person appointed by the Irish authorities, Mr David Gilbride, Principal Officer at the Anti-Human Trafficking Unit of the Department of Justice and Equality, and by Ms Ruth Dillon of the same unit.

9. The draft version of the present report was adopted by GRETA at its 16th meeting (11-15 March 2013) and was submitted to the Irish authorities for comments on 5 April 2013. The authorities' comments were received on 4 June 2013 and were taken into account by GRETA when drawing up its final evaluation report, which was adopted at GRETA's 17th meeting (1-5 July 2013).

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

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

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

10. Ireland is primarily a country of destination of victims of trafficking in human beings (THB) and to some extent a country of transit. The number of possible victims of trafficking in human beings reported to An Garda Síochána (the Irish police) was 66 in 2009, 78 in 2010 and 57 in 2011. The majority of these victims were adult women (66%), children being the second largest group (24%) and men accounting for 10%. The main type of exploitation reported during the period 2009-2011, both for adults and children, was sexual exploitation (68%). The alleged victims originated principally from African countries (46 in 2009, 42 in 2010, 29 in 2011), Nigeria being by far the main country of origin. Further, over the three-year period under consideration, there were 30 alleged victims from European Union (EU) countries, seven from other European countries, 29 from Asian countries, and three from Latin American countries. A significant proportion of the identified victims (56%) were applicants for asylum. While the overwhelming majority of the victims were foreign nationals, there were also 12 Irish nationals (including children) who had been trafficked within Ireland.

11. According to preliminary data for 2012, the number of victims identified was 48, the majority of whom were female (31). There were 23 children among the victims. As regards the forms of exploitation, 39 of the alleged victims were subjected to sexual exploitation and six to labour exploitation. In three cases it was first thought that the persons might be victims of human trafficking, but after investigation it was established that these were cases of illegal immigration.

12. In Ireland, a person remains an “alleged” or “suspected” victim of human trafficking until there is a final conviction for a THB-related offence. Concern was expressed to GRETA that a number of victims of trafficking are not identified as such due to gaps in the identification procedure and the low rate of prosecutions, which may lead to an underestimation of the severity of the problem. The Irish authorities have acknowledged in the National Action Plan to Prevent and Combat Trafficking in Human Beings 2009-2012 that the identification of suspected victims remains one of the most difficult problems facing any counter-trafficking strategy, not only because traffickers themselves seek to avoid detection, but also because suspected victims, for numerous reasons, often go to great lengths to hide their experiences from State authorities.²

² National Action Plan to Prevent and Combat Trafficking in Human Beings in Ireland 2009-2012, p.133, available on: <http://www.justice.ie/en/JELR/Executive%20Summary%20Document.pdf/Files/Executive%20Summary%20Document.pdf>

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

a. Legal framework

13. At the international level, in addition to the Council of Europe Convention on Action against Trafficking in Human Beings, Ireland is Party to the United Nations (UN) Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children ("Palermo Protocol"), which it ratified in June 2010. Ireland is also Party to the UN Convention on the Elimination of All Forms of Discrimination against Women (ratified in 1991) and the UN Convention on the Rights of the Child (ratified in 1992). Ireland has signed the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography in 2000, but has not yet ratified it. Further, Ireland is Party to conventions elaborated under the International Labour Organisation (ILO)³ and a number of Council of Europe conventions in the criminal field which are relevant to action against THB⁴.

14. As a member of the European Union (EU), Ireland is bound by Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, replacing Council Framework Decision 2002/629/JHA. Other relevant EU legislation applicable in Ireland are Directive 2004/80/EC relating to compensation to crime victims and Directive 2012/29/EU of the European Parliament and the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, replacing Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings.

15. The Irish legal framework in the field of action against trafficking in human beings has evolved in the light of the country's international commitments. Up until 2008, only the trafficking of children for sexual exploitation into Ireland was criminalised by the Child Trafficking and Pornography Act 1998. The Criminal Law (Human Trafficking) Act was adopted on 7 May 2008 and entered into force on 7 June 2008. It criminalises the forms of trafficking in human beings covered by the Palermo Protocol and the Council of Europe Convention and provides the legislative framework for the prosecution of traffickers.

16. According to the Irish authorities, a number of other internal legal acts have relevance to action against human trafficking, in particular:

- the Illegal Immigrants (Trafficking) Act 2000, which is used to prosecute offences which occurred before the enactment of the Criminal Law (Human Trafficking) Act 2008;
- the Sexual Offences (Jurisdiction) Act 1996, which allows for the prosecution of Irish citizens or habitual residents who commit sexual offences against children in other States;
- the Child Care Acts 1991 to 2007;
- the Refugee Act 1996;
- the Civil Law (Miscellaneous Provisions) Act 2011 amending the Civil Legal Aid Act 2005, which allows the Legal Aid Board to provide victims of human trafficking with free legal advice in criminal matters;
- the Criminal Law (Mutual Assistance) Act 2008;
- the European Arrest Warrant Act 2003 (as amended);

³ 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).

⁴ In particular the European Convention on Mutual Assistance in Criminal Matters and its Additional Protocols; the European Convention on Extradition; and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime. Ireland has also signed the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, but has not yet ratified it.

- employment legislation, which is relevant to trafficking for the purpose of labour exploitation, and includes the following:
 - the Organisation of Working Time Act 1997
 - the National Minimum Wage Act 2000
 - the Unfair Dismissals Acts 1997 to 2001
 - the Employment Equality Acts 1998 - 2004
 - the Employment Permits Act 2003 and the Employment Permits Act 2006, which provide legislative protection against the labour exploitation of non-nationals
 - the Payment of Wages Act 1991
 - the Protection of Employees' (Part-Time Work) Act 2001.

17. The Criminal Law (Human Trafficking) Act 2008 provides the criminal legal response to human trafficking, but does not regulate the legal status of victims of trafficking by putting on a statutory basis their rights to support and protection. While awaiting the adoption of new immigration legislation, Administrative Immigration Arrangements for the Protection of Victims of Trafficking were put in place to fill this gap.⁵ They came into operation on 7 June 2008 to coincide with the enactment of the Criminal Law (Human Trafficking) Act 2008 and apply to foreign nationals who have been identified as suspected victims of human trafficking and the Minister for Justice and Law Reform is required to consider that person's immigration status in Ireland. Thus in practice the application of the Administrative Immigration Arrangements is limited to non-European Economic Area (EEA) citizens who are not asylum seekers, to the extent that Irish and EEA nationals do not require an immigration permission and asylum seekers are protected under the Refugee Act 1996. The Administrative Immigration Arrangements provide for a 60-day recovery and reflection period and a six-month renewable temporary residence permit.

18. The Administrative Immigration arrangements were amended in March 2011 to reflect the provisions of the draft Immigration, Residence and Protection Bill, which was republished in July 2010. In particular, a recovery and reflection period in excess of 60 days was envisaged for children, and a possibility to grant a longer term residence permit after three years of temporary residence permits was introduced.

19. GRETA notes that the adoption of new immigration legislation has been delayed since 2008 and, as a result, there is no clear statutory basis on which victims of trafficking can invoke protection. According to the Irish authorities, work on the Immigration, Residence and Protection Bill 2010 is ongoing and it is the objective of the Minister for Justice, Equality and Defence to bring a revised Bill to Government for approval and publication later this year. In response to a Parliamentary Question on 23 April 2013, the Minister for Justice, Equality and Defence stated that there was a commitment under the Programme for Government and National Recovery to "introduce comprehensive reforms of the immigration, residency and asylum systems, which will include a statutory appeals system and set out rights and obligations in a transparent way."⁶ **GRETA stresses the importance of adopting new legislation relating to immigration, asylum and human trafficking as soon as possible.**

⁵ Available on : [http://www.blueblindfold.gov.ie/website/bbf/bbfweb.nsf/page/ACJN-8YSMJ41738285-en/\\$File/Immigration%20arr.pdf](http://www.blueblindfold.gov.ie/website/bbf/bbfweb.nsf/page/ACJN-8YSMJ41738285-en/$File/Immigration%20arr.pdf)

⁶ <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2013042300075>

20. In January 2013, the Minister for Justice, Equality and Defence announced the publication of the general scheme of a bill amending the Criminal Law (Human Trafficking) Act with a view to transposing the substantive criminal law measures in Directive 2011/36/EU. On 5 July 2013, the Criminal Law (Human Trafficking) (Amendment) Bill 2013 completed its passage through the Houses of the Oireachtas.⁷ To comply with the directive's minimum definition of exploitation, the new legislation criminalises trafficking for the purpose of forced begging and trafficking for criminal activities. In addition, the 2013 Bill contains a provision to better facilitate children giving evidence in criminal prosecutions (see paragraph 256). Further, following a recommendation that forced labour should be defined in legislation for the purposes of clarity and certainty in the law,⁸ a definition of "forced labour" is included in the Bill, based on the definition in the ILO Convention No. 29 of 1930 on Forced or Compulsory Labour. Subject to certain specific exceptions, "forced labour" is defined as "a work or service which is exacted from a person under the menace of any penalty and for which the person has not offered himself or herself voluntarily." Referring to this important reform, the Minister for Justice, Equality and Defence remarked: "The ILO definition is the international standard, and the new legislation now enacted ensures that there can be no doubt as to our fully complying with that standard and our having in place rigorous criminal law sanctions applicable to all of those who engage in human trafficking."⁹

21. GRETA was also informed of the publication in July 2011 of the Children First National Guidance for the Protection and Welfare of Children. It provides clarity and guidance for individuals and organisations in identifying and responding appropriately to child abuse and neglect and sets out what organisations that care for or work with children should do to ensure they are safe whilst in the care of the organisation. The Department of Children and Youth Affairs is currently working on a draft bill which will give statutory effect to the Children First National Guidance.

b. National Action Plan

22. The first National Action Plan to Prevent and Combat Trafficking of Human Beings in Ireland 2009-2012, which was published by the Minister for Justice and Equality in June 2009, provided a blueprint for Ireland's efforts to tackle trafficking in human beings and support and protect the human rights of victims. It followed on from a public consultation process which took place in late 2007 and involved some 30 submissions from interested groups (e.g. NGOs, trade unions) and members of the general public.¹⁰

23. The Plan sought to provide a comprehensive framework for responding to human trafficking and to bring Ireland into line with its international obligations. It had four main headings: (i) prevention and awareness raising; (ii) protection of victims; (iii) prosecution of traffickers; and (iv) response to child trafficking. A total of 144 key actions were set out in the plan, some of which were already being undertaken by Government departments and agencies, while other represented new action. The bodies responsible for the implementation of these actions include governmental, non-governmental and international organisations.

⁷ The new legislation is available on the Houses of the Oireachtas website:

<http://www.oireachtas.ie/documents/bills28/bills/2013/3913/b3913s-sa.pdf>

⁸ In *Hussein -v- The Labour Court & Anor [2012] IEHC 364 (31 August 2012)*, the High Court found that a contract of employment involving an irregular migrant worker is "substantively illegal in the absence of the appropriate employment permit". The reason for the employee's failure to secure a work permit was irrelevant to that "substantive illegality". A consequence of this decision is that an irregular migrant worker was effectively denied access to the remedies provided under employment protection legislation, in the absence of a "saver clause" in the Employment Permits Act 2003. Mr Justice Hogan in the High Court expressed concern at the impact of such exclusion from protection on vulnerable migrants such as Mr Hussein, and took the unusual step of transmitting his judgment directly to the Oireachtas and the Minister for Jobs, Enterprise and Innovation. NGOs and lawyers expressed concern at the impact that this judgment would have on victims of forced labour, including victims of trafficking for forced labour.

⁹ <http://www.justice.ie/en/JELR/Pages/PR13000276>

¹⁰ Department of Justice, Equality and Law Reform, Executive Summary to the National Action Plan to Prevent and Combat Trafficking in Human Beings in Ireland 2009-2012.

24. As part of the Plan, a National Referral Mechanism (NRM) was developed by a working group (see paragraph 40) as a tool for co-ordinating the identification and referral of victims of trafficking. The Plan envisaged the use of Memoranda of Understanding between key stakeholders involved in the provision of services to potential and/or suspected trafficking victims. However, following discussions in the NRM working group, it was agreed that a Statement of Roles and Responsibilities¹¹ of different stakeholders (see paragraph 146) would be a more appropriate approach, given the developing nature of the provision of services to victims.

25. The High Level Interdepartmental Group on Combating Trafficking in Human Beings (see paragraph 28) was assigned responsibility for overseeing the implementation of the National Action Plan. A wide range of State agencies have been responsible for the delivery of the actions set out in the Plan, including the Anti-Human Trafficking Unit, An Garda Síochána, Health Service Executive, Department of Social Protection, Department of Children and Youth Affairs, Department of Jobs, Enterprise and Innovation, Department of Foreign Affairs and Trade, National Employment Rights Authority, Department of Education and Skills, Director of Public Prosecutions, Irish Naturalisation and Immigration Service, Reception and Integration Agency, and Legal Aid Board.

26. GRETA was informed that in Ireland, specific funding is not allocated in order to address issues such as human trafficking. Instead, individual Government Departments compile an annual demand for all purposes and then negotiate their allocation with the Department of Finance.

27. A mid-term review of the National Action Plan 2009-2012 was conducted in 2011. This involved a consultation process with relevant stakeholders, including a number of NGOs. The report of the review was published in early 2013. A new National Action Plan to cover the period from 2013 to 2016 is currently being drafted. The Irish authorities have indicated that the report of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, who visited Ireland in February 2012, GRETA's final report, developments at EU level and consultations with state agencies and civil society will significantly inform the direction and content of the new National Action Plan. The High Level Interdepartmental Group and the Roundtable Forum (see paragraph 40) have already agreed on the consultation process for the next National Action Plan. **GRETA would like to be kept informed of the adoption on the new National Action Plan.**

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

a. High Level Interdepartmental Group on Combating Trafficking in Human Beings

28. In 2008, a High Level Interdepartmental Group on Combating Trafficking in Human Beings was established to facilitate co-operation between Government departments and agencies, report to the Minister for Justice and Equality on appropriate and effective responses to the issue of human trafficking in Ireland, and monitor the implementation of these responses. The Group was also assigned responsibility for overseeing the implementation of the National Action Plan.

29. The High Level Interdepartmental Group is co-chaired by the Head of the Crime and Security Directorate of the Department of Justice and Equality and the Director of the Irish Naturalisation and Immigration Service. The following bodies are represented in the Group:

- Irish Naturalisation and Immigration Service (INIS);
- Garda National Immigration Bureau (GNIB) ;
- Reception and Integration Agency (RIA);
- Social inclusion unit of the Department of Health;
- Health Service Executive (HSE);
- Department of Children and Youth Affairs;
- Victims of Crime Office;
- Anti-Human Trafficking Unit (AHTU) of the Department of Justice and Equality.

¹¹

Available on www.blueblindfold.gov.ie

30. The new Child and Family Agency, which will take on the functions currently discharged by the HSE's Children and Family Services, in addition to a range of other functions, will also be represented in the High Level Interdepartmental Group.

31. The High Level Interdepartmental Group usually meets twice to three times a year, but in case of need, it can meet more frequently at a short notice. The day-to-day anti-trafficking work is carried out by the Anti-Human Trafficking Unit.

b. Anti-Human Trafficking Unit

32. The Anti-Human Trafficking Unit (AHTU) of the Department of Justice and Equality was established in 2008 and has primary responsibility for co-ordinating government policy and actions to maximise the effectiveness of national and international efforts. The Unit comprises nine staff and its budget for 2011 was 800 000 euros.

33. In regard to suspected and potential victims of trafficking in human beings, AHTU has primary responsibility for collecting standardised data on such persons from a variety of governmental and non-governmental stakeholders for the purposes of drawing up annual reports on THB in Ireland¹² and providing an evidence base for policy development.

34. The Unit also has responsibility for convening, co-ordinating and chairing working group meetings (see paragraph 40) and for engaging in communication with State service providers, NGOs, international organisations and any other relevant organisations engaged in action against human trafficking.

c. Human Trafficking Investigation and Co-ordination Unit of An Garda Síochána

35. An Garda Síochána is the Irish national police force, which is responsible for carrying out all policing duties in the country, including investigations regarding trafficking in human beings. Within An Garda Síochána, the Garda National Immigration Bureau (GNIB) is responsible for enforcement of immigration law, border control and registration of migrants. In 2009, a dedicated Human Trafficking Investigation and Co-ordination Unit (HTICU) was set up as part of GNIB. This unit has national responsibility for policy development, co-ordination and implementation of policing measures in relation to trafficking in human beings. It manages and co-ordinates all investigations where there is an element of THB. The unit also plays a central role in the identification of victims of trafficking and is responsible for taking reasonable grounds decisions concerning whether a person is a victim of trafficking (see paragraph 148). Further, HTICU provides training to investigation, immigration and police officers and plays a key role, together with AHTU, in raising public awareness of human trafficking. The unit is staffed by a head, an inspector, two sergeants and 24 police officers, but the unit strength may vary according to operational needs.

d. Anti-Human Trafficking Team of the Health Service Executive

36. The Health Service Executive (HSE) has responsibility for delivering health and personal social services through medical professionals and hospitals and through a network of Local Health Offices, health centres and clinics at community level. Unaccompanied minors are referred to the care of the HSE in accordance with the Child Care Act 1991 and the Refugee Act 1996. Further, the HSE grants funding to NGOs providing services for women victims of trafficking who have leave to remain in Ireland ("Stamp 4").

37. The Anti-Human Trafficking Team of HSE was set up in February 2010. It is a specialist unit responsible for carrying out risk and needs assessments of potential and suspected victims of trafficking and for providing health and social care to victims referred by HTICU. The team's staff also provide training to relevant professionals.

¹² Such annual reports have been drawn up for 2009, 2010 and 2011. Available on: <http://www.blueblindfold.gov.ie/>

e. Reception and Integration Agency of the Irish Naturalisation and Immigration Service

38. The Irish Naturalisation and Immigration Service (INIS) is responsible for the administrative functions of the Minister for Justice, Equality and Defence in relation to asylum, immigration (including visas) and citizenship matters.

39. The Reception and Integration Agency (RIA) is a functional unit of INIS and its primary function is to provide accommodation and support to asylum seekers while their applications for asylum are processed, including those whose asylum claim is based on human trafficking. In addition, RIA has been given responsibility to accommodate suspected victims of human trafficking who are in need of accommodation and who are not in the asylum system, pending a determination of their case and during the 60 day recovery and reflection period, and to facilitate the voluntary return home of destitute nationals from certain EU Member States. RIA also co-ordinates the provision of services (e.g. health, education and social welfare) by the appropriate service providers to asylum seekers. RIA currently operates 34 accommodation centres across Ireland with a capacity of around 4 700. At 25 March 2012 there were 540 vacancies across the portfolio. The primary centre for the placement of suspected human trafficking cases is Baleskin reception centre in North County Dublin.

f. Roundtable Forum and working groups

40. A Roundtable Forum of State agencies, NGOs and international organisations was set up in mid-2008 to ensure effective implementation of the National Action Plan. The Roundtable Forum meets about three times a year and may make recommendations to the High Level Interdepartmental Group. In addition, there are five working groups made up of expert representatives from State agencies, other national organisations, NGOs and international organisations which meet regularly to identify and address issues at a practical level. The groups deal with: awareness raising and training; development of the National Referral Mechanism; child trafficking; sexual exploitation; and labour exploitation. The frequency of their meetings varies (e.g. the NRM group has met some 16 times, while the other groups usually meet up to three times a year). Some 20 NGOs are involved in the consultative process, the basis for membership being that the NGO has an interest in, or is directly engaged in, the prevention of trafficking of human beings or the protection of victims. The international organisations include UNHCR, UNICEF and IOM.

41. The State agencies participating in the above-mentioned interdisciplinary consultative fora include the Human Trafficking and Investigation Co-ordination Unit of An Garda Síochána, Health Service Executive, Irish Naturalisation and Immigration Service, Reception and Integration Agency, Legal Aid Board, Office of the Refugee Applications Commissioner, Department of Jobs, Enterprise and Innovation, Department of Foreign Affairs and Trade, Department of Social Protection, Asylum Seekers and New Communities Unit, Department of Children and Youth Affairs, Department of Health, Victims of Crime Office, National Education Welfare Board, FÁS (the state training agency), and COSC (the national office for the prevention of domestic, sexual and gender based violence). Other national organisations involved include the Irish Congress of Trade Unions (ICTU), the Irish Small and Medium Business Enterprise (ISME), the Ombudsman for Children's Office, the Irish Association of Social Workers and the National Women's Council of Ireland.

g. NGOs

42. A number of NGOs in Ireland are active in the anti-trafficking field through awareness-raising activities, capacity building, research, lobbying and providing support to victims of trafficking. These include the Immigrant Council of Ireland, Irish Refugee Council, Migrant Rights Centre of Ireland and Ruhama. Two NGOs (Migrant Rights Centre of Ireland and Ruhama) receive funding from the Government. In 2012 the Anti-Human Trafficking Unit provided 195 000 euros to Ruhama to assist victims of sexual exploitation and 5 000 euros to the Migrant Rights Centre of Ireland to assist victims of labour exploitation. Ruhama also received funding from the Health Service Executive (130 000 euros in 2011) and the South Dublin Inner City Task Force. The funding is continued in 2013. There are also organisations which provide support specifically to child victims of trafficking including Barnardos, Children's Rights Alliance and the Irish Society for Prevention of Cruelty to Children. Further, NGOs combating violence against women, such as the Irish Observatory on Violence against Women and the Sexual Violence Centre Cork, are also involved in action against human trafficking. NGOs are members of the previously mentioned interdisciplinary consultative fora (Roundtable Forum and working groups).

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

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

43. 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.”¹³

44. THB constitutes an offence to the dignity and fundamental freedoms of the human being and thus a grave violation of human rights. GRETA emphasises the obligations of States to respect, fulfil and protect human rights, including by ensuring compliance by non-State actors, in accordance with the duty of due diligence. A State that fails to fulfil these obligations may, for instance, be held accountable for violations of the European Convention on Human Rights and Fundamental Freedoms (the ECHR). This has been confirmed by the European Court of Human Rights in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention falls within the scope of Article 4 of the European Convention on Human Rights¹⁴ (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.¹⁵

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

46. 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.¹⁶

¹³ 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>

¹⁴ *Rantsev v. Cyprus and Russia*, application No. 25965/04, judgment of 7 January 2010, ECHR 2010, paragraph 282.

¹⁵ See also *Siliadin v. France*, application No. 73316/01, judgment of 26 July 2005, ECHR 2005 VII; *C.N. and V. v. France*, application No. 67724/09, judgment of 11 October 2012; and *C.N. v. the UK*, application No. 4239/08, judgment of 13 November 2012.”

¹⁶ 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.

47. The Irish authorities have indicated that public bodies in Ireland are under clear statutory and constitutional obligations in relation to the treatment of individuals from a human rights and equality perspective. A large number of rights are specifically provided for in the Constitution of Ireland. They are principally, although not exclusively, to be found in the chapter headed “Fundamental Rights”, which comprises Articles 40 to 44 referring, amongst others, to the right to equality before the law and the right to liberty. In addition, the European Convention on Human Rights has been indirectly incorporated into Irish domestic legislation by the European Convention on Human Rights Act 2003. The Act provides that every organ of the State shall perform its functions in a manner compatible with the State’s obligations under the Convention’s provisions. As regards the Council of Europe Convention on Action against Trafficking in Human Beings, it is not directly applicable in Ireland because of the dualist system followed by Ireland, which means that the terms of an international agreement do not become part of the domestic law unless expressly incorporated by or under an Act of the Oireachtas.¹⁷ In the absence of an Act of the Oireachtas, the only way convention rights can find their way into Irish law is indirectly, through interpretation by the courts.

48. In the foreword to the National Action Plan for 2009-2012, the Minister of Justice, Equality and Law Reform stated: “Human trafficking is a form of modern-day slavery which has no place in Irish Society. Trafficking of human beings is a phenomenon which undermines the values of human rights and dignity of the person”.¹⁸ One of the stated aims of the National Action Plan for 2009-2012 is to ensure the protection of the human rights of the victims of this crime.

49. Ireland also has equality legislation which applies to victims of trafficking in human beings. The Employment Equality Act 1998 and the Equal Status Act 2000 prohibit discrimination in employment, vocational training, advertising, collective agreements, the provision of goods and services and other opportunities to which the public generally have access on nine distinct grounds.¹⁹

50. The Irish Human Rights Commission (IHRC) promotes human rights in law, policy and practice through reviewing draft legislation, publishing policy statements on human rights issues in Ireland and making recommendations to Government. The Commission made a submission which was taken into account in the development of the National Action Plan 2009-2012. The Irish Government has recently decided to merge the Human Rights Commission and the Equality Authority into a new Human Rights and Equality Commission in order to enhance the protection of human rights and the promotion of equality.

51. 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 Irish authorities in these fields.

¹⁷ Article 29.6 of the Irish Constitution provides that “no international agreement shall be part of the domestic law of the State save as may be determined by the Oireachtas [Parliament]”.

¹⁸ Department of Justice, Equality and Law Reform, Executive Summary to the National Action Plan to Prevent and Combat Trafficking in Human Beings in Ireland 2009-2012, p.1.

¹⁹ Gender; civil status; family status; age; disability; race; sexual orientation; religious belief; and membership of the Traveller Community.

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

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

52. 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.

53. Under Irish law, the elements of human trafficking as set out above - action, means and purpose - are provided for in the Criminal Law (Human Trafficking) Act 2008 (hereafter “Human Trafficking Act”). Pursuant to Section 1 of this Act, the term “trafficks” encompasses the following actions: procurement, recruitment, transportation or harbouring a person; transferring a person to or placing him/her in the custody, care or charge, or under the control, of, or otherwise delivering the person to another person; causing a person to enter or leave the State or to travel within the State; taking custody of a person or taking a person into one’s care or charge, or under one’s control, or providing the person with accommodation or employment. Further, the Act criminalises the selling of a person, offering or exposing a person for sale or inviting the making of an offer to purchase a person, or purchasing or making an offer to purchase another person. An attempt to commit the previously mentioned offences is also criminalised by the Act.

54. The means for committing the offence of human trafficking, defined in Section 4(1) of the Human Trafficking Act include: coercing, threatening, abducting or otherwise using force against the trafficked person; deceiving or committing a fraud against the trafficked person; abusing authority or taking advantage of the vulnerability of the trafficked person to such extent as to cause the trafficked person to have had no real and acceptable alternative but to submit to being trafficked; coercing, threatening or otherwise using force against any person in whose care or charge, or under whose control, the trafficked person was for the time being; making any payment to, or conferring any right, interest or other benefit on, any person in whose care or charge, or under whose control, the trafficked person was for the time being, in exchange for that person permitting the trafficker to traffic the trafficked person.

55. Section 1 of the Human Trafficking Act defines “exploitation” as labour exploitation, sexual exploitation or exploitation consisting of the removal of one or more of the organs of a person. The term “labour exploitation” is defined as meaning, in relation to a person (including a child²⁰), subjecting the person to forced labour, forcing him/her to render services to another person, enslavement of the person or subjecting him/her to servitude or a similar condition or state. The term “sexual exploitation” is also defined in detail in the Act and covers, in relation to a person, the production of pornography, the prostitution of the person, the commission of an offence specified in the Schedule to the Act of 2001 against the person, or otherwise causing the person to engage or participate in any sexual, indecent or obscene act. According to the Irish authorities, the list of exploitative practices is not exhaustive and is subject to interpretation by the courts. In this context, reference is made to paragraph 20 concerning the addition of two forms of exploitation, trafficking for the purpose of forced begging and trafficking for criminal activities, to the Human Trafficking Act, as well as a definition of “forced labour”.

²⁰

“Child” is defined as a person under the age of 18 years.

56. In the case of children and mentally impaired persons, the use of means listed in Section 4(1) is irrelevant to establish a human trafficking offence under the Human Trafficking Act. In addition to labour exploitation of children, which is covered by the Human Trafficking Act, the sexual exploitation of children is criminalised by the Child Trafficking and Pornography Act 1998. The latter Act makes it an offence to organise or knowingly facilitate the entry into, transit through, or exit from Ireland of a child for the purpose of the child's sexual exploitation or to provide accommodation for the child for such a purpose while in Ireland. It is also an offence to take, detain or restrict the personal liberty of a child for the purpose of the child's sexual exploitation, to use a child for such purpose or to organise or knowingly facilitate such taking, detaining, restricting or use. The definition of a child under the Child Trafficking and Pornography Act 1998 was amended through the Human Trafficking Act to cover persons under the age of 18 years.

57. By virtue of Section 4(2) of the Human Trafficking Act, "in proceedings for an offence under this section it shall not be a defence for the defendant to show that the person in respect of whom the offence was committed consented to the commission of any acts of which the offence consists." This means that under Irish law, a person cannot give a valid consent to being a victim of trafficking in human beings. Any consent which may be given is irrelevant (and has no impact on the identification process), if it was obtained by means of fraud, deception or coercion.

58. GRETA concludes that the definition of trafficking in human beings under Irish law is fully in line with Article 4(a) of the Convention. The provisions of the Human Trafficking Act criminalise both internal and transnational trafficking, whether linked to organised crime or not. Moreover, GRETA welcomes the amendments to the anti-trafficking legislation outlined in paragraph 20.

59. For further analysis of the definition of THB and related offences from a substantive criminal law perspective, see paragraphs 224-231.

ii. Definition of "victim of THB"

60. 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.

61. Despite the existence of a specific Human Trafficking Act, there is no definition of "victim of trafficking in human beings" in Irish law. According to the Irish authorities, it is implicit from this Act that a victim of trafficking is a person in respect of whom a human trafficking offence has been committed, which presupposes a final conviction for such an offence. Until such a moment, suspected victims of trafficking have the status of "injured party" as defined by the criminal procedure legislation. GRETA understands that there is no generic definition of "victim of crime" in Ireland and that such a definition will probably be introduced as part of the transposition of the new Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime.

62. As noted in paragraph 17, the Administrative Immigration Arrangements for the Protection of Victims of Trafficking, put in place in 2008, regulate the situation of foreign nationals who have no legal basis to remain in Ireland (i.e. non-EEA nationals who are not asylum seekers). Pursuant to these arrangements, the status of a "suspected victim of trafficking" is conferred to such a person where a Garda officer not below the rank of a Superintendent has established reasonable grounds to believe that this is a suspected victim of trafficking (see paragraph 148). Such persons are afforded a recovery and reflection permit of 60 days and a renewable six-month temporary residence permit, as well as the entitlements they entail. However, as already noted in paragraph 19, there is no clear statutory basis on which victims of trafficking can invoke protection. According to the Irish authorities, while there is no registration process whereby a person is certified as a "victim", in real terms where a victim of human trafficking becomes known to An Garda Síochána, that victim is treated as such until there are compelling reasons to believe the person is not a victim and the case is closed. Accommodation and all protection and services are immediately made available from the first point of contact when a victim is referred to or discovered by An Garda Síochána.

63. 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.

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

- i. *Comprehensive approach and co-ordination*

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

65. The Irish authorities have taken important steps to develop the legal and institutional framework for action against human trafficking, with the adoption of the Criminal Law (Human Trafficking) Act 2008 and the setting up of co-ordinating structures and dedicated units within Government departments and agencies. On the occasion of the adoption of the first National Action Plan to Prevent and Combat Trafficking of Human Beings 2009-2012, the Minister of Justice, Equality and Law Reform expressed the Government's commitment to "putting in place an overall strategy to proactively and comprehensively address the issue of human trafficking, utilising all the necessary resources of the State with a view to making Ireland a more hostile environment for those who might consider trafficking people into, out of and within this jurisdiction".²¹

66. As part of the National Action Plan, the Irish Government ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, to the UN Convention against Transnational Organised Crime and the Council of Europe Convention on Action against Trafficking in Human Beings. The authorities have devoted human and financial resources to facilitate the implementation of the legislation and the first National Action Plan. The Anti-Human Trafficking Unit (AHTU) within the Department of Justice was set up to co-ordinate the State's response to human trafficking. In addition, the High Level Interdepartmental Group on Combating Trafficking in Human Beings was established to recommend measures to the Minister for Justice and Equality. Specialised units to combat human trafficking have also been established within An Garda Síochána, the Health Service Executive and the Legal Aid Board. Further, dedicated staff have been assigned in the Office of the Director of Public Prosecutions and the Asylum Seekers and New Communities Unit of the Department of Social Protection, to strengthen the response to trafficking.

²¹

National Action Plan to Prevent and Combat Trafficking of Human Beings 2009-2012, p. 6.

67. The AHTU regularly engages in consultation with various Government departments, the Irish Human Rights Commission, NGOs, trade unions, etc. NGOs are not invited to participate in the meetings of the High Level Interdepartmental Group on Combating Trafficking in Human Beings, which aims to facilitate co-operation between Government agencies, but are consulted through other means. In particular, NGOs are invited to take part in the Roundtable Forum and five thematic working groups referred to in paragraph 40. The Irish authorities have stressed that the contribution of NGOs to the development of Ireland's response to human trafficking has been significant as is evidenced by the work undertaken in the Roundtable Forum and the five working groups. As previously stated (see paragraph 27), the new National Action Plan is being developed in consultation between the State, NGOs and international organisations. In the context of the new National Action Plan it is intended to examine ways in which civil society can be more involved in the system for identifying victims of human trafficking. Further, as noted in paragraph 42, funding is provided by the State to two NGOs to assist them in providing services to victims. However, given the important role which civil society plays in the prevention of human trafficking and the protection of victims, GRETA is of the view that further steps are necessary to involve NGOs in the planning and implementation of national policy. The involvement of NGOs as support providers, with a view to ensuring the provision of appropriate accommodation to victims of trafficking, is one area which should be further explored.

68. As noted in paragraph 33, the AHTU prepares annual reports on THB in Ireland, which provide an evidence base for policy development. The High Level Interdepartmental Group has reviewed the implementation of the first National Action Plan before the adoption of a new plan (see paragraph 27). However, there is no evaluation of the National Action Plan by an independent body. GRETA stresses the need to evaluate strategies and efforts to combat human trafficking and to what extent they are efficient in curbing this crime and ensuring that its victims are identified and protected. The appointment of an independent National Rapporteur monitoring the effects of the implementation of legislation and policy developments would be a welcome development in this respect. The Irish authorities have indicated that as part of the drafting of the new National Action Plan, consideration is being given to how an element of independent oversight could be brought and the issue of a National Rapporteur may be considered in that context. The resources required for such a role would be of significant import.

69. The Administrative Immigration Arrangements for the Protection of Victims of Trafficking, which have been put in place since 2008, apply to foreign nationals who have been identified as suspected victims of human trafficking and who have no immigration status to remain in Ireland. GRETA notes that in other countries that have adopted specific anti-trafficking acts, this has been used as an opportunity not only to criminalise TBH, but also to provide for the legal status of all victims of trafficking, by putting on a statutory basis their rights to support, protection, recovery and reflection period, renewable residence permit, etc. The Irish authorities have stressed that the Administrative Immigration Arrangements serve a specific purpose and the provision of services to victims is outside their scope. According to the authorities, the provision of support and protection to victims of THB is done administratively and does not require legislative implementation as both the National Action Plan and the Guide to Procedures for victims of trafficking outline the range of services to which victims are entitled and the organisations providing these services are sufficiently experienced and flexible to adapt to the changing needs of victims. The authorities have argued that putting support and protection for victims on a legislative footing will result in the provision of such measures being very inflexible.

70. The first National Action Plan is comprehensive in nature and aims to cover the aspects of prevention, protection, prosecution, international co-operation, as well as legislative developments. Both governmental and non-governmental actors are involved in the implementation of this plan. However, GRETA notes that more attention should be paid to trafficking for labour exploitation. Sectors with little or no regulation, such as domestic work, construction, entertainment, restaurants and agriculture, which employ undocumented workers or where the work permit is tied to the employer, are particularly at risk when it comes to THB. There have been no convictions for trafficking for the purpose of labour exploitation in Ireland, but on a number of occasions violations of the employment legislation have been found. An Garda Síochána has conducted investigations into human trafficking for labour exploitation and a number of files have been sent to the Office of the Director of Public Prosecutions, but to date no prosecution under the Human Trafficking Act for labour exploitation has been directed. Despite the development of the legal framework and the work of the National Employment Rights Authority (NERA), which includes inspections of private homes (see paragraph 155), there is room for improvement the prevention and detection of trafficking for labour exploitation, a phenomenon of growing concern.

71. The Irish authorities have referred to the Report on the Adequacy of the Current Irish Legislation in Relation to the Criminalisation of Forced Labour, which was submitted to the Minister for Justice and Equality in late 2012.²² In addition to the recommendation to define forced labour in law (see paragraph 20), the report recommended a range of non-legislative measures. These include, *inter alia*, consideration of the ratification of ILO Convention No. 189 on Decent Work for Domestic Workers, consideration of reviewing the implementation of the Code of Practice for Protecting Persons Employed in Other People's Homes, development of measures to address the particular vulnerabilities attaching to domestic workers in diplomatic households, the enhancement of co-operation between NERA and An Garda Síochána in investigations of forced labour cases (including the development of a manual using international good practices), and improved data collection. The report also recommended that governmental, non-governmental, employer and employees' rights organisations be encouraged to initiate/continue dialogue in relation to their roles and responsibilities in the prevention and recognition of forced labour. These recommendations have been discussed by the working group on labour exploitation and will be addressed in the new National Action Plan.

72. GRETA also stresses the need to pay particular attention to the problem of child trafficking, which affects both foreign and Irish children in Ireland. A collective complaint submitted by the *Fédération des Association Familiales Catholiques en Europe* (FAFCE) to the European Committee of Social Rights in January 2013 claims that the Irish authorities have failed to protect child victims of human trafficking by failing to identify victims and to effectively prosecute trafficking offenders, thereby being in breach of Article 17 of the Revised European Social Charter (which requires State Parties to take all appropriate and necessary measures to protect children and young persons against negligence, violence or exploitation).²³ The Irish authorities have referred to Operation Snow which was established by the Garda National Immigration Bureau in 2007 to prevent the trafficking and smuggling of children into, out of and within Ireland. Further, detailed guidelines for the identification and referral of child victims of trafficking were developed in 2012.²⁴ The Social Work Service for Separated Children Seeking Asylum screen all children from non-EU States arriving in Ireland with adults whose parentage or guardianship is in question (see also paragraph 152). GRETA also notes that the Irish authorities have taken certain steps since 2009 in respect of unaccompanied minors, which has limited to an important extent their disappearance (see paragraph 153).

73. GRETA welcomes the steps taken by the Irish authorities to develop a comprehensive framework for tackling human trafficking and to co-ordinate the efforts of all actors. However, **GRETA considers that the Irish authorities should take further steps to ensure that national action to combat THB is comprehensive, and in particular to:**

²² Available on: www.blueblindfold.gov.ie

²³ Complaint No. 89/2013 declared admissible on 2 July 2013 by the European Committee of Social Rights.

²⁴ Available on: [http://www.blueblindfold.gov.ie/website/bbf/bbfweb.nsf/page/OACN-8XVHNX1421296-en/\\$File/Services%20for%20Victims%20of%20Child%20Trafficking.pdf](http://www.blueblindfold.gov.ie/website/bbf/bbfweb.nsf/page/OACN-8XVHNX1421296-en/$File/Services%20for%20Victims%20of%20Child%20Trafficking.pdf)

- **further involve NGOs and other members of civil society in the development and implementation of anti-trafficking policy, including evaluation of anti-trafficking efforts;**
- **strengthen action to combat THB for the purpose of labour exploitation, in particular in the sectors of domestic service, construction, entertainment, hotels and restaurants, care homes and agriculture;**
- **pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking and ensuring that the best interests of the child are fully taken into account.**

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

ii. Training of relevant professionals

75. An Garda Síochána has placed particular importance on ensuring that its members receive training which will equip them to tackle the phenomenon of human trafficking. A three-day continuous professional development training course entitled “Tackling Trafficking in Human Beings: Prevention, Protection and Prosecution” has been designed by An Garda Síochána, with the assistance of the IOM and the UK Human Trafficking Centre. The aim of the course is to alert operational personnel within An Garda Síochána to the existence of the phenomenon of trafficking and to empower them to identify victims so as to provide for their wellbeing and to ensure initiation of criminal investigations, where appropriate. Since 2010, the course has been organised twice or three times a year. Some 700 members of the Irish police force (experienced Garda officers, including all staff of the Garda National Immigration Bureau) have received this three-day training. Members of the Police Service of Northern Ireland, the United Kingdom Borders Agency, the London Metropolitan Police and the Romanian Police have also attended the training, emphasising the international and cross-border co-operation between police forces. The most recent course was organised by An Garda Síochána in May 2013.

76. According to information provided by the Irish authorities, 3 196 frontline Garda personnel have received awareness raising-training in relation to human trafficking (lasting four hours) as part of the final phase of the general police training. In addition, 42 members of the Garda Reserve and 188 Ethnic Liaison Officers of An Garda Síochána have received awareness-raising training in relation to human trafficking to date. Training has also been provided to 80 Senior Investigation Officers and 96 Immigration Officers.

77. An on-line portal is available to all Garda personnel on PULSE, An Garda Síochána’s computer system. This allows all Garda personnel to access information in relation to human trafficking issues, including a step-by-step guide on what to do if a Garda officer suspects a person to be a victim of human trafficking.

78. Basic awareness training in relation to human trafficking (short and long course)²⁵ has been developed by the IOM with input from NGOs, the Human Trafficking Investigation and Co-ordination Unit (HTICU) and the Anti-Human Trafficking Unit (AHTU). As of June 2012, a total of 139 professionals had followed this training, including 60 labour inspectors from the National Employment Rights Authority, Private Security Authority inspectors, and staff from the Department of Jobs, Enterprise and Innovation, Irish Naturalisation and Immigration Service, Health Service Executive, Department of Social Protection, Office of the Refugee Applications Commissioner, Victims' Support Helpline, and the Victims of Crime Office.

79. Further, a 'Train the Trainer' course was developed to enable training on human trafficking to be rolled out to staff in State organisations. A total of 40 people were trained from 13 different organisations: Department of Agriculture, Fisheries and Food; Reception and Integration Agency; Prison Service; Department of Jobs, Enterprise and Innovation; Legal Aid Board; FÁS (the state training agency); Department of Social Protection; Health Service Executive; National Employment Rights Authority; Department of Defence; Department of Transport; Office of the Refugee Applications Commissioner; and An Garda Síochána. An evaluation of the impact of the 'Train the Trainer' programme was performed by IOM in conjunction with the Department of Justice and Equality. Following this evaluation IOM was contracted to develop and distribute one and three-hour modules of various aspects of the 'Train the Trainers' course (i.e. basic awareness; legislation and definitions; trafficking and health; child trafficking; identification and referral) to facilitate trainers in large organisations in rolling out this training.

80. Specialised training is also provided to staff in the Office of the Refugee Applications Commissioner (ORAC) to equip them to deal sensitively and appropriately with vulnerable groups, such as victims of trafficking. The vast majority of case processing and presenting staff have received anti-human trafficking training. The anti-human trafficking manual developed for ORAC staff includes a checklist which can be used by caseworkers when conducting interviews, a checklist for assessing whether an applicant has been trafficked and information on important trafficking issues. UNHCR is involved in the training of ORAC staff as well as in a project on quality assessment of asylum case processing.

81. Guidelines on human trafficking were circulated to frontline staff in the Department of Social Protection in early 2011. These guidelines outline the signs of human trafficking which staff may come across in their day to day work and how they should report any concerns they may have. Further, the Child Protection and Welfare Practice Handbook, which is intended for all professionals whose work bring them in direct or indirect contact with children and their families as well as allied professionals and volunteers, has a section on THB.

82. A presentation on human trafficking was given to judges by a US Judge and a senior member of An Garda Síochána in November 2011. Further, a representative of An Garda Síochána made a presentation to Circuit Court Judges at their annual conference in July 2010.

83. A specialised training course was held in September 2009 for staff of the Legal Aid Board who are providing legal aid and advice to potential and suspected victims of trafficking in human beings. Further, in June 2012, a half-day training was provided by the AHTU to the staff of the Legal Aid Board in relation to trafficked victims and the options open to them. Another training course in relation to employment law issues for victims of trafficking was organised at the end of 2012.

84. In February 2009 and July 2011 a joint AHTU/HTICU presentation was given to consular staff of the Department of Foreign Affairs and Trade who were due to be posted abroad. At this presentation staff was given a copy of the handbook for diplomatic and consular personnel on how to assist and protect victims of human trafficking developed by the Council of the Baltic Sea States and IOM. A copy of the presentation and a recording of the talk was placed on the Department's intranet.

²⁵ Human Trafficking: A Modern Form of Slavery, Training Manual and Facilitators Guide. Available on: www.iomdublin.org

85. A joint AHTU/HTICU presentation was also given to staff of the Asylum Seeker New Communities Unit in April 2011. Further, An Garda Síochána has provided refresher training to labour inspectors attached to the National Employment Rights Authority.

86. NGOs and the Irish Congress of Trade Unions have also been instrumental in increasing knowledge about human trafficking, through their participation in training seminars for different categories of professionals.

87. GRETA welcomes the efforts made by the Irish authorities to train professionals working in the field of prevention of human trafficking and protection of victims, the involvement of international organisations and NGOs, and the use of a multi-disciplinary approach in such training. Despite these efforts, concern was expressed to GRETA that law enforcement officers and labour inspectors were not sufficiently proactive in detecting human trafficking cases. It was also felt that judges needed more training of THB and the rights of victims. According to information provided by the Irish authorities, all labour inspectors have been trained in the identification of indicators of THB and co-operate with NGOs in relation to trafficking cases. Staff of the Office of the Director of Public Prosecutions (DPP) who specialise in human trafficking cases (see paragraph 237) have attended external professional conferences and seminars. Further, an information sharing seminar was organised by the Directing Division of the Office of the DPP with the participation of the HTICU which highlighted the perspective of human trafficking investigations from a policing point of view. As regards judges, while respecting their independence, a number of awareness-raising measures have been undertaken.

88. GRETA invites the Irish authorities to continue improving the knowledge and sensitivity of relevant professionals about human trafficking and the rights of victims. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to proactively identify victims of trafficking, to assist and protect them, to facilitate compensation for victims, and to secure convictions of traffickers.

iii. Data collection and research

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

90. On 1 January 2009, the Anti-Human Trafficking Unit (AHTU) initiated a pilot data collection strategy. The purpose of the exercise was to gain a more informed view of the nature and extent of trafficking in human beings in Ireland. Data was collected in relation to the victims being encountered by governmental and non-governmental organisations, including in relation to those not engaging with law enforcement. The strategy functions by collecting depersonalised information in a standardised format from a variety of different sources (government and non-government) and then collating and analysing this data centrally in the AHTU. The Human Trafficking Investigation and Co-ordination Unit of An Garda Síochána provides standardised information concerning alleged victims of human trafficking reported to them, in addition to information concerning the criminal justice response to trafficking in human beings. Several NGOs (such as Ruhama, Irish Refugee Council, Migrant Rights Centre of Ireland and Stop Sex Trafficking Cork) also provide information via a standardised data collection template developed by the AHTU, for persons reported or referred to them. Further, the Irish Naturalisation and Immigration Service provides information concerning persons granted protection from removal. All data are checked across a number of different variables to avoid double counting and further checks with the reporting organisations are conducted if necessary. Following recording and quality control checks, information is entered into a data file and analysed using SPSS software. The Children and Families Section of the Health Service Executive has also begun to collect data on the number of trafficked children referred to the child protection service.

91. Using the above-mentioned data collection system, three summary reports of trafficking in human beings in Ireland have been produced, providing an overview of the situation in 2009, 2010 and 2011.²⁶ The statistical data is disaggregated according to suspected victim's sex, age, type of exploitation, region of origin and immigration status. Figures received from An Garda Síochána and NGOs are presented separately in the summary reports. The reports also provide statistical information concerning investigations, prosecutions and convictions.

92. GRETA welcomes the data strategy which enables the Irish authorities to obtain a broad picture of the situation in relation to human trafficking in Ireland. **GRETA invites the Irish authorities to continue to ensure that statistical data are collected from all the main players and recalls that the data collection should be accompanied by all the necessary measures to ensure respect for the rights of data subjects to personal data protection, including when NGOs working with victims of human trafficking are asked to provide information to feed into the national database.**

93. As far as research related to human trafficking is concerned, a number of projects have been carried out in recent years by public bodies, NGOs and universities. By way of example, a report entitled "Globalisation, Sex Trafficking and Prostitution: The Experience of Migrant Women in Ireland" was produced in 2009 by the Immigrant Council of Ireland, Ruhama and the Women's Health Project.²⁷ Dublin Employment Pact and the Immigrant Council of Ireland published in 2011 research into the provision of services to victims of sex-trafficking in Ireland.²⁸ In 2012, University College Cork conducted research for the Children's Rights Alliance on "Safe Care for Trafficked Children: Developing a Protective Environment".²⁹ Research has also been carried out on trafficking for forced labour in Ireland.³⁰

94. AHTU staff works closely with Trinity College and gives talks at different colleges in order to stimulate students' interest in research on trafficking in human beings.

²⁶ The reports are available on: www.justice.gov.ie and www.blueblindfold.gov.ie

²⁷ Available on: http://www.immigrantcouncil.ie/images/stories/Trafficking_Report_FULL_LENGTH_FINAL.pdf

²⁸ A Formative Evaluation of an Interagency Initiative Working to Deliver Quality Services for Victims of Sex-Trafficking in Ireland, available on: http://www.dublinpact.ie/dignity/PDF/Finalevaluationcover_merged.pdf

²⁹ Available on: <http://www.childrensrights.ie/resources/safe-care-trafficked-children-ireland>

³⁰ Deirdre Coghlan and Gillian Wylie, Speaking with a Forked Tongue: Contrary Political Discourse and the Irish State's Construction of Human Trafficking, in Christien van den Anker and Ilse van Liempt (eds), *Human Rights and Labour Migration: the Wider Context of Trafficking for Forced Labour*, Basington, Palgrave, 2011; Deirdre Coghlan and Gillian Wylie, *Defining Trafficking/Denying Justice? Forced Labour in Ireland and the Consequences of Trafficking Discourse*, Journal of Ethnic and Migration Studies, 2011, available on: <http://www.tandfonline.com/doi/abs/10.1080/1369183X.2011.623625>

95. **GRETA invites the Irish authorities to continue conducting and supporting 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 Ireland include trafficking within the country, trafficking for the purpose of labour exploitation and trafficking in children.**

iv. International co-operation

96. 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).

97. The legal basis for international co-operation between Ireland and other countries in the fight against trafficking in human beings is provided in the Criminal Justice (Mutual Assistance) Act 2008, the European Arrest Warrants Act 2003 (as amended), the Extradition Acts, the Europol Act 1997 (as amended), the Criminal Justice (Joint Investigation Teams) Act 2004 and Eurojust legislation.

98. Ireland co-operates with other police forces, agencies and international organisations in an effort to combat human trafficking. This co-operation takes place through, for instance, Europol and Interpol. An Garda Síochána provides information, without a prior request, to other police forces on the final results of action taken through the Europol national desks and/or Interpol. Further, An Garda Síochána co-operates with Europol through the framework of an analysis work file (AWF), in which analysts work together with organised crime and terrorism specialists to gather criminal intelligence in all high-priority serious crime areas impacting the EU.

99. Ireland also co-operates on the basis of bilateral and multilateral agreements. Bilateral agreements in the area of combating organised crime have been concluded, for example, with Bulgaria, Cyprus and Hungary. Further, a Romanian Liaison Officer based at the Romanian Embassy in Dublin facilitates co-operation between Ireland and Romania.

100. There is ongoing policing co-operation between Ireland and the UK. The two countries have signed a Joint Statement at Ministerial level for co-operation on measures to secure the external Common Travel Area (CTA) on 20 December 2011. Further, a Memorandum of Understanding exists between the Garda National Immigration Bureau and the UK Border Agency regarding the exchange of immigration related data, which has the capacity to assist in revealing organised crime, including in the area of human trafficking. Work has recently begun on exploring the options for a Memoranda of Understanding in respect of human trafficking issues with the UK Human Trafficking Centre to enhance co-operation in combating human trafficking.

101. Particular reference should be made to co-operation between Ireland and Northern Ireland. Representatives from the AHTU and An Garda Síochána meet with representatives from the Northern Ireland Office (NIO) and the Police Service of Northern Ireland (PSNI) once or twice a year to discuss issues of mutual concern in relation to human trafficking and share experiences. A representative of the HTICU attends meetings of the Northern Ireland Organised Crime Task Force. There is also regular contact between the AHTU and the Northern Ireland Department of Justice. The Organised Crime Task Force sub-group on immigration crime and human trafficking meets on a quarterly basis at Stormont, Belfast. A representative of An Garda Síochána sits on this group along with representatives from the PSNI and the authorities in Northern Ireland. With regard to human trafficking, the aim of this group is to seek to exploit investigative opportunities and prosecute those engaged in human trafficking. Further, in October/November each year a joint Cross Border Organised Crime Seminar is held which brings together law enforcement officers from each jurisdiction including Police, Customs and the serious Organised Crime Agency. Human trafficking featured as part of these seminars for two of the last three years.

102. Ireland has not yet participated in any Joint Investigation Teams (JITS), but there have been a number of parallel investigations on the basis of mutual legal assistance requests. An Garda Síochána has participated in several international law enforcement operations in partnership with the authorities in the UK, the Netherlands, Lithuania and Romania. By way of example, the Irish authorities have referred to the following operations:

- Operation Abbey, which involved the Criminal Assets Bureau of Ireland, the Police Service of Northern Ireland, the Serious Organised Crime Agency of the UK and the Welsh Police in an international multi-agency investigation. Three persons, originally charged with human trafficking offences, were convicted in the UK for offences including money laundering and controlling prostitution, one being sentenced to seven years imprisonment. At Cardiff Crown Court on 11 March 2011 the trial judge imposed a confiscation order on one of the accused for 1.9 million GBP, giving the accused six months to pay the amount or in default 10 years imprisonment. As the accused did not pay in time, the 10 year sentence has been imposed on him.
- In December 2009, three Romanian men were sentenced in Romania for trafficking Romanian nationals into Ireland for labour exploitation on farms in Wexford. An investigation was conducted in Ireland and evidence was transferred to Romania where the men were arrested on their return to Romania from Ireland. Sentences of seven years, five years and five years respectively were handed down.
- In May 2011, following contacts from the Romanian authorities, the Human Trafficking Investigation and Co-ordination Unit rescued a 28-year old woman from a house in Dublin where she had allegedly been subjected to forced labour exploitation. Having received medical treatment and availed of the services provided to victims of human trafficking, the woman returned to Romania where she received assistance from the local services for trafficking victims. Two suspects, both Romanian nationals, were arrested and interviewed. A file is currently being prepared for the Department of Public Prosecutions in this case.

103. The Irish authorities have reported difficulties in investigations involving some source countries. Requests for assistance are sent through Interpol. Work has recently begun on exploring the options for signing a Memorandum of Understanding in respect of human trafficking issues with the Nigerian National Agency for Prohibition of Trafficking in Persons (NAPTIP), with a view to enhancing co-operation in combating human trafficking with the largest source country for trafficking victims into Ireland.

104. Irish Aid, which is the international development branch of the Department of Foreign Affairs and Trade, has been funding a programme through the International Labour Organisation (ILO), based around the ILO's Decent Work Agenda. One of the four main themes of this programme is combating forced labour, which also covers human trafficking of vulnerable women and children. The countries concerned by this action are Brazil, China, India, Nepal, Myanmar, Vietnam, Zambia, as well as some Arab States. Since 2001, Irish Aid has contributed over 20 million euros to this programme. A new four-year engagement has been signed with ILO (see paragraph 127). Irish Aid also finances a number of civil society organisations.

105. **GRETA commends the efforts made by the Irish authorities in the area of international co-operation and invites them to continue developing the aspect of international co-operation 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 trafficking victims.**

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

106. 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).

a. Measures to raise awareness

107. The Irish authorities have indicated that as Ireland is primarily a destination and to some extent a transit country for victims of trafficking, awareness-raising campaigns have been directed at frontline personnel and members of the public to create an environment where victims can be identified and directed to available supports. This approach has been adopted following a previous campaign, launched in 2006, specifically focused on encouraging victims of sex trafficking to come forward, which proved largely ineffective. Although not aimed specifically at victims, the campaign materials, leaflets and posters were widely distributed and would also be visible to potential victims.

108. Ireland had the lead role in the Awareness Raising Strand of the G6 campaign, which was run in participating States to raise awareness and discourage demand for services of victims of sexual and labour exploitation. The Irish campaign was launched by the then Minister for Justice, Equality and Law Reform and the Garda Commissioner on 21 October 2008. The campaign targeted the general public, law enforcement and other professionals who may come into contact with a victim of trafficking during the course of their work. The campaign used the “Blue Blindfold – don’t close your eyes to human trafficking” symbol developed by the UK Human Trafficking Centre. It included newspaper advertisements, the widespread distribution of information packs including leaflets, posters and business cards, a stripline ad on the Luas (part of the public transport system in Dublin) for three weeks, and a skyscraper advert on the RTE website for three weeks.

109. In January 2011, the then Minister for Justice and Law Reform of Ireland and the Minister of Justice in Northern Ireland announced a joint North-South re-launch of the Blue Blindfold campaign. In the Republic of Ireland ads were placed in the Metro Herald newspaper at the start and the end of the campaign. Posters and leaflets were circulated to all Garda Districts and bookmarks and posters were distributed to a number of libraries countrywide. Bookmarks, posters and leaflets were also sent to a number of other organisations including Vocational Educational Committees, Citizen Information Centres and Health Centres.

110. A number of other awareness-raising activities have been organised by the Irish authorities in recent years, in co-operation with NGOs and international organisations. By way of example, the Irish authorities have referred to the following activities:

- a dedicated State anti-trafficking website³¹ was established in October 2008. There have been in excess of 10 000 visits to the website since its establishment;
- an Anti-Human Trafficking Unit (AHTU) page on the social networking site Facebook has been established;
- following discussions with officials from the Department of Education and Skills it was agreed to involve teachers and students in awareness raising. The topic of human trafficking is being addressed as part of the human rights’ module of the Civil Social Political Education (CSPE) programme. The AHTU has developed special packs which were forwarded to secondary schools in September 2011 for delivery through the CSPE curriculum for the 2011-2012 academic year;

- when making awareness raising presentations to young people and in schools and colleges the AHTU use a DVD from a UK campaign which was aimed at raising awareness of the internal trafficking of vulnerable young girls into the sex trade in the UK. The short video called "My Dangerous Loverboy" highlights the dangers for young girls who are lured into relationships with young men who shower them with gifts, money and attention. The girls are then lured into a network which traffics them around the country for sexual exploitation;
- the Department of Jobs, Enterprise and Innovation has issued leaflets, developed under the Blue Blindfold campaign, with work permits to generate further awareness of human trafficking;
- a series of leaflets on sexual exploitation and labour exploitation and accordion style information cards (on all types of trafficking) have been printed and widely distributed. For example, these materials were sent to 2 400 General Practitioners (local doctors) around the country;
- articles have been provided to a wide range of magazines and newsletters, such as Childlinks magazine, Public Sector Journal, VOX (a religious magazine), Forum magazine (a health-care publication for doctors), and Irish Journalist. An article and poster was placed in the Vintners Association magazine in January 2011;
- Blue Blindfold images were used by the United National Interregional Crime and Justice Research Institute (UNICRI) in an on-line gallery exhibition entitled "Art to Fight Crime";
- a film festival took place on 18 October 2010 to coincide with the EU Anti-Trafficking Day. Two films were shown. The first, "Ghosts", which highlights labour exploitation, was shown in the afternoon to an audience of transition year students (16/17 years upwards). The second film was "Trafficked", which was shown to an adult audience comprising staff of universities, staff of Citizen Advice Centres, representatives from migrant communities, among others. In excess of 650 persons received tickets to attend either the afternoon or evening event. In excess of 250 students (transition year and higher) attended the event;
- to mark EU Anti-Trafficking Day 2011 radio ads on human trafficking were broadcast over a week on three national radio stations.

111. In addition to the above-mentioned awareness-raising initiatives, research conducted by the AHTU indicates that persons from Western Africa, Romania and Southern and South East Asia are at a higher risk of being trafficking compared to other groups. To highlight the issue of human trafficking amongst potentially vulnerable groups, awareness-raising materials have been placed in a number of magazines whose main readership are from Romania, Thailand and Africa.

112. As part of Ireland's efforts to raise awareness in source countries the AHTU, with the assistance of the Department of Foreign Affairs and Trade, circulated an information pack on human trafficking to Irish visa and diplomatic offices abroad. The pack included leaflets on the indicators of human trafficking, posters, contact details, etc.

113. Reference should also be made to the major publicity campaign "Employment Rights, Your Need to Know" launched by the National Employment Rights Authority (NERA) in January 2008 to inform workers of their rights. The cross-media advertising campaign was designed primarily to raise the issue of employment rights with employers and employees and also to highlight the role of NERA in providing information. Further, in 2010 NERA engaged in a pilot education and awareness campaign aimed specifically at workers in the domestic sector, which had been developed with the active involvement of relevant NGOs.³²

³² European Commission against Racism and Intolerance (ECRI) report on Ireland (fourth monitoring cycle), CRI(2013)1, paragraph 168, adopted on 5 December 2012, published on 19 February 2013, available on: <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Ireland/IRL-CbC-IV-2013-001-ENG.pdf>

114. Although no formal assessment of the impact of the above-mentioned awareness-raising activities has been undertaken, the Irish authorities consider that there is a greater awareness in Ireland of the issues surrounding trafficking in human beings as evidenced by increased media coverage and the number of victims identified since awareness raising started.

115. GRETA welcomes the considerable efforts made in Ireland in the areas of awareness raising and education as a form of prevention of human trafficking. **GRETA considers that future actions in the area of awareness raising should be designed in the light of the assessment of previous measures and be focused on the needs identified. Particular attention should be paid to raising awareness of human trafficking for the purpose of labour exploitation and child trafficking. Awareness-raising campaigns should target among others foreign nationals coming to work in Ireland, employers and employers' associations, trade unions, as well as labour and tax inspectors and medical professionals.**

b. Measures to discourage demand

116. 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 trafficking³³.

117. The use of services of a victim of THB is criminalised under Irish law by virtue of Section 5 of the Human Trafficking Act which provides that any person who knowingly solicits or importunes a trafficking victim for the purposes of prostitution shall be guilty of an offence. Under Section 5(4), it is a defence for the defendant to prove that he or she did not know and had no reasonable grounds for believing that the person in respect of whom the offence was committed was a trafficked person. The penalty on summary conviction is a fine not exceeding 5 000 euros or a term of imprisonment not exceeding 12 months, or both. In the event of a conviction on indictment the penalty is an unlimited fine or a term of imprisonment not exceeding five years, or both. Section 7 of the Human Trafficking Act provides for extra-territorial jurisdiction where an Irish citizen or person ordinarily resident in the State commits a trafficking offence outside Ireland, as well as where a person commits an offence against an Irish citizen in a place other than in Ireland.

118. A number of the awareness-raising and training initiatives referred to previously have been taken both for the purpose of identifying and assisting victims and to reduce demand. In addition, in 2008 the Department of Justice and Equality provided funding under the National Women's Strategy to the NGO Ruhama for the production of a three-minute film and a 50-second advertisement designed to educate clients and potential clients on the exploitation underpinning the commercial sex industry and to address the demand side of sex trafficking by drawing attention to the penalty provisions which apply. The advertisement was launched by a member of the Irish Parliament and was aired regularly on the national television stations, RTE and TV3, and the sports television station, Setanta. They can still be viewed on the Ruhama and Blue blindfold websites.

119. Further, the Department of Justice and Equality partially funded a photographic exhibition "Not Natasha" by Dana Pope, which was organised by the Immigrant Council of Ireland and took place in July 2011. The exhibition outlined the experiences of women trafficked for sex and their families in Europe.

120. A Guide to Best Practice for Employers for the prevention of human trafficking is currently being finalised. This Guide sets out indicators of human trafficking for labour exploitation and required and suggested workplace practices of which employers should be aware.

³³ Principle 4 of 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>

121. An NGO-led campaign entitled Turn Off the Red Light³⁴ was launched with a view to criminalising the purchase of sexual services, led by the belief that this is the most effective solution to tackle the demand for paid sex that fuels prostitution and trafficking. This has provoked a national discussion on the future direction of prostitution legislation in Ireland. In June 2012, the Department of Justice and Equality published a discussion document on this issue.³⁵ The discussion document reviewed the legislative approaches to prostitution in other countries and the requirements of international legal instruments, and provided a for-and-against analysis of four different approaches for legislative policy on prostitution (i.e. total criminalisation, partial criminalisation, non-criminalisation, and legislation regulation). The document noted that “in devising policy responses, including legislative and enforcement measures, it is crucial to clearly distinguish between human trafficking for sexual exploitation on the one hand, and prostitution on the other. While the two can sometimes overlap, human trafficking and prostitution are different phenomena requiring distinct policy responses, if each is to be targeted effectively, efficiently and in a manner which reflects the relative gravity of different types of criminal activity”.³⁶ Reference was made to the report of the UNAIDS Advisory Group on HIV and Sex Work, published in December 2011, which expressed concerns about the conflation of sex work and trafficking and the impact that failing to clearly distinguish between the two has on sex workers.³⁷

122. The previously mentioned discussion document was referred to the Joint Oireachtas Committee on Justice, Security and Defence, which issued a report and recommendations in June 2013.³⁸ The Committee recommended that provision be made in law for a summary offence penalising the purchase of sexual services of another person by means of prostitution, or any request, agreement or attempt to do so. Another recommendation made was that “the State should commission appropriate independent studies to increase its understanding of prostitution and trafficking. Further such studies should be undertaken at regular intervals to independently evaluate the effectiveness of legal and policy measures concerning prostitution and trafficking and to recommend changes where required”.³⁹

123. GRETA welcomes the approach of the Irish authorities to have an open and transparent public consultation process, with the widest possible participation, on the future direction of legislation on prostitution. As noted by the above-mentioned discussion document, there are conflicting views about the effects of criminalising the purchase of sexual services on human trafficking. Without prejudice to the wide spectrum of issues surrounding this debate, GRETA stresses the importance of keeping under review the impact of any legislative reform on the identification of victims of trafficking, their protection and assistance, and the prosecution of traffickers.

³⁴ Turn Off the Red Light is an alliance made up of organisations including Ruhama, Barnardos, Immigrant Council of Ireland, National Women’s Council of Ireland, Irish Congress of Trade Unions, etc. See www.turnofftheredlight.ie

³⁵ Department of Justice and Equality, *Discussion Document on Future Direction of Prostitution Legislation*.

³⁶ Ibid., p.6.

³⁷ Joint United Nations Programme on HIV/AIDS (UNAIDS) 2009, available on: http://www.unaids.org/en/media/unaids/contentassets/documents/unaidspublications/2009/JC2306_UNAIDS-guidance-note-HIV-sex-work_en.pdf

³⁸ Joint Committee on Justice, Security and Defence, *Report on hearings and submissions on the Review of Legislation on Prostitution*, June 2013, 31/JDAE/010, available on:

<http://www.oireachtas.ie/parliament/mediazone/pressrelease/name-17366-en.html>

³⁹ Ibidem.

124. GRETA recalls that pursuant to Article 19 of the Convention, Parties must consider making it a criminal offence to knowingly use the services of a victim of trafficking. This provision targets the client whether of a victim of trafficking for sexual exploitation or of a victim of forced labour or services, slavery or practices similar to slavery, servitude or organ removal.⁴⁰ GRETA welcomes the incorporation of this provision of the Convention in the Criminal Law (Human Trafficking) Act 2008 as far as sexual exploitation is concerned and the attention paid in Ireland to discouraging demand leading to human trafficking for the purpose of sexual exploitation. At the same time, **GRETA considers that the Irish authorities should make more efforts to discourage demand for the services of trafficked persons for the purpose of labour exploitation, in partnership with the private sector and civil society. In this context, GRETA invites the Irish 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.**

c. Economic, social and other empowerment measures for groups vulnerable to THB

125. The Irish authorities have stated that as Ireland is primarily a destination and transit country, measures are in place through the Irish Government's Overseas Development Programme to provide funding for counter trafficking activities in countries of origin. The overarching aim of the Irish Aid programme is poverty reduction, reducing vulnerability and increasing opportunity. Education including working to combat gender-based violence in schools which leads to high levels of school drop-out rates amongst girls, rendering them more vulnerable to human trafficking, is the primary focus of Irish Aid's programme in Zambia. Irish Aid jointly heads the donor group on education and supports Zambia's national development plan by funding the School Grants Mechanism which aims, *inter alia*, to improve access to education and increase enrolment by building new schools and expanding existing ones, and provide educational support for girls, orphans, vulnerable children and children with special needs.

126. Further, Ireland, through the Department of Foreign Affairs/Irish Aid Stability Fund, is providing 100 000 euros in funding towards an OSCE project for the enhancement of anti-trafficking measures in Ukraine.

127. The framework for a new partnership programme between Irish Aid and the ILO (see paragraph 104), based around the ILO's Decent Work Agenda, was approved in 2011 and consists, in principle, of two phases: Phase I (2012-2013) and Phase II (2014-2015). The priority themes which are funded under this programme are women's entrepreneurship, promoting employment and entrepreneurship opportunities for persons with disabilities, and action against forced labour and child labour. The total funding for the new programme is 12 million euros, with 6 million euros provided for each phase. It is envisaged that in each phase 1.8 million euros and 0.6 million euros will be allocated to the priority themes of forced labour and child labour respectively.

⁴⁰ Explanatory Report on the Convention, paragraph 231.

128. It is a positive practice that all children in Ireland go to mainstream local schools, regardless of their immigration status. However, GRETA notes that the European Commission against Racism and Intolerance (ECRI), in its fourth report on Ireland published on 19 February 2013, highlights several areas of concern which are of relevance to action against human trafficking.⁴¹ According to ECRI's report, pupils of immigrant background constitute 10% of primary school children and 12% of post-primary school children, but Ireland is not very well prepared to help new immigrants enter the school system and the authorities have withdrawn funding from the Integrate Ireland Language and Training centres, which help adults immigrants and refugees to acquire language skills. Further, the report notes that asylum seekers may not engage in paid employment in Ireland and asylum seekers or those awaiting a decision on leave to remain (i.e. failed asylum seekers) cannot be considered as "habitually resident" and, consequently, may not receive many social benefits. GRETA notes that in some countries, immigrants and asylum seekers present a higher risk of falling victim to human trafficking if they are subject to discrimination, which is why the recommendations made by ECRI in respect of these groups can be seen as relevant for the prevention of human trafficking.

129. GRETA considers that the Irish authorities should integrate the prevention of human trafficking in the policies for children of immigrant origin, asylum seekers and persons with protection status.

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

130. As mentioned in paragraph 34, the Garda National Immigration Bureau (GNIB) is responsible for enforcement of immigration law and border control. GNIB officers are trained in the indicators of trafficking (see paragraph 75) and routinely screen for them. Further, GNIB has had two members trained on a European Police College (CEPOL) training course in 2010 which included the topic of human trafficking, and in late 2012 and early 2013, a detective Sergeant attached to the Human Trafficking Investigation and Co-ordination Unit (HTICU) attended CEPOL courses on human trafficking in the UK and Sweden. Targeted intelligence and surveillance led operations are used to identify and rescue suspected victims of human trafficking at Ireland's borders. These operations are carried out usually in co-operation with the authorities in the country of departure or by using the Europol and Interpol channels.

131. Members of GNIB have been appointed as Airline Liaison Officers at various hub airports and are a source of intelligence for An Garda Síochána. At Dublin Airport, GNIB has set up the Piers Investigation Unit with the purpose of carrying out immediate investigations on issues such as false passports. If it transpires that there is a human trafficking element, the case is transferred to the Human Trafficking Investigation and Co-ordination Unit (HTICU) within GNIB and an officer from HTICU interviews the suspected victim at the airport. GRETA was informed that some five suspected victims of trafficking have been detected through border control at Dublin Airport.

132. The Health Service Executive (HSE) and HTICU are developing a protocol in relation to unaccompanied minors who arrive at ports of entry in Dublin (usually Dublin Airport). The Draft Protocol covers such areas as co-operative interviewing, joint training and awareness raising and the sharing of information. It is hoped that the experiences gained from operating this protocol will lead to it being rolled out on a nationwide basis. GRETA was informed that 56 children arriving at Dublin Airport were referred to HSE in 2012, and some 50 in 2011.

133. The Office of the Refugee Applications Commissioner (ORAC) has put procedures in place to deal with potential trafficking cases. These procedures were revised in December 2010 and involve liaison with the Anti-Human Trafficking Unit (AHTU) and GNIB. Anti-human trafficking training has been provided to staff to increase awareness of human trafficking and to assist in identifying possible trafficking issues during the refugee determination process (see paragraph 80). In 2010, ORAC notified GNIB and AHTU of 20 possible trafficking cases and in 2011, of seven such cases.

⁴¹ European Commission against Racism and Intolerance (ECRI) report on Ireland (fourth monitoring cycle), CRI(2013)1, adopted on 5 December 2012, published on 19 February 2013, available on: <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Ireland/IRL-CbC-IV-2013-001-ENG.pdf>

134. The Immigration Act 2003 imposes certain requirements on carriers operating aircraft, ferries or other vehicles bringing persons to Ireland, including a requirement to ensure that passengers are in possession of any necessary immigration documentation (passport, travel document or if required, a visa).

135. Ireland has recently commenced a pilot project called Irish Border Information System (IBIS). Under this system passenger information collected by carriers prior to departure, on flights originating from outside the EU, will be sent to the IBIS where it will be screened against watch lists from a number of authorities including Immigration. The IBIS is being operated in accordance with European Communities (Communication of Passenger Data) Regulations 2011 which implements EU Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data.

136. Co-operation between Gardaí and customs officers is ongoing. Senior Investigators in the Revenue Commissioners attended presentations on human trafficking at cross border crime conferences in 2009 and 2010. The new national automated fingerprinting system (AFIS) is being rolled out to the majority of Garda Divisions. Carbon Dioxide Detectors have been deployed for use at four sea ports, namely, Dublin, Dun Laoghaire, Cobh and Rosslare.

137. Information regarding immigration into Ireland is provided via the website of the Irish Naturalisation and Immigration Service (INIS)⁴² and through Irish embassies and consulates worldwide. The Department of Foreign Affairs and Trade has included a Human Trafficking page on the Visa Information Section of its website. The Department of Jobs, Enterprise and Innovation operates and enforces a system of employment permits for non-EEA nationals under the Employment Permits Acts 2003 and 2006. Detailed information and guidelines for prospective applicants are available on that Department's website.⁴³ A call centre is also available three days a week and queries can be addressed to the office's email address.

138. According to the Irish authorities, INIS has delivered significant improvements in visa services over the last five years. The visa system is underpinned by AVATS, an online application and tracking facility and is accessible through Ireland's consular network which includes dedicated visa processing offices in six overseas locations. During 2011, a new regime for non-EEA students was launched and implemented. There is a dedicated student page on the INIS website which provides comprehensive guidelines for students who are considering coming to Ireland for academic study of the English language. During 2012 INIS has also introduced a new dedicated page on its website for investment and business start-up related migration.

139. Following several alleged cases of domestic servitude in diplomatic households, the Irish authorities are in the process of developing a comprehensive system to prevent future abuse of private domestic employees. The authorities have looked at best practices in Europe and beyond and have developed revised guidelines which are in the process of finalisation. In the meantime, the authorities have indicated that, on receipt of notification of a visa application to travel to Ireland to work with an accredited member of a diplomatic mission, the mission concerned is contacted and confirmation sought from the member of the mission that he/she will take responsibility for the employee during the assignment in Ireland, that he/she will undertake to provide medical insurance for the employee, that the employees themselves will retain their passport at all times, and that the employee is expected to return to their country of permanent residence upon completion of the agreed assignment. **GRETA would like to be kept informed of the adoption of revised guidelines on domestic employees in diplomatic households.**

⁴² www.inis.gov.ie

⁴³ <http://www.djei.ie/labour/workpermits>

140. GRETA commends the above-mentioned steps taken by the Irish authorities to prevent human trafficking through border measures and by enabling legal migration. However, NGOs have indicated that employment permits are tied to a particular employer, which has the potential for abuse, and that economic sectors which are not sufficiently regulated (such as domestic service, restaurants, etc.) employ undocumented workers. The Irish authorities have indicated that employment permits are generally “tied” to an employer for 12 months, after which employees may apply for an employment permit under another employer. The Department of Jobs, Enterprise and Innovation may permit a change of employer within the 12 months where an employee brings an abusive employer/employee relationship to its attention. One factor in the selection of cases for inspection is the potential for exploitation, with factors such as low wages, high staff turnover, etc. being taken into account. Sectors such as the catering sector are regularly inspected. Thus in 2012, 500 inspections (11% of total inspections) were carried out in this sector alone, with over 130 000 euros in unpaid wages recovered. **GRETA invites the Irish authorities to keep under scrutiny the employment permit system to ensure that it does not facilitate the trafficking of migrant workers.**

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

141. The Passport Act 2008 provides a range of measures to improve passport control. Under Section 20(1) of this Act a range of offences are created which seek to criminalise the unlawful holding, falsifying or destruction of passport travel documents. The provisions in the Passport Act 2008 which ensure the legitimacy, security and control of Irish passports and the issuing of ePassports are ongoing measures helping to ensure that Irish travel documents are not easily accessible to traffickers. Further, there are ongoing security measures in both the Passport Office and INIS to ensure that these documents do not become available to potential traffickers.

142. All applicants for Irish passports must satisfy a member of An Garda Síochána as to their identity. Where the application is for a minor, both parents/legal guardians must complete a declaration to certify that they give consent to the issuing of an Irish passport to a minor. This declaration must also be signed by a defined list of persons who may include a member of An Garda Síochána, lawyer, doctor, elected local representative, public notary or school principal.

143. In November 2009, an assessment of the travel documents being issued by INIS at that time showed that they did not conform to new international standards set out in International Civil Aviation Organisation (ICAO) Document 9303. As a result work commenced, in conjunction with the Passport Office, on the development of a new Irish travel document. On 7 November 2011 INIS began issuing this new document which contains all of the security features of the Irish ePassport and which conforms to international standards.

144. A Certificate of Registration is issued to all persons who are eligible to register with An Garda Síochána as defined under the Immigration Act 2004. The Certificate of Registration contains the personal details and photograph of the holder. A number of security features are integrated into the Certificate of Registration to ensure its integrity. Furthermore, the Garda National Immigration Bureau's Intelligence and Document Section has two qualified document examiners. These personnel update Immigration Officers and Registration Officers on any forged document trends or special alerts. The Garda National Immigration Bureau's Intelligence and Document Section also gives talks to Immigration Officers and other members of An Garda Síochána as well as outside agencies to ensure awareness of the issue of forged or counterfeit documents.

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

a. Identification of victims of trafficking in human beings

145. 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.

146. As part of the first National Action Plan, a Statement of Roles and Responsibilities for state organisations, NGOs and international organisations in Ireland engaged in co-operation regarding the prevention, protection of victims and prosecution of trafficking in human beings was drawn up, setting out the roles of different stakeholders during the process of identification and provision of assistance measures to potential and suspected victims of trafficking. A process map of the National Referral Mechanism (NRM) was also drawn up to show how the various agencies interact with each other.⁴⁴

147. In Ireland, a person is considered to be a suspected victim of human trafficking once they, or someone acting on their behalf, make a claim of having being trafficked to the Garda Authorities (i.e. the Irish Police) until such time as there is compelling evidence that they are not. The process for the identification of a person as a suspected victim of human trafficking for immigration purposes is set out in the Administrative Immigration Arrangements for the Protection of Victims of Human Trafficking adopted in June 2008. As already noted in paragraph 17, these Administrative Immigration Arrangements apply to persons who would not otherwise have a permission to be in Ireland, i.e. non EEA-nationals who are identified as suspected victims of THB. Under the Administrative Immigration Arrangements, identification depends on there being reasonable grounds for believing that the person is a victim of an offence under Sections 2 or 4 of the Criminal Law (Human Trafficking) Act 2008 or Section 3 (other than subsections (2A) and (2B)) of the Child Trafficking and Pornography Act 1998.

148. Under the Administrative Immigration Arrangements, the reasonable grounds determination is made by a member of An Garda Síochána not below the rank of Superintendent at the Office of the Garda National Immigration Bureau (GNIB). In practice, determination is made by three senior staff of the Human Trafficking Investigation and Co-ordination Unit (HTICU) of the Garda National Immigration Bureau. They apply the model recommended by IOM,⁴⁵ according to which the screening process to determine if a person is a victim of trafficking consists of two stages: an assessment of the varying indicators that can be evaluated before an interview takes place, followed by a detailed interview with the person concerned. Garda officers performing identification apply UN.GIFT general indicators, updated by the Delphi Indicators developed by ILO and the European Commission. According to the above-mentioned Statement of Roles and Responsibilities, An Garda Síochána should take account of all information that is available to them when taking the reasonable grounds decision (including information provided by the suspected victim, governmental bodies, NGOs and international organisations). Determination has to be made as early as possible following the provision of all information necessary for that. The National Action Plan 2009-2012 states that “while ‘reasonable grounds’ are not the same as evidence, in the context of contemplation of any criminal offence, to arrive at a state of mind that a person is a suspected victim of human trafficking the Garda Superintendent must be in possession of sufficient information to afford reasonable ground for that belief”.⁴⁶

⁴⁴ Both documents are available on: www.blueblindfold.gov.ie

⁴⁵ IOM Handbook on Direct Assistance to Victims of Trafficking, available on: http://www.iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/published_docs/books/CT%20handbook.pdf

⁴⁶ National Action Plan to Prevent and Combat Trafficking in Human Beings in Ireland, 2009-2012, p.136.

149. The Irish authorities have indicated that while identification is ongoing, suspected victims are granted protection under the Administrative Immigration Arrangements and are entitled to avail themselves of the full range of services (i.e. accommodation, medical and legal), as well as not be removed from Ireland during this process. An Garda Síochána officers performing identification are obliged to inform potential and suspected victims of the availability of accommodation and support by the Reception and Integration Agency (see paragraph 173), legal aid provided by the Legal Aid Board (see paragraph 159), and care planning services provided by the Health Service Executive (see paragraph 180). A leaflet is provided to all victims at the outset of the identification procedure. However, GRETA notes that the Administrative Immigration Arrangements do not contain entitlement to any of the assistance envisaged in Article 12 of the Convention and refer only to voluntary repatriation.

150. The Legal Aid Board⁴⁷ provides legal assistance and advice to potential and suspected victims referred to them by An Garda Síochána on the options open to them (protection as a victim of trafficking or asylum application). There are two solicitors specialised in refugee law, both of whom are child experts, who meet all suspected trafficking victims who are referred to the Legal Aid Board and avail of the service. GRETA was informed that a total of 73 human trafficking cases had been referred to them until the end of 2012, including nine in 2012. The Legal Aid Board has issued and periodically updates an information leaflet for potential victims of trafficking.

151. There is no appeal mechanism against the decision that there are no reasonable grounds to believe that a person is a suspected victim of human trafficking. GRETA understands that, in theory, a person who has not been declared a victim of trafficking in human beings can apply to the High Court to have the decision judicially reviewed. The High Court is not concerned with the merits of the decision but, rather, with the lawfulness of the decision making process, how the decision was reached and the fairness of it. If the application is upheld then the decision is simply resubmitted for re-evaluation. The Irish authorities have indicated that the HTICU is available to meet with solicitors or NGOs who have concerns in relation to the identification of a victim and if additional information or evidence comes to light, then the reasonable grounds decision is reviewed by HTICU.

152. The above-mentioned identification procedure as performed by HTICU applies to both adults and children. In the event of a child being reported to An Garda Síochána as a suspected victim of trafficking, as well as taking their own independent action in relation to the criminal law and formal identification process, An Garda Síochána notifies the Health Service Executive (HSE). In the event of the initial report being made to the HSE, the HSE notifies An Garda Síochána. Further, the Social Work Service for Separated Children Seeking Asylum, which is Dublin based, operates a reunification service aiming to establish the parentage/guardianship of adults presenting at ports of entry with children from non-EU States or whom they claim to have been reunited with within Ireland. This service uses D.N.A. testing when necessary and provides a critical screening function in relation to potential victims of trafficking. However, GRETA was informed that most of the children identified as victims of trafficking had not been unaccompanied minors and were therefore referred to local social work teams throughout Ireland.

⁴⁷ Pursuant to the Civil Legal Aid Act 1995, the Legal Aid Board is responsible to the provision of civil legal aid and advice.

153. Up until 2009, unaccompanied minors were placed in hostels and a significant number of them went missing. The hostels were closed down at the end of 2009 and small residential centres were set up where children are assessed before being sent to foster care with families around the country. Very few children remain in residential care. Training is provided to foster parents and liaison officers of the social work teams work with them. The Irish authorities have commissioned a report to assess the outcome of the new system, which notes that “the move from hostel care to foster care and supported lodgings marked a very significant and positive development in service provision for separated your people leaving in Ireland” and recommends, *inter alia*, that all carers be provided with appropriate training and that all placements be subject to inspections.⁴⁸ GRETA welcomes the steps taken in Ireland in respect of unaccompanied minors, which has limited to an important extent their disappearance (only one unaccompanied child went missing in 2012).

154. The Irish authorities have indicated that the appointment of a legal guardian is not automatic as all unaccompanied minors are allocated a dedicated social worker. Only unaccompanied minors who are subject to a full care order are awarded a guardian. All children who are identified as victims of trafficking are subject to a full care order and are therefore awarded a guardian.

155. The National Employment Rights Authority (NERA) has responsibility to notify the Human Trafficking Investigation and Co-ordination Unit of any suspected cases of trafficking for the purposes of labour exploitation which may come to its attention. NERA also has responsibility for attending the relevant working group meetings (see paragraph 40) and for engaging in general communication and collaboration with other stakeholders (e.g. NGOs, trade unions, revenue inspectors). NERA employs some 58 labour inspectors who have extensive powers and have all been trained on human trafficking indicators (see paragraph 78). Labour inspectors can perform unannounced inspections, including at night, enter private homes with court warrant, carry out employment permit and immigration status checks and perform inspections of all employment sectors (including employment agencies, restaurants, take away establishments, bars and clubs, agriculture, construction, etc.) NERA can also prosecute for some labour legislation violations (e.g. minimum wage, not being given a pay slip). When labour inspectors uncover cases which may have the characteristics or some indicators of human trafficking, the information is referred to HTICU which is competent for investigating THB. None of these referrals to date has resulted in a case of human trafficking, but labour exploitation elements have been dealt with by NERA under its own powers. A multilingual card (in six languages) has been developed and will be distributed discretely by labour inspectors to employees during checks. Further, information in 40 languages is available on NERA’s website and there is also a helpline on which employees can receive information on their rights. NERA have also introduced a three-way telephone translation service which can be availed of on-site by inspectors where language difficulties are encountered.

156. A pilot programme was recently launched by NERA on domestic work inspection, which resulted in 75 cases being inspected from early 2011 to March 2013. Some of the inspections took place in private dwellings (23 out of the 75 inspected cases) and non-private home workplaces (convents, crèches, etc.). Breaches of employment records were detected in 49 cases, The majority of employees involved were Irish (45) and Filipino (19); 19 workers lived in the employer’s home. In preparation for the labour inspectorates’ incorporation into the newly established Workplace Relations Commission (which is scheduled to take place in 2013), NERA will review the experience of the pilot programme and mainstream the learning gained from the domestic work inspections pilot programme into the duties of all inspectors.

⁴⁸ Muireann Ní Raghallaigh, *Foster Care and Supported Lodgings for Separated Asylum Seeking Young People in Ireland: The views of young people, carers and stakeholders*, 2013, Available on: <http://www.barnardos.ie/assets/files/Advocacy/2013SeparatedChildren/Report%20into%20separated%20children%20in%20foster%20care.pdf>

157. If a person makes a claim that he/she is a victim of trafficking during the asylum process, the Office of the Refugee Applications Commissioner (ORAC) will notify the Gardai in line with agreed procedures. ORAC works closely with the Garda National Immigration Bureau (GNIB) and the AHTU to identify potential victims of human trafficking. At the initial interview, ORAC officials inform asylum applicants that any information provided by them which suggests that they might be victims of trafficking will be passed on to GNIB. This does not prevent the asylum claim from continuing, but the person may also decide to voluntarily withdraw their asylum claim. Thus GRETA was informed that four suspected victims of trafficking had decided to leave the asylum process. Applicants are informed of their right to consult a solicitor and/or the UNHCR. The Refugee Legal Service, which is independent of ORAC, is a specialised office established by the Legal Aid Board to provide confidential and independent legal services to persons applying for asylum in Ireland. A second substantive interview generally takes place some three weeks after the first one. Following this interview a report is completed which contains a recommendation as to whether refugee status should be granted or refused. If the recommendation is to refuse, the applicant may appeal to the Refugee Appeals Tribunal. If the asylum appeal is rejected, the person can apply for subsidiary protection or humanitarian leave to remain to the Irish Naturalisation and Immigration Service (INIS). The GRETA delegation was informed that the asylum process used to take up to four years, but had been reduced to less than six months.⁴⁹ Victims of trafficking who have applied for asylum have an authorisation to stay in Ireland under Section 9(2) of the Refugee Act 1996 and, as a consequence, are excluded from the scope of the Administrative Immigration Arrangements and are not eligible for the recovery and reflection period and temporary residence permits provided for under these arrangements.

158. The above policy has been criticised by UNHCR and civil society in Ireland for discriminating against those who decide to exercise their right to claim asylum and, as a result, are not formally identified as suspected victims of trafficking and are deprived of the possibility to benefit from the rights under the Convention. It has also been argued that this policy discourages victims of trafficking from claiming asylum.⁵⁰ The Irish authorities have stressed that no suspected victim of trafficking is denied a period of recovery and reflection, regardless of whether they are an asylum applicant or not, and that asylum applicants who are suspected victims of trafficking are not in any way disadvantaged by having their asylum application run at the same time as the investigation of the trafficking claim.

159. According to the statistics in paragraph 10, the majority of the suspected victims of trafficking were asylum seekers and there were also a number of Irish nationals and EEA nationals among the identified victims. Since the Administrative Immigration Arrangements apply only to persons who would otherwise not have a permission to be in Ireland, persons who are considered “documented”, such as asylum seekers, EEA nationals and Irish nationals, i.e. the vast majority of the persons who are identified as victims of human trafficking in Ireland are not dealt with under the Administrative Immigration Arrangements. Concern was expressed to GRETA that this leaves such persons without formal status as identified victims of trafficking and hence unable to access the protection and assistance measures provided for under the Convention. In this context, the Irish authorities have stressed that access to all support services is available to all victims of human trafficking from their initial contact with An Garda.

160. As noted in paragraph 148, the power to make identification lies exclusively with a limited number of officers of the Garda National Immigration Bureau (GNIB) who work in the Human Trafficking Investigation and Co-ordination Unit. At the same time, GNIB is responsible for border control, investigation relating to illegal immigration and deportation. This raises the question whether entrusting both the victim identification and the THB investigation to immigration officials does not involve a conflict of interest. According to a recent study, “there seems to be a clear priority in the victim identification process to identify illegal migrants. This may be hampering efforts to effectively identify [victims of trafficking] in a timely manner, which in turn can cause delays and anxiety while the GNIB makes the decision”.⁵¹

⁴⁹ The median processing time at first instance in ORAC during 2012 was in the region of 10 weeks.

⁵⁰ Colin Smith, *Identification and Assistance of Victims of Human Trafficking in Ireland: An Article 4 EHCR Analysis*, Irish Refugee Council, Master Class Series 2012, p.9.

⁵¹ Patricia Stapleton, *Human Trafficking in Ireland: Identifying Victims of Trafficking*, paper delivered to the 2nd Annual Critical Social Thinking Conference at University College Cork, 28 January 2011, p.200.

161. As identification is exclusively performed by the Garda National Immigration Bureau, NGOs cannot participate in the process of establishing reasonable grounds and identification of suspected victims of human trafficking. According to NGOs, despite cases being carefully documented by them using a complex set of indicators developed by the ILO and the European Commission, some of these cases have not been formally identified as suspected victims. This has led NGOs to question the partnership and the victim approach within the identification process.

162. Further, according to NGOs, although a commitment has been given by the authorities that a reasonable ground decision will be made within a month, persons referred for identification by NGOs have occasionally waited over six months for a decision. The lack of time frame for identification impacts negatively on the effectiveness of the identification process and persons can reportedly remain in the system for months without being granted suspected victim status.

163. Moreover, NGOs have pointed out as problematic the lack of reasoning supporting a decision by the HTICU to not find that there are reasonable grounds for believing that the person is a suspected victim, as well as the lack of appeal or remedy against a negative decision. According to some research, the bar of the “reasonable grounds” threshold for identification has been set too high and victims unable to assist the Gardaí are excluded from the formal identification process.⁵² It has also been argued that the Gardaí make co-operation in a successful criminal investigation a *condition sine qua non* of formal identification even as a suspected victim of trafficking.⁵³ The impact on the victim of a negative reasonable grounds decision is significant: it leaves the person without a legal case to pursue justice, no legal status in the country and no prospects of work. The Head of HTICU met during the evaluation visit stated that during the identification process, HTICU officials “take co-operation very fluidly ... the system errs on the side of caution and we accept a person is a victim of trafficking unless there is reason to believe otherwise.”

164. GRETA recalls that the issue of identification is of fundamental importance. Without trafficked people being identified as such, the whole system of assistance and protection would become irrelevant. It is therefore vital for the State to ensure that an effective system for proactive identification of victims of trafficking is put in place, irrespective of their nationality and immigration status. Many trafficked people do not always identify themselves as “victims” and are not aware of the legal meaning behind the term. Therefore, the onus of identification lies with the authorities. At the same time, GRETA considers that specialised NGOs can substantially contribute to the victim identification process and should be involved in a multi-agency effort to ensure that no victim of trafficking remains unidentified. This is envisaged by Article 10 of the Convention, according to which identification is a collaborative process between the authorities and relevant victim support organisations.

165. **GRETA urges the Irish authorities to ensure that all victims of trafficking are properly identified and can benefit from the assistance and protection measures contained in the Convention, in particular by:**

- **promoting multi-agency involvement in victim identification by formalising the role and input of specialised NGOs and involving other relevant actors, such as labour inspectors, social workers and medical staff;**
- **amending the relevant regulations to allow asylum seekers, EEA nationals and Irish nationals to be formally identified as victims of trafficking;**
- **guaranteeing that in practice identification is dissociated from the suspected victim’s co-operation in the investigation.**

⁵² Colin Smith, *Identification and Assistance of Victims of Human Trafficking in Ireland: An Article 4 EHCR Analysis*, Irish Refugee Council, Master Class Series 2012, p.11.

⁵³ Ibidem.

166. **As regards children, GRETA considers that the Irish authorities should set up a specific identification mechanism which takes into account the special circumstances and needs of child victims of trafficking, involves child specialists and ensures that the best interests of the child are the primary consideration.**

167. **GRETA welcomes the attention paid to inspections of private homes and encourages the Irish authorities to continue using such inspections as a tool for preventing and detecting human trafficking cases, alongside inspections by NERA in other sectors at risk (e.g. service sector, construction, entertainment, care homes, agriculture).**

168. **GRETA invites the Irish authorities to further develop multi-agency training on the identification of victims and to ensure that there is a regular exchange of information.**

169. **Further, GRETA invites the Irish authorities to consider whether human trafficking identification might not be better placed under structures that do not deal with immigration control.**

b. Assistance to victims

170. 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.

171. As noted in paragraph 149, all potential victims of human trafficking who are notified to An Garda Síochána are informed of the services and supports available to them by the State, i.e. by the Reception and Integration Agency, the Health Service Executive and the Legal Aid Board. These bodies are also informed of the person's details. Each person can then decide which services to avail of depending on their individual circumstances. The roles of the different stakeholders in relation to support for victims of human trafficking is set out in the Statement of Roles and Responsibilities for State (see paragraph 146).

172. The following agencies cover the costs of the different types of assistance:

- Reception and Integration Agency: housing, prior to and during the 60-day recovery and reflection period for victims who are in the asylum process, and for EEA nationals who require accommodation;
- Legal Aid Board: legal services;
- An Garda Síochána: crime prevention advice and witness protection;
- Health Service Executive: medical care and accommodation for Irish nationals;
- the costs of interpretation and translation are borne by the agency requiring the service. Appropriate translation and interpretation arrangements are available in both the Health Service Executive and An Garda Síochána.

173. There are no dedicated shelters operated by the Irish State for the accommodation of suspected human trafficking cases. Such persons are provided with full board accommodation and ancillary services through the Reception and Integration Agency (RIA) of the Department of Justice and Equality. The primary function of RIA is to provide appropriate accommodation and support to asylum seekers while their application for asylum is being processed. RIA also provides accommodation to those potential and suspected victims of trafficking (both non-EEA and EEA nationals) who require accommodation, on the basis of a direct referral by An Garda Síochána. In the case of non-EEA nationals, such persons are placed in one of RIA's accommodation centres prior to and during the identification process to determine if there are reasonable grounds to believe that the person may be a victim of human trafficking and during any subsequent 60-day recovery and reflection period. The range of services provided by RIA are the same as those provided to newly arrived asylum seekers, i.e. direct provision accommodation in a reception centre and voluntary access to medical screening, which is managed by the Health Service Executive. Potential and suspected victims who are in the asylum process remain in RIA accommodation while a determination is being made in relation to their claim for asylum and associated processes (e.g. subsidiary protection or application for leave to remain). As noted in paragraph 39, RIA currently operates 34 direct provision accommodation centres across Ireland with a capacity of around 4 700. The running of the centres has been tendered to companies.

174. According to information provided by the Irish authorities, on 10 February 2012, there were 61 suspected THB cases which had been referred to RIA accommodation centres (58 women and three men). There were also 43 children and one partner accommodated in the centres associated with these persons (family members). The 61 suspected THB cases were accommodated across 20 RIA accommodation centres. This accommodation spread arises for a number of reasons. First, the majority of suspected THB cases present initially as asylum applicants. Asylum applicants are dispersed across the RIA accommodation portfolio after a two-week reception period in Dublin. If a trafficking claim is made in such cases, this can often present after the person has already been dispersed by RIA. In most cases, the person is left in the accommodation to which they have been dispersed. However, they are relocated if RIA is requested to do so by the GNIB or the HSE social work team. Second, some suspected THB cases present outside of Dublin and would generally be referred to the nearest RIA accommodation centre at the request of GNIB. In addition, some suspected THB cases are moved to other accommodation centres at the specific request of GNIB or the HSE social work team.

175. The GRETA delegation visited the Baleskin reception centre in North Dublin, which is the largest RIA accommodation facility, with a capacity of 369 beds. This centre for asylum seekers is also the primary centre for the placement of suspected human trafficking cases and was accommodating 10 victims of trafficking at the time of the visit (including one man from a EU country). GRETA is concerned that the Baleskin reception centre, not being a specialised facility for victims of trafficking, is not an appropriate environment for such victims on a number of accounts: mixing of men and women, which can expose vulnerable women to further grooming and exploitation; lack of privacy, victims sharing bedrooms with up to three other persons; difficulty to apply a personalised approach as staff may not be aware of who the victims of trafficking are; and possibility for traffickers to access victims. On a positive note, the centre offers a wide range of services and classes (English, safety awareness, art, positive parenting, etc.). Although the centre includes an on-site medical facility, the doctors and psychologists working at this facility are not specifically informed of who the victims of trafficking are.

176. A number of studies have pointed out that the RIA direct provision centres are inadequate for the recovery of deeply traumatised persons because of the lack of privacy, the lack of choice of food, and the considerable length of time suspected victims of trafficking have to spend there. A report prepared by the Free Legal Advice Centres in 2009 highlights serious shortcomings in the system, stemming from the fact that the care for residents has been contracted out to private operators and the quality of care varies largely across the board.⁵⁴ In another report produced by AkidWa (African and migrant women network) in 2010 the authors conclude that the direct provision system is inadequate for catering to women who have been subjected to rape, sexual exploitation and other types of violence because of its lack of gender sensitivity.⁵⁵ Not all RIA hostels are run to the same standard, with some reportedly being in bad physical condition.⁵⁶ The Irish Human Rights Commission has pointed out that RIA hostels are known to the public and therefore victims of trafficking staying in them can be easily traced by former exploiters, who can then monitor their movements to and from the hostels.⁵⁷ Further, specialised NGOs have criticised the RIA's dispersal policy which can result in re-locating victims to any part of the country and removing them from an established support network. Due to the lengthy asylum process, victims of trafficking could remain accommodated sometimes for three or more years in RIA centres (more recently, the asylum process has been reduced generally to less than six months). Experience also shows that traffickers have used the asylum system for accommodation, while they simultaneously traffick victims, leading to the increased risk of targeting for re-trafficking.

177. The Irish authorities have informed GRETA that RIA is engaged in a working group involving, *inter alia*, the NGOs Irish Refugee Council and AkidWa with a view to creating an enhanced policy on preventing domestic and sexual violence in RIA accommodation centres. This working group is also exploring the possibility of creating a female only centre among the RIA portfolio. A State-owned centre currently accommodating men will be closed temporarily for refurbishment and the intention is to re-open it as a female only centre on a pilot basis.

178. Paragraph 4 of the Administrative Immigration Arrangements states that "an EEA national who has been identified as a suspected victim of human trafficking will be treated no less favourably than a person from outside these area. In this regard, certain administrative arrangements may be put in place from time to time which will apply to persons from the EEA." However, GRETA was informed that EEA nationals who are victims of human trafficking experience significant difficulties linked to social welfare and other entitlements which are conditional on habitual residency in Ireland. Due to a large majority of them not satisfying the habitual residency condition, they are precluded from accessing some vital services offered for example in women's shelters, which include counselling, access to a social worker, and a safe, private and confidential place to stay. Therefore their options provided by the State are limited to RIA direct provision hostels or voluntary repatriation. Limited accommodation to EEA victims of sex trafficking is provided by some NGOs.

179. Irish nationals who are potential or suspected victims of trafficking are referred to appropriate mainstream social services if required, e.g. services for accommodation of homeless people or crisis centres for victims of domestic violence. According to the Irish authorities, all of the other services for victims of trafficking are available to Irish nationals on the same basis as for non-Irish nationals.

⁵⁴ Free Legal Advice Centres, *One Size Doesn't Fit All: A Legal Analysis of the Direct Provision and Dispersal System in Ireland, 10 Years on*, 2009.

⁵⁵ AkidWa, *Am Only Saying It Now: Experiences of Women Seeking Asylum in Ireland*, 2010.

⁵⁶ Odette K. Reidy, *The Role of the Irish State in Dealing with Human Trafficking: What are the Constraints of Current Practices of the Main State Organisations in Tackling Human Trafficking and Protecting its Victims in Ireland?*, MA thesis, Development Studies Centre, Holy Ghost College, 2011.

⁵⁷ National Human Rights Institution Submission to the UN Committee Against Torture on the Examination of Ireland's First National Report, 1 April 2011, p.66.

180. As noted in paragraph 37, the Health Service Executive (HSE) has a dedicated team providing care planning for victims of human trafficking. The HSE offer services to victims of trafficking in human beings who have been notified to them by the HTICU or other member of An Garda Síochána. Care plans cover such areas as general medical/sexual health, mental and psychological health, relationship and family, accommodation, education, training and employment, financial management, social and spiritual needs, legal advice and immigration, and criminal investigation. The aim of the services provided is to enable the person concerned to gain independence thus empowering him/her to make decisions in a safe and supportive environment whilst guiding him/her through all the stages of the recovery process.

181. The Asylum Seekers and New Communities Unit (ASNCU) of the Department of Social Protection manages the transition of immigrants into the community. The ASNCU has the responsibility of liaising with a Community Welfare Officer to assist suspected victims of trafficking in accessing State services such as those provided by FÁS (the state training agency) and the Vocational Educational Committees. The ASNCU also assist suspected victims of trafficking who have been granted temporary residence permission in the transition from direct provision accommodation, as provided by RIA, to accessing the mainstream services as provided by the Department of Social Protection, including Supplementary Welfare Allowance and rent allowances. However, there is a statutory prohibition in Section 9 (4) of the Refugee Act 1996 preventing asylum seekers from working and persons who have applied for asylum remain in RIA direct provision centres until there has been a resolution of their case.

182. As regards safety and protection needs, arrangements are in place whereby a Crime Prevention Officer of An Garda Síochána assesses any security risk for a potential or suspected victim of trafficking and advises them on appropriate precautions.

183. The Victims Charter and Guide to the Criminal Justice System,⁵⁸ which is available in a number of languages (English, Irish, Lithuanian, Polish, French, Chinese, Spanish and Latvian), sets out the procedures, rights and entitlements to services for victims of crime in Ireland. It was published in June 2010 and is given to all potential/suspected victims by Gardaí officers performing identification. The Guide is available through Citizen Information Centres, Free Legal Advice Centres and RIA accommodation. Further, as noted in paragraph 150, the Legal Aid Board has issued a leaflet and provides information on its website on the legal advice and aid for victims of human trafficking.

184. According to the Irish authorities, there was only one recorded instance of an alleged victim of trafficking refusing to avail of the services offered to them. In regard to the other cases in which alleged victims of human trafficking did not avail of the services offered to them, there were a variety of reasons for this. In some instances, persons decided to return to their home country and did not need to access services in Ireland, while in other cases persons chose to access services privately.

185. There are also NGOs that provide human trafficking victims with practical and emotional/psychological support. They can refer them to other medical services and, in some instances, provide legal advice and support. As noted in paragraph 42, in 2012 the AHTU of the Department of Justice and Equality provided 195 000 euros to Ruhama to assist victims of sexual exploitation and 5 000 euros to the Migrant Rights Centre of Ireland to assist victims of labour. Further, the Health Service Executive provided funding of 130 000 euros to Ruhama in 2011. The funding, however, is not used to provide accommodation to victims of trafficking.

⁵⁸

The Charter is available on: <http://www.victimsofcrimeoffice.ie/en/vco/Pages/Victims%20Charter>

186. The Health Service Executive (HSE) is responsible for the protection and welfare of children within Ireland under the Child Care Act 1991 and the Children First Guidelines. According to the Statement of Roles and Responsibilities, the HSE has responsibility to make all necessary provisions for any unaccompanied children identified as potential or suspected victims of trafficking. The services provided by the HSE include initial counselling and debriefing provided by an experienced psychologist, an advocacy/support service to assist them in dealing with other services, and full medical screening with referral to more specialist medical services, if required. A multidisciplinary assessment of the child's needs is conducted over time. This assessment typically involves input from social workers, psychologists and medical professionals and is adapted to the child's individual experience and capacity. The input of other organisations is also included, where relevant. A care plan is generated on the basis of this assessment and incorporates all the services required to meet the child's needs, including the most appropriate placement recommended. A social worker is allocated to oversee and implement individual care plans. A range of placement options is made available and the protection level and care required is taken into account when deciding on placement options. All children under the age of 18 years in Ireland are entitled to attend primary and post primary schools, regardless of their immigration status.

187. GRETA's attention has been drawn to differences in the degree of protection provided for under different provision of the Child Care Act 1991 (as amended). Typically, the Health Service Executive utilises Section 4 (voluntary care) or Section 5 (homeless) of this Act in the case of unaccompanied minors. Unaccompanied minors taken into care under Section 5 are not afforded the same services as those under Section 4. The Health Services Executive has recently made a commitment to ensure that children under the age of 14 are not taken into care under Section 5 and NGOs have pointed out that this approach should in particular be applied to child victims of trafficking. While unaccompanied minors are treated as equals to national children in need of protection under Irish law, there is a greater need for access to specific services that can support them to overcome the trauma they have experienced. In particular, there must be greater training and awareness within child protection structures of the specific needs of child victims of trafficking.

188. GRETA welcomes the care plans drawn up by the Health Service Executive, the provision of medical care and access to psychologists, the availability of legal aid, and the issuing of a range of information materials for victims of human trafficking. However, GRETA notes that there is no clear statutory basis on which suspected victims of trafficking can invoke protection and assistance. GRETA is concerned that the practice not to assign the formal status of a victim of trafficking to Irish and EEA nationals may result in depriving them from access to specialised assistance. GRETA stresses that international best practice suggests that persons who have experienced trafficking for sexual exploitation should be accommodated in specialised shelters, which would better suit their needs than mixed-gender asylum centres. In general, it would be preferable if all victims, regardless of their nationality, were housed within a similar type setting, which is separate from the immigration system but rather responds to the type of abuse that they have sustained.

189. GRETA urges the Irish authorities to review the policy of accommodating suspected victims of trafficking in accommodation centres for asylum seekers and to consider setting up specialised shelters for victims of THB, with the involvement of NGOs as support providers. In the meantime, the authorities should ensure that the services available are adapted to the specific needs of trafficking victims and that minimum standards are guaranteed across the country when victims of trafficking are accommodated in structures not specifically designed for them. Particular care should be taken to ensure the victim care plans, which set out specific medical, psychological and social needs and risk assessment, are implemented in order to minimise further trauma and re-trafficking.

190. GRETA also urges the Irish authorities to enact statutory rights to assistance and protection for possible victims of trafficking, as specified in Articles 10 and 12 of the Convention, regardless of the victim's nationality or immigration status.

191. **Further, GRETA invites the authorities to continue providing regular specialised training to all professionals responsible for the provision of assistance and protection measures to victims of trafficking.**

c. Recovery and reflection period

192. As victims of THB 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.

193. Section 5 of the Administrative Immigration Arrangements for the Protection of Victims of Human Trafficking states that a person who has been identified, by a member of An Garda Síochána not below the rank of Superintendent in the Garda National Immigration Bureau, as a suspected victim of human trafficking may be granted a permission to remain lawfully in the State for a period of 60 days – a recovery and reflection period – if he/she has no other valid permission to be in the State. The purpose of this period is to allow the person time to recover from the alleged trafficking and to escape the influence of the alleged perpetrators so that he/she can take an informed decision on whether they wish to co-operate with any investigation or prosecution arising in relation to the alleged trafficking.

194. Further, the Administrative Immigration Arrangements provide that the Minister for Justice and Equality may grant a period greater than 60 days recovery and reflection for alleged victims who are under the age of 18 years, having regard to the arrangements in place for the care and welfare of the child.

195. Paragraph 8 of the Administrative Immigration Arrangements states that a recovery and reflection period may be terminated in circumstance where the Minister for Justice and Equality is satisfied that: a) the person has actively, voluntarily and on his or her own initiative renewed contact with the alleged people carrying out the trafficking; b) it is in the interest of national security or public policy to do so; or c) victim status is being falsely claimed.

196. GRETA welcomes the provision in Ireland of a recovery and reflection period longer than the minimum of 30 days envisaged in the Convention and the more flexible arrangements that exist in the case of child victims. However, as already noted, the Administrative Immigration Arrangements apply where a foreign national is identified as a suspected victim of trafficking and the Minister for Justice and Equality is required to consider that person's immigration status. As a result, the recovery and reflection period is applied very rarely: rather than being an entitlement as provided for under the Convention, it is used as a form of regularising a person's stay in the country. As the majority of victims of trafficking are either channelled into the asylum system and become asylum seekers, or are EEA nationals, the authorities do not see the need for a recovery and reflection period which, according to them, is only required by those who have no other permission to be in the country. In fact, out of the 78 suspected victims of trafficking in 2010, only five were granted such a period, and only one out of 57 suspected victims in 2011. There were no recovery and reflection periods granted in 2012 as none of the identified victims required a permission to be in Ireland. GRETA is concerned that this approach has left the overwhelming majority of suspected victims unable to access the recovery and reflection period and the full protection/assistance measures under the NRM.

197. NGOs have drawn GRETA's attention to unclear and inconsistent application of the recovery and reflection period. As the granting of this period depends on suspected victims being identified by the Gardaí, some victims have reportedly had to provide full witness statements prior to any consideration in relation to reasonable grounds. For instance, in 66% of the cases dealt with by one particular NGO, a full witness statement was required from suspected victims before they were granted a recovery and reflection period. Such a practice results in the purpose of the recovery and reflection period as defined in the Convention not being served. Only in a minority of cases (30%) witness statements were taken after the victims had come through the reflection and recovery period and were granted temporary permission to remain. As such the victims were in a stronger position to assist the Gardaí in the investigations and this approach reflected a good practice. The Irish authorities have affirmed that the recovery and reflection period is not dependant on the victim providing a witness statement.

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

d. Residence permits

199. 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.

200. Section 12 of the Administrative Immigration Arrangements states that in circumstances where the Minister for Justice and Law Reform is satisfied that the person has severed all contacts with the alleged perpetrators of the trafficking and it is necessary for the purpose of allowing the suspected victim to continue to assist An Garda Síochána or other relevant authorities in relation to an investigation or prosecution arising in relation to the trafficking, the Minister will grant to the person concerned a temporary residence permission for a period of six months. This permission is renewable, in circumstances where the Minister is satisfied that the person has not renewed contact with the alleged perpetrators of the trafficking, and it is necessary for the purpose of allowing the suspected victim to continue to assist the Garda Síochána or other relevant authorities in relation to an investigation or prosecution arising as a result of the trafficking. The Irish Naturalisation and Immigration Service issues residence permits on the basis of recommendation from the Garda National Immigration Bureau. GRETA was informed that victims from non-EU countries are under certain conditions eligible to remain in Ireland for up to three years under a temporary residence permit.

201. Under paragraph 14 of the Administrative Immigration Arrangements, the Minister may cancel a temporary residence permission when: a) the person concerned has actively, voluntarily and on their own initiative renewed contact with the alleged people carrying out the trafficking, b) the person no longer wishes to help the Garda Síochána or other authorities in the investigation or prosecution of the trafficking, c) the allegation of trafficking is fraudulent or has no foundation, d) any investigation or prosecution coming from the trafficking is finished, or e) the Minister thinks that it is in the interest of national security or public policy to do so.

202. In March 2011 a number of changes were made to the Administrative Immigration Arrangements to reflect the provisions of the draft Immigration, Residence and Protection Bill 2010. The changes include, *inter alia*, a procedure to allow a person to make an application to change to a longer term permission to remain in Ireland after three years of temporary residency permissions or when the investigation/prosecution is complete (whichever is the shorter). Further, provision is made for those victims of human trafficking who have been refused asylum to allow them to have the fact that they have been identified as a suspected victim to be taken into account in any consideration as to whether they may remain in the country under various immigration permissions. In such cases, temporary residence permission under the Administrative Immigration Arrangements will automatically be issued pending consideration of any other forms of immigration permission of which the person may wish to avail.

203. In the case of children, pursuant to paragraph 15 of the Administrative Immigration Arrangements, a temporary residence permission is granted having regard to the arrangement in place for the care and welfare of the child.

204. There is also provision under Irish law for issuing residence permits on humanitarian grounds, which is not specific to victims of trafficking. On the basis of Section 3 of the Immigration Act 1999, the Minister for Justice and Equality has discretion in the issuing of residence permits based on an assessment of the merits of individual cases and taking into account elements such as the age of the person, his/her family and domestic circumstances, humanitarian considerations, any representations made by or on behalf of the person, etc. According to information provided by the Irish authorities, there have been some seven cases of trafficking victims who were given leave to remain on humanitarian grounds. However, the Irish Human Rights Commission has considered that permission to remain should also be allowed for humanitarian reasons having regard for the personal situation of the victim, in accordance with Article 14 of the Convention.⁵⁹ A similar position was expressed by NGOs met during the evaluation visit, who stressed the need for extending the granting of residence permits to allow for humanitarian considerations to be taken into account.

205. According to information provided by the Irish authorities, the number of human trafficking victims issued with a residence permit for the purpose of their co-operation with the competent authorities was 11 in 2009 (including one child), seven in 2010 (including one child) and one in 2011. Three temporary residence permissions were issued in 2012, in addition to 32 renewals of temporary residence permissions which took place in the same year. GRETA concludes that temporary residence permissions are granted in rare cases.

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

e. Compensation and legal redress

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

⁵⁹ National Human Rights Institution Submission to the UN Committee Against Torture on the Examination of Ireland's First National Report, 1 April 2011, p.65

208. There are a number of avenues for obtaining compensation available to victims of crime in Ireland. Pursuant to Section 6 of the Criminal Justice Act 1993, on conviction of a person for an offence the court may order the offender to pay compensation to the injured party. Such compensation is paid in respect of any personal injury or loss resulting from the offence, or any other offence taken into consideration by the court in determining the sentence, to any person who has suffered such injury or loss. When calculating the amount of compensation to be paid consideration is given to the means of the perpetrator and compensation should not be more than what would be awarded in a civil action. Compensation payments are processed by the relevant court office which forwards the compensation order to the relevant Garda District Office for payment to the injured party.

209. Suspected victims of trafficking may also take a civil action to obtain damages. These can be taken under a variety of legislative or common law rules which may relate to an employment situation or personal injuries, e.g. sexual assault, false imprisonment, kidnapping and other offences. The amount of compensation is dependent on the court in which the case is heard. Thus the District Court can make awards up to 6 348.69 euros in damages, the Circuit Court can make awards up to 38 092 euros in damages, and the High Court has power to award unlimited damages.

210. Persons who have been trafficked for the purposes of labour exploitation can seek legal redress and compensation through a number of State bodies which deal specifically with work related rights and entitlements. These include the Employment Appeals Tribunal (EAT), the Labour Relations Commission (LRC), the Labour Court and the Equality Tribunal. There are no fees charged for claims taken to the aforementioned employment rights bodies nor is it necessary to be legally represented at hearings.

211. While there is no dedicated compensation fund for victims of human trafficking in Ireland, they can be granted compensation from the State through the Criminal Injuries Compensation Tribunal which administers a scheme called the Scheme of Compensation for Personal Injuries Criminally Inflicted. This scheme is funded by the Department of Justice and Equality. No legal representation is necessary when applying for compensation and normally applicants do not need to come before the tribunal in person. The scheme pays compensation for expenses and losses (out of pocket expenses and bills, e.g. for medical treatment) suffered as a direct result of a violent crime or while assisting or trying to assist in preventing a crime or saving a life. The crime has to be committed on Irish territory (land, ship or plane). There is a time limit of three months between the crime and making a claim to the tribunal. However, this time limit may be extended if the victim can provide a reasonable explanation for the delay. In order to progress the application for compensation, the crime has to be reported to An Garda Síochána and the victim should be willing to co-operate in the investigation. The amount of compensation paid may vary for a number of reasons, including the amount of social welfare or salary received while on sick leave and the amount of compensation paid on behalf of the assailant. There is no upper limit on the amount of compensation. The type and extent of injury the victim receives is also important in determining the amount of compensation awarded to the victim. No compensation is paid if the loss is a very small amount or if the claimant and the author of the crime were living together as part of the same household when the injury happened. Further, no compensation is paid for the pain and suffering experienced by the victim.

212. As noted previously, the Legal Aid Board is responsible for providing free legal advice to victims or suspected victims of trafficking, from the initial point of contact with An Garda Síochána, in relation to their immigration status, asylum claims, recovery and reflection period, temporary residence, redress, compensation, criminal proceedings and voluntary return. There is no means test involved for potential and suspected victims of trafficking prior to accessing the available legal services, nor are victims required to make a financial contribution. Further, GRETA understands that the Civil Law (Miscellaneous Provisions) Act 2011 amending the Civil Legal Aid Act 2005 provides for access to legal advice in criminal matters to suspected victims of human trafficking throughout the criminal justice process, including for the purpose of obtaining compensation.

213. GRETA was informed that there had been no cases of compensation from offenders awarded to victims of trafficking in criminal trials. Pursuant to Irish law, it is up to the judge to decide the appropriate punishment for the offender, victims themselves not being entitled to ask for compensation during criminal proceedings, and compensation orders are not very common in Ireland. Further, GRETA understands that there have been no applications from trafficking victims to the Criminal Injuries Compensation Tribunal (which considers some 300 applications per year).

214. Despite the existence of legal possibilities and the availability of legal advice and information, GRETA is concerned that victims of human trafficking in Ireland do not have effective access to compensation. **GRETA urges the Irish authorities to take measures to ensure that avenues for compensation are easily accessible to trafficked persons, and in particular to:**

- **encourage prosecutors to request compensation orders in all relevant cases;**
 - **make the State compensation scheme effectively accessible to victims of trafficking, which would require a review of the current conditions for eligibility.**
- f. Repatriation and return of victims

215. 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, and with due regard to the country's international protection obligations.

216. In Ireland, the Legal Aid Board and the Health Service Executive care worker can provide support and refer to the appropriate programme any person who is considering the option of returning home. Arrangements for repatriation and return are provided by the Irish Naturalisation and Immigration Service and IOM. Under the Voluntary Assisted Return and Reintegration Project (VARRP), IOM helps asylum seekers and particularly vulnerable irregular migrants from non-EEA countries who want to return permanently to their country of origin, but do not have the means and/or travel documents to do so. This project is funded by the Department of Justice and Equality. The VARRP is free of charge and confidential. IOM uses an appointment system for accepting applications. A standard English language application form is available on the IOM website. The form can be completed with a staff member or be filled in and returned by post/fax by the returnee themselves. A declaration form must be signed to ensure the return is voluntary. The IOM performs a security assessment and assists with obtaining appropriate travel documents if required. Reintegration is a component of the return programme, designed to help the resettlement in the country of origin, and the reintegration grant (600 euros) can be used in different ways, such as for education, professional training or setting up a small business.

217. The IOM office in Dublin returns some 350 people to their countries every year, 40% of whom are failed asylum seekers. In the period 2004-2012, a total of 12 suspected victims of trafficking were returned to their countries of origin with IOM assistance (of whom one in 2009, two in 2011 and two in 2012). Only one of the victims, returned in 2004, was a child. The countries concerned have included Bulgaria, Brazil, Nigeria, Republic of Moldova, Romania, Russian Federation, Slovak Republic and South Africa.

218. The Reception and Integration Agency (RIA) support the repatriation of nationals of the 10 EU Member States which joined the EU on 1 May 2004, plus Romania and Bulgaria, who fail the Habitual Residency Condition (HRC) attaching to social assistance payments. In order to avail of the repatriation service provided by RIA under this scheme, an assessment under the HRC must be completed by a Higher executive officer at the Community Welfare Service. The role of the RIA under this scheme is to provide transport to the person's home country. If necessary and subject to availability of accommodation, RIA also provide accommodation for one or two nights in one of its designated Dublin centres and subsequently provide transport to the persons' home country as soon as practicable.

219. According to information provided by the Irish authorities, the number of victims of THB who were repatriated from Ireland to another country was three in 2009, 15 in 2010 and one in 2011. Not all persons returning home use the services of IOM to do so, which accounts for the difference between these figures and the ones reported by IOM (see paragraph 217). Since 1 January 2012, AHTU has been collecting information from IOM on the number of victims of trafficking assisted under the voluntary assisted returns programme.

220. The Irish authorities have indicated that they are not aware of any Irish nationals who have been repatriated to Ireland as victims of human trafficking.

221. **GRETA considers that the Irish authorities should take steps to:**

- **ensure that the return of victims of trafficking is conducted with due regard for the rights, safety and dignity of the person and the status of legal proceedings; this implies protection from retaliation and re-trafficking;**
- **make efforts to develop co-operation with countries of origin of victims of trafficking in order to ensure proper risk assessment and safe return of victims, as well as their effective reintegration.**

222. **Further, GRETA invites the Irish authorities to review the appropriateness of the existing voluntary return arrangements for victims of trafficking as a specific category.**

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

a. Substantive criminal law

223. 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).

224. The Criminal Law (Human Trafficking) Act 2008 provides for penalties of up to life imprisonment and, at the discretion of the court, an unlimited fine for trafficking of human beings, for all forms of exploitation covered by the Act. There are no civil or administrative sanctions in the Irish legal system for criminal offences established in accordance with the Convention.

225. Reference should also be made to the Illegal Immigrants (Trafficking) Act 2000, which is used to prosecute offences which occurred before the enactment of the Criminal Law (Human Trafficking) Act 2008 Act. By virtue of the former Act, it is an offence for a person to organise or knowingly facilitate the entry into Ireland of another person whom that person knows or has reasonable cause to believe is an illegal immigrant. The penalty for this offence is a maximum of 10 years imprisonment or an unlimited fine, or both. Further, the Sexual Offences (Jurisdiction) Act 1996 allows for the prosecution of an Irish citizen or a person ordinarily resident in Ireland who commits an act in another country which is a sexual offence against a child in that other country and if done within Ireland, would constitute a sexual offence against a child in Ireland. The penalty is a maximum of five years imprisonment.

226. Aggravating circumstances for trafficking in human beings are not enshrined in the legislation. Trafficking of children is not considered an aggravating circumstance, but carries the same penalties of up to life imprisonment and unlimited fine. The determination of the penalty in any individual case is largely a matter for the trial judge, taking case law, including appealed cases, into account. This allows the courts to take all the circumstances of the offence and all the relevant aggravating and mitigating factors into account. The gravity of the offence, the facts surrounding the commission of the offence, the criminal record of the accused and the impact on the victim are among the critical factors taken into account before a sentence is imposed. The Director of Public Prosecutions can appeal against the sentence imposed if he/she believes it to be unduly lenient. In general, there are no statutory sentencing guidelines in Ireland. According to information provided by the Office of the Director of Public Prosecutions, no sentences for trafficking offences have to date been the subject of review on the basis of undue leniency ("unduly lenient" being a legal standard that requires a departure from a legal principle by the judge in setting a sentence). There are therefore no appeal cases from which to draw examples of treatment of aggravating circumstances under Article 24 of the Convention. Aggravating circumstances are considered when the trial judge is imposing the original sentence and no research has so far been conducted into specific cases.

227. Regarding corporate liability of legal persons for trafficking in human beings offences, Section 6 of the Criminal Law (Human Trafficking) Act 2008 states that: "where an offence under this Act is committed by a body corporate and is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in such capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence." The maximum penalty is life imprisonment and, at the discretion of the court, a fine.

228. As noted in paragraph 117, Section 5 of the Criminal Law (Human Trafficking) Act 2008 establishes as a criminal offence to solicit or importune a trafficking victim for the purposes of sexual exploitation with the knowledge that the person is a trafficking victim. The penalty on summary conviction is a fine not exceeding 5 000 euros or a term of imprisonment not exceeding 12 months, or both. In the event of a conviction on indictment, the penalty is an unlimited fine or a term of imprisonment not exceeding five years or both. As far as GRETA is aware, there have been not convictions under this provision.

229. The Criminal Justice (Theft and Fraud Offences) Act 2001 (Part 4) provides for a range of offences dealing with fraud and the use, control, etc. of false instruments. The definition of an 'instrument' for the purpose of these offences includes a passport or document which can be used instead of a passport and a document issued by or on behalf of a Minister of the Government permitting or authorising a person to enter or remain (either temporarily or permanently) in the State and to enter employment in the State. The Act creates arrestable offences in relation to the use and control/custody of false instruments under Sections 26 and 29. In addition, Section 20 of the Refugee Act 1996 provides for offences relating to the provision of false information and alteration of identity documents for purposes related to an application for refugee status.

230. Furthermore, the Passport Act 2008 (which applies to Irish passports only) creates a range of offences which seek to criminalise the unlawful holding, falsifying or destruction of passport travel documents. An offence under this Act is committed where a person: has, without lawful authority or reasonable excuse, in his or her possession or control a passport that is and that he or she knows or believes to be, a false passport; uses, or attempts to use, a passport that was not issued to him or her, knowing or believing that it was not issued to him or her, as evidence of identity or citizenship (in either case, whether or not in connection with travel abroad); uses, or attempts to use, a passport that is and that he or she knows or believes to be, a false passport as evidence of identity or citizenship (in either case, whether or not in connection with travel abroad); permits a passport that was issued to him or her, or a passport other than a passport that was issued to him or her that he or she has in his or her possession or control, to be falsely used by another person as evidence of that person's identity or citizenship (in either case, whether or not in connection with travel abroad) or is reckless regarding such use by another person of the passport; sells, or attempts to sell, a passport (whether or not a passport that was issued to him or her); wilfully damages or destroys a passport (whether or not a passport that was issued to him or her); and/or knowingly makes, or attempts to make, a passport that is false.

231. The Irish authorities have indicated that at immigration control the provisions of the Criminal Justice (Theft and Fraud Offences) Act 2001 and the Passport Act 2008 have been used as part of efforts to identify traffickers and victims of human trafficking that have been provided with false documentation by traffickers. Section 20 of the Refugee Act 1996 is primarily used where false information and altered identity documents are provided to the Office of the Refugee Applications Commissioner (ORAC). A number of suspected human trafficking cases have been referred by ORAC to the Garda National Immigration Bureau (GNIB) where false information was provided to ORAC.

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

232. 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.

233. There is no specific provision in Irish law on the non-punishment of victims of trafficking. The Office of the Director of Public Prosecutions (DPP) has issued guidelines for prosecutors, which were updated in 2010. It guides prosecutors in examining which factors are to be considered in assessing whether to commence or continue with a prosecution including a consideration as to whether the public interest is served by a prosecution of the suspect where there is information to suggest that the suspect is a victim of crime. In respect of suspects who may be victims of human trafficking, point 4.7 of the guidelines states: "Such a person may be suspected of a range of offences from breaches of immigration law to offences related to prostitution. In a case in which there is credible information that a suspect is also a crime victim, the prosecutor should consider whether the public interest is served by a prosecution of the suspect". The guidelines are available on the website of the DPP⁶⁰ and are also on the Garda portal. According to the Irish authorities, the fact that dedicated personnel within the DPP are assigned to cases involving human trafficking allows for specialised knowledge of the issues involved in these types of cases to be built up (see paragraph 237).

⁶⁰

[http://www.dppireland.ie/filestore/documents/Guidelines_for_Prosecutors_\(Revised_Oct07\)_ENGLISH1.pdf](http://www.dppireland.ie/filestore/documents/Guidelines_for_Prosecutors_(Revised_Oct07)_ENGLISH1.pdf)

234. GRETA commends the guidelines that have been published for public prosecutors instructing them not to prosecute victims of trafficking where this is not in the public interest. However, GRETA notes that the guidelines do not specifically provide advice to prosecutors on the steps to be taken when prosecuting suspects who might be victims of trafficking. Further, GRETA understands that, in order to apply for immunity from prosecution, a legal representative for the victim has to prepare a letter to the DPP detailing all the articles of the law with respect to which immunity is required. NGOs have pointed out that, considering the lengthy identification process and the fact that legal aid to victims is limited to legal information and advice, there is a danger that unidentified victims could be prosecuted as a result of being trafficked. GRETA is therefore 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.

235. GRETA considers that the Irish authorities should take further steps 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 the guidelines for public prosecutors. Public prosecutors should be encouraged to be proactive in establishing if an accused is a potential victim of trafficking and to consider trafficking in human beings as a serious violation of human rights. While the identification procedure is ongoing, potential victims of trafficking should not be punished for immigration-related offences.

c. Investigation, prosecution and procedural law

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

237. By virtue of Article 30 of the Constitution of Ireland and the Prosecution of Offences Act 1974, all crimes and offences, other than those prosecuted in courts of summary jurisdiction, are brought in the name of the people and by the Director of Public Prosecutions (DPP), except for a very limited category of offences still prosecuted at the suit of the Attorney General. Dedicated personnel within the Office of the DPP are assigned to cases involving human trafficking (about one third of the 27 lawyers in DPP deal with decisions on such cases) which allows oversight of prosecution policy and aids consistency in decision making. The DPP is a fully independent service, both from the Government and the investigation services of An Garda Síochána. Following investigation and recommendation by the Gardaí, the DPP uses prosecutorial discretion to decide whether to prosecute. The DPP cannot commence prosecution unless there are reasonable prospects for conviction.

238. As noted in paragraph 35, the Human Trafficking Investigation and Co-ordination Unit (HTICU) of the Garda National Immigration Bureau manages and co-ordinates all investigations where there is an element of THB. The unit is staffed by a head, an inspector, two sergeants and 24 police officers. In addition, the Organised Crime Department can allocate staff to investigate THB cases when there are overlapping elopements. Further, the Garda National Immigration Bureau (GNIB), which performs immigration control, has set up the Piers Investigation Unit at Dublin Airport to carry out immediate investigations on issues such as false passports (see paragraph 131).

239. An Garda Síochána conduct on-going operations aimed at preventing and combating prostitution offences. This includes raids of premises being used as brothels and policing of other premises/environments with the potential to attract persons engaged in or facilitating the trafficking of human beings.

240. The use of special investigation techniques are regulated by law. GRETA was informed that as THB is considered a serious crime, all types of special techniques are available (e.g. interception, surveillance, intelligence by informant, financial investigation techniques).

241. The Criminal Assets Bureau (CAB), a statutory body set up in 1996, enjoys extensive powers to target criminal assets and ask the court to freeze them prior to conviction. The Bureau's statutory remit is to carry out investigations into the suspected proceeds of criminal conduct. CAB identifies assets of persons which derive, or are suspected to derive, directly or indirectly from criminal conduct and takes appropriate action to deprive or deny those persons of the assets and the proceeds of their criminal conduct. The legal basis for this action is the Proceeds of Crime Act 1996, as amended by the 2005 Act (which allows CAB to target assets from crimes committed abroad), and Social Welfare and Revenue legislation. CAB also works with international bodies such as the European Commission and Camden Assets Recovery Inter-agency Network (CARIN), an informal network of law enforcement agencies who share knowledge and information on how to trace assets in a member's country. All seized assets go to the central Exchequer. CAB was active in the previously mentioned Operation Abbey investigation (see paragraph 102) and worked closely with the Assets Recovery Agency in the UK in identifying and seizing assets belonging to the persons prosecuted. However, GRETA understands that there are problems related to the international recognition of civil forfeiture orders (seizure of assets from abroad).

242. In 2011, An Garda Síochána initiated 53 investigations relating to allegations of THB (of which 32 were ongoing investigations). A large investigation file was recently sent by GNIB to the Director of Public Prosecutions, involving 13 suspects and 11 potential trafficking victims, and a Garda officer has been suspended on suspicion of involvement in the exploitation of the victims. The Irish authorities have indicated that the officer in question is no longer a member of An Garda Síochána.

243. The GRETA delegation was informed during the evaluation visit of different investigations into suspected cases of human trafficking carried out in recent years by HTICU and GNIB, including in respect of trafficking for the purpose of committing social welfare benefits fraud (involving the UK) and concerning Latvian women arriving in Ireland to conclude "marriages of convenience" with non-EU nationals. As regards the latter, the Irish authorities have indicated that despite the fact that An Garda Síochána have undertaken comprehensive investigations in all cases, to date no evidence of human trafficking has been disclosed.⁶¹ The Irish authorities have referred to Operation Charity which was set up to deal with the phenomenon of "marriages of convenience", allegedly entered into for the purpose of allowing a non-EU national spouse to acquire EU treaty rights under Directive 2004/38/EC. GNIB in conjunction with the Registrar of Marriages continues to monitor trends regarding this phenomenon and maintains close liaison with the Latvian authorities through the Latvian Embassy in Dublin. The Irish authorities have affirmed their commitment to co-operate with the Latvian authorities to investigate any allegations of human trafficking. Further, the provisions of the draft Immigration, Residence and Protection Bill 2010 are being examined with a view to drafting amendments dealing with immigration related marriages of convenience and sham marriages.

⁶¹ The methods used by GNIB to prevent alleged "marriages of convenience" linked to the acquisition of EU treaty rights were the subject of a successful challenge in the High Court in the case of *Izmailovic & Anor -v- Commissioner of An Garda Síochána & Ors*, [2011] IEHC 32.

244. By the time of GRETA's evaluation visit, there had been only one conviction under the Criminal Law (Human Trafficking) Act 2008 (a Nigerian woman who had subjected a 16-year old girl to prostitution was sentenced to three years imprisonment). Three convictions obtained in 2011 were under the Child Trafficking and Pornography Act 1998 and the Criminal Law (Sexual Offences) Act 1993. There have been no convictions for THB for the purpose of labour exploitation. According to information provided by the Irish authorities in June 2013, there were eight convictions under the Criminal Law (Human Trafficking) Act 2008 in 2012, with a further three prosecutions under this Act currently before the courts. The number of prosecutions and convictions for THB is still very low and the length of criminal proceedings is also a matter of concern. The Irish authorities have contended that prosecutions are not in themselves a fair measure of the effectiveness of law enforcement. While in many cases An Garda Síochána will, due to the international nature of this issue, engage in investigations, sometimes of a comprehensive nature, the arresting, charging and convicting of suspects will take place in another jurisdiction (e.g. in cases such as the investigation referred to paragraph 102 involving the sentencing of three Romanian men for trafficking of Romanian nationals into Ireland for labour exploitation).

245. According to public prosecutors and Gardaí officers met during the evaluation visit, the limited number of convictions for THB is linked to the nature of the criminal justice system in Ireland. They referred to issues around the credibility of witnesses who change their evidence over time, difficulties in relation to the sufficiency of evidence which must be admissible, substantial and reliable, the length of the time it takes for a criminal case to reach the stage of court proceedings (e.g. two years), as well as evidential issues in relation to proving the age of a trafficked person. Offenders are prosecuted successfully for other offences (brothel keeping, living from the profits of prostitution, etc.) The Office of the DPP prosecutes in circumstances where there is a *prima facie* case, i.e. a body of evidence on which a jury properly instructed in the relevant law could conclude beyond a reasonable doubt that the accused was guilty, and where it is in the public interest to so prosecute. While the evidence may not support human trafficking offences, it may support other offences for which there is a *prima facie* case. Another fact to bear in mind is that the criminalisation of THB dates back to 2008 and there is a time lag.

246. NGOs supporting suspected victims of trafficking and researchers have pointed out to a lack of understanding of some victims' cultural and traditional beliefs, which has proven challenging to the successful investigation and conviction of THB offences.⁶² Victims have reportedly been hastened into interviews before they were mentally fit to engage in this process and the gathering of evidence from trafficking victims before they are referred to the social and health support services is perceived as doing more harm than good in their protection.⁶³

247. The Irish authorities have affirmed that the members of An Garda Síochána who are involved in the investigation of human trafficking offences are all experienced investigators with considerable knowledge of dealing with persons who are, in many instances, vulnerable. According to the authorities, An Garda Síochána places a significant emphasis on developing trust and understanding with each victim and victims are encouraged to have a friend, advocate or solicitor present at each meeting if they wish. Further, legal aid and assistance from the Legal Aid Board is offered to potential victims of trafficking from their first point of contact with An Garda Síochána. In addition, a representative from the Garda Racial and Intercultural Office contributes to all training courses that are run within An Garda Síochána in relation to human trafficking, and a short guide to cultural diversity and equality has been developed to raise awareness on the various traditions, religions, ethnic minorities and the importance of interculturalism in Irish society.

⁶² Odette K. Reidy, *The Role of the Irish State in Dealing with Human Trafficking: What are the Constraints of Current Practices of the Main State Organisations in Tackling Human Trafficking and Protecting its Victims in Ireland?*, MA thesis, Development Studies Centre, Holy Ghost College, p.74.

⁶³ *Ibid.*, p.81.

248. In Ireland, a victim may be called as a witness in a criminal case, but they are not party to the proceedings and are not usually legally represented. NGOs may also be called as witnesses and they have a role in supporting a victim during court proceedings. As noted in paragraph 212, the Civil Law (Miscellaneous Provisions) Act 2011 amended the Civil Legal Aid Act 2005 (which permits the Legal Aid Board to give advice in relation to civil matters) by allowing the Legal Aid Board to provide victims with legal advice in criminal matters and in particular all through the criminal justice process to ensure that the victim is protected and advised of his/her role as a witness.

249. **GRETA urges the Irish 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 Garda officials to detect cases of THB and carry out proactive investigations, including through co-operation with other relevant actors in the country and abroad;**
- **encouraging the Office of the Director of Public Prosecutions to further develop their specialism in THB with a view to successfully prosecuting more traffickers;**
- **continuing to improve the skills of investigators, prosecutors and judges about the seriousness of THB, the severe impact of exploitation on the victims and the need to respect their human rights.**

d. Protection of victims and witnesses

250. 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.

251. In Ireland, there are a number of protection measures in place designed to protect suspected victims and witnesses during the criminal justice process. These include legislative provisions and the crime prevention advice offered to all potential and suspected victims. Section 41 of the Criminal Justice Act 1999 creates offences which are aimed at protecting victims of crime, those who report crime, witnesses who give testimony concerning criminal offences and families of victims and witnesses from retaliation and intimidation. An Garda Síochána provides measures to protect people who fall into these categories. The risk or perceived risk is assessed and protection measures commensurate with the risk involved are put in place. According to the Irish authorities, the effectiveness of the legislative provisions, as they relate to trafficking cases, is monitored on an ongoing basis.

252. Section 10 of the Criminal Law (Human Trafficking) Act 2008 provides for exclusion of members of the public from court proceedings to protect witnesses and victims willing to testify. It gives the judge power to exclude persons from the court (other than officers of the court, persons directly concerned in the proceedings and such other persons as the judge may determine), during proceedings for trafficking related offences. This measure serves to limit publicity in cases where persons are alleged to have been trafficked in circumstances where publicity might place them and/or their families at risk. It is intended to protect trafficked persons, who can be very vulnerable and traumatised, from the traffickers and their criminal associates who may wish to harm the victims or prevent them from giving evidence. Similarly, Section 11 of the Act provides for a guarantee of anonymity of alleged victims of trafficking unless the judge fully or partially waives anonymity in the interests of justice. Failure to provide for anonymity could have serious consequences for an alleged victim, affecting social and psychological recovery, or even physical security. Consequently, any person who, contrary to a court direction, publishes or broadcasts any information likely to enable an alleged victim to be identified is liable upon conviction on indictment to a fine, or imprisonment for a term of up to 10 years, or both. Section 12 amends the Criminal Evidence Act 1992 to allow an alleged victim of trafficking to give evidence through a live television link, with the leave of the court in the case of adults, from either within the State or abroad.

253. In 2010 an advisory note was issued by the Press Ombudsman and the Department of Justice and Equality Press Office reminding the media that when covering court cases they should abide by the legislative provisions in relation to the protection of the identity of victims of trafficking.

254. Since 1997, the Garda Síochána has operated a Witness Protection Programme (WPP). The programme was introduced in response to attempts by criminal and other groups to prevent the normal functioning of the criminal justice system by systematically intimidating witnesses. Given the highly confidential nature of the programme specific details of the nature of its operation are not made available, but some of the protection measures provided by the Garda Síochána as part of the existing programme include: 24-hour armed protection, provision of a new identity, financial support and relocation, which may include relocation to another country. The WPP operates on a non-statutory basis. However, it is supported by complementary legislative provisions in Section 40 of the Criminal Justice Act 1999, which makes it an offence for any person, without lawful authority, to attempt to identify the location or any new identity of a witness who has been relocated under the WPP. This offence carries the penalty of a fine or imprisonment of up to five years. GRETA was informed that the WPP had not yet been applied in human trafficking cases.

255. Furthermore, the Irish authorities have referred to Section 10(1) of the Non-Fatal Offences against the Person Act 1997, pursuant to which a person who by any means, including by the use of telephone, harasses another by persistently following, watching, pestering, besetting or communicating with him or her shall be guilty of an offence. Section 10(3) of this Act provides that where a person is guilty of an offence under subsection (1), the court may, in addition to or as an alternative to any other penalty, order that the person shall not, for such period as the court may specify, communicate by any means with the other person or that the person shall not approach, within such distance as the court shall specify, the place of residence or employment of the other person.

256. Reference should also be made to the new Criminal Law (Human Trafficking) (Amendment) Bill 2013, which contains a provision to better facilitate children giving evidence in criminal prosecutions. It increases from 14 to 18 years the upper age threshold for out-of-court video recording of a complainant's evidence and makes provision for video recording the evidence of a child witness who is under the age of 18 years.

257. GRETA invites the Irish 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.

5. Concluding remarks

258. The Irish authorities have established a comprehensive institutional framework for combating trafficking in human beings and have devoted human and financial resources to facilitate the implementation of the anti-trafficking legislation and the National Action Plan. Trafficking in human beings is considered as a serious human rights violation and is the subject of political attention. The involvement of civil society is an important aspect of Ireland's response to human trafficking and the development of further partnerships among Governmental agencies, NGOs and other members of civil society is crucial for the human rights-based approach to anti-trafficking action.

259. While GRETA acknowledges the important steps taken by the Irish authorities so far, a number of challenges remain to be tackled through legislative, policy or practical measures in order to meet the requirements of the human rights-based approach outlined in paragraphs 43-51. It is necessary to put as soon as possible on a statutory footing the rights to assistance and protection of victims of trafficking, regardless of their nationality or immigration status. Efforts should also be strengthened to ensure that victims of trafficking have effective access to compensation and can take full advantage of the right to be granted a temporary residence permit, in particular when they are unable to co-operate with the authorities.

260. Furthermore, the Irish authorities must ensure that the identification of victims of trafficking and the assistance and protection related to such status are in practice dissociated from the conduct of police investigation and possible criminal proceedings. The National Referral Mechanism needs to be further developed to define and formalise the role of NGOs in the process of identification. The provision of a recovery and reflection period longer than the minimum of 30 days envisaged in the Convention is a welcome decision, but a broader use of this period will help possible victims to recover and be better prepared to assist the investigation.

261. While the availability of free legal advice and a range of information materials for victims are positive aspects of the Irish anti-trafficking system, the absence of specialised shelters for victims of trafficking has the potential to undermine the authorities' efforts in the field of protection of victims. It is therefore important to ensure that the accommodation and other services available are adapted to the specific needs of victims of trafficking.

262. GRETA welcomes the attention paid to labour inspections, including in the area of domestic work, which has the potential to prevent and detect human trafficking cases. At the same time, there have been no convictions for trafficking for the purpose of labour exploitation. GRETA draws attention to the need to strengthen action to combat trafficking for the purpose of labour exploitation and increase the number of cases prosecuted in this field.

263. GRETA praises the steps taken by the Irish authorities in respect of unaccompanied minors and to strengthen the child care system, and encourages them to pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking and ensuring that the best interests of the child are fully taken into account.

264. All professionals who may come into contact with victims of human trafficking, including law enforcement officials, prosecutors, judges, labour inspectors and social workers, 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.

265. GRETA invites the Irish authorities to keep it informed on a regular basis of developments in the implementation of the Convention and looks forward to continuing the co-operation for achieving the purposes of the Convention.

Appendix I: List of GRETA's proposals

Comprehensive approach and co-ordination

1. GRETA considers that the Irish authorities should take further steps to ensure that national action to combat THB is comprehensive, and in particular to:

- further involve NGOs and other members of civil society in the development and implementation of anti-trafficking policy, including evaluation of anti-trafficking efforts;
- strengthen action to combat THB for the purpose of labour exploitation, in particular in the sectors of domestic service, construction, entertainment, hotels and restaurants, care homes and agriculture;
- pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking and ensuring that the best interests of the child are fully taken into account.

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

Training of relevant professionals

3. GRETA invites the Irish authorities to continue improving the knowledge and sensitivity of relevant professionals about human trafficking and the rights of victims. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to proactively identify victims of trafficking, to assist and protect them, to facilitate compensation for victims, and to secure convictions of traffickers.

Data collection and research

4. GRETA invites the Irish authorities to continue to ensure that statistical data are collected from all the main players and recalls that the data collection should be accompanied by all the necessary measures to ensure respect for the rights of data subjects to personal data protection, including when NGOs working with victims of human trafficking are asked to provide information to feed into the national database.

5. GRETA invites the Irish authorities to continue conducting and supporting 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 Ireland include trafficking within the country, trafficking for the purpose of labour exploitation and trafficking in children.

International co-operation

6. GRETA commends the efforts made by the Irish authorities in the area of international co-operation and invites them to continue developing the aspect of international co-operation 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 trafficking victims.

Measures to raise awareness

7. GRETA considers that future actions in the area of awareness raising should be designed in the light of the assessment of previous measures and be focused on the needs identified. Particular attention should be paid to raising awareness of human trafficking for the purpose of labour exploitation and child trafficking. Awareness-raising campaigns should target among others foreign nationals coming to work in Ireland, employers and employers' associations, trade unions, as well as labour and tax inspectors and medical professionals.

Measures to discourage demand

8. GRETA considers that the Irish authorities should make more efforts to discourage demand for the services of trafficked persons for the purpose of labour exploitation, in partnership with the private sector and civil society. In this context, GRETA invites the Irish 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.

Economic, social and other empowerment measures for groups vulnerable to THB

9. GRETA considers that the Irish authorities should integrate the prevention of human trafficking in the policies for children of immigrant origin, asylum seekers and persons with protection status.

Border measures to prevent THB and measures to enable legal migration

10. GRETA invites the Irish authorities to keep under scrutiny the employment permit system to ensure that it does not facilitate the trafficking of migrant workers.

Identification of victims of trafficking in human beings

11. GRETA urges the Irish authorities to ensure that all victims of trafficking are properly identified and can benefit from the assistance and protection measures contained in the Convention, in particular by:

- promoting multi-agency involvement in victim identification by formalising the role and input of specialised NGOs and involving other relevant actors, such as labour inspectors, social workers and medical staff;
- amending the relevant regulations to allow asylum seekers, EEA nationals and Irish nationals to be formally identified as victims of trafficking;
- guaranteeing that in practice identification is dissociated from the suspected victim's co-operation in the investigation.

12. As regards children, GRETA considers that the Irish authorities should set up a specific identification mechanism which takes into account the special circumstances and needs of child victims of trafficking, involves child specialists and ensures that the best interests of the child are the primary consideration.

13. GRETA welcomes the attention paid to inspections of private homes and encourages the Irish authorities to continue using such inspections as a tool for preventing and detecting human trafficking cases, alongside inspections by NERA in other sectors at risk (e.g. service sector, construction, entertainment, care homes, agriculture).

14. GRETA invites the Irish authorities to further develop multi-agency training on the identification of victims and to ensure that there is a regular exchange of information.

15. Further, GRETA invites the Irish authorities to consider whether human trafficking identification might not be better placed under structures that do not deal with immigration control.

Assistance to victims

16. GRETA urges the Irish authorities to review the policy of accommodating suspected victims of trafficking in accommodation centres for asylum seekers and to consider setting up specialised shelters for victims of THB, with the involvement of NGOs as support providers. In the meantime, the authorities should ensure that the services available are adapted to the specific needs of trafficking victims and that minimum standards are guaranteed across the country when victims of trafficking are accommodated in structures not specifically designed for them. Particular care should be taken to ensure the victim care plans, which set out specific medical, psychological and social needs and risk assessment, are implemented in order to minimise further trauma and re-trafficking.

17. GRETA also urges the Irish authorities to enact statutory rights to assistance and protection for possible victims of trafficking, as specified in Articles 10 and 12 of the Convention, regardless of the victim's nationality or immigration status.

18. Further, GRETA invites the authorities to continue providing regular specialised training to all professionals responsible for the provision of assistance and protection measures to victims of trafficking.

Recovery and reflection period

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

Residence permits

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

Compensation and legal redress

21. GRETA urges the Irish authorities to take measures to ensure that avenues for compensation are easily accessible to trafficked persons, and in particular to:

- encourage prosecutors to request compensation orders in all relevant cases;
- make the State compensation scheme effectively accessible to victims of trafficking, which would require a review of the current conditions for eligibility.

Repatriation and return of victims

22. GRETA considers that the Irish authorities should take steps to:

- ensure that the return of victims of trafficking is conducted with due regard for the rights, safety and dignity of the person and the status of legal proceedings; this implies protection from retaliation and re-trafficking;
- make efforts to develop co-operation with countries of origin of victims of trafficking in order to ensure proper risk assessment and safe return of victims, as well as their effective reintegration.

23. Further, GRETA invites the Irish authorities to review the appropriateness of the existing voluntary return arrangements for victims of trafficking as a specific category.

Non-punishment of victims of trafficking in human beings

24. GRETA considers that the Irish authorities should take further steps 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 the guidelines for public prosecutors. Public prosecutors should be encouraged to be proactive in establishing if an accused is a potential victim of trafficking and to consider trafficking in human beings as a serious violation of human rights. While the identification procedure is ongoing, potential victims of trafficking should not be punished for immigration-related offences.

Investigation, prosecution and procedural law

25. GRETA urges the Irish 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 Garda officials to detect cases of THB and carry out proactive investigations, including through co-operation with other relevant actors in the country and abroad;
- encouraging the Office of the Director of Public Prosecutions to further develop their specialism in THB with a view to successfully prosecuting more traffickers;
- continuing to improve the skills of investigators, prosecutors and judges about the seriousness of THB, the severe impact of exploitation on the victims and the need to respect their human rights.

Protection of victims and witnesses

26. GRETA invites the Irish 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.

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

Public bodies

- Department of Justice and Equality
 - Anti-Human Trafficking Unit (AHTU)
 - Criminal Law Reform Division
 - Irish Naturalisation and Immigration Service (INIS)
 - Reception and Integration Agency (RIA)
 - Office of the Refugee Applications Commissioner (ORAC)
 - Victims of Crime Office
 - Criminal Injuries Compensation Tribunal
- An Garda Síochána
 - Human Trafficking Investigation and Co-ordination Unit (HTICU)
 - Criminal Assets Bureau
- Department of Foreign Affairs and Trade
 - Irish Aid
- Department of Children and Youth Affairs
 - National Education Welfare Board
- Department of Education and Skills
- Department of Social Protection
 - Asylum Seekers and New Communities Unit
- Health Service Executive
- Office of the Director of Public Prosecutions
- National Employment Rights Authority (NERA)
- FÁS (Irish National Training and Employment Authority)
- Legal Aid Board
- Irish Human Rights Commission
- Joint Oireachtas Committee on Justice, Defence and Equality

Organisations Intergovernmental

- International Organisation for Migration (IOM) Office in Ireland
- United Nations High Commissioner for Refugees (UNHCR) Office in Ireland

NGOs and other non-governmental actors

- AkiDwA
- APT Ireland
- Association of Secondary Teachers Ireland (ASTI), member of the Irish Congress of Trade Unions
- Children's Rights Alliance
- Doras Luimni
- Free Legal Advice Centre
- Immigrant Council of Ireland
- Migrants Rights Centre Ireland
- Pavee Point
- Ruhama
- Sonas Housing

Government's comments

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

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

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the Irish authorities on 25 July 2013 and invited them to submit any final comments. The Irish authorities' comments, submitted on 10 September 2013, are reproduced hereafter.

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Ms Petya Nestorova
Executive Secretary
Group of Experts on Action against Trafficking in Human Beings (GRETA)

**Final Report concerning the Implementation by Ireland of the Council of Europe Convention on
Action against Trafficking in Human Beings**

Dear Ms Nestorova,

The Irish authorities wish to acknowledge receipt of the final report drawn up by the Group of Experts on Action against Trafficking in Human Beings (GRETA) on the implementation by Ireland of the Council of Europe Convention on Action against Trafficking in Human Beings. Ireland wishes to thank, in particular, the delegation of the Group of Experts on Action against Trafficking in Human Beings (GRETA) composed of Ms Nell Rasmussen, Mr Jan van Dijk and Ms Petya Nestorova who carried out the country visit.

This Report follows a very constructive dialogue process between GRETA, the Irish authorities and representatives of civil society in Ireland. Ireland welcomes the GRETA monitoring process as an independent overview of our progress to date and as a most useful learning experience. The Group of Experts Report is timely given that Ireland is in the process of drafting a second National Action Plan in relation to Human Trafficking and the contents of the Report will be carefully considered as part of this process.

Ireland's efforts to combat human trafficking have developed rapidly over the past number of years, as a result not only of our international commitments but also because we are determined to identify and implement the most effective means to address this most complex and heinous human rights abuse. The Irish authorities are pleased to note that GRETA commends the important steps taken by Ireland to develop the legal and institutional framework for action against human trafficking, with the adoption of comprehensive anti-trafficking legislation, a comprehensive National Action Plan and the setting up of co-ordinating structures and specialised units.

The members of the Irish Government High Level Group on Anti-Human Trafficking have considered the Report and some comments and clarifications in relation to Report are appended.

Ireland again welcomes the opportunity this Report offers to consider further improvements in our anti-trafficking policies. We look forward to continued cooperation with GRETA and will endeavour to keep them informed of developments in relation to Ireland's implementation of the Council of Europe Convention.

Yours sincerely,

David Gilbride
Anti-Human Trafficking Unit
Department of Justice & Equality

10 September 2013

Ireland's response to the Report concerning the implementation of the Council of Europe Convention on Action against trafficking in human beings

The Irish authorities are pleased to note that GRETA commends the important steps taken by Ireland to develop the legal and institutional framework for action against human trafficking, with the adoption of comprehensive anti-trafficking legislation, a comprehensive National Action Plan and the setting up of co-ordinating structures and specialised units.

While much has been done in Ireland in a relatively short period of time in the area of preventing and combating human trafficking, Ireland accepts that there will always be more that can be achieved and it wishes to report that the Irish Government continues to be committed to tackling the issue of human trafficking, supporting victims and pursuing traffickers. In this regard the Irish authorities would like to highlight a number of areas, some of which are also mentioned in the report.

The Report of the Group of Experts is a welcome addition to our learning in this area and Ireland remains committed to maintaining a constructive dialogue with GRETA to ensure that our response to the issue of human trafficking remains robust.

Comprehensive Approach and co-ordination

1. GRETA considers that the Irish authorities should take further steps to ensure that national action to combat THB is comprehensive, and in particular to:

- further involve NGOs and other members of civil society in the development and implementation of anti-trafficking policy, including evaluation of anti-trafficking efforts;
- strengthen action to combat THB for the purpose of labour exploitation, in particular in the sectors of domestic service, construction, entertainment, hotels and restaurants, care homes and agriculture;
- pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking and ensuring that the best interests of the child are fully taken into account.

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

The Irish authorities acknowledge that the NGO contribution to the development of the State's response to this issue has been significant as is evidenced by the work which is undertaken in the Roundtable Forum and the five working groups which examine issues at a real and practical level. The Irish authorities note GRETA's view that further steps are necessary to involve NGOs in the planning and implementation of national policy. The new National Action Plan will be developed in consultation between the State, NGO and International stakeholders and in this context it is intended to examine ways in which civil society can continue to effectively contribute to the development and implementation of policy in relation to human trafficking.

With regard to the recommendation to strengthen action to combat trafficking for labour exploitation, the Irish authorities would highlight that the Criminal Law (Human Trafficking) (Amendment) Act 2013 was enacted on 9 July 2013 and extends the definition of human trafficking to encompass forced begging and criminal activities. While the Criminal Law (Human Trafficking) Act, 2008 provides that trafficking for labour exploitation includes forced labour, the 2013 Amendment Act for the purposes of clarity, now provides for a definition in legislation for forced labour in line with ILO Convention 29. These and other GRETA recommendations in relation to labour exploitation will be discussed at the relevant Working Group established by the Anti-Human Trafficking Unit of the Department of Justice & Equality, comprising both state and non-governmental organisation and will be addressed in the new National Action Plan to Prevent and Combat Human Trafficking in Ireland. It should also be noted that the sectors listed in GRETA's recommendation have been the focus of comprehensive programmes of inspections, and as areas where the risk of exploitation (low wages, high turnover, foreign workers, etc) is high, will remain a priority within the National Employment Rights Authority's (NERA) inspection programme.

We would like to highlight some recent protection and prevention measures aimed at addressing the particular vulnerability of children to trafficking, particularly:

- a. the Garda/HSE Protocol for unaccompanied minors arriving at ports of entry in Dublin (soon to be extended nationally) and
- b. the family re-unification function as operated by the Child and Family Agency which screens all children presenting (either through the ports or to the Office of the Refugee Applications Commissioner (ORAC)) with adults whose guardianship/parentage is in question, as examples of measures which take into account the special circumstances and needs of child victims of trafficking.

Ireland would again wish to emphasise that the best interests of the child are always the primary consideration in all cases.

Ireland notes the GRETA suggestion regarding the appointment of an independent National Rapporteur or other mechanism for monitoring the anti-trafficking activities of State institutions. As part of the new

National Action Plan, which is currently being drafted, consideration is being given to how further elements of independent oversight could be brought to this policy area and this issue will be examined in that context.

Training of relevant professionals

3. GRETA invites the Irish authorities to continue improving the knowledge and sensitivity of relevant professionals about human trafficking and the rights of victims. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to proactively identify victims of trafficking, to assist and protect them, to facilitate compensation for victims, and to secure convictions of traffickers.

Ireland shares the view of GRETA that ongoing training of all relevant professionals is essential to ensure the effective implementation of anti-trafficking policies and is committed to ensuring that such training and awareness raising activities targeted at these groups is continued and where relevant enhanced. GRETA's recommendations in this regard will be taken into account in the development of the new Training and Awareness Raising Strategy under the second National Action Plan.

It is of particular note that a comprehensive training programme for members of An Garda Síochána has been in place for the past few years with 700 members of the Force having completed this training. This training is set to continue into the future. This training was developed by An Garda Síochána with the assistance of the International Organisation for Migration (IOM) and involves both State and non-governmental organisations in its delivery. A further 3,500 members of An Garda Síochána have received awareness raising training on the issue of human trafficking. In addition, a step-by-step guide for officers setting out what to do should they encounter a situation of human trafficking is on an on-line computer portal which is available to all Garda personnel.

GRETA may also wish to note that a Cross Border Demand Reduction and Identification Forum comprising representatives from State, Police, Civil Society and International Organisations, will be run in October 2013 in conjunction with the Department of Justice in Northern Ireland. The Forum will have as one of its topics, the development of new methods of demand reduction, with particular reference to trafficking for labour exploitation; locating and identifying victims will also be a focus of the Forum.

Data collection and research

4. GRETA invites the Irish authorities to continue to ensure that statistical data are collected from all the main players and recalls that the data collection should be accompanied by all the necessary measures to ensure respect for the rights of data subjects to personal data protection, including when NGOs working with victims of human trafficking are asked to provide information to feed into the national database.

5. GRETA invites the Irish authorities to continue conducting and supporting 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 Ireland include trafficking within the country, trafficking for the purpose of labour exploitation and trafficking in children.

Ireland is committed to continuing and improving its data collection efforts while simultaneously safeguarding the rights of data subjects. The new National Action Plan will address how Ireland's data strategy can be enhanced.

Ireland notes GRETA's recommendation to continue conducting and supporting research on this issue, including trafficking within the country, trafficking for the purpose of labour exploitation and trafficking in children including when such studies are conducted by civil society organisations. The Irish authorities are committed to continuing to support research on human trafficking and trafficking related themes when such studies are carried out by civil society organisations, third level bodies or independent researchers. The Irish authorities are also committed to achieving a better understanding of emerging trends in trafficking in human beings including trafficking within the country, trafficking for the purpose of labour exploitation and trafficking in children and will continue to support research of this nature.

International co-operation

6. GRETA commends the efforts made by the Irish authorities in the area of international co-operation and invites them to continue developing the aspect of international co-operation 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 trafficking victims.

Ireland welcomes GRETA's recognition of the efforts of the Irish authorities in this regard and remains committed to continue addressing human trafficking through international co-operation.

Measures to raise awareness

7. GRETA considers that future actions in the area of awareness raising should be designed in the light of the assessment of previous measures and be focused on the needs identified. Particular attention should be paid to raising awareness of human trafficking for the purpose of labour exploitation and child trafficking. Awareness-raising campaigns should target among others foreign nationals coming to work in Ireland, employers and employers' associations, trade unions, as well as labour and tax inspectors and medical professionals.

GRETA's recommendations in relation to targeted awareness raising campaigns and continued training for relevant professionals will be taken into account in the development of the new Training and Awareness Raising Strategy under the second National Action Plan. This new Training and Awareness Raising Strategy under the second National Action Plan will be developed in conjunction with the Awareness Raising & Training Working Group which comprises representatives of state, international and non-governmental organisations.

As outlined previously, GRETA may also wish to note that a Cross Border Demand Reduction and Identification Forum comprising representatives from State, Police, Civil Society and International Organisations, will be run in October 2013 in conjunction with the Department of Justice in Northern Ireland. The Forum will have as one of its topics, the development of new methods of demand reduction, with particular reference to trafficking for labour exploitation; locating and identifying victims will also be a focus of the Forum.

Measures to discourage demand

8. GRETA considers that the Irish authorities should make more efforts to discourage demand for the services of trafficked persons for the purpose of labour exploitation, in partnership with the private sector and civil society. In this context, GRETA invites the Irish 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.

The Irish authorities note GRETA's comments concerning the establishment of a criminal offence for the use of services which are the object of labour exploitation. It is also noted that under Priority B of the EU Strategy towards the Eradication of Trafficking in Human Beings 2012 – 2016 the European Commission intends to fund research on reducing the demand for and supply of goods and services of victims of trafficking. The outcome of this research will be important in developing a response to this issue in Ireland.

As previously outlined, GRETA may also wish to note that a Cross Border Demand Reduction and Identification Forum comprising representatives from State, Police, Civil Society and International Organisations, will be run in October 2013 in conjunction with the Department of Justice in Northern Ireland. The Forum will have as one of its topics, the development of new methods of demand reduction, with particular reference to trafficking for labour exploitation.

Economic, social and other empowerment measures for groups vulnerable to THB

9. GRETA considers that the Irish authorities should integrate the prevention of human trafficking in the policies for children of immigrant origin, asylum seekers and persons with protection status.

Ireland will continue to ensure that human trafficking issues are considered in the context of policy developments in these areas.

Border measures to prevent THB and measures to enable legal migration

10. GRETA invites the Irish authorities to keep under scrutiny the employment permit system to ensure that it does not facilitate the trafficking of migrant workers.

Ireland notes the comments of GRETA in this regard.

Identification of victims of trafficking in human beings

11. GRETA urges the Irish authorities to ensure that all victims of trafficking are properly identified and can benefit from the assistance and protection measures contained in the Convention, in particular by:

- promoting multi-agency involvement in victim identification by formalising the role and input of specialised NGOs and involving other relevant actors, such as labour inspectors, social workers and medical staff;
- amending the relevant regulations to allow asylum seekers, EEA nationals and Irish nationals to be formally identified as victims of trafficking;
- guaranteeing that in practice identification is dissociated from the suspected victim's co-operation in the investigation.

12. As regards children, GRETA considers that the Irish authorities should set up a specific identification mechanism which takes into account the special circumstances and needs of child victims of trafficking, involves child specialists and ensures that the best interests of the child are the primary consideration.

13. GRETA welcomes the attention paid to inspections of private homes and encourages the Irish authorities to continue using such inspections as a tool for preventing and detecting human trafficking cases, alongside inspections by NERA in other sectors at risk (e.g. service sector, construction, entertainment, care homes, agriculture).

14. GRETA invites the Irish authorities to further develop multi-agency training on the identification of victims and to ensure that there is a regular exchange of information.

15. Further, GRETA invites the Irish authorities to consider whether human trafficking identification might not be better placed under structures that do not deal with immigration control.

Ireland notes the comments of GRETA in relation to the identification process in relation to human trafficking, and specifically in relation to children, and will consider the recommendations in this regard.

Ireland would ask GRETA to note that child victims of trafficking are currently identified and supported by An Garda Síochána and professionals within the health and children and family services. These professionals are trained to identify child abuse, of which trafficking is an extreme manifestation, and have a statutory obligation in relation to the protection of children under the Childcare Act 1991. These professionals who include social workers, public health nurses and psychologists are receiving ongoing training in the identification of child victims of trafficking and operate within services with an ethical obligation to promote the best interests of the child.

Ireland notes the positive comments of GRETA in relation to inspections carried out by NERA.

Ireland notes the comments of GRETA in relation to multidisciplinary training and will consider this recommendation in the development of the new Training and Awareness Raising Strategy under the second National Action Plan.

With regard to GRETA's suggestion that consideration should be given to whether human trafficking identification might not be better placed under structures that do not deal with immigration control. It is

important to note firstly that the identification of a person as a victim of trafficking is a matter which falls to be considered by any member of An Garda Síochána who encounters a situation where human trafficking is disclosed or suspected; not just those members of An Garda Síochána who are attached to the Human Trafficking Investigation and Co-ordination Unit (HTICU) which is based in the Garda National Immigration Bureau (GNIB). While the HTICU has a coordinating role regarding the investigation of human trafficking, it will not necessarily be involved in the identification of a person as a victim of a human trafficking related crime. However, through the training which the HTICU provides, it endeavours to empower members of the Garda Síochána, located throughout the State, to recognise the indicators of human trafficking and thus identify victims of the criminality involved.

The HTICU does, however, have sole responsibility for implementation of the '*Administration Immigration Arrangements for Victims of Human Trafficking*', such arrangements are of course relevant only to suspected victims of human trafficking who are foreign nationals and who, if the said Arrangements were not availed of, could potentially be removed from the State. Thus, the said Arrangements are concerned with immigration status. As GNIB is the law enforcement authority which is involved in the granting/refusing of immigration status to all other categories of foreign nationals, it is appropriate that it would also be involved in the making of recommendations in this regard where an individual is a suspected victim of human trafficking.

Ireland would also wish to note that, while the Human Trafficking Investigation & Coordination Unit is functionally situated within the Garda National Immigration Bureau, it is also part of the National Support Services which is comprised of other national units including the National Bureau of Criminal Investigation, the Criminal Assets Bureau, the Garda Bureau of Fraud Investigation, the Garda National Drugs Unit, the Garda Technical Bureau and the Operational Support Unit. All of the above units and the specialist services within them are available to the Human Trafficking Investigation and Co-ordination Unit or any other District or Division in the course of an investigation.

Assistance to victims

16. GRETA urges the Irish authorities to review the policy of accommodating suspected victims of trafficking in accommodation centres for asylum seekers and to consider setting up specialised shelters for victims of THB, with the involvement of NGOs as support providers. In the meantime, the authorities should ensure that the services available are adapted to the specific needs of trafficking victims and that minimum standards are guaranteed across the country when victims of trafficking are accommodated in structures not specifically designed for them. Particular care should be taken to ensure the victim care plans, which set out specific medical, psychological and social needs and risk assessment, are implemented in order to minimise further trauma and re-trafficking.

17. GRETA also urges the Irish authorities to enact statutory rights to assistance and protection for possible victims of trafficking, as specified in Articles 10 and 12 of the Convention, regardless of the victim's nationality or immigration status.

18. Further, GRETA invites the authorities to continue providing regular specialised training to all professionals responsible for the provision of assistance and protection measures to victims of trafficking.

Ireland places great importance on the provision of supports to victims of trafficking. The Irish authorities wish to point out that an individual and comprehensive care plan is provided for each potential victim of human trafficking by the Anti-Human Trafficking Team of the Health Service Executive. With regard to the accommodation provided to victims, it is of note that a sizeable percentage of persons determined to be suspected victims of trafficking are already in the asylum determination system. The Irish authorities are of the view that, on balance, a managed system of accommodation where there is a concentration of support services provides more support and security for a person rather than being isolated in mainstream accommodation. The Reception and Integration Agency (RIA) is engaged in a working group involving non-governmental organisations with expertise in this area, with a view to creating an enhanced policy on preventing domestic and sexual violence in centres. Future support policies will fall to be considered in the new National Action Plan.

Further, in relation to the GRETA proposal that Ireland enact statutory rights to assistance and protection for possible victims of trafficking, the Irish authorities are satisfied with the current balance between legislative and administrative basis for the provision of supports and protection to victims of trafficking. Over a number of years, in exhaustive consultation with the relevant state authorities and with the full participation of the voluntary sector, the current detailed arrangements were perfected. They continue to be monitored and refined in the context of emerging changes in the patterns of trafficking. Both the National Action Plan and Guide to Procedures for Victims of Trafficking in Ireland - which is provided to all victims, outline the full range of services and supports to which victims are entitled. The Irish authorities also note the repetition of the phrase “such legislative or other measures” in articles 10 and 12 of the convention. The Irish authorities will continue to be alert to any specific emerging need for legislative strengthening of any of its assistance measures for trafficking victims.

Ireland notes the comments of GRETA in relation to the importance of training for professionals responsible for the provision of assistance and protection measures to victims of trafficking and will consider this recommendation in the development of the new Training and Awareness Raising Strategy under the second National Action Plan.

Recovery and reflection period

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

The Irish authorities maintain that the present arrangements in relation to the granting of a period of recovery and reflection are in accordance with the provisions of Article 13 of the Council of Europe Convention. The Irish authorities would like to draw attention to Paragraph 172 of the Explanatory Report on the Convention which states ‘ *Article 13 is intended to apply to victims of trafficking in human beings who are illegally present in a Party's territory or who are legally resident with a short- term resident permit*’.

Residence permits

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

We would also wish to highlight that the current position in relation to residence permits is that all cases are examined on their individual merits and the Minister for Justice and Equality has discretion and flexibility in issuing residence permissions.

Compensation and legal redress

21. GRETA urges the Irish authorities to take measures to ensure that avenues for compensation are easily accessible to trafficked persons, and in particular to:

- encourage prosecutors to request compensation orders in all relevant cases;
- make the State compensation scheme effectively accessible to victims of trafficking, which would require a review of the current conditions for eligibility.

Ireland notes GRETA's comments regarding access to compensation for trafficked persons.

Repatriation and return of victims

22. GRETA considers that the Irish authorities should take steps to:

- ensure that the return of victims of trafficking is conducted with due regard for the rights, safety and dignity of the person and the status of legal proceedings; this implies protection from retaliation and re-trafficking;
- make efforts to develop co-operation with countries of origin of victims of trafficking in order to ensure proper risk assessment and safe return of victims, as well as their effective reintegration.

23. Further, GRETA invites the Irish authorities to review the appropriateness of the existing voluntary return arrangements for victims of trafficking as a specific category.

Ireland notes GRETA's comments in this regard.

Non-punishment of victims of trafficking in human beings

24. GRETA considers that the Irish authorities should take further steps 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 the guidelines for public prosecutors. Public prosecutors should be encouraged to be proactive in establishing if an accused is a potential victim of trafficking and to consider trafficking in human beings as a serious violation of human rights. While the identification procedure is ongoing, potential victims of trafficking should not be punished for immigration-related offences.

We would like to address GRETA's concern 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. The cases submitted to the Office of the Director of Public Prosecutions (DPP) are dealt with by a very small group of lawyers/prosecutors. The Office of the DPP rejects the proposition that the application of their discretion in respect of the decision not to prosecute on the basis of public interest considerations (which includes, inter-alia, the decision not to commence or maintain a prosecution in circumstances where the suspect is the victim of a crime, including a victim of trafficking) is vulnerable to inconsistency for want of a specific provision on the non-punishment of victims of trafficking.

In Ireland, the investigative and prosecutorial functions are separate, and the DPP has no investigative role. The DPP is therefore reliant on the results of the enquiries of An Garda Síochána as to any suspect's status or background. It is presumed that when reference is made in the GRETA Report to potential victims of trafficking not being 'punished' while the identification procedure is ongoing that this means that any prosecution should not be concluded in court. In urgent situations it would not be practicable to defer charging offenders until such time as enquiries had been fully completed. A decision can be made not to maintain a prosecution if, following charging of the suspect, information comes to light identifying the suspect as a victim of trafficking. At that point and in accordance with the guidelines, consideration can be given to whether the public interest is served by continuing the prosecution. Recommendations not to prosecute on public interest grounds are generally referred to the Director personally for approval. This ensures consistency. In these circumstances written applications for immunity would not be necessary.

Investigation, prosecution and procedural law

25. GRETA urges the Irish 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 Garda officials to detect cases of THB and carry out proactive investigations, including through co-operation with other relevant actors in the country and abroad;
- encouraging the Office of the Director of Public Prosecutions to further develop their specialism in THB with a view to successfully prosecuting more traffickers;
- continuing to improve the skills of investigators, prosecutors and judges about the seriousness of THB, the severe impact of exploitation on the victims and the need to respect their human rights.

In relation to GRETA's comments in relation to training for An Garda Síochána, it is of particular note that a comprehensive training programme for members of An Garda Síochána has been in place for the past few years with 700 members of the Force having completed this training. This training is set to continue into the future. This training was developed by An Garda Síochána with the assistance of the International Organisation for Migration (IOM) and involves both State and non-governmental organisations in its delivery. A further 3,500 members of An Garda Síochána have received awareness raising training on the issue of human trafficking. In addition, a step-by-step guide for officers setting out what to do should they encounter a situation of human trafficking is on an on-line computer portal which is available to all Garda personnel.

We would like to comment on GRETA's recommendation that Irish authorities take 'additional measures to ensure that THB offences are investigated and prosecuted effectively', leading to proportionate and dissuasive sanctions, in particular by (inter-alia) encouraging the Office of the Director of Public Prosecutions to further develop their specialism in THB with a view to successfully prosecuting more traffickers. The impediments to prosecuting allegations of THB do not, in the opinion of the Office of the DPP, arise as a result of a lack of prosecutorial specialisation and training but rather as a result of recurring evidential difficulties in relation to the sufficiency of evidence which must be admissible, substantial and reliable.

Ireland notes the comments of GRETA in relation to improving the knowledge of certain groups in relation to the severe impact of exploitation on the victims and the need to respect their human rights and this issue will be considered in the development of the new Training and Awareness Raising Strategy under the second National Action Plan.

Protection of victims and witnesses

26. GRETA invites the Irish 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.

As regards measures available to ensure the protection of victims and witnesses of trafficking, we wish to again assure GRETA that it is the function and duty of An Garda Síochána to implement the law and to protect victims. Risk assessments are carried out by An Garda Síochána on any persons perceived to be at risk and protection measures are put in place commensurate with the risk involved.