



# **G R E T A**

Group of Experts on Action  
against Trafficking in Human Beings

GRETA(2015)37

## **Report on the compliance of Kosovo\* with the standards of the Council of Europe Convention on Action against Trafficking in Human Beings**

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\* All references to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations' Security Council Resolution 1244 and without prejudice to the status of Kosovo.

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## I. Introduction

1. Following a request from the Kosovo\* authorities to the Council of Europe to carry out an assessment of the legislative, institutional and policy framework in the area of action against trafficking in human beings, the project VC/3036 “Reinforcing the fight against trafficking in human beings in Kosovo\* through the application of GRETA’s methodology and tools” was set up in 2014. The project’s objective is to strengthen the institutional capacities of Kosovo\* to prevent and combat trafficking in human beings in line with the standards of the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”), through a thorough assessment and recommendations for improving and streamlining reforms in this field. The project is designed to use GRETA’s methodology and tools to guide Kosovo\* in the development of its legislation, policies and practices in the field, thus contributing to building the capacity of Kosovo\* to prevent and respond to trafficking in human beings.

2. In the preparation of the present report, GRETA used the same methodology as the one applied to the evaluation of the implementation of the Convention by States Parties. As a first step, a questionnaire was sent to the Kosovo\* authorities on 26 September 2014, modelled after 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”. The Kosovo\* authorities submitted their reply to the questionnaire on 16 January 2015. With a view to supplementing the information provided in the reply to the questionnaire, GRETA organised an evaluation visit to Kosovo\* from 7 to 10 April 2015. The visit was carried out by the following delegation:

- Ms Alina Brașoveanu, member of GRETA;
- Mr Ryszard Piotrowicz, member of GRETA;
- Ms Petya Nestorova, Executive Secretary of the Convention on Action against Trafficking in Human Beings.

3. During the visit, the GRETA delegation held meetings with the Minister of Internal Affairs, Mr Skender Hyseni, the Deputy Foreign Minister, Mr Petrit Selimi, and officials from relevant ministries and other public institutions (see Appendix II). Further, it met members of Parliament. These meetings took place in a spirit of close co-operation.

4. The GRETA delegation held separate meetings with representatives of non-governmental organisations (NGOs), the United Nations High Commissioner for Refugees (UNHCR), the Organization for Security and Co-operation in Europe (OSCE), and the EU Rule of Law Mission in Kosovo\* (EULEX). GRETA is grateful for the information provided by them.

5. Further, in the context of the visit, the GRETA delegation visited the shelter for victims of trafficking under the Ministry of Labour and Social Welfare, the rehabilitation centre for victims of trafficking run by the NGO Centre for Protection of Victims and Prevention of Trafficking in Human Beings (PVPT), and the shelter for children run by the NGO Hope and Homes (SDSF).

6. GRETA is grateful for the assistance provided by the contact persons appointed by the Kosovo\* authorities to liaise with GRETA, Mr Naim Muja, Head of the Secretariat of Strategies of the Ministry of Internal Affairs, and Ms Zana Mehmetaj, Senior Officer for the Council of Europe, Department of International Organisations of the Ministry of Foreign Affairs.

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7. The present report takes into account the official reply to the questionnaire by the Kosovo\* authorities, information received during the visit from officials, civil society representatives and international organisations, and other information collected by GRETA. In its recommendations, GRETA has followed the use of three different verbs - "urge", "consider" and "invite" - which correspond to different levels of urgency of the recommended action for bringing the legislation and/or practice into compliance with the Convention. GRETA uses the verb "urge" when it assesses that the legislation or policies are not in compliance with the Convention, or when it finds that despite the existence of legal provisions and other measures, the implementation of a key obligation of the Convention is lacking. In other situations GRETA "considers" that it is necessary to make further improvements in order to fully comply with an obligation of the Convention. By "inviting" a country to pursue its efforts in a given area, GRETA acknowledges that the authorities are already on the right track.

8. The draft version of the present report was adopted by GRETA at a meeting held on 17 June 2015 and was submitted to the Kosovo\* authorities for comments on 10 July 2015. Following the reception of the authorities' comments on 15 September 2015, GRETA adopted a final report which was sent to the authorities of Kosovo\* on 22 December 2015. The authorities provided their final comments on GRETA's final report on 22 January 2016.

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

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

9. According to the Kosovo\* authorities, while in the early 2000s the majority of the identified victims of trafficking in human beings (THB) originated from the Republic of Moldova, Romania, Russia, Ukraine and Albania, since 2008 the number of foreign victims has drastically decreased. At the same time, internal trafficking (i.e. within Kosovo\*) has increased and is now recognised as being the main type of trafficking. According to official statistics, the number of identified victims was 39 in 2011, 54 in 2012, 52 in 2013 and 42 in 2014. Most of the identified victims were from Kosovo\*. There were a total of 42 foreign victims of THB in the period 2011-2014 (23 from the Republic of Moldova, 13 from Albania, five from Serbia and one from Romania). The vast majority of the victims identified in the period 2011-2014 were women and girls trafficked for the purpose of sexual exploitation. The number of men trafficked for the purpose of labour exploitation was one in 2011, four in 2012, two in 2013 and three in 2014. Children constituted 44% of identified trafficking victims in 2013-2014. GRETA was informed that the exploitation of children for forced begging and other forms of forced labour is reportedly a growing trend; however, the official statistics of identified victims do not bear out this trend.

10. In the months preceding GRETA's visit, an estimated 50 000 to 60 000 people left Kosovo\*, mainly through the border region between Serbia and Hungary, for countries in the EU and while it is clear that the majority of them did so on their own account or with the help of migrant smugglers, it is not known how many may have been trafficked.

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

### **a. Legal framework**

11. The legislation of Kosovo\* in the field of action against human trafficking has evolved over the years. The Criminal Code (CC) adopted in 2012 criminalises trafficking in human beings under Article 171 (trafficking in persons). Other relevant CC provisions are Article 172 (withholding identity papers of victims of slavery or trafficking in persons) and Article 169 (slavery, slave-like conditions and forced labour). Further, a comprehensive anti-trafficking law entered into force in September 2013, Law No. 04/L-2018 on Prevention and Combating Trafficking in Human Begins and Protection of Victims of Trafficking.<sup>1</sup> The law defines the authorities involved in combating THB and their responsibilities, the competences of the National Anti-trafficking Co-ordinator, and the role of the non-governmental sector. It contains provisions in the areas of investigation and prosecution, assistance and protection to victims of THB, prevention of THB (with a separate chapter on child trafficking), compensation of victims of THB, and co-operation.

12. Other internal legal acts relevant to the protection of, and assistance to, victims of trafficking in human beings are:

- the 2013 Criminal Procedure Code, in particular Article 63 (representatives of the injured party), Article 122 (taking and preserving information or evidence from witnesses), Article 133, paragraph 4 (requirements of pre-trial testimony session), Article 136, paragraph 4 (expert analysis), and Article 149 (special investigative opportunity);
- Law No. 02/L-17 on Social and Family Services, amended and supplemented through Law No. 04/L-081, which include victims of trafficking in the social protection categories;
- Law No. 04/L-219 on Foreigners, which provides for the granting of a recovery and reflection period and residence permits to victims of trafficking.

13. In terms of secondary legislation, the following are relevant to anti-trafficking action:

- Standard Operating Procedures for trafficked persons in Kosovo\* (adopted in 2008 and amended in 2013);
- Minimum Standards of Care for Victims of Trafficking (adopted in 2010);
- Administrative Instruction No. 01/2014 for early identification of victims of THB by consular services, border police and the Labour Inspectorate, approved by the Government of Kosovo\* on 21 March 2014.

### **b. National Strategies and Action Plans**

14. The experience gained from the implementation of the National Strategy and Action Plan against THB for 2008-2011 served as the basis for the drafting of the next National Strategy and Action Plan, for the period 2011-2014, which were adopted in August 2011. Their drafting followed an inclusive participatory approach and involved public institutions, local and foreign NGOs, and international partners.

<sup>1</sup> Official Gazette of the Republic of Kosovo No. 34, 4 September 2013.

15. The 2011-2014 Strategy addressed four main areas: prevention of THB; protection and support of victims and witnesses; investigation and prosecution of trafficking offences; and protection of children. In each of these areas, strategic goals and specific objectives were identified (e.g. raising public awareness; prevention through education; addressing the school dropout problem; capacity building of state and NGO actors; improved identification and referral of victims of THB; sustainable reintegration of victims of trafficking; improving investigation methods; increased institutional capacities; co-operation with other States and international organisations, in particular Interpol, Europol and Eurojust, for the purpose of joint investigations; training of police officers, prosecutors and judges; implementing procedures for the confiscation of traffickers' assets). The Action Plan supplementing the Strategy included a timeframe for the implementation of the different activities, implementing agencies and partners, and a budget.

16. As regards children, it was stated in the Strategy that the Government was very concerned by the growing trend of child<sup>2</sup> trafficking, for all forms of exploitation, but especially for sexual exploitation, which is why the prevention of child trafficking was seen as one of the main challenges and priorities. The Strategy upheld the principles of respect for the rights of the child, best interests of the child, non-discrimination, respect for the views of the child and the right to information, and envisaged improving the early identification and referral of child victims, as well as raising the awareness of society about child trafficking.

17. At the time of GRETA's evaluation visit, a new anti-trafficking National Strategy and Action Plan for the period 2015-2019 were in the process of approval. A range of stakeholders were involved in the drafting of the new Strategy, including civil society actors and international organisations. The final draft of the Strategy was developed with funding from the German Agency for International Co-operation and Development (GIZ).<sup>3</sup> According to the draft text provided to GRETA, the drafting of the new Strategy was preceded by a comprehensive assessment of the implementation of the previous Strategy and Action Plan which had been requested by the National Anti-trafficking Co-ordinator in 2012. In response to this request, UNDP Women's Safety and Security Initiative in Kosovo\* hired a monitoring and evaluation expert from May 2012 to April 2014, and the EU also hired an expert from October to November 2012. The expert assessment concluded that the following proportion of the activities envisaged under the 2011-2014 Action plan were implemented: 45.83% in the area of prevention, 70.37% activities in the area of protection of victims, 62.79% in the area of prosecution, and 69.23% in the area of child protection.

18. The new Strategy and Action Plan for 2015-2019 were approved by the Government at a meeting on 8 May 2015. The new Strategy, which reflects the objectives of the EU Strategy for the Eradication of Trafficking in Human Beings 2012-2016, has as its main aim the "co-ordination of preventive actions and the fight against human trafficking in order to reduce the cases of trafficking to a minimum and co-ordination of the provision of quality services to victims of trafficking aiming to return their dignity and prevent re-trafficking". There are four strategic objectives defined in the Strategy:

- advancement of the prevention of human trafficking through information, awareness and education of society in general, and vulnerable groups in particular, about the consequences of trafficking and involvement in trafficking activities;
- continuous strengthening of the system of identification, protection, assistance and reintegration of victims of trafficking through sustainable programmes of social inclusion;
- efficient criminal prosecution of cases of human trafficking by increasing the efficiency of the mechanism for detecting and prosecuting traffickers;
- strengthening international and local co-operation and partnerships.

<sup>2</sup> "Child" means any person under the age of 18.

<sup>3</sup> GIZ (Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH) on behalf of the German Federal Ministry for Economic Co-operation and Development.

19. GRETA was informed that there would be dedicated funding for the Strategy, but no amount was stipulated. According to the authorities, the budget for the implementation of the activities arising from the Action Plan has been proportionally allocated by all major institutions. A number of the activities included in the Action Plan are expected to be funded by donors (see also paragraph 58).

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

#### **a. National Anti-Trafficking Co-ordinator**

20. Pursuant to Government Decision No. 029 of 10 April 2008, the post of National Anti-Trafficking Co-ordinator was created. The National Co-ordinator is responsible for co-ordinating and monitoring the implementation of the Strategy and Action Plan against human trafficking and exercises other responsibilities in accordance with the provisions of Law No. 04/L-218, including chairing the National Authority (see paragraph 22), and regularly co-operates with the relevant authorities. With the support of the Secretariat for Monitoring and Evaluation of National Strategies of the Ministry of Internal Affairs, the National Co-ordinator also develops, co-ordinates and monitors the implementation of the National Referral Mechanisms. The Government has the responsibility for ensuring sufficient financial and human resources for the work of the National Co-ordinator, the National Authority and the Secretariat to enable them to carry out the activities listed in Law No. 04/L-2018.

21. At the time of GRETA's visit, the post of National Anti-Trafficking Co-ordinator was vacant. GRETA was informed that under the previous Government, the Deputy Minister of the Interior had been appointed as National Anti-Trafficking Co-ordinator, but following the Parliamentary elections in June 2014, the new Government formed in December 2014 had failed to appoint a Deputy Minister of the Interior and, consequently, a new National Co-ordinator. The GRETA delegation raised the issue with the Minister of the Interior, who indicated that while awaiting the appointment of a Deputy Minister of the Interior, he would designate another official from his Ministry to fulfil the role of National Co-ordinator *ad interim*. On 25 September 2015, the Government of Kosovo\* issued a decision according to which the Minister of the Interior is appointed as National Co-ordinator against THB, but with the right to delegate this responsibility to a deputy. Subsequently, on 6 October 2015, the Minister of the Interior authorised the Deputy Minister of the Interior, Mr Milan Radojevic, to exercise the responsibility of National Anti-trafficking Co-ordinator (see also paragraph 59).

#### **b. Inter-ministerial Working Group on Human Trafficking and National Authority against Trafficking in Persons**

22. Prior to the adoption of Law No. 04/L-2018, an Inter-ministerial Working Group on Human Trafficking functioned as a co-ordination platform, bringing together relevant stakeholders. Article 7 of Law No. 04/L-2018 provides for the setting up of a National Authority against trafficking in human beings, which is composed of the competent authorities for preventing and combating THB (listed in Article 6 of the same law), other relevant State institutions, representatives of the local authorities, and non-governmental service providers. The National Authority assigns the duties and responsibilities of each institution in respect of the National Strategy and Action Plan, the Standard Operating Procedures for Victims of Trafficking, the Minimum Standards of Care for Victims of Trafficking and other relevant documents. The National Authority drafts and presents a report to the Government on an annual basis. Other state institutions can request information from the National Authority concerning the legislation as well as the implementation of the National Strategy and action plan against THB. The Secretariat for Monitoring and Evaluating National Strategies under the Ministry of the Interior is responsible for organising and co-ordinating the activities of the National Authority. A senior official from the Office of the Secretary General of the Ministry of the Interior has been appointed to collect information in co-operation with relevant agencies involved in the implementation of the Strategy and Action Plan, to supervise their work, to analyse the reports sent by them, and to draft quarterly, six-monthly and annual reports with recommendations.

23. Pursuant to Article 6 of Law No. 04/L-2018, the competent authorities for preventing and combating THB which are represented in the National Authority are:

- Ministry of the Interior
- Kosovo\* Police
- Judicial Council
- Prosecutorial Council
- Ministry of Justice
- Ministry of Education, Science and Technology
- Ministry of Culture, Youth and Sport
- Ministry of Labour and Social Welfare
- Ministry of Health
- Ministry of Foreign Affairs
- Ministry of Finance
- Agency on Gender Equality
- State Prosecutor's Office
- Courts
- Office for Protection and Assistance to Victims
- Local authorities.

24. Two local NGOs, Centre for Protection of Victims and Prevention of Trafficking in Human Beings (PVPT) and Hope and Home (SDSF), have the status of members of the National Authority. Pursuant to Article 7, paragraph 3, of Law No. 04/L-2018, representative of foreign NGOs, international organisations and foreign donors present in Kosovo\* and involved in anti-trafficking activities can attend the meetings of the National Authority in an advisory capacity. At present, IOM, GIZ, UNICEF, UNDP, EULEX, OSCE, Caritas and Terre des Hommes are invited to attend meetings of the National Authority.

25. GRETA received contradictory information concerning the frequency of meetings of the National Authority. Although in principle it should meet on average every three months, it was not clear whether this concerned meetings in full composition or in working groups. Some officials indicated that the last meeting of the National Authority they had attended was in the spring of 2014. The Kosovo\* authorities have informed GRETA that in 2014, the National Authority met in full composition on three occasions, as follows: on 28 May 2014, in order to discuss the development of the Strategy and Action Plan for 2015-2019; on 17 September 2014, to harmonise the activities for the national campaign organised by the Office of the National Anti-trafficking Co-ordinator; and on 22 December 2014, to prepare answers to GRETA's questionnaire. In 2015, a meeting was held on 2 September in relation to GRETA's evaluation. All meetings were held at the Ministry of the Interior and were convened by the Secretariat for Monitoring and Evaluation of National Strategies.

c. Kosovo\* Police Directorate against Trafficking in Human Beings

26. Within the Kosovo\* Police, there is a Directorate against Trafficking in Human Beings, with two units: the first one deals with crime prevention, criminal investigation and arrest of perpetrators, and the second one is responsible for assisting and protecting victims. The Directorate employs 12 police investigators and three staff members in the victim assistance unit. It is also responsible for drawing up regular reports with data on THB and trends.

27. In addition to the Directorate at central level, there are seven subordinated units in the different regions of Kosovo\* (the most recent one was set up in the municipality of North Mitrovica). Each regional unit employs five to seven staff members. Altogether in Kosovo\*, there are 57 police posts for investigating offences related to THB, of which 55 were filled at the time of the visit. Pursuant to the Standard Operating Procedures which define jurisdiction in criminal proceedings, the Directorate against Trafficking in Human Beings is competent to investigate offences related to THB under the following provisions of the Criminal Code: Article 169 (slavery and forced labour), Article 171 (trafficking in persons), Article 172 (withholding of identity papers of victims of slavery or trafficking in persons), Article 238 (abuse of children in pornography), Article 231 (sexual services of a victim of trafficking), Article 241 (facilitating or compelling prostitution), Article 242 (providing premises for prostitution), Article 246 (forced marriage), Article 265 (unlawful transplantation and trafficking of human organs and tissues) and Article 283 (organised crime). In addition, the regional units also investigate offences under Article 7 (engaging in prostitution) of Law No. 03/L-142 on Public Peace and Order.

#### d. Ministry of Labour and Social Welfare

28. Under the umbrella of the Ministry of Labour and Social Welfare, a shelter operates for victims of THB considered to be at “high” or “medium” level risk<sup>4</sup> (see paragraph 126). This is a State body specialised in providing direct services to victims in terms of protection, rehabilitation and their treatment. The Ministry also provides funding (2500 euros per month) for the running of the shelter operated by the NGO PVPT and monitors the quality of the services provided. Moreover, the Ministry funds the shelter for children run by the NGO Hope and Homes (around 50 000 euros per year).

29. There are centres for social work in each municipality in Kosovo\*, employing some four to five social workers each. Centres for social work are responsible for dealing with 34 different categories of clients, including victims of trafficking, but no social workers deal exclusively with THB issues. Centres for social work have a mandate to protect all children and fulfil the role of legal guardianship bodies.

#### e. State Prosecutor’s Office

30. Until July 2014, EULEX prosecutors dealt with more serious or sensitive offences, including THB. At present, THB offences are dealt with by Basic Prosecutor’s Offices’ serious crime departments. GRETA was informed that the number of prosecutors in Kosovo\* had doubled since 2013. There were 140 prosecutors in April 2015 and their number was expected to reach 170 by the autumn. One prosecutor at the Special Prosecution Office in Pristina has been appointed by the Prosecutorial Council as a focal point for human trafficking cases, but there are no prosecutors specialised in THB offences in the Basic Prosecutor’s Offices.

31. The State Prosecutor’s Office has within its remit the Office for Protection and Assistance to Victims, set up in accordance with the new Code of Criminal Procedure, which employs victim advocates whose primary task is to promote the rights of victims of crime in the justice system.<sup>5</sup> There were a total of 23 victim advocates in Kosovo\* (six in Pristina and up to three in each region) who represent all victims (including victims of THB) during all judicial proceedings, provide them with information and advice on their rights and the available State services, guide victims to the appropriate authority and assist in the co-ordination of services.

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<sup>4</sup> The level of risk for the victim - “high”, “medium” or “low” - is established by the specialised Police Directorate against THB through an initial risk assessment as soon as a victim is detected. If the suspected trafficker is not known or is at large, the level of risk for the victim is always considered to be “high”. Most victims are initially considered to be of “medium” risk, but the risk assessment changes over time.

<sup>5</sup> For more details, see the Regulation on the mandate, structure and functioning of the Victim Protection and Assistance Office, available at: [http://www.psh-ks.net/repository/docs/REGULATION\\_FOR\\_THE\\_\\_MANDATE,\\_STRUCTURE\\_AND\\_FUNCTION\\_OF\\_THE\\_VPAO.pdf](http://www.psh-ks.net/repository/docs/REGULATION_FOR_THE__MANDATE,_STRUCTURE_AND_FUNCTION_OF_THE_VPAO.pdf)

f. NGOs, other civil society actors and international organisations

32. Non-governmental organisations in Kosovo\* play an active role in anti-trafficking action, through participation in the drafting of the anti-trafficking strategies and action plans, implementation of actions, conducting research, providing services to victims, organising awareness-raising activities and training.

33. The NGO Centre for Protection of Victims and Prevention of Trafficking in Human Beings (PVPT) deals with the causes and consequences of violence through a multi-disciplinary approach (socio-economic services, awareness-raising, advocacy and contribution in the making of social policies). It runs a rehabilitation centre for victims and potential victims of trafficking (see paragraph 129) and facilitates the process of their empowerment by providing social assistance, information, education, vocational training, rehabilitation and long-term reintegration.

34. The NGO Hope and Home (SDSF) deals exclusively with child victims of trafficking and violence and children at risk of being trafficked. It provides social and empowerment services for vulnerable children within its shelter (see paragraph 130).

35. A number of international organisations and foreign donors have been involved in anti-trafficking action in Kosovo\*, through legislative drafting support, technical experience, training, financial support for the implementation of the anti-trafficking strategies and action plans, awareness raising and direct assistance to victims. As noted in paragraph 24, IOM, GIZ, UNICEF, UNDP, EULEX and OSCE participate as observers in the National Authority.

### **III. Compliance of Kosovo\* with the standards of the Council of Europe Convention on Action against Trafficking in Human Beings**

#### **1. Core concepts and definitions contained in the Convention**

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

36. 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 to promote a human rights-based approach in the development, implementation and assessment of the policies and programmes to prevent THB. The Explanatory Report on the Convention states that the main added value of the Convention is its human rights perspective and focus on victim protection. In the same vein, the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking emphasise that “the human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims”.<sup>6</sup>

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<sup>6</sup> Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Trafficking.pdf>

37. 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 Rights (which prohibits slavery, servitude and forced or compulsory labour).<sup>7</sup> 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.

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

39. GRETA wishes to stress the need for States to also address THB as a form of violence against women and to take account of gender-specific types of exploitation, as well as the particular situation of child victims of trafficking, in line with the relevant international legal instruments.<sup>8</sup>

40. Article 28, paragraph 3, of the Constitution of Kosovo\* prohibits trafficking in persons. Further, Article 22 of the Constitution, entitled “Direct Applicability of International Agreements and Instruments”, stipulates that human rights and fundamental freedoms guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and a number of other international agreements are directly applicable in Kosovo\* and, in the case of conflict, have priority over provisions of national laws and other acts of public institutions.

41. Article 171 of the CC criminalising THB is part of Chapter XV entitled “Criminal Offences against Humanity and Values Protected by International Law”. Further, Article 1, paragraph 1.2, of the Anti-trafficking Law No.04/L-218 stipulates that the purpose of the law is to establish legal provisions for “protection of victims of trafficking, including securing the rights, legal assistance, medical assistance, psychosocial support, provision of compensation and other rights to all persons who are supposed to be either identified as trafficked, regardless of gender, age, marital status, language, physical or mental disability, sexual orientation, nationality, opinion or political affiliation, religion or belief, ethnic or social race, property, birth or other status, through an approach based on human rights, in full compliance with international standards and conventions”. Further, Article 4 of Law No.04/L-218, entitled “Basic principles on combating trafficking in human beings”, refers to “acknowledgement of trafficking in human beings as a crime affecting the fundamental human rights, dignity, liberty and integrity of human beings”.

42. The national anti-trafficking strategies adopted in Kosovo\* since the early 2000s proclaim the principle of a human rights-based approach to anti-trafficking action. For example, the new draft National Strategy 2015-2019 states that “the agenda of the Government of Kosovo\* towards this phenomenon is developed from the perspective of human rights”.<sup>9</sup>

<sup>7</sup> *Rantsev v. Cyprus and Russia*, no. 25965/04, paragraph 282, ECHR 2010.

<sup>8</sup> Such as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the United Nations Convention on the Rights of the Child and the Optional Protocol thereto on the sale of children, child prostitution and child pornography, and the United Nations Convention on the Elimination of All Forms of Discrimination against Women.

<sup>9</sup> National Strategy 2015-2019, p. 11.

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

b. Definitions of “trafficking in human beings” and “victim of THB” in Kosovo\* law

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

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

45. The definition of trafficking in human beings in Kosovo\* law is provided in Article 171, paragraph 6, of the Criminal Code (CC), which reads as follows:

“For the purposes of this Article and Article 172 of this Code the expressions below shall have the following meaning:

6.1. Trafficking in persons - the recruitment, transportation, transfer, harbouring or receipt of persons, by threat or the use of force or other forms of coercion, abduction, fraud, deception, the abuse of power or the abuse of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

6.2. Exploitation - as used in sub-paragraph 6.1 of this paragraph shall include, but not be limited to, prostitution of others, pornography or other forms of sexual exploitation, begging, forced or compulsory labour or services, slavery or practices similar to slavery, servitude or the removal of organs or tissue.

6.3. The consent of a victim of trafficking in persons to the intended exploitation shall be irrelevant where any of the means set forth in sub-paragraph 6.1 of this paragraph have been used against such victim.

6.4. The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered trafficking in persons even if this does not involve any of the means set forth in subparagraph 6.1 of this paragraph.”

46. The above definition includes the three constitutive elements of THB as regards adults, in line with Article 4(a) of the Convention. As regards children, the definition contains only two of the above elements, i.e. the action and the purpose of exploitation, irrespective of the means used. This is also in line with the definition in the Convention. The list of forms of exploitation in Article 171, paragraph 6, sub-paragraph 6.2 of the CC is open-ended and therefore new forms of exploitation can be targeted. GRETA notes that in addition to the types of exploitation specifically mentioned in the Convention, Article 171 of the CC expressly criminalises trafficking for the purpose of begging. GRETA welcomes this legislative development. While the ILO definition of forced labour covers forced begging, mentioning the latter specifically as a form of exploitation resulting from THB provides a guarantee that it will be duly taken into account in THB cases.

47. The Anti-trafficking Law No.04/L-218 (Article 3, paragraph 1) provides a definition of trafficking in human beings which is identical to the above-quoted definition in the CC and, in addition to defining exploitation, defines “forced labour”<sup>10</sup>, “forced marriage”<sup>11</sup>, and “illegal adoption”<sup>12</sup>. Although “forced marriage” and “illegal adoption” do not figure among the forms of exploitation specifically provided for in Article 171 of the CC, the Kosovo\* authorities have indicated that the Anti-trafficking Law No.04/L-218, being *lex specialis*, would apply when these criminal acts contain the constituent elements of trafficking in human beings and they would fall within the criminal offence of trafficking.

48. Article 5 of Law No.04/L-218, entitled “Elements of the offence of trafficking in human beings”, reads as follows:

- “1. As determined by Article 171 of the Criminal Code, elements of trafficking in human beings consist of:
  - 1.1. Recruitment;
  - 1.2. Transportation;
  - 1.3. Transfer;
  - 1.4. Harbouring or reception of persons, by means of the threat and use of force or other forms of coercion;
  - 1.5. Abduction;
  - 1.6. Fraud;
  - 1.7. Deception;
  - 1.8. Abuse of power or of a position of vulnerability, and
  - 1.9. Giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for exploitation purposes.”

49. GRETA notes that the above list of elements is a combination of actions and means for committing the offence of human trafficking, but the purpose of exploitation is mentioned only in relation to “giving or receiving of payment or benefits to achieve the consent of a person having control over another person”. GRETA notes that the way in which Article 5 of Law No.04/L-218 is drafted might lead to confusion as regards the relationship between actions, means and purpose. On the other hand, police officers and prosecutors met during the evaluation visit did not find this provision problematic and indicated that the definition of THB in Article 171 of the CC was sufficiently clear. The Kosovo\* authorities have specified that the CC is applied when prosecuting THB offences, but when an issue is not regulated by the CC, the provisions of Law No. 04/L-218, which is *lex specialis*, are applied (see paragraph 47).

50. Pursuant to Article 4(b) of the Convention, the consent of the victim is irrelevant where any of the means set forth in the definition of THB have been used. GRETA notes with satisfaction that Article 171, paragraph 6.3 of the CC explicitly states that the consent of a victim of trafficking to exploitation is not taken into consideration where any of the means set forth in sub-paragraph 6.1 of this article is used.

51. For further analysis of the definition of THB and related offences from a substantive criminal law perspective, see paragraphs 161 to 167.

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<sup>10</sup> “Forced labour – all work or service which is extracted from any person under the menace of any penalty and for which the said person has not offered him/herself voluntarily.”

<sup>11</sup> “Forced marriage - a servile or fictitious form of marriage of persons, in so far as it contains constituent elements of trafficking in human beings, as provided for in the Criminal Code. In case of a child, the child’s consent shall be considered irrelevant for any of the above actions.”

<sup>12</sup> “Illegal adoption - any institution or practice whereby a child is delivered by either or both of his natural parents or his guardian to another person, whether for reward or not, with a view to the exploitation of the child or of his labour.” This seems like a strange definition – that adoption can happen just through ‘delivery’ to another person – surely there must be some kind of intent apart from the exploitation, such as placing the child under the control/guardianship of the other? Maybe the translation is inadequate.

*ii. Definition of “victim of THB”*

52. 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.

53. Pursuant to Article 3, paragraph 1, point 1.7, of the Anti-trafficking Law No.04/L-218, a victim of trafficking is “any person who has been the subject of an act or practice as defined in paragraph 1, sub paragraph 1.1 of this Article” (which reproduces the definition of THB of Article 171 of CC). The Anti-trafficking Law also defines “presumed victim” as “a person who is presumed to be a victim of trafficking, but who has not formally been identified by the relevant authorities, or who has declined to be formally identified as such.” A person presumed to have been trafficked is entitled to the same treatment as identified victims from the beginning of the identification process.

54. The question of the definition of victim of THB is 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*

55. One of the aims of the Convention is to design a comprehensive framework for the protection of and assistance to victims and witnesses. To be effective, any national action to combat THB must be comprehensive and multi-sectoral, and take on board the required multidisciplinary expertise. Article 29(2) of the Convention requires the adoption of 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).

56. The legal and policy frameworks in the field of action against THB in Kosovo\* are intended to cover all victims subjected to different types of exploitation, both transnationally and nationally, whether or not connected with organised crime. The National Strategy and Action Plan for 2011-2014 and the new draft Strategy and Action Plan 2015-2019 aim to involve all stakeholders, governmental and non-governmental, and cover the aspects of prevention, protection, prosecution, and co-operation.

57. As already mentioned in paragraph 17, the implementation of the National Strategy and Action Plan 2008-2011 was assessed by an external consultant. **GRETA welcomes the practice of evaluating the implementation of the National Strategy and Action Plan.**

58. GRETA notes that the financing of anti-trafficking activities in Kosovo\* has depended to a large extent on international organisations and foreign donors. It is indicated in the new Strategy for 2015-2019 that the funds required for its implementation are to be covered mainly by Kosovo\*'s budget. **GRETA notes that securing funding from the budget is indispensable for the implementation of the anti-trafficking Strategy and Action Plan and considers that the Kosovo\* authorities should allocate appropriate funds in the budget to action against THB, in consultation with all relevant actors (see also paragraph 19).**

59. As noted in paragraph 21, there was no National Co-ordinator for almost a year and on 6 October 2015, the Minister of the Interior authorised the Deputy Minister of the Interior to exercise the responsibility of National Anti-trafficking Co-ordinator. GRETA notes that the National Co-ordinator is expected to perform a variety of tasks linked to planning, monitoring and reporting on the development and implementation of the national policy against THB, as well as chairing the National Authority. The Secretariat is provided by the Secretariat for National Strategies of the Ministry of Internal Affairs, which has the task of monitoring and evaluating some 10 different strategies. GRETA notes that, in a number of countries, the structures which co-ordinate action against THB are not placed within a particular Ministry but, rather, are directly subordinated to the Cabinet of Ministers or the Prime Minister; this can be considered good practice as it demonstrates the willingness of the authorities to ensure that such structures have a genuine inter-agency functioning. **GRETA considers that the Kosovo\* authorities should consider establishing a fully-fledged post of National Co-ordinator supported by an office which is commensurate with the tasks at hand.**

60. Law No. 04/L-2018 specifies that the National Co-ordinator “will act as National Rapporteur in order to carry out assessments of trends in trafficking in human beings and measure the results of anti-trafficking actions, including the gathering of statistics, in close co-operation with relevant civil society organisations active in this field.” GRETA would like to stress that Article 29 of the Convention makes a clear distinction between National Co-ordinator and National Rapporteur. The human rights-based approach to anti-trafficking policies advocated by the Convention requires adequate monitoring and evaluation. In GRETA’s view, the key features of National Rapporteurs’ mechanisms in the sense of Article 29, paragraph 4, of the Convention<sup>13</sup> should be the ability to critically monitor the efforts and effectiveness of all state institutions, including national co-ordinators, and to that end maintain a constant exchange with civil society, the research community and other relevant stakeholders. A structural separation between monitoring and executive functions enables an objective evaluation of the implementation of anti-human trafficking legislation, policy and activities, identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations.<sup>14</sup> **GRETA invites the Kosovo\* authorities to consider the designation of an independent National Rapporteur or another independent mechanism for monitoring the anti-trafficking activities of State institutions.**

61. As indicated in paragraph 9, internal trafficking is a growing trend in Kosovo\*. This requires appropriate adjustments to the anti-trafficking policy and practice. Children constituted 46% of identified trafficking victims in 2013 and it is acknowledged that they are particularly vulnerable to trafficking.<sup>15</sup> As regards trafficking for the purpose of labour exploitation, it is reported that seasonal workers coming to Kosovo\* from neighbouring countries are vulnerable to trafficking, but there have been no prosecutions so far.

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<sup>13</sup> “Each Party shall consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements.”

<sup>14</sup> In this context, see also the Summary report on the Consultative Meeting on Strengthening Partnerships with National Rapporteurs on Trafficking in Persons and Equivalent Mechanisms organised by the UN Special Rapporteur on Trafficking in Persons, Especially Women and Children in Berlin, 23-24 May 2013.

<sup>15</sup> National Strategy 2015-2019, p. 10.

62. GRETA considers that the Kosovo\* authorities should take further steps to ensure that action to combat THB is comprehensive, and in particular to:

- address internal trafficking through awareness raising, research, demand-reduction measures and measures targeting the root causes of trafficking;
- regularly convene meetings of the National Authority as envisaged in the anti-trafficking Strategy and National Action Plan;
- pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking, in particular children from socially vulnerable groups and displaced children;
- strengthen action to combat trafficking for the purpose of labour exploitation by involving labour inspectors, trade unions, civil society and businesses in a joint platform and improving the identification of and assistance to victims of trafficking for the purpose of labour exploitation.

iv. *Training of relevant professionals*

63. GRETA was informed that training courses on THB are held at the Police School once or twice per year. A customised curriculum, approved by the Ministry of Education, is followed by trainers at the Police School. The training is financed from the police budget. All investigators working at the Police Department against Trafficking in Human Beings have followed basic training for the investigation of trafficking of human beings. Further, all police officers have two days of in-service training annually, and this normally includes three hours on THB. A course for investigators lasts a week and is usually attended by 20 to 30 officers from the Police and the Border Police. The training covers identification, investigation and international co-operation. There is also a two-week course on investigation of organised crime, which includes two days on THB. The participants are police officers working in the field or who have completed the first course.

64. Further, UNHCR has provided training for the border police officers and has also facilitated study visits and workshops for the Ministry of Internal Affairs. GRETA was informed that the British Embassy had recently provided training on interviewing victims and their rights, and how to build trust.

65. GRETA was informed that prosecutors receive mandatory initial and in-service training at the Judicial Institute. Training on THB was said to last two hours and to cover prevention, identification, assistance and protection, legal aspects of THB, and rights of victims of THB in criminal proceedings. The training is provided by other prosecutors, including international personnel.

66. The victim advocates undergo annual training on the Standard Operating Procedures. They also have specialised training, which is externally funded.

67. GRETA was informed that training on the early identification of victims of THB was organised by the Labour Inspectorate. Labour inspectors have also participated in training organised by Caritas Kosovo\* and Caritas Albania on the identification and reintegration of trafficked persons, as well as a study visit in the Netherlands organised by the EU. Two labour inspectors were trained as trainers for the implementation of the Standard Operating Procedures for Trafficked Persons. Further, four labour inspectors were involved in training on the Standard Operating Procedures organised by the OSCE in Gjilan in October 2013 and in Ferizaj in November 2013.

68. GRETA was informed that the Ministry of Education, Science and Technology raises awareness of THB in schools and amongst parents and provides training for teachers so that they can pass on their knowledge in schools. Training programmes take place annually.

69. In 2013, the Ministry of Health organised, together with OSCE, training on the role of medical staff in identifying victims of trafficking. In November 2011, the Ministry of Health held training on "The role of health workers in prevention of THB". The training was based on research conducted through a questionnaire sent to 18 health institutions. The training was attended by 35 participants from mental health centres, regional hospitals and the University Clinical Centre of Pristina (emergency physicians, psychiatrists, nurses, social services officials, psychosocial counselors). Further, the Human Rights Unit at the Ministry of Health, in co-operation with the OSCE Mission in Kosovo\*, organised a regional training session on the treatment and referral of victims of trafficking. The training was provided to health workers of family medicine centres and emergency medical staff within the regional hospitals. Training took place in Gjakova, Peja, Gjilan, Prizren, Mitrovica and Pristina, including a total of 179 participants. No special training has been organised regarding the issue of removal of organs. **GRETA considers that, as part of their training, medical staff should be sensitised about THB for the purpose of organ removal.**

70. GRETA welcomes the efforts made in Kosovo\* by the authorities, NGOs, international organisations and foreign donors to provide training to professionals working on the prevention of THB and protection of victims. However, it is clear that not all relevant professional groups have been covered. In particular, the knowledge of judges, labour inspectors and social workers about human trafficking and the rights of victims needs to be developed.

71. **GRETA considers that the Kosovo\* authorities should continue to improve the knowledge and sensitivity of relevant professionals (including police officers, social workers, professionals working with children, medical staff, public prosecutors, judges and the media) about THB 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 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*

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

73. In Kosovo\*, the collection of data and research on human trafficking are among the tasks of the National Co-ordinator. In practice, the collection of data is performed by the Kosovo\* Police Directorate against Trafficking in Human Beings, which is responsible for drawing up regular reports with data on THB and trends.

74. The Inter-Institutional Tracking Mechanism for Harmonisation of Statistics on Criminal Offences has issued a report for 2013-2014 which includes data of human trafficking offences. However, the convictions and sentences handed down are not recorded in this report.

**75. GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Kosovo\* authorities should develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical data on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of THB cases. Statistics regarding victims should be collected from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of THB are asked to provide information for the national database.**

76. As far as recent research related to human trafficking is concerned, in the framework of the Mario project (co-funded by the European Commission and the Oak Foundation), the NGO Terre des Hommes conducted research in 2014 and published the report “Children and Adolescents on the Move Involved in Street Work in Albania and Kosovo: Transnational and Internal Patterns”.<sup>16</sup>

**77. GRETA considers that the Kosovo\* authorities should conduct and support research on THB-related issues as an important source of information for the evaluation of current programmes and for their improvement and development of future policy measures. Areas where more research is needed in order to shed light on the extent and trends of human trafficking in Kosovo\* and inform policy makers include trafficking within Kosovo\*, trafficking in children and trafficking for the purpose of labour exploitation.**

#### *iv. International co-operation*

78. In Kosovo\*, co-operation with other countries in combating THB is based on the Law on International Co-operation in Criminal Matters<sup>17</sup> and relevant bilateral agreements and treaties.

79. Police co-operation agreements have been signed with Albania, Austria, Bulgaria, Croatia, Finland, France, Germany, Hungary, Montenegro, Sweden, Switzerland, “the former Yugoslav Republic of Macedonia” and the UK. The agreement with France specifically targets co-operation in combating irregular migration and trafficking networks. Further, co-operation agreements are currently being negotiated with Estonia, Slovenia, Turkey, Czech Republic, Poland, the Netherlands, Italy, Belgium, Ireland, Portugal, Latvia, Lithuania, Luxembourg, Denmark and Croatia.

80. An additional protocol on co-operation in the area of combating trafficking in human beings, improving the identification, exchange of information and the assisted return of victims, in particular children, has been signed between the National Co-ordinator of Kosovo\* and those of, respectively, Albania and Montenegro. The conclusion of more bilateral agreements is envisaged in the new draft Action Plan 2015-2019.

81. The Police Directorate against Trafficking in Human Beings is able to exchange information in a prompt and timely manner with other countries, usually through the police liaison office for international co-operation, known as ILECU. Liaison officers have already been appointed in five European countries. If there are pre-existing agreements signed between different states, a joint investigation would be possible. GRETA was informed that the Police Directorate against Trafficking in Human Beings had conducted and co-ordinated investigations with Albania, Germany, Switzerland and Montenegro. However, GRETA was informed that there are problems when it comes to exchange of information and evidence with countries with which Kosovo\* has no co-operation agreements.

**82. GRETA considers that the Kosovo\* authorities should continue developing international co-operation with a view to combating THB, providing assistance to victims, and effective investigation and prosecution.**

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<sup>16</sup> Vathi, Zana, *Children and Adolescents on the Move Involved in Street Work in Albania and Kosovo: Transnational and Internal Patterns*, Mario project, November 2014.

<sup>17</sup> <https://gzk.rks.gov.net/ActDetail.aspx?ActID=8871>

## 2. Measures aimed at preventing trafficking in human beings

83. Article 5 of the Convention requires the taking of measures to establish or strengthen national co-ordination for preventing THB, with the involvement of relevant NGOs, other organisations and members of civil society, as appropriate. The measures provided for by the Convention in the area of prevention include: awareness raising and education campaigns; economic and social initiatives to tackle the underlying causes of trafficking, in particular for persons vulnerable to trafficking; measures to enable migration to take place legally; actions aimed at discouraging demand; putting in place border control measures to prevent and detect trafficking in human beings; and measures to ensure the security and control of travel or identity documents.

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

84. Since 2010, the Ministry of Internal Affairs has organised every year in September and October an awareness-raising campaign against human trafficking under the slogan "Open your eyes". Other relevant ministries as well as international organisations operating in Kosovo\* and local and international NGOs have developed a number of awareness-raising activities throughout the campaign.

85. The campaign in 2013 focused on child trafficking. The purpose of the campaign was to provide information to children, their parents and teachers, social and health workers, as well as the general public on detecting signs of exploitation, including labour exploitation, forced begging and sexual exploitation. The campaign also promoted the National Help Line. An estimated audience of between 150 000 and 350 000 was reached. Among other activities, there were five messages in the Albanian, Serbian and Roma languages broadcast by national radio and television stations, lectures and discussions in 40 schools, through which 15 000 students were reportedly informed, and a charity concert which was attended by some 250 people and broadcast on television.

86. The impact of the campaign in 2013 was measured as part of an EU project in co-operation with the NGO Terre des Hommes through a survey including 398 interviews in seven different locations. Respondents self-evaluated their knowledge regarding child trafficking. The level of public awareness about child trafficking and exploitation is said to be increasing: 51% of the respondents (August 2013) claimed to have good knowledge regarding child trafficking and exploitation, in comparison to 29% in November 2012 and 17% in September 2012. Respondents considered child trafficking to be a huge problem in Kosovo\* (70% assessed the problem to be high or very high) and believed that raising awareness should continue. While television remains the main source of information regarding human trafficking, radio and other media play an important role along with social media and networks.

87. It is noteworthy that the above-mentioned campaign focused on all ethnic groups and a great number of activities were conducted for the Serbian and the Roma, Ashkali and Egyptian (RAE) communities in Kosovo\*.

88. Police officers from the specialised anti-trafficking department regularly give presentations in municipalities, schools and other institutions and participate in television programmes with a view to raising public awareness about trafficking and criminal sanctions for traffickers.

89. The Ministry of Education, Science and Technology works on prevention through raising awareness in schools. Since 2011, the Ministry has selected each year around 10 schools in five to six municipalities to organise awareness-raising lectures. As part of the school curriculum, information on THB is provided during civil education classes. Further, 245 teachers have been trained to provide life skills training to children, including 24 teachers working in the RAE communities. A booklet on THB has been published and will be distributed in schools. The Ministry is also developing a strategy for countering risks related to using the Internet. **GRETA invites the Kosovo\* authorities to step up their efforts to counter risks related to the use of the Internet, as a tool for preventing and combating THB through the Internet.**

90. The Ministry of Local Government Administration is also part of the THB prevention efforts. Since 2008, a total of 34 human rights units have been set up in the municipalities. Each unit is expected to have an officer dealing with THB issues, but for the time being this aspect is covered by gender equality officers due to lack of funding. The Ministry has conducted several campaigns on THB in recent years. For example, a campaign in Mitrovica targeted the RAE population through lectures on the risks of THB, given to 370 people. In 2014 primary schools in rural areas were targeted and a booklet for 6th grade pupils was developed. A documentary on the risks of THB was also produced and shown around schools.

91. GRETA notes that the new draft National Strategy and Action Plan 2015-2019 contain many awareness-raising activities, some of which are carried over from the previous Strategy and Action Plan, including organisation of awareness and education activities with a special focus on communities vulnerable to THB, awareness raising of parents and teachers, as well as developing awareness raising to prevent child trafficking and forced labour. It is also envisaged to train journalists and co-operate with the Independent Media Commission and Press Council.

92. GRETA welcomes the efforts made in Kosovo\* to develop the aspect of prevention of human trafficking through a variety of awareness-raising measures, education in schools and special actions targeted at vulnerable groups, as well as the steps taken to measure the impact of some of these activities. **GRETA considers that future awareness-raising measures should be designed in light of the assessment of previous measures and be focused on the needs identified. Awareness raising should continue targeting vulnerable groups and inform the general public of forms of THB which are on the rise, such as labour exploitation, forced begging, forced commission of criminal offences and trafficking within Kosovo\*.**

93. GRETA notes that there have so far been no campaigns targeting customers and aimed at discouraging demand that leads to human trafficking. According to the authorities, it was foreseen that the campaign in October 2015 would address this issue. **GRETA considers that the Kosovo\* authorities should take steps to discourage demand for the services of trafficked persons, for all forms in exploitation, in partnership with the private sector and civil society.**

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

94. The draft anti-trafficking Strategy 2015-2019 indicates that the most vulnerable groups to THB in Kosovo\* are women and children and the statistics on identified victims bear this out (see paragraph 9). Both the previous and the new Action Plan contain activities for vulnerable groups, such as facilitating their access to education and capacity building of civil society to work with minorities on the issue of THB.

95. The Roma, Ashkali and Egyptian (RAE) communities in Kosovo\* are recognised as being at risk of human trafficking due to their socio-economic status, marginalisation, discrimination and segregation. The RAE communities face various problems with regard to their education, starting from their enrolment in school, speaking the language, and being accepted by the majority community. Early (child) marriages are reportedly a problem. The position was further aggravated by the war in Kosovo\*, as a result of which there was displacement of population both internally and out of Kosovo\*. According to a report of the Special rapporteur on the human rights of internally displaced persons (IDPs), thousands of IDPs still live in dire conditions and the Roma, Ashkali and Egyptians are among the most vulnerable IDPs, many living in informal settlements and without personal documentation, which makes it difficult for them to access public services and increases their vulnerability to human trafficking.<sup>18</sup> Assessments made by the UN show that after the conflict of 1999, the number of members of RAE communities in Kosovo\* dropped from 100 000 to around 35 000 - 40 000.

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<sup>18</sup> Report of Special Rapporteur on the Human Rights of Internally Displaced Persons, Chaloka Beyani, Follow-up mission to Serbia, including Kosovo\*, Human Rights Council Twenty-sixth session, 5 June 2014.

96. The Strategy for Integration of RAE communities in Kosovo\* (2007-2017) contains a range of measures, including in the area of education and social inclusion, which can serve as prevention measures against THB. The Ministry of Education, Science and Technology reported that there had been some success when it comes to sending children to school, including through the offering of financial incentives to parents. According to information provided by the Ministry of Local Government Administration, out of 250 so-called “legally invisible people” in the region of Mitrovica, 120 had been registered through joined efforts of the Ministry and NGOs. In April 2015, free-of-charge registration for services in the communities was organised.

97. The Ministry of Labour and Social Welfare, in collaboration with NGOs, works on the re-integration of victims of trafficking and their empowerment. Thus the NGO PVPT provides vocational training in selected areas; there are subsidies in the form of monthly salary in the workplace, purchase of necessary work equipment and rental payments. The NGO Hope and Home is offering social and empowerment services for vulnerable groups of children such as education in the community, computer courses, tailoring, cooking courses, hair-dressing and language courses.

**98. GRETA welcomes the measures taken by the Kosovo\* authorities vis-à-vis groups vulnerable to THB and considers that the authorities should continue to develop the aspect of prevention through social and economic empowerment measures.**

**99. GRETA urges the Kosovo\* authorities to include in the Strategy for Integration of RAE communities in Kosovo\* measures to prevent human trafficking and to provide victims with assistance and protection, paying particular attention to IDPs. Special measures should be taken for the protection of internally displaced women and children.**

**100. Further, GRETA urges the Kosovo\* authorities to take steps to secure the birth registration and issuing of personal documentation to all persons, both as a prevention measure and in order to avoid re-trafficking.**

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

101. Administrative Instruction No. 01/2014 for early identification of victims of trafficking in human beings by consular services, Border Police and the Labour Inspectorate, which was approved by the Government of Kosovo\* on 21 March 2014, provides detailed guidance to border police officers. The Border Police cannot investigate cases of THB on its own and has to notify the specialised anti-trafficking units if they encounter any person whom they suspect of being trafficked. There is an Integrated Border Management system which monitors all border crossings of Kosovo\* and has a focal point officer for THB within the Risk and Threat Unit. The Police Directorate against Trafficking in Human Beings has received in the past calls from the Border Police to act upon suspected cases of human trafficking. In co-operation with the Office for Migration, the Police Directorate against THB participates in the exchange of information as well as organising joint controls in different areas. Leaflets and brochures are distributed with contacts of investigators from the Police Directorate against Trafficking in Human Beings.

102. Migration issues are under the jurisdiction of the Border Police together with the Department for Citizenship, Asylum and Migration. Monthly reports on the stay of foreigners in Kosovo\* are prepared, including information on the purpose of their stay.

**103. GRETA considers that the Kosovo\* authorities should make further efforts to detect cases of THB in the context of border control, strengthen the operational co-operation between the relevant authorities and introduce a checklist to identify potential THB-related risks during the visa application system.**

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

104. In January 2013 the Kosovo\* Agency for Civil Registry started issuing biometric identity documents with high security features as foreseen by European Union standards. Since June 2013, new biometric passports have been issued, and since December 2014, new identity cards and residence permits for foreigners in accordance with the latest standards required by the EU, implementing the “Extended Access Control (EAC)” as well as “Supplementary Access Control (SAC)”.

### **3. Measures to protect and promote the rights of victims of trafficking in human beings**

a. Identification of victims of trafficking in human beings

105. To protect and assist trafficking victims it is of paramount importance to identify them correctly. Article 10 requires the adoption of measures to identify victims of THB, including through the availability in each competent authority of persons trained and qualified in identifying and helping victims, including children and the collaboration between different authorities and relevant support organisations. 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.

106. The identification of victims of THB in Kosovo\* is regulated by the Anti-trafficking Law No. 04/L-218, Administrative Instruction No. 01/2014 for early identification of victims of trafficking in human beings from consular services, Border Police and the Labour Inspectorate, and the Standard Operating Procedures (SOPs) for trafficked persons in Kosovo\* (amended in 2013).

107. Pursuant to Article 12 of the Anti-trafficking Law No. 04/L-218, the official identification of victims of THB is performed by the respective police units, prosecution, victim advocates and centres for social work, when they have grounds to believe that a person is a victim of THB, in line with the Standard Operating Procedures.

108. The current SOPs were developed within the framework of the project “Strengthening institutions in the fight against trafficking in human beings and domestic violence”, funded by the EU Office in Kosovo\* and implemented by the NGO KMOP (Family and Childcare Centre) from Greece. A number of other international organisations have also been involved in the development of the SOPs over the years (OSCE, IOM, USAID, ICMPD), as well as domestic stakeholders, both governmental and non-governmental. The first SOPs were in fact developed in 2004. Two workshops were held in Pristina and Prevalla, in May 2012 and June 2012, to discuss the assessment of the earlier SOPs and make recommendations for their revision.

109. The SOPs are intended as a working tool for practitioners and specialists from governmental, non-governmental and international organisations. Each SOP section outlines the different measures to be taken at the stage of identification, first assistance and protection, further assistance and social inclusion, assisted voluntary return or resettlement, criminal and civil proceedings. At the end of each section, flowcharts summarise the main steps and measures described. There is also a list of national and transnational contacts.

110. According to the SOPs, a number of actors who may come into contact with presumed victims of THB refer such persons to the specialised Police Directorate against THB, including other police officers, prosecutors, victim advocates, social workers, NGOs, helpline operators, family members, health-care professionals, labour inspectors, immigration officers, trade union representatives, embassy or consular officials, and detention centres staff. The trafficked person may him/herself decide to go to the police or other structure and ask for assistance.

111. The next step is the convening of a team composed of a police officer on duty from the Police Directorate against THB, a victim advocate from the competent regional office, or a social worker in case the presumed victim is a child. If the presumed victim is a foreigner, an interpreter is also recruited. The registration of the referral of the presumed victim is performed by the police, using a standard form.

112. The SOPs prescribe the next steps to be taken – information and basic needs provision, initial screening and case management assignment, early risk assessment, and referral to support services – before addressing the issue of formal identification (Measure 7). It is specified that formal identification takes place after the reflection period is over, through an interview by police officer(s) of the Directorate against THB, to which the presumed victim must consent. In some cases, more than one interview may be necessary. In case of a presumed foreign victim of trafficking, interpretation has to be provided. Other stakeholders may be involved to collect necessary information (e.g. police officers in other countries, INTERPOL, EUROPOL). Once the identification process is completed, the police officer writes a formal identification report and informs the case manager of the outcome.

113. The SOPs specify that in case of a presumed child victim, a social worker – if possible, of the same sex as the child and trained in the UNICEF Guidelines on interviewing children – is called. A request for child protection services is registered using an official form. In case of an unaccompanied child, the Director of the competent guardianship authorities is promptly called and initiates the appointment of a guardian. When there are reasonable grounds to believe that a presumed child victim who is from Kosovo\* is in need of protection, the process for the appointment of a guardian is initiated with the informed consent of the parents. The interviews of children must take place in a child-friendly environment. Multiple interviews are to be avoided unless absolutely necessary and the length of the interview should be limited.

114. Based on the Anti-trafficking Law and the SOPs, the legal status of trafficked victims is granted by police investigators of the Directorate against THB or, in the case of children, by victim advocates and representatives of the centre for social work.

115. In March 2014, Administrative Instruction No. 01/2014 for early identification of victims of THB by consular services, Border Police and the Labour Inspectorate was approved by the Government of Kosovo\*. Pursuant to Article 5 of this Instruction, early identification is carried out through the collection of information necessary for the case in question, preliminary evaluation of this information, and referring it to the relevant institutions. Article 8 lists indicators for early identification by consular services (e.g. restriction of the freedom of movement and communication, living conditions, indebtedness, no salary, etc.). In the context of interviews of visa applicants, consular officials must seek to obtain information which should help clarify the circumstances of the person, in particular the conditions of his/her employment in Kosovo\*. Similarly, indicators to assist with the identification of victims of THB by Border Police officers are provided in Article 20. In cases where Border Police officers detect the presence of such indicators, they must inform the competent authorities dealing with the protection of victims of THB. Article 21 deals with the early identification of child victims, Article 22 with the identification of persons trafficked for the purpose of domestic servitude, Article 23 with the identification of victims of trafficking for purposes of sexual exploitation, and Article 24 with the identification of victims of trafficking for the purpose of begging or committing offences. In each case, a list of indicators is provided.

116. Labour inspectors may have a role in detecting and referring potential cases of trafficking for labour exploitation. Unfortunately, during GRETA's visit to Kosovo\*, it was not possible to meet labour inspectors. The Kosovo\* authorities have subsequently informed GRETA that labour inspectors supervise the implementation of the Law on Employment and Safety at Work and other relevant legislation, and that their mandate covers both the public and private sectors. GRETA notes that Administrative Instruction No. 01/2014 provides detailed instructions for the early identification of victims of THB by Labour Inspectors, including lists of indicators for different forms of exploitation. Labour inspectors receive training on the use of these indicators (see paragraph 67).

117. Police officers and prosecutors met during GRETA's visit to Kosovo\* referred to difficulties in identifying persons trafficked for the purpose of labour exploitation because of what they perceived as being a fine line between labour law violations and forced labour. This highlights the need for further training and learning for the experience of other countries how to investigate and prosecute cases of THB for the purpose of labour exploitation.

118. As regards the identification of cases of trafficking of children for the purpose of forced begging, GRETA was informed that in Kosovo\*, it is not considered a criminal offence for parents to make their children beg, which accounts for the absence of identified victims.

119. **GRETA welcomes the adoption of formalised procedures (SOPs) for the identification of victims of THB, including children, and the development of indicators.** GRETA notes that the identification of victims of trafficking and the provision of assistance do not seem to depend on the person's co-operation with law enforcement authorities in the investigation of trafficking cases. At the same time, GRETA's delegation established during the visit that NGOs are not involved in the identification process, their role being limited to assisting victims upon referral from the police or social workers (in the case of children). GRETA notes 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.

120. **GRETA considers that the Kosovo\* authorities should take further steps to ensure that all victims of trafficking are properly and promptly identified and can benefit from all the assistance and protection measures provided for under the Convention, and in particular 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 and medical staff;
- ensure that all professionals who may come into contact with victims of THB are fully aware of the SOPs and receive periodic training to enable them to identify victims of THB; the indicators should be regularly updated in order to reflect the changing nature of human trafficking and types of exploitation;
- pursue a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by encouraging labour inspections in sectors most at risk (e.g. agriculture, construction, entertainment) and enforce Administrative Instruction No. 01/2014;
- pay increased attention to the identification of child victims of trafficking, including for the purpose of forced begging;
- strengthen the capacity of social workers to proactively identify victims of trafficking.

b. Assistance to victims

121. The Convention requires the taking of 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, paragraph 7). The Convention also establishes that the assistance to victims of THB must include appropriate and secure accommodation.

122. In Kosovo\*, the provision of assistance to victims of THB is the responsibility of the Ministry of Labour and Social Welfare, together with governmental and non-governmental partners. Pursuant to Article 20 of the Anti-Trafficking Law No. 04/L-218, victims of THB have the right to temporary accommodation, medical care, psychological assistance, social welfare services, information, legal assistance, translation and interpretation. The assistance is to be provided also to victims repatriated from another country to Kosovo\* and accompanying dependents of the victim. It is specified in the law that assistance and support are not conditional on the victim's willingness to co-operate during the investigation and prosecution. Further, assistance is to be provided whenever there are reasonable grounds to suspect that a person may have been trafficked. Pursuant to Article 23 of the Anti-Trafficking Law, accommodation for victims of THB is provided for a period of 30 to 90 days, but it may be extended on a doctor's recommendation where the victim is undergoing medical treatment, if it is necessary for the protection of the victim even after the completion of criminal proceedings, or at the victim's request (for up to 90 days).

123. Minimum Standards of Care for Victims of Trafficking have been developed by the Ministries of Labour and Social Welfare, Justice, Finance, and Education, Science and Technology, and the Kosovo\* Police, with the involvement of international organisations (IOM, OSCE) and NGOs. The Minimum Standards prescribe in detail the steps to be taken in respect of accommodation (e.g. the services that must be provided by each shelter, the number and categories of staff that each shelter should have, the equipment of shelters, food provision, activities), security, preparation of a care plan, health care, psycho-social support, education, vocational training, legal support and complaints procedures.

124. Centres for social work have an important role in the process of assisting victims of trafficking. The social service system in Kosovo\* was reorganised in 2009, resulting in decentralisation of services which are funded by the municipalities, while the Ministry exercises quality control and guarantees minimum standards. Centres for social work appoint case managers who assess the needs of victims and prepare care plans in co-operation with shelter staff and the beneficiaries. In the case of child victims, centres for social work also act as legal guardians. However, GRETA was informed that centres for social work do not have enough staff to deal with all the tasks falling under their mandate.

125. Pursuant to Article 24 of the Anti-Trafficking Law, the authorities provide vocational training to victims of trafficking aged over 16 years, which includes mediation in employment, professional counselling and access to professional training courses funded by the unemployment programme. Articles 21 and 22 of the Anti-Trafficking Law concern, respectively, the rehabilitation and reintegration of victims of THB. These provisions are rather general and describe the purposes of rehabilitation and reintegration, the latter being achieved through the provision of adequate access to education, vocational training, as well as financial independence by providing different opportunities for (self) employment. The Ministry of Labour and Social Welfare provides free-of-charge vocational training courses (e.g. for tailors and cooks). However, during the visit to Kosovo\*, GRETA was informed that reintegration posed real challenges in practice, due to the lack of employment opportunities.

126. The Ministry of Labour and Social Welfare operates a temporary shelter for victims of trafficking considered to be of "high" or "medium" level risk, which was visited by GRETA. The Ministry fully finances the shelter and the annual budget was said to amount to 80 000 euros. The shelter, which is located some 15 km from Pristina, in Lipjan, has been at its current location since November 2013. Previously, another shelter operated under the authority of the Ministry of Justice. The current shelter was constructed with funding from the European Commission. It occupies a large two-storey building located in spacious but sparse grounds surrounded by a high wall. The entrance to the shelter is locked and guarded. Up to 25 persons can be accommodated, with separate accommodation for male victims as well as two apartments for mothers with children. The facilities and furniture were new and clean, but the atmosphere was sterile. There was little for anyone living there to do. A library contained a small number of books, mostly in English. There were no toys for children. At the time of the visit there were no trafficked persons staying at the shelter. The two most recent residents left in February 2015. A total of 25 trafficked persons had stayed at the shelter since it opened at its current location (including one man from Albania trafficked for forced begging). The average stay was said to be 25 days (shortest stay: one day; longest stay: 69 days).

127. The shelter had 11 staff, including the Director, victim advocates, nurses and an educator. At the time of GRETA's visit there was no in-house psychologist or medical doctor but these services are provided by visiting specialists.

128. If the police have reasonable grounds to believe that a person has been trafficked, they are brought to the shelter. The police evaluate the risk level of the individual; those considered to be at medium/high risk are referred to the State shelter and those considered to be at low risk are referred to the PVPT Centre (see paragraph 129). The police complete a standard form containing details about the trafficked person, which is also signed by the shelter. Trafficked persons are encouraged to remain in the State shelter, but they cannot be forced to stay against their will. Trafficked persons are asked to sign a statement that they agree to stay at the shelter. If trafficked persons go out of the shelter temporarily (e.g. to court), they are escorted by the police and if necessary a staff member. If the police wish to interview a trafficked person, the interview always takes place at a police station.

129. In July 2008, the NGO PVPT set up a rehabilitation centre for victims and potential victims of trafficking, the only one in Kosovo\*.<sup>19</sup> The centre has 11 staff with a variety of qualifications (including a medical doctor, psychologist and sociologist). It has seven beds for women and children. At the time of GRETA's visit there were four women staying in the centre. There were also 12 people who used services provided by the centre on a daily basis but who did not live there. The rehabilitation centre provides long-term rehabilitation and reintegration of victims of trafficking. Victims are provided with safe accommodation, food and clothing, medical care, psychological and legal counselling, psycho-social activities, mediation and family counselling, basic professional courses, educational activities (in co-operation with the Ministry of Education), and sessions on awareness and empowerment. Residents stay up to six months. A rehabilitation plan is drawn up for each person and they are regularly assessed to see how they are progressing. The shelter offers legal and medical advice and has enough funding to send people for specialist medical check-ups. A significant challenge with regard to reintegration is co-operation with private companies, which are sometimes subsidised to employ a trafficked person, but once the money for the subsidy runs out the company may stop employing the person. The Ministry of Labour and Social Welfare through procurement procedures buys housing and rehabilitation services from the NGO PVPT worth annually around 33 000 euros (20% of the centre's budget). The Ministry also monitors the quality of the services provided.

<sup>19</sup> Until 2008, PVPT operated a closed shelter for foreign victims of THB.

130. Since 2001, the NGO Hope and Home for Children (SDSF) has run a shelter providing accommodation and assistance to children who are victims or potential victims of human trafficking, sexual abuse or violence. This is the only shelter of its kind in Kosovo\*. It has 12 places but can take more children in an emergency. There were 12 children at the time of the visit (aged 3 to 18), including three victims of human trafficking. The children generally stay for up to six months at the shelter, but the stay may be extended if there is no alternative. Children are monitored after they have moved out of the shelter so as to ensure that their welfare is looked after. The shelter's location is secret. Children are provided with food, clothing, health care, psychological counselling, school in the community, extra home tuition and vocational courses. However, due to the fact that some of the children have not attended school before their arrival at the shelter, it is sometimes difficult to send them to school. Each child is appointed a case manager (a social worker from the local centre for social work) and a victim advocate. The Ministry of Labour and Social Welfare funds 58.6% of the shelter's annual budget, to the value of 58 700 euros (of which 30 000 euros for victims of trafficking and the rest for victims of violence).

131. Pursuant to Article 31, paragraph 2, of the Anti-Trafficking Law, victims of trafficking and presumed victims benefit from free-of-charge medical services, as regulated by the relevant health legislation. During the evaluation visit to Kosovo\*, GRETA was informed that a new Law on Health Care was adopted in 2014, which deemed victims of trafficking (both national and foreign) as a special category entitled to free-of-charge health care. In addition, the Law on Health Care Insurance No. 04/L-249 was adopted in 2014. Article 11 of this Law provides that victims of trafficking, including those who are not citizens of Kosovo, are exempted from all payments for health services.

132. As regards the provision of assistance to child victims of trafficking, Article 28 of the Anti-Trafficking Law specifies that "in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration." GRETA was informed that a social worker from the municipality where the trafficked person was found will be appointed as legal guardian. The child will also have a case manager. They can both be social workers but the same person may not perform both functions. A social worker is said to be present during all interviews with children. A child psychiatrist or psychologist may be required to give evidence about a child's condition.

133. **GRETA welcomes the fact that the law expressly specifies that assistance is not made conditional on the victim's willingness to co-operate in the investigation/prosecution and the availability of safe accommodation for women, men and children victims of THB. However, GRETA considers that the Kosovo\* authorities should make additional efforts to provide assistance to victims of trafficking, and in particular to:**

- ensure that all assistance measures provided for in law are guaranteed in practice; when assistance is delegated to NGOs as service providers, the State has an obligation to provide adequate financing and ensure the quality of the services delivered by the NGOs;
- guarantee access to public health care for all victims of trafficking;
- ensure that conditions provided in shelters for victims of trafficking are adapted to their special needs. In this context, better balance should be struck between the need to place victims of THB in safe accommodation and the need to achieve their recovery and rehabilitation.

134. Further, GRETA urges the Kosovo\* authorities to strengthen their efforts to facilitate the reintegration of victims of trafficking into society by providing them with access to education, vocational training and the labour market. In this context, the authorities should consider adopting incentives for companies employing people from disadvantaged groups.

135. GRETA also invites the authorities to continue providing regular training to all professionals responsible for implementing assistance measures for victims of trafficking, including social workers.

c. Recovery and reflection period

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

137. In Kosovo\*, the recovery and reflection period is regulated by Article 26 of the Anti-trafficking Law No. 04/L-218, as well as Article 61 of the Law on Foreigners No. 04/L-219. The former provision stipulates that "if it is considered that a foreigner whose stay in Kosovo\* is not regular is a victim or witness of trafficking in human beings, the competent law enforcement bodies on foreigners offer him/her a reflection period during which the person in question recovers and escapes the influence and threats of perpetrators, irrespective of whether he/she wants to co-operate with the authorities. The duration, beginning and conditions for granting this period are regulated by the legislation on foreigners. Respect for the *non-refoulement* principle is taken into consideration." Article 61 of the Law on Foreigners provides that the duration of the reflection period is from 30 to 90 days, starting from the moment the case was referred to the specialised anti-trafficking police units.

138. The SOPs provide details on the manner in which the recovery and reflection period is to be issued to victims of trafficking. It is specified that this period is to be issued regardless of the person's willingness to co-operate as a witness in criminal proceedings. The reflection period lasts a minimum of 30 days, starting from the moment of initial referral, and can be extended up to three months. During this period, the presumed victim of THB is not interrogated and is provided with time to recover, secure accommodation, protection, psychological counselling, detailed information on rights, and temporary authorisation to stay if he/she is a foreigner. The SOPs make it clear that the recovery period is to be offered to all victims of THB, whether foreign or national. During this period, presumed trafficked persons are held in a secure shelter, but if the risk level is low and the person is deemed safe, he/she can opt for a non-residential solution. Once the reflection period is over, the presumed victim informs the case manager about his/her decision to co-operate with the law enforcement authorities or not, and the case manager informs the police accordingly.

139. The authorities have drawn up an information sheet on the rights of victims of trafficking, in seven languages, which still refers to the right to be offered a recovery and reflection period of "30 + 10 days". The authorities have indicated that the information sheet was updated in 2013 and is now in accordance with the Law on Foreigners, the Anti-trafficking Law on Preventing and the Standard Operating Procedures, providing for a reflection period of from 30 to 90 days.

140. According to information provided by the Kosovo\* authorities, the number of victims of trafficking who were granted a recovery and reflection period was 39 in 2011, 54 in 2012, and 52 in 2013, i.e. all persons identified as victims of trafficking were offered such a period.

141. GRETA welcomes the fact that a recovery and reflection period is provided for all victims of trafficking, regardless of whether they co-operate with the authorities, and invites the Kosovo\* authorities to ensure that this period is systematically observed in practice.

d. Residence permits

142. 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.

143. The issuing of residence permits to victims of human trafficking in Kosovo\* is regulated by Law No. 04/L-219<sup>20</sup> on Foreigners, Article 41, paragraph 1.4 of which provides that a temporary residence permit may be issued on the basis of "humanitarian grounds, including to refugees, persons under subsidiary protection and victims of human trafficking or victims of migrant smuggling and foreigners who have expressed willingness to co-operate with the competent authorities". Pursuant to Article 41, paragraph 4, of the Law on Foreigners, "notwithstanding paragraph 1 of this Article, a foreigner may be granted a temporary stay permit for other purposes. A permit for other purposes cannot be longer than six months within one year." The form, content and procedure for issuance of residence permits are regulated by by-laws adopted by the Ministry of Internal Affairs, namely No. 01/2014 on the Procedure for Issuing of Residence Permits to Foreigners and Certificates for Notification of Work, and No. 02/2014 on Foreigners' Travel Documents.

144. It is noteworthy that neither the information sheet on rights of victims of THB nor the SOPs refer to the residence permit.

145. According to information provided by the Kosovo\* authorities, no victims of trafficking were issued a residence permit in 2011-2013. GRETA notes that during the period in question, there were 23 Moldovan, 9 Albanian, 4 Serbian and one Slovak victims of THB identified in Kosovo\*.

**146. GRETA welcomes the provision in Kosovo\* law of a residence permit for victims of THB both on humanitarian grounds and when co-operating with the competent authorities, and considers that the authorities should make full use of the existing law.**

**147. GRETA also considers that the Kosovo authorities should ensure that victims of THB are systematically informed in a language they can understand of the right to be granted with a residence permit.**

e. Compensation and legal redress

148. Article 15 of the Convention establishes the obligation to provide in internal law for the right of victims of trafficking to legal assistance and free legal aid and the right of victims of trafficking to compensation from the perpetrators. Further, Article 15(4) establishes the obligation to adopt legislative or other measures to guarantee compensation for victims, for instance through the establishment of a fund for victim compensation.

149. The compensation of victims of trafficking in Kosovo\* is regulated by the Anti-Trafficking Law No.04/L-218, Articles 39 to 43. Pursuant to Article 39, "victims of trafficking, including child victims, whenever possible, receive compensation in order to be re-integrated and to have full recovery. The procedures for the acquisition and implementation of compensation should be accessible to children." Compensation includes court-ordered compensation from the perpetrator (following the general provisions of the Code of Criminal Procedure), damages ordered through civil proceedings and State compensation. Pursuant to Article 40, courts ensure that orders for compensation are implemented efficiently and prioritise them over other penalty payments such as fines.

<sup>20</sup>

<http://www.kuvendikosoves.org/common/docs/lajet/Law%20on%20foreigners.pdf>

150. Article 41 of the Anti-Trafficking Law indicates that victims of trafficking in human beings have the right to initiate civil proceedings to claim compensation for material, physical and emotional harms caused as a result of the actions defined as offences by this Law, if he/she could not exercise this right in criminal procedure. The right to file civil claim for compensation is not affected by the existence of criminal proceedings relating to the same actions from which the civil claim derives from. Further, the absence of the victim during the procedure does not impede the court to order compensation.

151. According to Article 42 of the Anti-Trafficking Law, State compensation would be given as additional compensation if the defendant only partially compensates the victim, or as full compensation in cases of inability to make full payment by the perpetrator, or if the defendant is not identified, prosecuted or convicted. The immigration status or return of the victim to his/her place of origin shall not prevent the responsible institution ordering the payment of compensation. State compensation covers compensation for material, physical and emotional harm. However, the provisions of Article 42 of the Anti-Trafficking Law are currently not being implemented as it is necessary to enforce a separate law on State compensation. Law No. 05/L 036 on Crime Victim Compensation was adopted and published in the Official Gazette of the Republic of Kosovo on 30 June 2015.<sup>21</sup> The purpose of this Law is the establishment of a Crime Victim Compensation Programme, in compliance with Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims. The Law regulates the right to financial compensation of victims of violent crimes and their dependents, the decision-making authorities and the procedures on the right to compensation in national and cross-border situations. THB is specifically mentioned as one of the violent crimes<sup>22</sup> which can be compensated under this Law. The applicant must be a citizen or permanent resident of Kosovo, a citizen of any country with which Kosovo has reciprocity with regard to compensation, or a citizen of an EU Member State. The following damages can be compensated under this law: serious physical injuries or impairment of health; serious disturbance to mental health; loss of capacity to work and loss of maintenance; medical and hospitalisation expenses; funeral expenses; damages for destroyed medical devices; and procedural expenses for filing an application. The application must be submitted no later than six months from the date the last criminal act on which the claim for compensation is based was reported. Article 23 provides for the setting up of a Crime Victim Compensation Committee. Most of the provisions of the Law will come into effect no later than one year after its entry into force.

152. GRETA notes that the information sheet on victims' rights does not include information on the right to claim compensation and the relevant procedures. On the other hand, the SOPs contains information on the issue of "support for compensation claims", according to which it is the duty of the lawyer or victim advocate to provide all necessary information about the right to claim compensation and the relevant procedures. According to the SOPs, the victim is to be ensured free legal assistance during the legal proceedings and be psychologically supported.

153. The Kosovo\* authorities could not provide information on any known cases of compensation awarded to trafficked persons. It transpired from discussions with prosecutors, police officers and NGO representatives that the compensation provisions were not being fulfilled in practice. It was indicated that trafficked persons could not present proof of the harm that they had suffered and even when the prosecutor proposed a compensation amount, the judge considered that the calculation was not accurate, rejected the compensation claim as part of criminal proceedings and instructed the injured party to resort to civil proceedings.

154. GRETA notes that, according to the judgment in the Medicus Clinic Case by the Basic Court in Pristina of 29 April 2013 (see paragraph 17), the identified victims who provided testimonies were partially awarded material compensation for the psychological and physical damages sustained during kidney transplants of 15 000 euros. There was no information available as to whether the awarded compensation was paid.

<sup>21</sup>

<http://gzk.rks-gov.net/ActDetail.aspx?ActID=10936>

<sup>22</sup>

A violent criminal act is defined by this Law as one which results in the death, serious bodily injury or serious damage to physical or mental health of the victim.

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

- ensure that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;
- enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid, by building the capacity of legal practitioners to support victims to claim compensation through criminal and civil proceedings, and including entitlement to compensation in existing training programmes for law enforcement officials and the judiciary;
- enable victims of trafficking who have left Kosovo\* to benefit from the possibilities to claim compensation.

156. GRETA welcomes the adoption of the Law on Crime Victim Compensation. Bearing in mind that no victims of trafficking have received compensation from the perpetrators, GRETA urges the Kosovo\* authorities to make the State compensation scheme accessible to victims of THB, regardless of their nationality and residence status, and without any requirement of first seeking to obtain compensation directly from the perpetrator.

f. Repatriation and return of victims

157. Article 16 of the Convention requires the establishment of 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 country of return. The return of victims of trafficking must preferably be voluntary and needs to be carried out with due regard for the rights, safety and dignity of the person and for the status of any legal proceedings related to the fact that the person is a victim of THB. Furthermore, a victim may not be returned where such action would be in contravention of the State's obligation of international protection, recognised in Article 40(4) of the Convention.

158. The return of victims of THB from Kosovo\* is regulated by Article 29 of the Anti-Trafficking Law No.04/L-218. Pursuant to this article, the Kosovo\* authorities provide victims of THB with information concerning safe return at the beginning of the reflection period, throughout the period of assistance and at the moment the victim expresses a wish to return to his/her country of origin or resettle in a third country. Child victims or witnesses are not returned to their country of origin if, after a risk and safety assessment, it is considered that their return would not be in their best interests. The principle of *non-refoulement* should be taken into consideration. The procedures for return of victims of trafficking or presumed victims of trafficking must be in accordance with the Kosovo\* Constitution and the Convention and Protocol Relating to the Status of Refugees. Further, Article 30 of the Anti-Trafficking Law provides that the requested state should facilitate the return of the victim through verifying if the victim is its resident, has a residence permit for its territory, and, if necessary, equip him/her with travel documents. The SOPs provide detailed guidance on the issue of assisted voluntary return and resettlement.

159. According to information provided by the Kosovo\* authorities, 24 victims of THB were repatriated to Kosovo\* and four victims were returned to another country in 2011; 26 victims were repatriated to Kosovo\* and 24 were returned to another country in 2012; and 10 victims were repatriated to Kosovo\* and seven were returned to another country in 2013. One of the victims repatriated to Kosovo\* in 2012 was a 17-year old child identified in the "former Yugoslav Republic of Macedonia", and another 16-year old child was identified in Montenegro in 2012 and returned in Kosovo\*.

160. GRETA considers that the Kosovo\* authorities should take steps to ensure that the return of victims of THB is conducted with due regard to their rights, safety and dignity, including the right to *non-refoulement* (Article 40(4) of the Convention), and in the case of children, by fully respecting the principle of the best interests of the child.

#### 4. Substantive criminal law, investigation, prosecution and procedural law

##### a. Substantive criminal law

161. Article 171, paragraph 1, of the Kosovo\* Criminal Code provides for a fine and imprisonment of five to 12 years for the basic offence of human trafficking. When the offence is committed within a 350 meter radius of a school or other locality which is used by children, or when the offence is committed against a person under the age of 18, the punishment is a fine and imprisonment of three to 15 years. **GRETA notes that the lower threshold of the penalty in case of trafficking in children (three years) is inferior to than that in the case of trafficking in adults (five years) and urges the Kosovo\* authorities to address this discrepancy.**

162. Article 171, paragraphs 3 to 5, of the CC provide for aggravating circumstances in the following situations: committing the offence by an organised group, which is punished by a fine of up to 500 000 euros and imprisonment of seven to 20 years; committing the offence by an official in abuse of his/her position, which is punishable by a fine and imprisonment of five to 15 years (no less than 10 years if the offence was committed by an organised group); the offence resulting in the death of one or more persons, which is punished by imprisonment of not less than 10 years or life imprisonment. **GRETA notes that the last aggravating circumstance does not fully correspond to the aggravating circumstance of “the offence deliberately or by gross negligence endangering the life of the victim” provided for in Article 24 of the Convention and urges the Kosovo\* authorities to ensure that all the aggravating circumstances provided for in the Convention are duly reflected in domestic law.** According to the authorities, the CC is expected to be amended in order to regulate the penalty for trafficking in children as well as the aggravating circumstances as provided for in the Convention.

163. Reference should also be made to Article 169 of the CC (slavery, slavery-like conditions and forced labour), which prescribes penalties of two to 10 years' imprisonment, increased to three to 15 years in case of the offence being committed against a child; five to 12 years in case of the offence being committed by an official person abusing his or her position; and five to 20 years in case of the offence being committed by an official against a child.

164. GRETA was informed that even when the prosecution brings charges for human trafficking, judges tend to reclassify the case as “facilitating or compelling prostitution” (Article 241 of the CC). There appears to be an overlap between the elements of Article 171 and paragraph 3 of Article 241, which reads as follows: “Whoever, by force or serious threat, or by holding another person in a situation of personal or economic dependency compels such person to engage in prostitution, shall be punished by a fine and imprisonment from one to eight years.” The use of this provision rather than Article 171 results in fewer convictions for THB as well as shorter sentences. **GRETA considers that the Kosovo\* authorities should examine the relationship between Articles 171 and 241(3) of the CC with a view to clarifying the scope of application of these two provisions. The Kosovo\* authorities should be prepared to readjust on the basis of this examination the content and the application of these provisions.** The authorities have indicated that the expected amendments of the CC will regulate this issue.

165. Pursuant to Article 172 of the CC, “whoever withholds another person's personal identification documents or passport knowing that the person is a victim of criminal offences provided for in Articles 169 and 171, shall be punished by imprisonment of one to five years”. When the offence is committed by an official abusing his or her position, the perpetrator shall be punishable by imprisonment of three to seven years. **GRETA notes that the other actions listed in Article 20 of the Convention (removing, concealing, damaging or destroying a travel or identity document of another person committed intentionally and for the purpose of enabling THB) are not established as criminal offences and urges them to amend the legislation accordingly.** The authorities have indicated that the expected amendments of the CC will regulate this issue.

166. Pursuant to Article 231 of the CC, “whoever uses or procures the sexual services of a victim of trafficking shall be punished by imprisonment of three months to five years”. When the offence is committed against a person under the age of 18, the punishment is imprisonment of two to 10 years. When the offence is committed by an official, the punishment is imprisonment of two to seven years (five to 12 years in case of a child). If the offence results in death of one or more persons, the punishment is imprisonment of not less than 10 years of imprisonment or life imprisonment. For the purposes of this Article it is irrelevant whether the perpetrator knew that the person was a victim of trafficking, unless for justifiable reasons, the perpetrator did not know and could not have known that the person was a victim of trafficking. **GRETA welcomes the inclusion of this provision in Kosovo’s\* legislation and invites the authorities to consider criminalising using knowingly services of a victim of trafficking for labour exploitation.**

167. Under Article 14 of the Anti-Trafficking Law, legal persons are held liable for trafficking in human beings offences committed for their gain by a person who acts either individually or as part of a body of the legal person, and who has a leading position in the legal person, based on the competence to represent the legal person, authority to take decisions on behalf of the legal person; or authority to exercise control within the legal person. Legal persons are also held liable in the case when the lack of oversight or control by a person mentioned on paragraph 1 of this Article has made the act of trafficking in human beings possible, for the benefit of that legal person by the part of a person under his/her authority. Liability of a legal person shall not prevent criminal proceedings against natural persons who committed, incited or aided the trafficking in human beings. Legal sanctions against legal persons on cases of THB will be applied in accordance with the Law on liability of legal persons’ actions for offences. According to statistics for 2012-2014, a total of 8 premises suspected of being used for committing the criminal offence of human trafficking were closed as a consequence of a court decision.

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

168. Pursuant to Article 26 of the Convention, States 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.

169. The Anti-Trafficking Law No.04/L-218 contains a specific provision concerning the non-punishment of victims of trafficking. Article 13 of this Law stipulates that:

“1. Victims of trafficking should not be arrested and cannot be prosecuted for crimes and offences committed by them as a direct result of the offence of trafficking, including:

- 1.1. Unlawful entry and exit of the trafficked person to/from the state;
- 1.2. Purchase or possession of forged travel documents or identification which he/she has obtained, or that was given to him/her, with the purpose of entry or exit from the state in connection with the offence of trafficking;
- 1.3. Involvement in other illegal activities to the extent that such involvement is a direct consequence of their situation of being trafficked;

2. Children who are victims of trafficking are not subject to proceedings or criminal sanctions for offences related to their situation as trafficked victims.”

170. GRETA has not received information concerning the application of the non-punishment provision in practice. It was unclear how far the non-punishment principle would apply, i.e. whether it would apply with regard to serious offences. According to the authorities, no criminal prosecution takes place when a person is declared to be a victim of trafficking.

171. **While welcoming the inclusion in Kosovo\* law of the non-punishment provision, GRETA considers that the Kosovo\* authorities should keep under review its implementation in practice, include it in the training provided to law enforcement officials, prosecutors and judges, as well as issue guidance to prosecutors on the implementation of the non-punishment provision.** Reference is made in this context to the recommendations on non-punishment for legislators and prosecutors contained in the paper issued by the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings in consultation with the Alliance against Trafficking in Persons Expert Co-ordination Team.<sup>23</sup>

c. Investigation, prosecution and procedural law

172. One of the purposes of the Convention is to ensure the effective investigation and prosecution of THB (Article 1(1)(b)). 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). Further, States are required to co-operate with each other regarding investigations and/or criminal proceedings related to THB (Article 32).

173. In Kosovo\*, a criminal investigation into trafficking in human beings is initiated *ex officio* by the prosecutor. As noted in paragraph 30, there are currently no specialised prosecutors dealing with THB cases in Kosovo\*, but the prosecutor appointed as a focal point in the Special Prosecution in Pristina has considerable knowledge of THB cases.

174. The 2013 Code of Criminal Procedure (CCP) requires all special investigative measures to be authorised by a pre-trial judge. Authorisation by a prosecutor is also possible in urgent cases, but it is valid only for three days. The CCP allows for 12 different measures to be used, including covert interception of communication, secret surveillance and recording, simulated purchase, and controlled delivery. Police officers investigating human trafficking cases informed GRETA that proactive investigations into human trafficking cases frequently took place, with the use of special investigative measures, in particular surveillance, interception of phone calls, instalment of video devices in public areas, and undercover investigator. Simulated purchase has not been used so far.

175. GRETA was informed that the specialised Directorate against Trafficking in Human Beings and its seven regional units investigate on average some 140 possible cases of THB annually. In 2014, a total of 155 cases were investigated by them and, as a result, 89 criminal files were submitted to the Prosecutor's Office, broken down as follows: 28 for THB, 24 for facilitating prostitution, 21 for engaging in prostitution, one for holding in slavery, and 15 for other offences. A total of 42 victims of trafficking were identified. At the time of GRETA's visit in April 2015, there were 37 cases under investigation, including three or four for forced begging. Police officers perform joint operations with the border police or labour inspectors, but the latter are reportedly reluctant to get involved.

<sup>23</sup>

<http://www.osce.org/cthb/101002>

176. According to the criminal offences statistical report of the Kosovo\* Prosecutorial Council for 2013 and 2014, the number of human trafficking cases handled by prosecutors in 2013 was 67 (involving 233 persons) and in 2014, 66 (involving 181 persons). The number of cases in which indictments were filed was, respectively, 33 and 22 in each year. In 2013, 25 persons were convicted of THB (of whom one was sentenced to six years' imprisonment and a fine of 4000 euros, and the remainder to imprisonment ranging from four months to two years, in some cases accompanied by fines ranging from 200 to 1200 euros). In 2014, 45 persons were convicted (of whom two were sentenced to 5 years and 6 months' imprisonment, one to 4 years and 6 months' imprisonment, four to 3 years and 6 months' imprisonment, and the remainder to imprisonment of 2 years or less, in some cases accompanied by fines ranging between 200 and 1500 euros). One of the persons convicted in 2013 was a public official.

177. Chapter XVII of the CCP contains provisions concerning the temporary freezing of assets, while Chapter XVIII deals with confiscation (including temporary confiscation, temporary measures for securing property and procedures after indictment) and forfeiture. GRETA was informed that there is a specialised unit dealing with this but there have been very few cases because the power to freeze/confiscate assets was still very new (less than two years). Seized assets were said to be sold and the proceeds go into the general state budget, but no precise figures were available. GRETA recalls that the confiscation of criminal assets, which requires prior detection, identification and seizure of the illegal assets at the time of the criminal investigations, is crucial to reinforce the effect of the penalty and to ensure the payment of compensation to the victim. **GRETA urges the Kosovo\* authorities to make full use of the possibility of seizure and confiscation of criminal assets linked to human trafficking.**

178. Reference should be made to a case of THB for the purpose of sexual exploitation dating back to 2012, which involved 23 Moldovan women. The police used special investigation techniques (surveillance of online communication) to investigate this case, which involved five facilities in the region of Gjakova recruiting women as waitresses and dancers, with the involvement of recruiters in the Republic of Moldova, and subsequently forcing them to provide sexual services. The Kosovo\* police collaborated intensively with the Moldovan police in the investigation of this case. The women were identified as victims of THB and were briefly accommodated in the State shelter. At their own request, they were repatriated to the Republic of Moldova, but statements were taken from them beforehand. At trial the defendants were convicted of facilitating prostitution. The longest sentence was 2 years and 6 months, and the defendant reportedly spent only one year in prison. The case is now under appeal. According to information provided by the authorities in their comments on the draft GRETA report, the Court of Appeal annulled the decision of the trial court and sent the case for retrial. The trial was scheduled for September 2015. **GRETA would like to be kept informed on the outcome of the trial.**

179. Mention should also be made of a case of THB for the purpose of organ removal, the Medicus Clinic case, which dates back to 2008.<sup>24</sup> Suspicions first arose among the Kosovo\* Police and the immigration services at Pristina Airport in relation to foreign nationals coming to Kosovo\* with invitation letters from the Medicus Clinic for treatment for heart conditions. One person was stopped and questioned at the airport in November 2008 and it was found that he had had a kidney removed and was in a poor medical condition. Investigators, medical experts, and UNMIK international police searched the Medicus Clinic and during the search, the recipient of the kidney was identified. The director and the owner of the clinic were arrested. The case was subsequently handed over to EULEX in December 2008 and the proceedings took place under the auspices of EULEX. It was found that from March to November 2008, at least 24 persons were recruited in foreign countries and transported to Kosovo\* to have one of their kidneys removed. These 24 persons were matched to 24 recipients leading to 48 procedures, all of which took place at the Medicus Clinic. The organ suppliers came from Israel, Turkey, the Republic of Moldova, Russia, Ukraine, Kazakhstan and Belarus, while the recipients came from Israel, Turkey, Poland, Canada, Germany and Ukraine. On 29 April 2013, the Basic Court in Pristina found the director and the owner of the clinic guilty of trafficking in human beings and organised crime; the director received 8 years' imprisonment and a 10 000 euros fine, the owner 7 years and 3 months' imprisonment and a 10 000 euros fine. Another three defendants were found guilty of unlawful exercise of medical activity. Two other defendants are presently the subject of an Interpol International Warrant Notice. The charge of abuse of official position brought in respect of the then chair of the Board of Licensing of Private Health Institutions and Acting Permanent Secretary of the Ministry of Health was rejected.

180. GRETA sought information during the visit to Kosovo\* concerning the Medicus Clinic Case and was informed that the conviction was not final and the case was being appealed. **GRETA would like to be informed of the decision of the court of appeal.** According to media reports, the director of the clinic and another doctor involved in the case continue to practice at the University Clinical Centre of Kosovo\*.<sup>25</sup> As regards the licensing procedures of medical facilities, a representative of the Ministry of Health informed GRETA that it is currently not legally possible to perform an organ transplant in Kosovo\*.

181. **GRETA considers that the Kosovo\* authorities should:**

- develop further the training and specialisation of investigators, prosecutors and judges with a view to ensuring that human trafficking offences are effectively investigated and prosecuted, leading to proportionate and dissuasive sanctions;
  - strengthen efforts to investigate, prosecute and convict traffickers for labour exploitation.
- d. Protection of victims and witnesses

182. Article 28 the Convention requires the taking of 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 (e.g. physical, relocation, identity change) 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 requires the taking of 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.

183. In the Kosovo\* Code of Criminal Procedure, Chapter XIII on the protection of victims and witnesses, Article 222 (Order for Protective Measures) envisages that the competent judge may order such protective measures as he or she considers necessary, including but not limited to:

<sup>24</sup> HOTT Project, Trafficking in Human Beings for the Purpose of Organ Removal, A Case Study Report, November 2014.

<sup>25</sup> Zëri, 29 October 2015.

- “1.1. Omitting or expunging names, addresses, place of work, profession or any other data or information that could be used to identify the injured party, co-operative witness or witness;
- 1.2. Non-disclosure of any records identifying the injured party, co-operative witness or witness;
- 1.3. Efforts to conceal the features or physical description of the injured party, co-operative witness or witness giving testimony, including testifying behind an opaque shield or through image or voice-altering devices, contemporaneous examination in another place communicated to the courtroom by means of closed-circuit television, or video-taped examination prior to the court hearing with the defence counsel present;
- 1.4. Assignment of a pseudonym;
- 1.5. Closed sessions to the public;
- 1.6. Orders to the defence counsel not to disclose the identity of the injured party, co-operative witness or witness or not to disclose any information that may lead to disclosure of identity;
- 1.7. Temporary removal of the defendant from the courtroom if a co-operative witness or witness refuses to give testimony in the presence of the defendant or if circumstances indicate to the court that the witness will not speak the truth in the presence of the defendant;
- 1.8. Any combination of the above methods to prevent disclosure of the identity of the injured party, co-operative witness or witness.”

184. Further, the Law on Witness Protection No. 04/L-015 which was adopted in 2011 envisages under Article 5 the following types of protection measures: physical protection; temporary relocation to a secure place; special procedures for access to data and documents related to protected persons from offices for issuing the documents and other formal information databases; change of the place of residence, work or study; change of identity; change of appearance, including plastic surgery; financial support for the protected person; social, legal and other necessary assistance; and special regime for the protected person in custody, in correctional institutions. Protection measures can be implemented only with the consent of the endangered person. The measures are not to be applied in respect of children at risk without prior approval of their parents or guardians. For persons not of full legal capacity, approval shall be given by the legally authorised person for their representation or guardianship.

185. In addition, Article 149 of the CCP (special investigative opportunity) allows the taking of witness testimony by a pre-trial judge for the purpose of preserving evidence, where there is a unique opportunity to collect important evidence or there is a significant danger that such evidence may not be subsequently available at the main trial. The testimony is audio- or audio-video recorded, with the recording filed in the case file. The testimony may be taken through video-conference technology if the witness is not in Kosovo\* and is not likely to return to Kosovo\*, or in accordance with a measure of witness protection. The Anti-Trafficking Law (Article 15) also provides for the application of special investigative opportunity to victims of trafficking, with a view to avoiding unnecessary repetition of interviews, visual contact between victims and defendants, or giving testimony in public sessions.

186. There is a special directorate for the protection of witnesses within the Police which has jurisdiction under the Law on Witness Protection No. 04/L-015. According to the authorities, there has been no need to refer victims or witnesses of THB to this directorate. Before the entry into force of this law, two victims of THB were referred to the witness protection programme, which at that time was led by UNMIK-EULEX.

187. **GRETA urges the Kosovo\* authorities to make full use of the available measures to protect victims and witnesses of THB and to prevent intimidation during the investigation as well as during and after court proceedings.**

## **Appendix I: List of GRETA's proposals**

### **Comprehensive approach and co-ordination**

1. GRETA notes that securing funding from the budget is indispensable for the implementation of the anti-trafficking Strategy and Action Plan and considers that the Kosovo\* authorities should allocate appropriate funds in the budget to action against THB, in consultation with all relevant actors (see also paragraph 19).
2. GRETA considers that the Kosovo\* authorities should consider establishing a fully-fledged post of National Co-ordinator supported by an office which is commensurate with the tasks at hand.
3. GRETA invites the Kosovo\* authorities to consider the designation of an independent National Rapporteur or another independent mechanism for monitoring the anti-trafficking activities of State institutions.
4. GRETA considers that the Kosovo\* authorities should take further steps to ensure that action to combat THB is comprehensive, and in particular to:
  - address internal trafficking through awareness raising, research, demand-reduction measures and measures targeting the root causes of trafficking;
  - regularly convene meetings of the National Authority as envisaged in the anti-trafficking Strategy and National Action Plan;
  - pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking, in particular children from socially vulnerable groups and displaced children;
  - strengthen action to combat trafficking for the purpose of labour exploitation by involving labour inspectors, trade unions, civil society and businesses in a joint platform and improving the identification of and assistance to victims of trafficking for the purpose of labour exploitation.

### **Training of relevant professionals**

5. GRETA considers that, as part of their training, medical staff should be sensitised about THB for the purpose of organ removal.
6. GRETA considers that the Kosovo\* authorities should continue to improve the knowledge and sensitivity of relevant professionals (including police officers, social workers, professionals working with children, medical staff, public prosecutors, judges and the media) about THB 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 identify victims of trafficking, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.

### **Data collection and research**

7. GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Kosovo\* authorities should develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical data on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of THB cases. Statistics regarding victims should be collected from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of THB are asked to provide information for the national database.

8. GRETA considers that the Kosovo\* authorities should conduct and support research on THB-related issues as an important source of information for the evaluation of current programmes and for their improvement and development of future policy measures. Areas where more research is needed in order to shed light on the extent and trends of human trafficking in Kosovo\* and inform policy makers include trafficking within Kosovo\*, trafficking in children and trafficking for the purpose of labour exploitation.

### **International co-operation**

9. GRETA considers that the Kosovo\* authorities should continue developing international co-operation with a view to combating THB, providing assistance to victims, and effective investigation and prosecution.

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

10. GRETA invites the Kosovo\* authorities to step up their efforts to counter risks related to the use of the Internet, as a tool for preventing and combating THB through the Internet.

11. GRETA considers that future awareness-raising measures should be designed in light of the assessment of previous measures and be focused on the needs identified. Awareness raising should continue targeting vulnerable groups and inform the general public of forms of THB which are on the rise, such as labour exploitation, forced begging, forced commission of criminal offences and trafficking within Kosovo\*.

12. GRETA considers that the Kosovo\* authorities should take steps to discourage demand for the services of trafficked persons, for all forms in exploitation, in partnership with the private sector and civil society.

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

13. GRETA welcomes the measures taken by the Kosovo\* authorities vis-à-vis groups vulnerable to THB and considers that the authorities should continue to develop the aspect of prevention through social and economic empowerment measures.

14. GRETA urges the Kosovo\* authorities to include in the Strategy for Integration of RAE communities in Kosovo\* measures to prevent human trafficking and to provide victims with assistance and protection, paying particular attention to IDPs. Special measures should be taken for the protection of internally displaced women and children.

15. Further, GRETA urges the Kosovo\* authorities to take steps to secure the birth registration and issuing of personal documentation to all persons, both as a prevention measure and in order to avoid re-trafficking.

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

16. GRETA considers that the Kosovo\* authorities should make further efforts to detect cases of THB in the context of border control, strengthen the operational co-operation between the relevant authorities and introduce a checklist to identify potential THB-related risks during the visa application system.

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

17. GRETA considers that the Kosovo\* authorities should take further steps to ensure that all victims of trafficking are properly and promptly identified and can benefit from all the assistance and protection measures provided for under the Convention, and in particular 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 and medical staff;
- ensure that all professionals who may come into contact with victims of THB are fully aware of the SOPs and receive periodic training to enable them to identify victims of THB; the indicators should be regularly updated in order to reflect the changing nature of human trafficking and types of exploitation;
- pursue a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by encouraging labour inspections in sectors most at risk (e.g. agriculture, construction, entertainment) and enforce Administrative Instruction No. 01/2014;
- pay increased attention to the identification of child victims of trafficking, including for the purpose of forced begging;
- strengthen the capacity of social workers to proactively identify victims of trafficking.

## **Assistance to victims**

18. GRETA welcomes the fact that the law expressly specifies that assistance is not made conditional on the victim's willingness to co-operate in the investigation/prosecution and the availability of safe accommodation for women, men and children victims of THB. However, GRETA considers that the Kosovo\* authorities should make additional efforts to provide assistance to victims of trafficking, and in particular to:

- ensure that all assistance measures provided for in law are guaranteed in practice; when assistance is delegated to NGOs as service providers, the State has an obligation to provide adequate financing and ensure the quality of the services delivered by the NGOs;
- guarantee access to public health care for all victims of trafficking;
- ensure that conditions provided in shelters for victims of trafficking are adapted to their special needs. In this context, better balance should be struck between the need to place victims of THB in safe accommodation and the need to achieve their recovery and rehabilitation.

19. Further, GRETA urges the Kosovo\* authorities to strengthen their efforts to facilitate the reintegration of victims of trafficking into society by providing them with access to education, vocational training and the labour market. In this context, the authorities should consider adopting incentives for companies employing people from disadvantaged groups.

20. GRETA also invites the authorities to continue providing regular training to all professionals responsible for implementing assistance measures for victims of trafficking, including social workers.

## **Recovery and reflection period**

21. GRETA welcomes the fact that a recovery and reflection period is provided for all victims of trafficking, regardless of whether they co-operate with the authorities, and invites the Kosovo\* authorities to ensure that this period is systematically observed in practice.

## **Residence permits**

22. GRETA welcomes the provision in Kosovo\* law of a residence permit for victims of THB both on humanitarian grounds and when co-operating with the competent authorities, and considers that the authorities should make full use of the existing law.

23. GRETA also considers that the Kosovo authorities should ensure that victims of THB are systematically informed in a language they can understand of the right to be granted with a residence permit.

## **Compensation and legal redress**

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

- ensure that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;
- enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid, by building the capacity of legal practitioners to support victims to claim compensation through criminal and civil proceedings, and including entitlement to compensation in existing training programmes for law enforcement officials and the judiciary;
- enable victims of trafficking who have left Kosovo\* to benefit from the possibilities to claim compensation.

25. GRETA welcomes the adoption of the Law on Crime Victim Compensation. Bearing in mind that no victims of trafficking have received compensation from the perpetrators, GRETA urges the Kosovo\* authorities to make the State compensation scheme accessible to victims of THB, regardless of their nationality and residence status, and without any requirement of first seeking to obtain compensation directly from the perpetrator.

## **Repatriation and return of victims**

26. GRETA considers that the Kosovo\* authorities should take steps to ensure that the return of victims of THB is conducted with due regard to their rights, safety and dignity, including the right to *non-refoulement* (Article 40(4) of the Convention), and in the case of children, by fully respecting the principle of the best interests of the child.

## **Substantive criminal law**

27. GRETA notes that the lower threshold of the penalty in case of trafficking in children (three years) is inferior to than that in the case of trafficking in adults (five years) and urges the Kosovo\* authorities to address this discrepancy.

28. GRETA notes that the last aggravating circumstance does not fully correspond to the aggravating circumstance of “the offence deliberately or by gross negligence endangering the life of the victim” provided for in Article 24 of the Convention and urges the Kosovo\* authorities to ensure that all the aggravating circumstances provided for in the Convention are duly reflected in domestic law.

29. GRETA considers that the Kosovo\* authorities should examine the relationship between Articles 171 and 241(3) of the CC with a view to clarifying the scope of application of these two provisions. The Kosovo\* authorities should be prepared to readjust on the basis of this examination the content and the application of these provisions.

30. GRETA notes that the other actions listed in Article 20 of the Convention (removing, concealing, damaging or destroying a travel or identity document of another person committed intentionally and for the purpose of enabling THB) are not established as criminal offences and urges them to amend the legislation accordingly.

31. GRETA welcomes the inclusion of this provision in Kosovo's\* legislation and invites the authorities to consider criminalising using knowingly services of a victim of trafficking for labour exploitation.

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

32. While welcoming the inclusion in Kosovo\* law of the non-punishment provision, GRETA considers that the Kosovo\* authorities should keep under review its implementation in practice, include it in the training provided to law enforcement officials, prosecutors and judges, as well as issue guidance to prosecutors on the implementation of the non-punishment provision.

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

33. GRETA urges the Kosovo\* authorities to make full use of the possibility of seizure and confiscation of criminal assets linked to human trafficking.

34. GRETA considers that the Kosovo\* authorities should:

- develop further the training and specialisation of investigators, prosecutors and judges with a view to ensuring that human trafficking offences are effectively investigated and prosecuted, leading to proportionate and dissuasive sanctions;
- strengthen efforts to investigate, prosecute and convict traffickers for labour exploitation.

### **Protection of victims and witnesses**

35. GRETA urges the Kosovo\* authorities to make full use of the available measures to protect victims and witnesses of THB and to prevent intimidation during the investigation as well as during and after court proceedings.

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

### **Public bodies**

- Ministry of the Interior
- Ministry of Justice
- Ministry of Foreign Affairs
- Ministry of Labour and Social Welfare
- Ministry of Education, Science and Technology
- Ministry for Local Government Administration
- Ministry of Health
- Kosovo\* Police
- State Prosecutor
- Special Prosecution
- Kosovo\* Judicial Council
- Kosovo\* Prosecutorial Council
- Parliament of Kosovo\*

### **Intergovernmental organisations**

- EU Rule of Law Mission in Kosovo\* (EULEX)
- Organization for Security and Co-operation in Europe (OSCE)
- United Nations High Commissioner for Refugees (UNHCR)

### **Non-governmental organisations**

- Centre for Protection of Victims and Prevention of Trafficking in Human Beings (PVPT)
- Hope and Home (SDSF)

## **Government's comments**

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



**Ministria e Punëve të Brendshme/  
Ministarstvo Unutrasnjih Poslova/  
Ministry of Internal Affairs**

Zyra e Koordinatorit Nacional kundër Trafikimit me Njerëz/  
Kancelarija Nacionalnog Kordinatora protiv Trgovine Ljudima/  
National Anti-Trafficking Coordinator's Office

Ref. your letter dated 25 January 2016

Ms. Petya Nestorova  
Executive Secretary  
of the Council of Europe Convention on Action  
against Trafficking in Human Beings  
F-67075 Strasbourg Cedex  
Email: [trafficking@coe.int](mailto:trafficking@coe.int)

Dear Ms. Nestorova,

Firstly, I would like to thank you for the cooperation regarding Greta Report for Kosovo, with a hope that this cooperation will continue in the future as well.

In this document we have provided additional information regarding Greta Report.

Thank you for your cooperation and please don't hesitate to contact us for any additional information.

Yours sincerely,  
Mr. Naim Muja  
Head of the Secretariat of Strategies

### **Final comments for Greta Report from Kosovo**

(Comments are referred to Greta report for some issues that Kosovo Authorities have initiated and implemented several specific activities that we thought they should be submitted in the report)

**(58). GRETA notes that the financing of anti-trafficking activities in Kosovo\* has depended to a large extent on international organisations and foreign donors. It is indicated in the new Strategy for 2015-2019 that the funds required for its implementation are to be covered mainly by Kosovo\*'s budget. GRETA notes that securing funding from the budget is indispensable for the implementation of the anti-trafficking Strategy and Action Plan and considers that the Kosovo\* authorities should allocate appropriate funds in the budget to action against THB, in consultation with all relevant actors (see also paragraph 19).**

Regulation of Rules and Procedure of the Government No.09/2011 and Administrative Instruction No.02/2012 on the Procedures, Criteria and Methodology for the Preparation and Approval of Strategy Documents and Plans for their Implementation, requires strategies to be in line with the Government Medium-Term Expenditure Framework (MTEF) and Law on Budget. This is ensured by the development of Financial Impact Assessment (FIA) by the sponsoring institution and the Ministry of Finance. The latter develops the overall FIA by including all government institutions involved and issues an Opinion for financial compliance. Furthermore, the Opinion by the Ministry of Finance states also the amount which exceeds the planned budget.

In the case of the Strategy against THB, the overall cost of the Strategy was in line with the Government MTEF 2015-2017 and the vast majority of activities are financed by the government budget. For more detailed allocation of funds from government institutions in implementing the Strategy against THB please refer to Annex 1.

Certain activities of the Strategy against THB exceeded the budget within the MTEF by 288,000 euros or 72,000 euros per annum. According to the Opinion issued by the Ministry of Finance, this budget needs to be covered by respective institutions through international donations or during the review of the budget.

**(59). As noted in paragraph 21, there was no National Co-ordinator for almost a year and on 6 October 2015, the Minister of the Interior authorised the Deputy Minister of the Interior to exercise the responsibility of National Anti-trafficking Co-ordinator. GRETA notes that the National Co-ordinator is expected to perform a variety of tasks linked to planning, monitoring and reporting on the development and implementation of the national policy against THB, as well as chairing the National Authority. The Secretariat is provided by the Secretariat for National Strategies of the Ministry of Internal Affairs, which has the task of monitoring and evaluating some 10 different strategies. GRETA notes that, in a number of countries, the structures which co-ordinate action against THB are not placed within a particular Ministry but, rather, are directly subordinated to the Cabinet of Ministers or the Prime Minister; this can be considered good practice as it demonstrates the willingness of the authorities to ensure that such structures have a genuine inter-agency functioning. GRETA considers that the Kosovo\* authorities should consider establishing a fully-fledged post of National Co-ordinator supported by an office which is commensurate with the tasks at hand.**

The Government Decision No.03/28 of 08.05.2015 for the approval of the Strategy against THB, paragraph 2, states that the Ministry of Internal Affairs and other competent institutions are obliged to implement the Strategy.

The Government of Kosovo with Decision No.08/51 of 25.09.2015 appointed the Minister of Internal Affairs as the National Coordinator against THB. Paragraph 3 of this decision states that the Coordinator can delegate the responsibilities to one the deputy Ministers of the Ministry of Internal Affairs. As such, the Minister of Internal Affairs with Decision No.290/2015 delegated the responsibilities to the Deputy Minister Mr. Radojevic on 06.10.2015.

Although the National Coordinator was not appointed until 25.09.2015, all the institutions implemented the Strategy, as they are obliged by the Government Decision No.03/28.

**(60). GRETA invites the Kosovo\* authorities to consider the designation of an independent National Rapporteur or another independent mechanism for monitoring the anti-trafficking activities of State institutions.**

According to Law no. 04/L-218 Article 8, paragraph 5 the “National Coordinator will act as National Rapporteur in order to perform the assessments of trends in trafficking with humans and to measure the results of anti-trafficking operations, including the gathering of statistics in close cooperation with relevant organizations of civil society, organizations active in this field.”

Kosovo authorities will take into consideration the proposal by GRETA to designate an independent National Rapporteur or another independent mechanism based on best practices of Council of Europe member states.

**(62). GRETA considers that the Kosovo\* authorities should take further steps to ensure that action to combat THB is comprehensive, and in particular to:**

- address internal trafficking through awareness raising, research, demand-reduction measures and measures targeting the root causes of trafficking;
- regularly convene meetings of the National Authority as envisaged in the anti-trafficking Strategy and National Action Plan;
- pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking, in particular children from socially vulnerable groups and displaced children;
- strengthen action to combat trafficking for the purpose of labour exploitation by involving labour inspectors, trade unions, civil society and businesses in a joint platform and improving the identification of and assistance to victims of trafficking for the purpose of labour exploitation.

Apart from the meetings that were mentioned in the GRETA report, two further meetings of the National Authority were held in a full composition (On: 30.10.2015 and 14.12.2015) and chaired by the National Coordinator. Meetings will continue to be held as provided by Law no. 04/L-218 and the National Strategy against THB.

**(63). In 2013, the Ministry of Health organised, together with OSCE, training on the role of medical staff in identifying victims of trafficking. In November 2011, the Ministry of Health held training on "The role of health workers in prevention of THB". The training was based on research conducted through a questionnaire sent to 18 health institutions. The training was attended by 35 participants from mental health centres, regional hospitals and the University Clinical Centre of Pristina (emergency physicians, psychiatrists, nurses, social services officials, psychosocial counselors). Further, the Human Rights Unit at the Ministry of Health, in co-operation with the OSCE Mission in Kosovo\*, organised a regional training session on the treatment and referral of victims of trafficking. The training was provided to health workers of family medicine centres and emergency medical staff within the regional hospitals. Training took place in Gjakova, Peja, Gjilan, Prizren, Mitrovica and Pristina, including a total of 179 participants. No special training has been organised regarding the issue of removal of organs. GRETA considers that, as part of their training, medical staff should be sensitised about THB for the purpose of organ removal.**

Office of the National Coordinator has made a list of trainings in the field of trafficking in human beings to be conducted in 2016 which will include training of medical staff on the matter of removal of organs.

In this regard, on 10-11 December 2015, the Ministry of Health has organized a training for medical professionals on the topic: The Legislation and Mechanisms to Fight Human Trafficking, in which the topic of organ removal was also discussed. Participants of this training were primary care medical staff, while the number of participants included 46 medical professionals. The training was financially supported by Terres des Hommes, while as a lecturer was the head of the Kosovo Police Directorate for Anti-Trafficking in Human Beings. More specifically, in this training were discussed comprehensive issues of the field against trafficking and the ways of approach and treatment of the medical staff toward victims of trafficking. Besides this, the topic of human organs trafficking, as part of trafficking in human beings, was also discussed at the training. During the training it was evident that the medical professionals are prepared and informed on ways of referring the victims of trafficking and on the issue of THB for the purpose of organ removal.

**(71). GRETA considers that the Kosovo\* authorities should continue to improve the knowledge and sensitivity of relevant professionals (including police officers, social workers, professionals working with children, medical staff, public prosecutors, judges and the media) about THB 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 identify victims of trafficking, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.**

Based on the Strategy against THB, as well as an upcoming IPA project on Trafficking in Human Beings (scheduled to start in 2016), several activities are foreseen to be conducted with regards to improving capacities of Kosovo institutions involved in the fight against THB. Trainings will be delivered to all involved stakeholders, including Kosovo Police, Judges, Prosecutors, Shelters, victim advocates etc.

Specialised trainings for police, victim advocates, judges, and prosecutors include:

- Training on the implementation of covert and technical measures of investigation in cases of trafficking.
- Training for the investigation and identification of cases of child pornography / exploitation of victims of trafficking for pornography.
- Training for an early identification and interviewing techniques of trafficking victims.
- Training for investigating cases of human trafficking through the Internet.
- Common training with law enforcements (police, prosecutors and judges) in managing the investigation of trafficking cases.

Trainings for other institutions:

- Training for professional skills for victims of trafficking with a view to reintegration (MLSW, CSW, MEST)
- Training of law enforcement institutions on Standard Operating Procedures for trafficked persons (KP, SP CSW, OPAV, MLSW, NGOs for the protection of children)
- Training for Shelters staff on providing the services in cases of male trafficking victims (ONCAT and Partners).
- Training of multidisciplinary teams for the implementation of list of indicators/guidelines for an early identification (MD MIA, MLSW, donors).
- Training for journalists and media with the aim to increasing awareness on THB issues and reporting methods

**(75). GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Kosovo\* authorities should develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical data on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of THB cases. Statistics regarding victims should be collected from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of THB are asked to provide information for the national database.**

The Officer for implementation of the national Strategy against trafficking in human within the Secretariat of Strategies, is the responsible official to collect all reports and statistics from stakeholders of the national authority. Kosovo Police develops statistics of victims divided by sex, age, type of exploitation, country of origin and/or destination. Other institutions collect and maintain statistics and the based on Greta's recommendations, all statistics will be divvied by various categories.

**(77). GRETA considers that the Kosovo\* authorities should conduct and support research on THB-related issues as an important source of information for the evaluation of current programmes and for their improvement and development of future policy measures. Areas where more research is needed in order to shed light on the extent and trends of human trafficking in Kosovo\* and inform policy makers include trafficking within Kosovo\*, trafficking in children and trafficking for the purpose of labour exploitation.**

Office of the National Coordinator based on the action plan for implementing the National Strategy against trafficking of human beings will be initiating and supporting the implementation of every initiative carried by state actors or non-governmental organizations for research in the field of trafficking in human beings in above mentioned segments in order to inform policy makers in this field.

During 2015, the Ministry of Labour and Social Welfare has drafted a statistical and analytical report, "Child labour in Kosovo", a report which is formally approved by the Minister of Labour and Social Welfare and is expected to be published this year.

Also during 2015, the Ministry of Labour and Social Welfare has drafted and finalized the Action Plan for the prevention of serious forms of child labour in Kosovo from 2015 to 2016, a document that is currently at the legal department in the Office of the Prime Minister and it is expected to be proceeded further.

**(82). GRETA considers that the Kosovo\* authorities should continue developing international co-operation with a view to combating THB, providing assistance to victims, and effective investigation and prosecution.**

Apart from the police cooperation agreements mentioned in the report, Kosovo has improved the exchange of information with other countries in the field of human trafficking, especially through the Directorate for International Law Enforcement Cooperation Unit (ILECU). Moreover, the National Coordinator for Anti-Trafficking has signed two agreements / protocols of cooperation with the counterparts in Albania (2012) and Montenegro (2014). Such agreements will be signed with other countries in the region.

During 2015, DITHB in the field of international police cooperation for the matters of THB has exchanged information and investigated cases as follows:

	International Police Cooperation / Exchange of information 2014- 2015																				
	Albania	Montenegro	Serbia	Switzerland	Germany	Netherlands	Ukraine	Sweden	Arab Emirates	Belgium	USA	Italy	Austria	Great Britain	Turkey	France	Norway	Romania	Iceland	Moldova	Total
2014	9	1	0	2	1	0	1	0	0	2	1	1	1	0	1	1	0	1	0	1	23
2015	12	3	2	2	1	1	0	1	1	0	0	1	0	4	0	0	1	0	1	0	30

- CASES OF COMMON INVESTIGATIONS - 2015

During 2015, DITHB has developed 3 cases of common investigation with the following countries:

Case "Adoption" 2015-DITHB-31 – Trafficking in persons /Illegal adoption of a child – the information was conducted by the authorities of Montenegro on 18.02.2015, - police authorities in Great Britain were contacted through the ILECU and at the same time we have started with joint investigations, where in Kosovo the main suspect was managed to get arrested, whilst in Britain three (3) other persons were arrested, the Victim of the case is found and placed under the custody in Britain.

Case – ADLER – 2015-DITHB-72 – Organized crime, trafficking in persons – facilitating prostitution – investigations have started together with Germany after the information exchanging, initiated by DITHB. Case involves organized crime and trafficking in human beings where it is supposed that Suspected Kosovo citizens who lives in Germany are recruiting young Kosovo females and sending them to work in Germany with the purpose of exploitation for prostitution. Few operational meetings were held between two Police forces, whereas on 09.12.2015 the investigators of DITHB in Gjilan have arrested a female/Kosovo nationality for enabling the prostitution and attempted trafficking. The case remains under joint investigation.

Case "PENTA" 2015-DITHB-14, the case has to do with the trafficking in persons and enabling of prostitution – the investigations have started together with Albania after the exchange of the basic information. There is a reasonable doubt that suspected persons are engaged in the recruitment of young females from Albania and send them to work in Kosovo at different night clubs with the purpose of exploitation for prostitution. An operational meeting was held between two Police forces. In Albania were arrested two suspects from the criminal group and the Case continuous to remain under the investigation in Kosovo.

**(89). The Ministry of Education, Science and Technology works on prevention through raising awareness in schools. Since 2011, the Ministry has selected each year around 10 schools in five to six municipalities to organise awareness-raising lectures. As part of the school curriculum, information on THB is provided during civil education classes. Further, 245 teachers have been trained to provide life skills training to children, including 24 teachers working in the RAE communities. A booklet on THB has been published and will be distributed in schools. The Ministry is also developing a strategy for countering risks related to using the Internet. GRETA invites the Kosovo\* authorities to step up their efforts to counter risks related to the use of the Internet, as a tool for preventing and combating THB through the Internet.**

The Office of the National Coordinator has planned this year to perform training on the topic: Training for investigating cases of human trafficking through the Internet, which will also effect on increasing the awareness of officials responsible for combating and preventing THB over the internet.

It was held the Regional Conference on Protection of Children from Internet Threats organized by Kosovo Education Centre (KEC) in cooperation with the Ministry of Education, Science and Technology, this conference was held on 7 December 2015.

The Ministry of Local Government Administration MLGA in 2014-2015 held information sessions with elementary school students in the municipality of Ferizaj, where the part of session taught about the dangers of the Internet, in this case a brochure was published (7 pages explains the risks of trafficking in figurative illustrations).

The Government of Kosovo on January 2016 adopted the National Cyber Security Strategy and Action Plan 2016-2019. Specific activities are foreseen in the Action Plan under the Specific Objective 2.3 Awareness Raising, like:

- Update of the current ICT curricula in pre-university level with cyber security modules;
- Raising awareness and cooperation with parents as well as organizing visits and workshops for parents and children about the online risks;
- Inclusion of the component in the curricula of undergraduate education for the risks coming from the internet;
- Awareness of students through the implementation of curricula related to protection from online dangers;
- Preparing curricula for teaching in educational institutions regarding the protection of children online;
- Organization of awareness raising activities about safe Internet use by children;
- Development of an administrative instruction on the use of the Internet in schools.

Moreover, the Government is drafting Strategic Plan for Protection of Children from Risks of the Internet (2015-2019), which will be adopted in 2016.

**(92). GRETA welcomes the efforts made in Kosovo\* to develop the aspect of prevention of human trafficking through a variety of awareness-raising measures, education in schools and special actions targeted at vulnerable groups, as well as the steps taken to measure the impact of some of these activities. GRETA considers that future awareness-raising measures should be designed in light of the assessment of previous measures and be focused on the needs identified. Awareness raising should continue targeting vulnerable groups and inform the general public of forms of THB which are on the rise, such as labour exploitation, forced begging, forced commission of criminal offences and trafficking within Kosovo\*.**

Government of Kosovo through the Ministry of Internal affairs, respectively through the office of National coordinator against the Trafficking organizes awareness campaigns for the general public through various activities. The campaign usually lasts about a month and takes place in September-October period. This regular has for target / marking potential victims of trafficking (with special focus on children and young people), but this year the campaign envisaged in the action plan of the national strategy against trafficking in order in increasing the awareness and prevention of trafficking human beings is conducted by some members of the National Authority institutions.

Office of the National Coordinator respectively some members of National Authority conducted awareness campaigns with the purpose of preventing the trafficking in human beings, the State Prosecution / Office for the Protection and Assistance of Victims: SP/OPAV in cooperation with several local institutions and with the US Embassy Pristina have conducted a weekly campaign "A week for the rights of crime victims" with the slogan "Children do not need to know the violence" held from 19-23 October 2015, a campaign which has resulted in various activities for awareness of citizens, especially youth in the field of human trafficking

SP/OPAV on: 20.10.2015, did a promotion of the Week of the Victims of Crime in following schools: SH.M.U "Ibrahim Mazreku" in Malishevo (over 40 participants), 21.10.2015, SH.M.U "Xhelal Hajda - Toni" in Rahovec, (over 80 participants from 3 schools: SH.M.P and Multiethnic School "Ardhmëria"), 22.10.2015, SH.M.M "Hysni Zajmi" in Gjakova, (over 40 participants), 22.10.2015, SH.M.GJ "Asllan Berisha" in Rugova (over 35 participants), at these schools there was a debate with school students on raising the awareness regarding the trafficking in human beings with a special focus on the beggars. As well a round table was organized for discussing the topic: children as beggars or exploiting children for jobs which are forbidden.

Ministry of Education Science and Technology (MEST) has a big role in education and awareness of everyone within the education system on negative effects that children's work impacts in their psychological and intellectual development. Also considering that the hard work of children is closely connected with the problem of school abandoning, but even with the predispositions of involvement of children in trafficking, exploitation and organized crime, MEST has reacted on time for the integration of these subjects in educational curriculums and different activities and out of program curriculums within the school.

Within the anti-trafficking campaign for 2015, MEST held activities in schools with the subject Anti/trafficking "Prevention of THB through education" with art work, essay and other activities, according to the choice of schools it selves. But, beside this, there were also organized round table and discussions with teachers on different subjects like civil education, class monitors, classroom teachers, professional staff, student and parents councils with the topic "Prevention of the Trafficking in Persons", presentation of the National Strategy and the Action Plan against the Trafficking in Persons in Kosovo 2015-2019, but also other materials belonging to this area as well as the presentation and the distribution of the manual for teachers – JOIN US Let's prevent the trafficking in human beings. With the title 'TRAFFICKING IN HUMAN BEINGS AND THE ROLE OF SCHOOL IN PREVENTING IT'. These activities are focused in 5 Kosovo municipalities, with discussions and round tables where 12 local schools were included with separate parallels.

Selected municipalities and schools for 2015 were:

1. Primary and Secondary Lower school: "Haradin Bajramii" Magurë, Lipjan
2. Secondary Higher school: "MIKSTE", Shalë, Lipjan
3. Primary and Secondary Lower school: Shtjefën Gjeqovi, Janjevë, Lipjan
4. Primary and Secondary Lower school: "Ibrahim Krasniqi", Smallushë, Lipjan
5. Secondary Economic school: "Bostan", Novobërdë
6. Primary and Secondary Lower school: "Nushi dhe Tefiku", Makresh i ulët , Novobërdë
7. Secondary Higher school: " 17 Shkurti" Obiliq, Obiliq
8. Primary and Secondary Lower school: "Hasan Prishtina", Milloshevë,Obiliq
9. Primary and Secondary Lower school: "Edmond Hoxha", Junik
10. Secondary Higher school: "Kuvendi i Junikut", Junik
11. Secondary Higher school: "Naim Frashëri" Shtime
12. Primary and Secondary Lower school: "Lasgush Poradeci" Shtime

The manual was distributed in these municipalities: Junik, Lipjan, Novobërdë, Obiliq, Shtime, Pejë, Deçan, Istog, Rahovec, Klinë, where will be included all local schools and the separate parallels of these municipalities (in total 268 schools) this year, but also the following years, they shall be distributed in other municipalities, so all the schools in Kosovo shall be equipped with them.

The manual is distributed by one hard copy for one school but also in electronic form. In this manner teachers are able to raise the awareness of their students for the prevention of TIHB through education.

Ministry of Local Government Administration (MLGA) by the end of 2014 has started a campaign and closed in January 2015; it was an awareness raising campaign with the information sessions against the trafficking in human beings. MLGA as a competent in the structure for the prevention has conducted the campaign project concerning the awareness of the students in primary schools in the rural areas of the municipality of Ferizaj in twelve schools (12), throughout the villages: Greme, Nerodime, Zaskok, Komogllavë, Gaçkë, Prelez i Muhxherve, Mirash, Jezerçë, Tërrn, Mirosalë, Dremjak and Zllatar. From this campaign benefited 834 students, 52 participants from the teaching staff (directors, teachers), in total 886. The campaign had a special focus in prevention of the exploitation of children. This campaign was financed by MLGA and in cooperation between MLGA, the Municipality and the network of the NGO, AVONENT in Ferizaj.

**(93). GRETA notes that there have so far been no campaigns targeting customers and aimed at discouraging demand that leads to human trafficking. According to the authorities, it was foreseen that the campaign in October 2015 would address this issue. GRETA considers that the Kosovo\* authorities should take steps to discourage demand for the services of trafficked persons, for all forms in exploitation, in partnership with the private sector and civil society.**

Office of the National Coordinator against trafficking based on law no. 04 / L-218 and Action Plan for implementation of the National Strategy against trafficking in human beings as well as other acts that cover the respective area has carried out preventive activities in collaboration with governmental and non-governmental actors in order to discourage demands for services or exploitation forms for THB. It will also continue with utmost dedication by applying protective measures based on law no. 04 / L-218 for all victims of THB.

**(99). GRETA urges the Kosovo\* authorities to include in the Strategy for Integration of RAE communities in Kosovo\* measures to prevent human trafficking and to provide victims with assistance and protection, paying particular attention to IDPs. Special measures should be taken for the protection of internally displaced women and children.**

The Kosovo government is committed to ensure and guarantee the rights of all communities in Kosovo and to adhere to international standards of human rights, as they are recorded in various international conventions, in the Kosovo Constitution and legislation.

The strategy and Action Plan for RAE communities 2016-2020 includes prioritized issues which are defined in cooperation and multiple consultations with RAE communities.

The Strategy and Action Plan aim to address the problems in four areas to ensure the inclusion of RAE communities in Kosovo society. Kosovo Government, both at central and local level provides solutions to overcome the challenges, by creating opportunities for meeting the goals of the Government of Kosovo for the inclusion of RAE communities in the education system, employment, health and better housing conditions. Gender equality and non-discrimination will be included in all the areas mentioned above as foreseen by Gender Equality and Anti-discrimination Law.

Ministry of Local Government Administration (MLGA) in cooperation with the relevant municipal structures, since 2009 has conducted a campaign for a free registration of births and late registration of RAE communities (each year April was announced as a free registration month for communities in each municipality) despite the fact that most municipalities make free registration of RAE communities throughout the year.

In this case MLGA, has sent an informing letter to all Mayors of the Republic of Kosovo and the relevant municipal structures, to inform about the beginning of a campaign to free registration of RAE communities. In the informative letter sent to municipalities was also attached the Circular memo issued by the Civil Registry Agency- MIA dated 26.03.2014 (circular was approved which facilitates late registration of RAE communities, on which occasion these communities are released from paying fines) which recommends to status civil officials for the removal of fines and other fees for services regarding community registration. This year the campaign for free registration of births and the late registration of RAE communities, started on 20 January and lasted until 15 March 2015

According to data from the municipal reports during the 3 months campaign (January-March 2015) are these data:

- Identified 233 people;
- Registered 90 people;
- Unregistered 55 people; in process of registration

While 88 people coming from various regional countries (as unregistered in Mitrovica 75 Roma and 13 Albanians in Albania, located residing in Ferizaj), are not proving evidence documents as Kosovo citizen.

**(103). GRETA considers that the Kosovo\* authorities should make further efforts to detect cases of THB in the context of border control, strengthen the operational co-operation between the relevant authorities and introduce a checklist to identify potential THB-related risks during the visa application system.**

With the purpose of identification and referral of cases of human trafficking from the border police and other institutions, the Government of Kosovo has drafted Administrative Instruction nr. 01/2014 dated: 21.03.2014 for an early identification of victims of trafficking in persons from consular services, border police and the labor inspectorate.

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

**(120). GRETA considers that the Kosovo\* authorities should take further steps to ensure that all victims of trafficking are properly and promptly identified and can benefit from all the assistance and protection measures provided for under the Convention, and in particular 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 and medical staff;
- ensure that all professionals who may come into contact with victims of THB are fully aware of the SOPs and receive periodic training to enable them to identify victims of THB; the indicators should be regularly updated in order to reflect the changing nature of human trafficking and types of exploitation;
- pursue a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by encouraging labour inspections in sectors most at risk (e.g. agriculture, construction, entertainment) and enforce Administrative Instruction No. 01/2014;
- pay increased attention to the identification of child victims of trafficking, including for the purpose of forced begging;
- strengthen the capacity of social workers to proactively identify victims of trafficking.

#### **Article 12 of Law no. 04 / L-218**

##### **Official identification of victims of trafficking**

Official identification of victims of human trafficking is done by relevant units of the police, prosecution, victims advocate and social work centers based on Article 5 of this law, when they have reasonable suspicion to believe that a particular person is a victim of trafficking in accordance with Standard Operating Procedures drafted by the relevant authorities

In practice the official identification of trafficking victims is done by:

- Police / Police investigators from DITHB
- Victims Advocate ( State Prosecutor's Office)
- Social workers from SWC
- Prosecutor

According to the Law on prevention and combating trafficking and protecting victims and Standard Procedures for trafficking persons:

Referral of victims of trafficking can be done by:

- Various governmental institutions and various law enforcement units, or other institutions as well.
- Various NGOs, citizens in general.

Police, prosecutors, in cooperation with victim advocates and social workers based on procedures for trafficking persons refer victims to appropriate shelters. The referral system functions based on the level of danger where the victims with high and medium level are referred to shelter in state shelter-ISF, while victims with a low level of risk are referred to accommodation in shelters / local NGOs that are licensed by MLSW.

There were held trainings for these issues for police officers working at border crossings, labor inspectors, consular officials etc. The brochures were distributed to raise awareness and the way of referring for trafficking issues.

Labour Inspectorate in its scope is overseeing the implementation of the law from employment and safety at work, as well as other laws related to field of labor and safety at work, and other sub-legal acts related to these areas. Labour inspectors have the mandate to carry out inspections in private and public sector, the Labour Inspectorate is supporting institution and in compliance with Administrative Instruction no. 01/2014 on early identification of THB, for list of indicators for different formats of exploitation. The labor inspectorate has held various training courses which reflected the knowledge acquired from these trainings for officials who have participated in these trainings: early identification of victims of trafficking in human beings, also in the fight against trafficking in human beings Caritas Kosovo and Caritas Albania organize a common meeting between representatives of state institutions and civil society involved in anti-trafficking, with topic about identification and reintegration of trafficking persons, as well as a study visit from five days in the Netherlands on "Identification and reintegration of victims of trafficking ", organized by the EU, training of two inspectors for trainers to implement standard procedures for referral of trafficking persons, training of four (4) labour inspectors, organized by the OSCE in two trainings, one held in Gjilan, October 2013, while the other was held in Ferizaj, November 2013 with the topic :" The organization of trainings for the Standard Operating Procedures".

### **Assistance to victims**

**(133). GRETA welcomes the fact that the law expressly specifies that assistance is not made conditional on the victim's willingness to co-operate in the investigation/prosecution and the availability of safe accommodation for women, men and children victims of THB. However, GRETA considers that the Kosovo\* authorities should make additional efforts to provide assistance to victims of trafficking, and in particular to:**

- ensure that all assistance measures provided for in law are guaranteed in practice; when assistance is delegated to NGOs as service providers, the State has an obligation to provide adequate financing and ensure the quality of the services delivered by the NGOs;

Based on the document of the standard operating procedures against trafficking in persons in Kosovo, services for the victims of trafficking are provided by all the partners within the national referral system. Regarding this category the Ministry of Labour and Social Welfare together with the government and non-government partners, social services in the Republic of Kosovo do treat in the same and on equal way all the victims of trafficking, whether they are foreign or local, regardless the race, gender, culture, ethnicity, religion, sexual orientation and work at direct protection, by including:

- Meeting the needs of the victims;
- Shelter;
- Food;
- Health treatment;
- Hygiene.
- Rehabilitation:
- Psychological services;
- Psycho-Social services;
- Working with a family;
- Family reunion;
- Repatriation;
- Their long term reintegration.

Based on the legislation in force, primary and secondary, and conventions for the protection of human rights and the rights of children, social services in the Republic of Kosovo do treat in the same and on equal way all the victims of trafficking, whether they are foreign or local, regardless the race, gender, culture, ethnicity, religion, sexual orientation etc.

In cases when we identified male victims of trafficking in terms of their housing, in temporary safe shelter within the Ministry of Labour and Social Welfare there is a special pavilion within the facility for male victims.

**- guarantee access to public health care for all victims of trafficking;**

There are general medical services available at victims' disposal which are offered at state health institutions and psychological services provided in Mental Health Centers, which are state institutions under the Ministry of Health. All services are provided for free and are determined by the Health law no. 04 / L-125.

Also the Ministry of Health has made a Memorandum of Understanding with Shelters' Coalition to facilitate health services for victims of trafficking and family violence, victims which are housed in these shelters. The memorandum includes access to vital medicine lists that are offered for free and appropriate systematic medical visits within these shelters.

**- ensure that conditions provided in shelters for victims of trafficking are adapted to their special needs. In this context, better balance should be struck between the need to place victims of THB in safe accommodation and the need to achieve their recovery and rehabilitation.**

Now, in the Republic of Kosovo in terms of housing and the rehabilitation of victims of trafficking in human beings operate three special shelters for housing of this category.

Temporary safe shelter is the only state shelter that provides housing and rehabilitation for victims of human trafficking. Initially, it should be noted that shelter for victims of trafficking which is located in Lipjan, operates 24 (twenty four) hours a day and accommodates / shelters victims of trafficking with high and medium security risk. The budget allocated for this shelter for a year is 80.000.00 euro.

Regarding housing, rehabilitation, and long-term reintegration, Ministry of Labour and Social Welfare through the tendering process continues buying housing and rehabilitation services for TV with a low level of risk from NGO PVPT. Also when dealing with child victims of trafficking, but resulting with low risk, NGO shelter "Hope and Homes for Children "provides housing for this vulnerable social category

Ministry of Labour and Social Welfare on the basis of Administrative Instruction No.17 / 2013 on the licensing of legal entities / organizations that provide social and family services, during this year has licensed a total of 14 non-governmental organizations that their scope of activities are social protection for people in need with social and family services.

Among these NGOs are also licensed two NGOs licensed shelters for victims of trafficking. The validity of these licenses is a three-year period. The scope and geographical coverage of these NGOs is at the national level.

So it follows that the licensing of NGOs has also become their prioritization in relation to housing, treatment and rehabilitation of categories in social need.

**(134). Further, GRETA urges the Kosovo\* authorities to strengthen their efforts to facilitate the reintegration of victims of trafficking into society by providing them with access to education, vocational training and the labour market. In this context, the authorities should consider adopting incentives for companies employing people from disadvantaged groups.**

Office of the National Coordinator welcomes your suggestion, and has consistently made efforts to empower victims of trafficking by initially offering them all the foreseen protections by the law that have an effect on their rehabilitation, and providing access to education and different training for the purpose of vocational training and preparation for the labor market, in the future, in cooperation with state and non-state actors will be seen the possibility of subsidizing any business that would guarantee their employment.

**(135). GRETA also invites the authorities to continue providing regular training to all professionals responsible for implementing assistance measures for victims of trafficking, including social workers.**

Office of the National Coordinator has foreseen training for the officials responsible in the field of trafficking in human beings, and in the framework of the action plan for implementation of the national strategy against the trafficking recommends actors responsible for implementing the advancement and professional development of officials responsible

Within the Ministry of Labour and Social Welfare operates a temporary safe shelter, a shelter which accommodates cases of trafficking in middle and high level of risk, as well as victims of trafficking as a witness.

Based on the assessment by the Ministry of Labour and Social Welfare during this year we have organized a three-day training for capacity building of the temporary Shelter staff. The training is aimed for professional development of staff on managing the cases of victims of trafficking within the shelter, new legislative developments, and development of communication with other entities as well as protection from professional consumption.

Also, this year we have organized a two-day visit in Tirana-Albania. The purpose of this visit had to do with the exchange of experiences in treating victims of trafficking and offering of social services within the shelter for this category. Both of these activities as a three-day training, as well as a two-day visit on the exchange of experiences is funded by the German organization for International Development GIZ within the project, "Regional Programme for Social Protection and Prevention of Trafficking in Human Beings", a program which is implemented in cooperation with the Ministry of Labour and Social Welfare.

With the support of the European Commission, respectively TAIEX instrument in cooperation with Centrum Kinderhandel Mensenhandel, relevant unit that does the housing and accommodation of victims of trafficking in the Netherlands, from 20 to 23 April 2015, organized a study visit in the city of Leeuwarden, Netherlands.

The purpose of this visit was more detailed information regarding the functioning of housing system, accommodation and treatment of victims of trafficking in this country. During this study visit there were held meetings with various institutions of social services, justice and internal affairs (police).

**(147). GRETA also considers that the Kosovo authorities ensure that victims of THB are systematically informed in a language they can understand of the right to be granted with a residence permit.**

This issue has been addressed and the police and ministry authorities usually use the interpreters in court list or contracted translators from asylum centre - MIA.

**(155). GRETA urges the Kosovo\* authorities to adopt measures to facilitate and guarantee access to compensation for victims of trafficking, and in particular:**

- ensure that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;
- enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid, by building the capacity of legal practitioners to support victims to claim compensation through criminal and civil proceedings, and including entitlement to compensation in existing training programmes for law enforcement officials and the judiciary;
- enable victims of trafficking who have left Kosovo\* to benefit from the possibilities to claim compensation.

Based on implementation of law no. 05 / L -036 on the Compensation of Victims of Crime, which comes into force in June 2016 are foreseen the means of compensating the victims of trafficking, whether they are domestic or foreign victims.

**(160). GRETA considers that the Kosovo\* authorities should take steps to ensure that the return of victims of THB is conducted with due regard to their rights, safety and dignity, including the right to *non-refoulement* (Article 40(4) of the Convention), and in the case of children, by fully respecting the principle of the best interests of the child.**

Law on Foreigners no. 04 / L-219 regulates the return of foreign victims of trafficking identified in Kosovo:

#### Article 64

##### Return of victims of human trafficking

1. The safe return of a foreigner who has the status of the victim is done by MIA, taking care of his rights, safety and dignity. The return should possibly be voluntary and non-return principle should always be taken into consideration.
2. Minors who are victims of human trafficking will not be returned to any other state, if after risk assessment and safety is suspected that such return would not be in the best interest of the minor.

Identified foreign victims of trafficking are offered all housing services, defense, health and other rights as local victims.

Law on Foreigners specifies that the costs of voluntary return to their country of origin or settlement in a third country, bears the Ministry of Internal Affairs.

Under the Code of Criminal Procedure, Article 218 Victims' defender complements the declaration on the damage and also the victim is assisted if he / she wants to set up civil charges about damage claim.

With the entry into force in 2016 of the law on compensation of victims of crime, there will be regulated and even better clarified the procedures of compensation of damage.

**(161). Article 171, paragraph 1, of the Kosovo\* Criminal Code provides for a fine and imprisonment of five to 12 years for the basic offence of human trafficking. When the offence is committed within a 350 meter radius of a school or other locality which is used by children, or when the offence is committed against a person under the age of 18, the punishment is a fine and imprisonment of three to 15 years. GRETA notes that the lower threshold of the penalty in case of trafficking in children (three years) is inferior to than that in the case of trafficking in adults (five years) and urges the Kosovo\* authorities to address this discrepancy.**

This issue is already addressed at the Ministry of Justice, an institution that is responsible for submitting laws for amendment at the Parliament and with the amendment of the Criminal Code of Kosovo the articles will be amended accordingly.

**(162). Article 171, paragraphs 3 to 5, of the CC provide for aggravating circumstances in the following situations: committing the offence by an organised group, which is punished by a fine of up to 500 000 euros and imprisonment of seven to 20 years; committing the offence by an official in abuse of his/her position, which is punishable by a fine and imprisonment of five to 15 years (no less than 10 years if the offence was committed by an organised group); the offence resulting in the death of one or more persons, which is punished by imprisonment of not less than 10 years or life imprisonment. GRETA notes that the last aggravating circumstance does not fully correspond to the aggravating circumstance of "the offence deliberately or by gross negligence endangering the life of the victim" provided for in Article 24 of the Convention and urges the Kosovo\* authorities to ensure that all the aggravating circumstances provided for in the Convention are duly reflected in domestic law.**

This issue is already addressed at the Ministry of Justice, an institution that is responsible for submitting laws for amendment at the Parliament and with the amendment of the Criminal Code of Kosovo the articles will be amended accordingly.

**(164). GRETA was informed that even when the prosecution brings charges for human trafficking, judges tend to reclassify the case as "facilitating or compelling prostitution" (Article 241 of the CC). There appears to be an overlap between the elements of Article 171 and paragraph 3 of Article 241, which reads as follows: "Whoever, by force or serious threat, or by holding another person in a situation of personal or economic dependency compels such person to engage in prostitution, shall be punished by a fine and imprisonment from one to eight years." The use of this provision rather than Article 171 results in fewer convictions for THB as well as shorter sentences. GRETA considers that the Kosovo\* authorities should examine the relationship between Articles 171 and 241(3) of the CC with a view to clarifying the scope of application of these two provisions. The Kosovo\* authorities should be prepared to readjust on the basis of this examination the content and the application of these provisions.**

This issue is already addressed at the Ministry of Justice, an institution that is responsible for submitting laws for amendment at the Parliament and with the amendment of the Criminal Code of Kosovo the articles will be amended accordingly.

(165). Pursuant to Article 172 of the CC, "whoever withholds another person's personal identification documents or passport knowing that the person is a victim of criminal offences provided for in Articles 169 and 171, shall be punished by imprisonment of one to five years". When the offence is committed by an official abusing his or her position or authorisation, the perpetrator shall be punishable by imprisonment of three to seven years. GRETA notes that the other actions listed in Article 20 of the Convention (removing, concealing, damaging or destroying a travel or identity document of another person committed intentionally and for the purpose of enabling THB) are not established as criminal offences and urges them to amend the legislation accordingly.

This issue is already addressed at the Ministry of Justice, an institution that is responsible for submitting laws for amendment at the Parliament and with the amendment of the Criminal Code of Kosovo the articles will be amended accordingly.

(177). Chapter XVII of the CCP contains provisions concerning the temporary freezing of assets, while Chapter XVIII deals with confiscation (including temporary confiscation, temporary measures for securing property and procedures after indictment) and forfeiture. GRETA was informed that there is a specialised unit dealing with this but there have been very few cases because the power to freeze/confiscate assets was still very new (less than two years). Seized assets were said to be sold and the proceeds go into the general state budget, but no precise figures were available. GRETA recalls that the confiscation of criminal assets, which requires prior detection, identification and seizure of the illegal assets at the time of the criminal investigations, is crucial to reinforce the effect of the penalty and to ensure the payment of compensation to the victim. GRETA urges the Kosovo\* authorities to make full use of the possibility of seizure and confiscation of criminal assets linked to human trafficking.

Now, in most cases of trafficking in persons beside the criminal investigation, financial investigations are conducted as well, within the police there is a specialized section for investigation of integrated financial cases of organized crime, human trafficking, drug trafficking, smuggling of migrants etc.

(178). Reference should be made to a case of THB for the purpose of sexual exploitation dating back to 2012, which involved 23 Moldovan women. The police used special investigation techniques (surveillance of online communication) to investigate this case, which involved five facilities in the region of Gjakova recruiting women as waitresses and dancers, with the involvement of recruiters in the Republic of Moldova, and subsequently forcing them to provide sexual services. The Kosovo\* police collaborated intensively with the Moldovan police in the investigation of this case. The women were identified as victims of THB and were briefly accommodated in the State shelter. At their own request, they were repatriated to the Republic of Moldova, but statements were taken from them beforehand. At trial the defendants were convicted of facilitating prostitution. The longest sentence was 2 years and 6 months, and the defendant reportedly spent only one year in prison. The case is now under appeal. According to information provided by the authorities in their comments on the draft GRETA report, the Court of Appeal annulled the decision of the trial court and sent the case for retrial. The trial was scheduled for September 2015. GRETA would like to be kept informed on the outcome of the trial.

According to the Kosovo Judicial Council the case is still under the proceeding at the first instants basic court and final decision has yet to be rendered.

(180). GRETA sought information during the visit to Kosovo\* concerning the Medicus Clinic Case and was informed that the conviction was not final and the case was being appealed. GRETA would like to be informed of the decision of the court of appeal. According to media reports, the director of the clinic and another doctor involved in the case continue to practice at the University Clinical Centre of Kosovo\*. As regards the licensing procedures of medical facilities, a representative of the Ministry of Health informed GRETA that it is currently not legally possible to perform an organ transplant in Kosovo\*.

According to the Kosovo Judicial Council the case is still under the proceeding at the Appeal Court.

**(181). GRETA considers that the Kosovo\* authorities should:**

- develop further the training and specialization of investigators, prosecutors and judges with a view to ensuring that human trafficking offences are effectively investigated and prosecuted, leading to proportionate and dissuasive sanctions;
- strengthen efforts to investigate, prosecute and convict traffickers for labour exploitation.

At the Training Program for 2016, in the framework of continuous training for judges and prosecutors, Kosovo Judicial Institute -KJI is planning to organize a training in June for Trafficking in Persons. In addition, in other trainings dealing with organized crime, different aspects of human trafficking can be treated.

The Office of National Coordinator has foreseen to hold these trainings in the field of trafficking in human beings.

Regarding specialized (special) training needs for police, victim advocates, prosecutors and judges:

1. Training on the implementation of covert and technical measures of investigation in cases of trafficking in persons.
2. Training for the investigation and identification of cases of child pornography / exploitation of victims of trafficking for pornography.
3. Training for early identification and interviewing techniques of victims of trafficking.
4. Training for investigating cases of human trafficking through the Internet.
5. Common training with law implementers (police, prosecutors and judges) in the management of the investigation of trafficking cases.

**(187). GRETA urges the Kosovo\* authorities to make full use of the available measures to protect victims and witnesses of THB and to prevent intimidation during the investigation as well as during and after court proceedings.**

In the context of Kosovo Police, there is a Special Directorate for protection of witnesses which has jurisdiction under the Law on protection of witnesses No.04/L-015 published in the Official Gazette of the Republic of Kosovo/no.13/1 September 2011, Pristina.

In this case, the victims-witnesses requiring protection when they have to give their testimony, till now there was no need to refer any victim in this Directorate

**The list of abbreviations used in the report:**

ONTAC-The Office of National Anti-Trafficking Coordinator

MIA-The Ministry of Internal Affairs

MLSW-The Ministry of Labour and Social Welfare

CSA-Center for Social Affairs

MEST -The Ministry of Education, Science and Technology

KP-The Kosovo Police

SP-State Prosecutor

VAAO -Victim's Advocacy and Assistance Office

MJ-The Ministry of Justice

MH-The Ministry of Health

KP-DITHB Directorate for Investigations of Trafficking in Human Beings

MLGA-Ministry of Local Government Administration

CPVPT -Center for Protecting Victims and Preventing Trafficking