



GRETA

Group of Experts on Action
against Trafficking in Human Beings

GRETA(2012)6

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

First evaluation round

Strasbourg, 12 September 2012

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Preamble

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Executive summary

The British authorities have taken a number of important steps to combat trafficking in human beings (THB). Since 2005, anti-trafficking policy has been co-ordinated by the Inter-Departmental Ministerial Group on Human Trafficking, and the UK Human Trafficking Centre has been set up a point of co-ordination for the development of expertise and co-operation to combat THB. The first Action Plan on Tackling Human Trafficking was launched in March 2007, and the UK Government's Strategy on Human Trafficking, covering the period 2011-2015, was published in July 2011. A Strategic Board which brings together officials from relevant public bodies was set up in October 2011 to oversee progress in relation to the Strategy.

The legal and institutional framework in the field of action against THB in the UK is complex, due to the process of devolution through which the constituent countries of the UK have been granted varying powers to make legislation and administer certain areas, in particular criminal law and victim care. Legislation on THB has been introduced and developed over the years, criminalising THB according to the form of exploitation. GRETA considers that the authorities should address the consequences of having numerous pieces of legislation on THB and ensure that all types of THB are included and applied in full conformity with the Convention.

As far as the prevention of THB is concerned, GRETA welcomes the awareness-raising measures already taken and stresses the importance of having their impact assessed in order to better target future actions. More should be done to raise awareness about internal trafficking and the risks of British nationals trafficked abroad, with a special emphasis on trafficking in children. GRETA also notes that the measures to discourage demand have so far focused on sexual exploitation and considers that more efforts should be made to discourage demand for the services of trafficked persons for the purpose of domestic servitude and labour exploitation.

The entry into force of the Council of Europe Anti-Trafficking Convention was accompanied by the formalisation of the identification procedures and victim support process through the setting up of a National Referral Mechanism (NRM) on 1 April 2009. GRETA welcomes this development, which has also improved the collection of data and has been accompanied by the issuing of guidance and the provision of training to relevant professionals. That said, GRETA is concerned that a number of potential victims of human trafficking identified by support organisations are not referred to the NRM because of fear that they would not be positively identified and would be removed from the UK. In addition, a number of potential victims of trafficking are reportedly detained in immigration detention centres, police cells or prisons. GRETA considers that the British authorities should take further steps to ensure that all victims of trafficking are properly identified and can benefit from the assistance and protection measures contained in the Convention. The report contains a series of proposals for action with a view to improving identification.

GRETA welcomes the steps taken in the constituent countries of the UK to assist victims of trafficking and to secure Government funding at a time of financial pressure. A number of safe houses for victims of THB have been set up throughout the UK, providing accommodation and support to both women and men. That said, GRETA considers that there is a need for further measures to ensure that all potential and actual victims of trafficking are provided with adequate support and assistance from their identification through to their recovery, and in particular to enable them to have access to the labour market, vocational training and education.

As regards child victims of trafficking, GRETA is concerned by reports according to which a significant number of unaccompanied children who are placed in local authority care go missing. GRETA urges the British authorities to take further steps to improve the identification of child victims of trafficking, and to ensure that all unaccompanied minors who are potential victims of trafficking are assigned a legal guardian and are provided with suitable safe accommodation and adequately trained supervisors or foster parents.

A considerable proportion of the victims conclusively identified since 1 April 2009 were granted some form of temporary residence permit. GRETA welcomes the legal possibility to grant residence permits to victims of trafficking both on the basis of their personal situation and when co-operating with the competent authorities. On the other hand, GRETA notes that very few victims of trafficking have accepted the offer of assisted voluntary return. GRETA urges the British authorities to adopt a clear legal and policy framework for the return of victims of trafficking, having due regard for the rights, safety and dignity of the person and the status of legal proceedings, and in order to avoid re-trafficking and re-victimisation.

Despite the existence of four avenues for victims of trafficking to claim compensation, including a State compensation scheme, very few victims of trafficking seek compensation. GRETA considers that the British authorities should adopt measures to facilitate and guarantee access to compensation for victims of trafficking, including through the provision of systematic information on their rights in this respect and by ensuring effective access to legal aid.

GRETA is concerned by information that victims of trafficking have been arrested, prosecuted and convicted in relation to immigration or other offences, despite the existence of guidance for prosecutors which refers to the obligations under Article 26 of the Convention (the “Non-punishment provision”). GRETA urges the British authorities to step up their efforts to adopt a victim-centred approach when implementing Article 26 of the Convention by encouraging prosecutors to consider THB as a serious violation of human rights when assessing the public interest of prosecuting identified victims of trafficking. Further, GRETA stresses that while the identification procedure is ongoing, potential victims of trafficking should not be punished for immigration-related offences.

GRETA notes with concern the gap between the number of identified victims of THB and the number of convictions of traffickers. Cases of THB are often prosecuted for lesser offences due to difficulties in producing sufficient evidence. GRETA stresses the need for stepping up proactive investigations and encouraging the prosecution services in each UK country to develop their specialism in THB with a view to improving the collection of sufficient evidence to successfully prosecute more traffickers. Further, GRETA urges the authorities to step up efforts to protect victims of trafficking during the investigation and during and after the court proceedings, and to address the gap in victim protection at Employment Tribunals for victims of trafficking for the purpose of labour exploitation.

Finally, GRETA stresses the importance of partnerships for combating THB at the national and international level. In this context, GRETA considers that the British authorities should continue improving the co-ordination, co-operation and partnerships among governmental departments, law enforcement agencies, NGOs and other parts of civil society in the UK.

List of acronyms

ACPO	Association of Chief Police Officers
AVR	Assisted Voluntary Return
BAWSO	Black Association of Women Step Out
CEOP	Child Exploitation and Online Protection Centre
CJS	Criminal Justice System
COPFS	Crown Office and Procurator Fiscal Service
COSLA	Convention of Scottish Local Authorities
CPS	Crown Prosecution Service
CTA	Common Travel Area
DFID	Department for International Development
ECHR	European Convention on Human Rights and Fundamental Freedoms
EEA	European Economic Area
EU	European Union
FCO	Foreign and Commonwealth Office
GCSS	Glasgow City Social Service
GLA	Gangmasters Licensing Authority
HSCB	Health and Social Care Board
IDMG	Inter-Departmental Ministerial Group
ILO	International Labour Organisation
IOM	International Organisation for Migration
JIT	Joint Investigation Team
MLA	Mutual legal assistance
MPS	Metropolitan Police Service
NCA	National Crime Agency
NHS	National Health Service
NRM	National Referral Mechanism
NSPCC	National Society for the Prevention of Cruelty to Children

OCTF	Organised Crime Task Force
PPS	Public Prosecution Service
PSNI	Police Service of Northern Ireland
RALON	Risk and Liaison Overseas Network (within UKBA)
SCD9	Specialised police unit on human exploitation and organised crime
SCDEA	Scottish Crime and Drug Enforcement Agency
SMG	Strategic Monitoring Group
SOCA	Serious Organised Crime Agency
TARA	Trafficking Awareness Raising Alliance
TRB	Threat Reduction Board
UKBA	UK Border Agency
UKHTC	UK Human Trafficking Centre
UNIFEM	United Nations Development Fund for Women
UNODC	United Nations Office on Drugs and Crime

I. Introduction

1. The United Kingdom deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) on 17 December 2008. The Convention entered into force for the United Kingdom on 1 April 2009.¹

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

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by the United Kingdom to implement the provisions set out in the Convention. The “Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties – first evaluation round” was sent to the United Kingdom in February 2011. The United Kingdom submitted its reply to the questionnaire on the deadline on 1 September 2011.

4. In preparation of the present report, GRETA used the reply to the questionnaire by the United Kingdom, other information collected by GRETA and information received from civil society. In addition, a country visit to the United Kingdom took place from 24 to 28 October 2011. It was carried out by a delegation composed of:

- Ms Nell Rasmussen, member of GRETA;
- Mr Jan van Dijk, member of GRETA;
- Ms Petya Nestorova, Executive Secretary of the Council of Europe Convention on Action against Trafficking in Human Beings;
- Ms Carolina Lasén Diaz, Administrator at the Secretariat of the Convention.

5. During the country visit, the GRETA delegation held meetings with representatives of the British authorities, as well as with officials from the executives of Northern Ireland and Scotland (see Appendix II). Further, discussions were held with members of the Parliaments of the UK and Scotland, the Deputy Children’s Commissioner for England, the Children’s Commissioner for Northern Ireland, the Director of the Northern Ireland Human Rights Commission, representatives of the Office of the Commissioner for Children of Scotland and representatives of the Equality and Human Rights Commission Scotland. GRETA would like to put on record the constructive spirit of these meetings.

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

7. Further, in the context of the country visit to the United Kingdom, the GRETA delegation visited shelters for victims of trafficking in human beings in London, Belfast and Glasgow.

8. GRETA is grateful for the assistance provided before, during and after the visit by the contact person appointed by the British authorities, Ms Justine Currell, Head of Human Trafficking and Acquisitive Crime at the Organised and Financial Crime Unit of the UK Home Office, as well as by Ms Anne Jones of the same team, Mr William Stevenson of the Organised Crime Branch of the Northern Ireland Department of Justice, and Ms Ann Oxley of the Victims and Witnesses Unit of the Scottish Government’s Justice Directorate.

¹ The Convention is not applicable in the British Overseas Territories and Crown Dependencies.

9. The draft version of the present report was adopted by GRETA at its 13th meeting (19-23 March 2012) and was submitted to the British authorities for comments. The comments were received on 30 May 2012 and were taken into account by GRETA when establishing its final report, which was adopted at GRETA's 14th meeting (25 to 29 June 2012).

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

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

10. The UK is primarily a country of destination for victims of trafficking in human beings (THB). Statistical information is available only as of 1 April 2009, when the National Referral Mechanism (NRM) was set up. In the two-year period to 31 March 2011, 1 481 potential victims were referred to the NRM, of whom 1 091 adults and 390 children. Out of the total figure, 621 were referred as potential victims of sexual exploitation, 465 as potential victims of labour exploitation, and 253 as potential victims of domestic servitude. The nine most common countries of origin of foreign victims, accounting for 60% of all referrals, were Nigeria, China, Vietnam, Romania, the Czech Republic, the Slovak Republic, Uganda, India and Albania. The number of UK nationals was 52. Concerning children, 67% of the referrals came from five countries: Vietnam, Nigeria, China, UK and Romania.

11. As regards the number of persons actually recognised as trafficking victims, it was 497 in the two-year period from 1 April 2009 to 31 March 2011 (i.e. 33% of the initial referrals); of them, 45 were UK nationals and 198 were nationals of other EU member states. The total number of identified victims consisted of 225 women, 131 men and 141 children (of whom 109 girls and 32 boys). In the case of children, 36% of the initial referrals were recognised as trafficking victims.

12. According to the British authorities, most adult victims are women trafficked to the UK for sexual exploitation or domestic servitude, but there is a growing number of men who are trafficked for labour exploitation. Child trafficking victims are brought to the UK for a whole host of purposes, including sexual exploitation, domestic servitude, benefit fraud, cannabis farming and forced criminality such as street begging, pick pocketing and shoplifting. There are indications that THB within the UK is on the increase, in particular of girls for sexual exploitation. Further, there have been reports of UK nationals trafficked abroad.²

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

a. Legal framework

13. At the international level, in addition to the Council of Europe Anti-Trafficking Convention, the UK is Party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children ("Palermo Protocol"), supplementing the United Nations Convention against Transnational Organised Crime, which it ratified on 9 February 2006. The UK is also Party to the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the UN Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. In addition, the UK is Party to International Labour Organisation (ILO) Conventions No. 29 and 105 on Forced Labour and Convention No. 182 on Eliminating the Worst Forms of Child Labour. Further, the UK has acceded to a number of Council of Europe conventions in the criminal field which are relevant to action against THB.³

² See, for example, BBC News UK, 1 February 2012, *Vulnerable British men used as slaves by criminal gangs*, at: <http://www.bbc.co.uk/news/uk-16847561>

³ In particular the European Convention on Mutual Assistance in Criminal Matters and its Additional Protocols; the European Convention on Extradition and its Second Additional Protocol; the European Convention on Transfer of Sentenced Persons and its Additional Protocol; the European Convention of the Compensation of Victims of Violent Crimes; and the Council of Europe Convention on Cybercrime.

14. Initially, the UK was not bound by the new Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, replacing Council Framework Decision 2002/629/JHA on combating trafficking in human beings. This is due to the fact that pursuant to the rules agreed in the 2007 Lisbon Treaty⁴, the UK can keep a number of exemptions (or “opt-outs”) secured since the 1992 Maastricht Treaty⁵, including measures in the area of justice and home affairs, while allowing for the possibility to “opt in” on a case-by-case basis. In July 2011, the UK authorities notified to the European Commission (EC) of their intention to be bound by Directive 2011/36/EU and on 14 October 2011, the EC issued a decision according to which this Directive will apply in the UK.

15. EU Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, and who co-operate with the competent authorities, is not applicable in the UK, in light of the country’s “opt-outs” mentioned above. That said, the UK is bound by EU Directive 2004/80/EC relating to compensation to crime victims, as well as by EU Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings.

16. The UK legal system requires legislative measures to give effect to international treaties which have been signed and ratified in order to make them enforceable. The entry into force of the Council of Europe Anti-Trafficking Convention was accompanied by the formalisation of the identification procedures through the setting up of a National Referral Mechanism on 1 April 2009 (see paragraph 28).

17. The legal and institutional framework in the field of action against THB in the UK is complex, due to the process of devolution through which the constituent countries of the UK have been granted varying powers to make legislation and administer certain areas. “Devolved powers” are statutory powers granted to the Parliaments and administrations of Northern Ireland, Scotland and Wales, while “reserved powers” are those decisions that remain with the UK Parliament and Government, which is also responsible for legislation and policy in England on all the matters that have been devolved to the constituent countries. Thus, in the field of action against THB, criminal law and victim care are devolved matters, whereas border and immigration control, including the identification of trafficking victims, are reserved matters dealt with by the central UK government. Education and health, which are linked to the prevention of THB and the protection of and assistance to victims of trafficking, are also devolved matters. While Northern Ireland only received policing and justice powers in 2010, Scotland has traditionally had its own law enforcement, civil and criminal law, and justice system. England and Wales have the same legal system and apply the same legal instruments.

18. Legislation on trafficking in human beings in the UK has developed piecemeal over the years and is attached to other legislation according to the form of exploitation. The provisions relating to trafficking of people for exploitation, including by way of forced labour, slavery and organ harvesting, are contained in Sections 4 and 5 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. The Sexual Offences Act 2003 and the Sexual Offences (Northern Ireland) Order 2008 apply in case of trafficking for the purpose of sexual exploitation. Further, there is a separate offence, “slavery, servitude and forced or compulsory labour”, under the Coroners and Justice Act 2009. Trafficking for the purpose of the removal of organs is criminalised by the Asylum and Immigration (Treatment of Claimants) Act 2004, the Human Organ Transplants Act 1989, and the Human Organ Transplants (Northern Ireland) Order 1989. In addition, Section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 was amended by the Borders, Citizenship and Immigration Act 2009 to combat trafficking of children and vulnerable adults where they are brought into the UK for the purpose of obtaining benefits. The payment of sexual services provided by a prostitute subjected to force, deception, threats or other form of coercion, is criminalised by the Policing and Crime Act 2009 in England, Wales and Northern Ireland.

⁴ Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, signed on 13 December 2007, Official Journal of the European Union No. C-306 of 17 December 2007.

⁵ Treaty on European Union signed in Maastricht on 7 February 1992, Official Journal No. C-191 of 29 July 1992.

19. The Protection of Freedoms Act 2012 (applicable in England and Wales), was passed in May 2012⁶, but has not yet come into force. It introduces a number of amendments to the Sexual Offences Act 2003 and the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, including to criminalise internal trafficking and expand the offences of THB for the purpose of sexual, labour or other exploitation to cover those committed by UK nationals abroad. In addition, the Protection of Freedoms Act 2012 replaced the THB-related offences in the Sexual Offences Act (Sections 57 to 59) with a single provision on trafficking people for sexual exploitation (Section 59A). Further, the Legal Aid, Sentencing and Punishment of Offenders Act 2012, which entered into force in May 2012, includes provisions on legal aid for victims of trafficking. GRETA also understands that a Private Member's Bill on human trafficking is being discussed in the House of Lords of the UK Parliament⁷.

20. In Northern Ireland, the Department of Justice is in the process of amending primary legislation to comply with the criminal requirements of Directive 2011/36/EU through the Criminal Justice Bill⁸. These amendments will be in place by April 2013. The Department is developing proposals to add THB for non-sexual exploitation to the schedule of offences referable to the Court of Appeal on the grounds of being unduly lenient and will consult on the proposal in 2012/2013. Legislation will be brought forward after that. Further, GRETA understands that a Private Member's Bill has been proposed for discussion in the Northern Ireland Assembly (the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill).

21. There is separate Scottish legislation to criminalise human trafficking. The provisions relating to trafficking for the purposes of sexual exploitation are contained in the Criminal Justice (Scotland) Act 2003. Although the provisions on human trafficking contained in the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 extend to Scotland, these were amended and expanded by Section 46 of the Criminal Justice and Licensing (Scotland) Act 2010. Section 47 of the latter Act provides for the offence of knowingly holding someone in slavery or servitude, or requiring them to perform forced or compulsory labour, while Section 99 provides for the closure of premises associated with or used for the commission of human exploitation offences. A Bill to criminalise the purchase of sexual services in Scotland has been proposed for discussion in the Scottish Parliament⁹.

22. There is no specific legislation in the UK concerning child trafficking. Assistance to child victims of trafficking is governed by general legislation on children's welfare. The Children Act 1989 (applicable to England and Wales), the Children (Northern Ireland) Order 1995 and the Children (Scotland) Act 1995 place a statutory duty on local authorities to safeguard and promote the welfare of children in need. Thus local authorities must investigate if they have a reasonable cause to believe that a child who lives or is found in their area is suffering from harm. Further, local authorities are authorised to inspect the premises used for private fostering, and may prohibit private fostering under certain circumstances.

b. Government Action Plans and Strategy to combat THB

23. In March 2007, the UK government launched the first Action Plan on Tackling Human Trafficking. It included 38 measures in four areas: prevention; investigation, law enforcement and prosecution; victim protection and assistance; and specific measures for child victims of trafficking. Pursuant to the Action Plan, tackling human trafficking is an integral part of the tasks of the UK Border Agency (see paragraph 33). The Action Plan also referred to the UK Human Trafficking Centre (see paragraph 34) which created closer links between the immigration services and law enforcement agencies. In July 2008 and October 2009, updated Action Plans were published jointly by the Home Office and the Scottish Government.

⁶ As GRETA's report was drafted before the entry into force of the Protection of Freedoms Act 2012, all references in the report to provisions of the Sexual Offences Act 2003 and the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 reflect the legal situation prior to the Protection of Freedoms Act 2012.

⁷ Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

⁸ The Criminal Justice Bill aims to establish as offences in Northern Ireland the trafficking of UK residents within the UK and the THB carried out by an UK national outside the UK.

⁹ The Proposed Criminalisation and Purchase of Sex (Scotland) Bill.

24. In July 2011, the UK Government published its Human Trafficking Strategy¹⁰ for the period 2011-2015. The Strategy focuses on four key areas: improved victim care arrangements; enhancing the ability to act early, before the harm has reached the UK (through improved intelligence sharing, joint operational work, educating potential victims, etc.); strengthening multi-agency action at the border; and more co-ordinated law enforcement efforts in the UK (disrupting trafficking networks, seizing the proceeds of crime, tackling demand). A separate chapter on child victims of trafficking highlights the need to raise awareness of this issue and to ensure that child victims of trafficking are safeguarded, protected from re-trafficking and not unnecessarily criminalised. The Strategy lists 37 specific actions and assigns roles to different governmental departments and agencies. The Home Office, which co-ordinates the implementation of the Strategy, has stressed the need to work closely with the devolved administrations and non-governmental organisations.

25. The UK Government's Human Trafficking Strategy can be considered as a strategy outlining broad policy goals rather than as a roadmap for implementation by all parties concerned. It does not provide details concerning the responsibilities of the constituent countries. The GRETA delegation was informed by Scottish officials that the Strategy did not apply to Scotland's devolved responsibilities in the area of combating THB and therefore a specific action plan for Scotland would be drawn up in the near future, taking into account the recommendations of the report of the Equality and Human Rights Commission Scotland concerning THB in Scotland which was published at the end of November 2011.¹¹ The British authorities have informed GRETA that the first annual report of the Inter-Departmental Ministerial Group on Human Trafficking (see paragraph 89) will consider the UK's response to various reports on human trafficking and, if appropriate, develop an action plan. In Scotland, the Government intends to bring together a wide range of stakeholders during 2012 to discuss future policy. In Northern Ireland, the Immigration and Human Trafficking sub-group of the Organised Crime Task Force (see paragraph 53) includes representatives of the Police Service of Northern Ireland, An Garda Síochána, Serious Organised Crime Agency, UK Border Agency, Public Prosecution Service for Northern Ireland, UK Human Trafficking Centre, Gangmasters' Licensing Authority, Department of Justice, Department of Health, Social Services and Public Safety and Department of Employment and Learning. The group promotes information and intelligence sharing between stakeholders; identifies emerging trends and strategies to address them through a partnership approach; identifies barriers to effectively dealing with THB in Northern Ireland and devises solutions; and raises awareness of THB in Northern Ireland.

26. The UK's Human Trafficking Strategy focuses on trafficking in human beings as international organised crime, stressing the link between THB and immigration control. In July 2011, the UK Government adopted its Organised Crime Strategy which places THB and people smuggling among the four key threats to the UK. The implementation of the Organised Crime Strategy is co-ordinated by the Strategic Centre for Organised Crime at the Home Office, which has established a number of Threat Reduction Boards to focus discussions among law enforcement partners (see paragraph 36).

27. Further, in November 2010, the UK government published a Strategy to end violence against women and girls, including violence in the context of commercial and sexual exploitation. This strategy aims to create a framework for the provision of services to women and girls victims of violence, including victims of trafficking, by 2015. An action plan linked to the strategy was published in March 2011, covering issues such as research on health matters related to violence against women and girls and referring to the conduct of research on victims of human trafficking.

¹⁰ *Human Trafficking: The Government's Strategy*, see at <http://www.homeoffice.gov.uk/publications/crime/human-trafficking-strategy?view=Binary>

¹¹ Equality and Human Rights Commission Scotland (2011), *Inquiry into Human Trafficking in Scotland*.

c. National Referral Mechanism

28. The UK Government introduced a National Referral Mechanism (NRM) in April 2009 to formalise the identification of victims of trafficking and facilitate their referral to support services. The NRM, which was set up in response to UK's ratification of the Council of Europe Convention, provides a framework for public bodies, local authorities and NGOs to share information about potential victims, co-operate in their identification and provide them with assistance and support. The NRM procedures are described in detail in section III.3.a of this report.

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

a. UK

29. Following the change of Government in the spring of 2010, the institutional framework for action against trafficking in human beings in the UK has undergone a number of changes. At the time of GRETA's country visit, Home Office officials responsible for anti-trafficking policy presented the GRETA delegation with the new structure for human trafficking governance, in place from October 2011.

i. Inter-Departmental Ministerial Group and Strategic Board

30. The Inter-Departmental Ministerial Group (IDMG) on Human Trafficking was set up in 2005 to co-ordinate policy and anti-trafficking activity across the UK Government, to oversee compliance with international agreements and to monitor trends in THB. It was re-instated under the Coalition Government and has met three times since then (on 17 February 2011, 11 October 2011 and 17 April 2012). The IDMG is chaired by the Minister for Immigration and brings together 16 representatives of various Government departments and agencies (the Attorney General's Office, the Ministry of Justice, the Department for Education, the Department of Health, the Department for Communities and Local Government, Her Majesty's Revenue and Customs, the Foreign and Commonwealth Office, the Department for International Development, the Scotland Office, the Wales Office, the Government Equalities Office, the Department for Work and Pensions, the Scottish Executive, the Northern Ireland Executive and the Welsh Assembly Government). The IDMG meets in principle every six months.

31. As of October 2011, a new Strategic Board has been put in place to oversee progress of the UK's Human Trafficking Strategy and compliance with international law on THB, to identify emerging issues and risks, to provide advice and information to the IDMG and to prepare its meetings. The Strategic Board, which is chaired by the Organised and Financial Crime Unit of the Home Office, brings together officials from UK Government departments and agencies (in addition to those mentioned in paragraph 30, the UK Human Trafficking Centre, the Child Exploitation and Online Protection Agency, the Association of Chief Police Officers). Board meetings will take place every six weeks, subject to review.

ii. Home Office

32. The Home Office has the overall responsibility for UK's anti-trafficking policy and strategy. THB falls under the portfolio of the Minister for Immigration who chairs the Government's IDMG on trafficking. Several Home Office departments and Non-Departmental Public Bodies (NDPB) affiliated to it have competences in the area of combating THB.

33. The UK Border Agency (UKBA) is an executive agency of the Home Office responsible for securing the country's borders and controlling migration into the UK. Within the National Referral Mechanism, UKBA fulfils the function of Competent Authority (see paragraphs 205 and 207) for the identification of victims of trafficking who are not nationals of the European Economic Area (EEA). Further, UKBA's Risk and Liaison Overseas Network (RALON), which operates in more than 50 locations worldwide, identifies threats and provides risk assessments in the process of issuing visas to the UK. In addition, UKBA participates in the Operation Paladin Team (see also paragraph 40) whose role is to safeguard children arriving in the UK by identifying offenders and children at risk, investigating cases, and gathering and sharing information.

34. The UK Human Trafficking Centre (UKHTC) was set up in 2005 as a point of co-ordination for the development of expertise and co-operation to combat trafficking in human beings. Subsumed under the Serious Organised Crime Agency (SOCA)¹² since April 2010, the UKHTC is the national repository for the collection and collation of intelligence regarding human trafficking into, within and out of the UK. The UKHTC provides 24-hour tactical advice, runs prevention and awareness campaigns, and provides training in dealing with cases of human trafficking. Together with UKBA, it is one of the two NRM Competent Authorities that identify victims of human trafficking. The UKHTC employs 33 full-time SOCA staff, as well as two persons seconded from UKBA. Further, it has a network of liaison officers abroad. The UKHTC is funded from the budget of SOCA (which stood at 438 million GBP in the financial year 2011-2012).

35. The UKHTC runs three working groups on operational matters related to the prevention of THB, prosecution of traffickers and protection of victims. These groups meet quarterly and bring together law enforcement officials and representatives of trade unions and NGOs. The Prosecution Group in particular includes representatives of the Crown Prosecution Service, the Ministry of Justice, Europol, the Scottish Government and the Welsh Assembly. The working groups support the UKHTC in the implementation of the Strategy, disseminate best practice and guidance, and raise awareness.

36. As mentioned in paragraph 26, the Home Office's Strategic Centre for Organised Crime, which co-ordinates the implementation of the Organised Crime Strategy, has established eight Threat Reduction Boards (TRBs) to focus discussions among law enforcement partners. Each TRB is expected to identify key threat areas, as well as improve intelligence gathering and ensure the co-ordination of operational responses to threats. The Home Office oversees the production of annual UK Threat Assessments, based on intelligence from law enforcement agencies and aimed at identifying the major criminal threats to the UK and developing strategies, such as the above-mentioned Human Trafficking Strategy. The TRB on Organised Immigration Crime, Human Trafficking and Exploitation involves, *inter alia* representatives from UKBA, UKHTC, the Crown Prosecution Service, the Association of Chief Police Officers and the IOM. According to the British authorities, the key threats in relation to THB and operational responses to those threats have been identified.

37. In June 2011, the UK authorities announced the establishment of a new National Crime Agency (NCA) to connect the efforts of local policing and neighbourhood action to national agencies and action overseas and improve the UK's response to serious and organised crime, including human trafficking. The NCA should be fully operational by the end of 2013 and will comprise four operational Commands: Organised Crime, Border Policing, Economic Crime, and the Child Exploitation and Online Protection Centre (CEOP). At its heart will be an intelligence hub (the Organised Crime Co-ordination Centre), which will build and maintain a comprehensive picture of the threats, harms and risks to the UK from organised criminality. The NCA will draw in intelligence from a wide range of law enforcement organisations to form a comprehensive picture of organised criminality that UKHTC will be able to use in the assessment of human trafficking. The British authorities have informed GRETA that the four operational commands of the future NCA will have the authority to task and co-ordinate an effective national response to serious and organised crime, including THB. The UKHTC currently sits in SOCA and will be moved into the NCA once it is established.

¹²

SOCA is an executive Non-Departmental Public Body of the Home Office.

iii. Strategic Monitoring Group / NRM Oversight Group

38. The Strategic Monitoring Group (SMG) was set up in April 2009 to review the UK's compliance with the Council of Europe Convention, at both strategic and practical level, and in particular the functioning of the NRM. The SMG was chaired by the Home Office and included representatives of the Ministry of Justice, the UKBA, the UKHTC, the Crown Prosecution Service, the Devolved Administrations, the London Safeguarding Children Board, the Association of Directors of Child Services, three NGOs funded by the Government to provide support to victims of trafficking (The Salvation Army, TARA and Migrant Help), as well as two NGO child specialists (Barnardo's and the Child Trafficking Information and Advice Line of the National Society for the Prevention of Cruelty to Children). SMG met on a bi-monthly basis, subject to review. It provided a forum to share experiences and ideas to improve the identification and protection of victims of trafficking and to act as an early warning system to identify issues and risks. Further, the SMG aimed to provide a proactive response to THB, including in the areas of prevention and prosecution of traffickers.

39. Under the new structure for human trafficking governance, the SMG has been transformed into a National Referral Mechanism (NRM) Oversight Group. The GRETA delegation was informed that the group will, *inter alia*, monitor the performance of the NRM and the Competent Authorities against published guidance, evaluate available trafficking data, provide input for the improvement of decision-making in the NRM, and serve as a forum of discussion, feedback, support and advice. The British authorities have informed GRETA that the membership of the NRM Oversight Group is practically the same as that of the SMG, except for the addition of the Association of Chief Police Officers (ACPO) and the Association of Police Officers in Scotland (ACPOS).

iv. Police

40. For adults, the only specialist operational anti-trafficking unit is within the London Metropolitan Police, namely the Metropolitan Police Human Exploitation and Organised Crime Command (known as SCD9). It employs 32 staff and its remit is to deal with organised crime and off-street prostitution. SCD9 conducts bilateral investigations and is involved in Joint Investigation Teams (JITs). The London Metropolitan Police also has a Child Abuse Investigation Command (known as the Paladin Team) in charge of safeguarding children and investigating child trafficking in the metropolitan area.

41. The British authorities have informed GRETA that senior police officers responsible for THB policy have been identified in each police force or area across the UK so that they can liaise between local and national policing in respect of THB.

42. The Child Exploitation and Online Protection Centre (CEOP Centre), established in 2006, works across the UK to tackle child sex abuse. The CEOP Centre, which is affiliated to SOCA, holds the intelligence lead for child trafficking and produces annual strategic threat assessments analysing the number of children trafficked in the UK. It is envisaged that the CEOP Centre will become part of the new National Crime Agency.

43. The Association of Chief Police Officers (ACPO) brings together the expertise and experience of chief police officers from England, Wales and Northern Ireland and liaises with its equivalent in Scotland. In February 2006, ACPO launched the first co-ordinated effort to tackle THB on a national scale, known as "Operation Pentameter". As a result, 232 persons were arrested and 84 potential victims of trafficking were identified. ACPO has also published guidance to police officers on child trafficking. In 2008, ACPO launched the Project Acumen designed to fill the gap in understanding the nature and extent of trafficking of foreign nationals for sexual exploitation. The 2010 report of Project Acumen estimated that out of 17 000 migrant women involved in off-street prostitution in England and Wales, 2 600 were trafficked and a further 9 200 could be vulnerable to trafficking.

v. *Gangmasters Licensing Authority*

44. The Gangmasters Licensing Authority (GLA) is a governmental agency set up in 2005 under the Gangmasters (Licensing) Act 2004. It regulates the supply of workers to the agricultural, forestry, horticultural, shellfish gathering, food processing and packaging industries by setting up and operating a licensing scheme for labour providers across the UK. The GLA's mission is to safeguard the welfare and interests of workers in those industries while ensuring that labour providers operate within the law. GLA is thus responsible for preventing the exploitation of workers, particularly by debt bondage and forced labour. GLA works closely with the police and participates in the UKHTC working groups.

vi. *Ministry of Justice*

45. The Ministry of Justice is responsible for victim care provisions and for administering the contract with the primary provider of services to victims in England and Wales (see paragraph 257). The Ministry of Justice runs a Contract Management Victim Care Group, which meets quarterly and monitors the delivery of the victim care contract, as well as a Providers' Roundtable Group with the aim of bringing together support providers contracted by the primary provider (The Salvation Army) to discuss operational challenges and plans, and to share experiences and best practice.

vii. *NGOs*

46. Numerous NGOs throughout the UK are active in the area of combating THB, through raising awareness, conducting research, assisting victims of trafficking and contributing to policy developments. Certain NGOs are formally recognised as First Responders under the NRM and participate in the process of identification of victims of trafficking (see paragraph 206). In addition, a number of NGOs receive public funding to provide support to victims of trafficking (see paragraphs 257, 265 and 268). As mentioned above, some NGOs are members of the NRM Oversight Group. Many other NGOs also work directly with the UKHTC via thematic subgroups.

47. In 2006, a NGO Stakeholder Group was set up and co-chaired by the Attorney General and the Minister for Policing and Crime Reduction. This forum provided the NGO sector with the opportunity to comment on the implementation of the Action Plans on tackling THB and the Council of Europe Convention. Under the Coalition Government, the NGO Stakeholder Group was discontinued.

48. In 2009, nine NGOs¹³ set up the Anti-Trafficking Monitoring Group in order to review the implementation of the Convention, examine the impact of anti-trafficking measures on the human rights of trafficked persons and identify examples of good practice. In June 2010, the NGO group published an analysis of policies and measures to protect trafficked people which concluded that the UK has not yet met its obligations under the Convention and proposed the setting up of a national anti-trafficking watchdog to address NGO concerns regarding the NRM and in the area of prevention.¹⁴

49. The UK's Human Trafficking Strategy refers to civil society as a vital partner, given its expertise and commitment in dealing with the effects of trafficking. Between February and May 2011, the Home Office organised six workshops or meetings, involving 27 stakeholders from a total of 21 NGOs, to discuss the development of the new strategy. In February 2011 the Minister for Immigration also hosted a meeting of the All Party Parliamentary Group against Human Trafficking of the UK Parliament, together with NGOs, to discuss the new strategy. Further, in September 2011, the Minister for Immigration chaired a meeting of 17 NGOs which contributed to the development of the strategy in order to gather support for delivering on some of the strategy's key actions. The Home Office holds thematic meetings with smaller groups of NGOs focusing on issues such as raising public awareness, working with the private sector, international engagement, child victims and tackling demand.

¹³ Amnesty International UK, Anti-Slavery International, Black Association of Women Step Out (BAWSO), Bristol Counter-Trafficking Coalition, ECPAT UK, Helen Bamber Foundation, Kalayaan, POPPY Project and the Trafficking Awareness Raising Alliance of Glasgow Community and Safety Services (TARA).

¹⁴ *Wrong kind of victim? One year on: an analysis of UK measures to protect trafficked persons*, June 2010, available at: http://www.antislavery.org/includes/documents/cm_docs/2010/a/1_atmg_report_for_web.pdf

b. Scotland

50. Responsibility for action against THB lies within the Victims and Witnesses Unit of the Scottish Government's Justice Directorate. A Stakeholder Group on Human Trafficking was set up as a forum for sharing intelligence and good practice. The group had an action plan covering awareness training, communications strategy, intelligence co-ordination and development, enforcement and victim care. The group met last in May 2011 before the Scottish Parliament elections and, at the time of GRETA's country visit, there was still no decision about its future. Further, the Scottish Government has established the Scottish Victim Services Operational Group to encourage improvements in co-ordination in responses to victims of trafficking identified and recovered in Scotland.

51. The Scottish Crime and Drug Enforcement Agency (SCDEA) has developed anti-trafficking specialism over the years. In 2010, the SCDEA performed mapping and analysis of serious organised crime which resulted in the first strategic assessment on THB in Scotland. SCDEA has a Human Trafficking Unit, within its Scottish Intelligence Co-ordination Unit, and there is a specialised vice and human trafficking team within the Strathclyde Police force in Glasgow. The other police forces in Scotland have a dedicated police officer for THB. All eight police forces in Scotland have access to a single intelligence database.

52. GRETA notes that the Scottish Parliament's Equal Opportunities Committee in its 2010 inquiry on migration and trafficking made a comment on the lack of leadership shown in relation to trafficking. Further, the recent report by the Equality and Human Rights Commission concerning THB in Scotland has stressed the need for creating a specialist thematic team within the Scottish Government, which engages stakeholders inside and outside the Government, and leads the development, implementation and co-ordination of a strategic plan to tackle THB.¹⁵ In response to the latter report, the Scottish Government intends to bring together a wide range of stakeholders in 2012 to discuss future anti-trafficking policy and delivery. Furthermore, ACPO Scotland has formed a Strategic Leads Group and a Tactical Leads Group with representation from all eight police forces, the UKHTC, UK Border Agency and GLA.

c. Northern Ireland

53. The Department of Justice Northern Ireland provides leadership on anti-trafficking policy in Northern Ireland. The Organised Crime Task Force (OCTF) was set up in 2000 as a forum bringing together governmental departments, the police, customs and other law enforcement agencies, as well as the Policing Board and local business community to set priorities for tackling organised crime, including THB. The OCTF is chaired by the Minister of Justice. It publishes annual assessments of the threat from organised crime in Northern Ireland, including THB, as well as biennial cross-border threat assessments concerning the Republic of Ireland and Northern Ireland. Further, the Organised Crime Branch of the Police Service of Northern Ireland (PSNI) investigates THB cases. In addition, Health and Social Care Trusts play a key role regarding prevention and assistance of child victims of trafficking in Northern Ireland.

¹⁵

Equality and Human Rights Commission Scotland (2011), *Inquiry into Human Trafficking in Scotland*.

d. Wales

54. In 2010, the Welsh National Assembly's Cross-Party Working Group on Trafficking of Women and Children published a report¹⁶ which called for bringing together the anti-trafficking knowledge and expertise of all stakeholders through the establishment of an 'All Wales Trafficking Director'. The first Anti-Human Trafficking Co-ordinator for Wales took up his duties in April 2011. His post is funded by the Welsh Assembly and his mandate includes raising awareness, co-ordinating evidence on the scale of THB in Wales, working with the Local Safeguarding Children Boards to deter child trafficking and ensure effective co-ordination of child protection arrangements, and scoping THB-related risks in the ports of entry into Wales. The Welsh Anti-Trafficking Co-ordinator has recommended that an All Wales Intelligence Hub against THB be developed to co-ordinate anti-trafficking measures, share information and gather accurate statistics regarding both victims and traffickers. Together with the Black Association of Women Step Out (BAWSO), the Welsh Anti-Trafficking Co-ordinator is working to produce a "victims route map" showing gaps or duplication in the provision of services to victims of trafficking.

55. The Welsh police forces have an 'All Wales Lead for Trafficking', responsible for protecting vulnerable people and dealing with human trafficking. There is also a contact person for THB issues in the police forces of each of the four Welsh regions.

¹⁶ *Knowing No Boundaries: local solutions to an international crime: trafficking of women and children in Wales 2010.*

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

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

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

56. Article 1(1)(b) of the Convention establishes as one of its purposes the protection of the human rights of the victims of trafficking. Further, Article 5(3) includes the obligation for Parties to promote a human rights-based approach in the development, implementation and assessment of the policies and programmes to prevent THB. The Explanatory Report on the Convention states that the main added value of the Convention is its human rights perspective and focus on victim protection. In the same vein, the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking emphasise that “the human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims”¹⁷.

57. 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. The human rights-based approach entails that 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 Rights¹⁸ (which prohibits slavery, servitude and forced or compulsory labour). The Court further concluded that Article 4 entails a positive obligation to protect victims or potential victims, as well as a procedural obligation to investigate trafficking.

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

59. 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 instruments¹⁹.

¹⁷ Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

¹⁸ *Rantsev v. Cyprus and Russia*, no. 25965/04, paragraph 282, ECHR 2010.

¹⁹ 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.

60. As far as the situation in the UK is concerned, THB is considered as a human rights violation on the basis of the 1998 Human Rights Act, through which the ECHR applies directly in the UK. The Human Rights Act makes it unlawful for public authorities (including the police, courts and tribunals and Government departments) to act in a way which is incompatible with the rights set out in the ECHR. Under Section 7 of the Human Rights Act, individuals can bring claims before the UK courts if their rights under the ECHR have been violated, including requests for damages or compensation. By way of example, reference can be made to a 2011 judgment by the British High Court of Justice²⁰ which followed the judgment on *Rantsev v. Cyprus and Russia* and ruled on the positive obligation of States to operate effective procedural measures to protect victims of trafficking, including to investigate the traffickers, pursuant to Article 3 and 4 of the ECHR. In this case, the Court found that the Metropolitan Police had failed to investigate the claims of four Nigerian nationals who had been trafficked to the UK as children and exploited for forced labour in domestic servitude, and awarded each of the victims 5 000 GBP in damages.

61. Furthermore, the UK's Human Trafficking Strategy for 2011-2015 refers to THB as "an abuse of basic rights". In March 2011, the UK Government set up an independent commission to review human rights legislation in the UK, including consideration of a British bill of rights. The commission will publish a report with recommendations by the end of 2012.

62. 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 British authorities in these fields.

b. Definitions of "trafficking in human beings" and "victim of THB" in UK law

i. *Definition of "trafficking in human beings"*

63. 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.

64. As noted in paragraphs 18 to 21, in the UK trafficking-related offences are contained in several legal instruments. The offence of trafficking people for exploitation is established by Section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. These provisions extend to Scotland where they were amended by Section 46 of the Criminal Justice and Licensing (Scotland) Act 2010. The scope of exploitation included in these provisions is broad, covering slavery, forced labour, the removal of organs, the provision of all types of services and benefits, as well as enabling others to acquire such benefits. The offence covers the action of arranging or facilitating the arrival of a person in the UK, his/her travel within the UK or departure from the UK, with either the intention to exploit the person or with the belief that somebody else is likely to exploit him/her, in the UK or abroad. The means included in these provisions include the use of force, threats or deception, as well as abuse of a position of vulnerability of persons who are mentally or physically ill or disabled, young or family members.

²⁰ *OOO & Ors v. the Commissioner of Police for the Metropolis*, High Court of Justice, Queen's Bench Division, (judgment of 20 May 2011). [2011] EWHC 1246 (QB).

65. GRETA notes that the offence of trafficking people for exploitation requires the action of arranging or facilitating the movement of a person into, within or out of the UK. The guidance on THB for prosecutors in England and Wales states that THB “involves the transportation of persons in the UK in order to exploit them by the use of force, violence, deception, intimidation or coercion”²¹ and that child trafficking is “the practice of transporting children into, within and out of the UK for the purposes of exploitation”.²² GRETA recalls that, in accordance with the Convention, transport is only one of the possible actions included in the definition of THB, but not a necessary condition for there to be THB. The British authorities have stated that in prosecuting perpetrators of human trafficking, arranging or facilitating the arrival, movement or departure of another person will include those responsible for the recruitment, transport, transfer, harbouring or receipt of persons.

66. Although the provisions mentioned in paragraph 64 can be interpreted to cover THB for the purpose of many types of exploitation, trafficking for the purpose of sexual exploitation is regulated separately. Sections 57 to 59 of the Sexual Offences Act 2003 (as amended by the Borders, Citizenship and Immigration Act 2009), which is applicable in England, Wales and Northern Ireland, establish three separate offences according to whether trafficking for sexual exploitation is carried out into the UK, within the UK or out of the UK. These sections cover all offences under the Sexual Offences Act, such as rape, assault, child sex offences, prostitution, abuse of position of trust, causing sexual activity without consent, taking indecent photographs of children or permitting them to be taken, and sexual offences against adults and children established by legislation in Northern Ireland²³.

67. In Scotland, trafficking for the purpose of sexual exploitation is criminalised by Section 22 of the Criminal Justice (Scotland) Act 2003, as amended by the Criminal Justice and Licensing (Scotland) Act 2010. Sexual exploitation is defined as arranging or facilitating the arrival to the UK, travel within or departure from the UK, of a person with the intention to exercising control over the prostitution of such person or to involve him/her in the making or production of obscene or indecent material. GRETA notes that the scope of trafficking for the purpose of sexual exploitation in Scotland is narrower than that in England, Wales and Northern Ireland. According to the Scottish Government, all types of sexual exploitation would be covered by the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, Sections 4 and 5 of which cover any exploitative behaviour (see paragraph 64).

68. The actions included in the above-mentioned offences of trafficking for the purpose of sexual exploitation are general enough to cover the full list of actions foreseen in the Convention. The purpose of sexual exploitation is dealt with through reference to a list of sexual offences, which means that the crime of trafficking for the purpose of sexual exploitation necessarily requires the intention to commit other offences which will need to be proven in order to get a conviction (see paragraph 342).

69. As regards the component of means which forms part of the definition of THB under the Convention, it is not mentioned in the provisions on trafficking for the purpose of sexual exploitation. Further, the offence of trafficking people for exploitation does not cover all the means included in the Convention, such as other forms of coercion, abduction, fraud or abuse of power. In this context, the British authorities have stated that all the means under the Convention are inherent in trafficking without being articulated in the legislation. By establishing how a trafficker exploits the vulnerability of a victim through force, threats or deception, this would also cover fraud, abuse of power, coercion or abduction, all of which are means acknowledged in case precedent. In addition, the Scottish Government has expressed the view that the definition in Section 22(2) of the Criminal Justice (Scotland) Act 2003 is so wide and flexible that it covers each of the means set out in the Convention. That said, GRETA notes that the inclusion of all means under Article 4 of the Convention as constituent elements of the trafficking offences in all relevant Acts would bring the definitions of THB for the purpose of sexual and non-sexual forms of exploitation closer to the Convention.

²¹ Crown Prosecution Service Guidance on Human Trafficking and Smuggling, available at: http://www.cps.gov.uk/legal/h_to_k/human_trafficking_and_smuggling/#council

²² Scotland's Crown Office and Procurator Fiscal Service's Guidance on Human Trafficking Offences includes the same definition of child trafficking.

²³ Those included in the Sexual Offences (Northern Ireland) Order 2008, in Schedule 1 to the Criminal Justice (Children) (Northern Ireland) Order 1998, and in Article 3(1)(a) of the Protection of Children (Northern Ireland) Order 1978.

70. There are no specific legal provisions on trafficking in children, which is considered as an aggravating circumstance on the basis of sentencing guidelines issued by the Sentencing Council for England and Wales (see paragraph 318). In England, Wales and Northern Ireland, children are persons under the age of 18. That said, pursuant to Sections 5 to 14 of the Sexual Offences Act 2003 and Sections 12 to 42 of the Sexual Offences (Northern Ireland) Order 2008, trafficking for the purpose of sexual exploitation includes offences against children defined as persons under 13 years of age or under 16, but mistaken by the offender to be older. GRETA also notes that Section 4(4)(d) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 refers to “young” persons without clearly designating children for the purposes of the Convention (i.e. persons under the age of 18).

71. Under Scottish law, minors are persons under the age of 16. That said, Section 93(2)(a) of the Children (Scotland) Act 1995 defines a child as under 18 years of age, in relation to the powers and duties a local authority has towards a child in need, which would include child victims of trafficking. Furthermore, Section 88 of the Criminal Justice and Licensing (Scotland) Act 2010 raises the age of automatic entitlement to standard special measures applicable to child victims of trafficking when giving evidence in trafficking in human being cases from up to age 16 to up to age 18. Further, the Crown Office and Procurator Fiscal Service (COPFS) Guidance on Human Trafficking Offences²⁴ clarifies that for the purposes of the offences of forced child labour, commercialised sexual exploitation of children and other forms of servitude, a child victim of trafficking is a person of up to 18 years.

72. The Home Office guidance to the Competent Authorities on whether a person is a victim of trafficking (see paragraph 212) defines THB in accordance with the definition in the Council of Europe Convention and states that the consent of an adult victim of trafficking to the intended exploitation is irrelevant when threat, use of force or other forms of coercion, abduction, fraud, deception, the abuse of power or 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 are used²⁵. The guidance also states that children recruited, transported or transferred for the purposes of exploitation are considered to be trafficking victims, whether or not they have been forced or deceived, as it is not considered possible for children to give informed consent.

73. As noted in paragraph 64, slavery and forced labour are mentioned among the possible elements of the offence of trafficking of people for exploitation. In addition, slavery or servitude and forced or compulsory labour are established as separate offences by Section 71 of the Coroners and Justice Act 2009 (applicable in England, Wales and Northern Ireland) and Section 47 of the Criminal Justice and Licensing (Scotland) Act 2010. These offences consist of holding another person in slavery or servitude in such circumstances that they know or ought to know that the person is so held, or requiring another person to perform forced or compulsory labour in such circumstances that they know or ought to know that the person performs such labour. The offences are to be construed in accordance with Article 4 of the ECHR and the related case-law.²⁶ Ministry of Justice Circular 2010/07 states that an element of coercion or deception must be established when determining forced or compulsory labour, and that the defendant must know that the arrangement was oppressive and not truly voluntary.²⁷ The indicators that an individual is being held in servitude or subjected to forced or compulsory labour include the ILO indicators of forced labour, among other factors²⁸. Further, the CPS guidance on THB for prosecutors in England and Wales states that “in circumstances where the victim was not trafficked or the trafficking element cannot be proved to the criminal standard, prosecutors should consider the offence of holding another person in slavery or servitude or requiring them to perform forced or compulsory labour under Section 71 of the Coroners and Justice Act 2009”²⁹.

²⁴ Available at <http://www.copfs.gov.uk/sites/default/files/Publications/Resource/Doc/13547/0000652.pdf>

²⁵ Victims of trafficking: guidance for competent authorities (October 2010), available at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/competent-guidance>

²⁶ Such as *Rantsev v. Cyprus and Russia*; *Siliadin v. France (2005)*; *Van der Musselle v. Belgium (1983)*.

²⁷ *Slavery, servitude and forced or compulsory labour: Implementation of Section 71 of the Coroners and Justice Act 2009*, Criminal Law Policy Unit, Ministry of Justice, March 2010.

²⁸ L. Allamby, J. Bell, J. Hamilton, U. Hansson, N. Jarman, M. Potter, S. Toma “*Forced labour in Northern Ireland: exploiting vulnerability*”, p. 14.

²⁹ See footnote 22.

74. Pursuant to legislation applicable in England, Wales and Northern Ireland, until May 2012, persons who had not been previously trafficked to the UK could not be considered victims of internal trafficking. As indicated in a recent judgment of the Court of Appeal, “the protective ambit of the Convention is not limited to those who have, by whatever means, crossed international boundaries. [...] sometimes those who have not been trafficked into the country become victims of trafficking after their arrival here”³⁰. The British authorities have acknowledged that this situation was not in line with the Convention and have introduced changes to the Sexual Offences Act 2003 and the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 through the Protection of Freedoms Act in 2012 (see paragraph 19). In Scotland, the Criminal Justice and Licensing (Scotland) Act 2010 removed the requirement included in Section 4(2) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, according to which victims of internal trafficking needed to have been previously trafficked into the UK. GRETA welcomes these legislative changes.

75. GRETA notes that the various offences related to human trafficking discussed above adopt inconsistent approaches and requirements as regards the actions, means and forms of exploitation, and as such do not fully reflect the definition of THB in the Convention. GRETA is concerned that the co-existence of several partially overlapping offences related to human trafficking undermines legal clarity and can be problematic in practice when it comes to prosecution and convictions (see paragraph 342). It is noteworthy that the UK’s Human Trafficking Strategy refers to the existence of disparities in the human trafficking legislation which create difficulties for prosecuting traffickers, and envisaged a review of the relevant legislation by the end of 2011. Further, according to the report of the Equality and Human Rights Commission concerning human trafficking in Scotland, “human trafficking legislation in Scotland and in the UK has developed piecemeal and is not based on a thorough consideration of how legislation should deal with the problem. This has left human trafficking legislation in Scotland and in the UK inconsistent both internally and in comparison with international law, and has served to limit its scope and impact”.³¹ The report recommends that the Scottish Government should consider introducing a comprehensive Human Trafficking Bill based upon a review of existing legislation relating to THB, in close liaison with the UK Government, while complying with the new Directive 2011/36/EU and positive human rights duties on human trafficking. Reference is made to paragraph 19 concerning legislative developments in the field of THB.

76. GRETA considers that the competent authorities should address the consequences of having numerous pieces of legislation on THB and ensure that all types of THB are included and applied in full conformity with the Council of Europe Convention. In this context, GRETA considers that a dedicated legislation on human trafficking would provide legal status to victims of trafficking, including the right to a recovery and reflection period, as well as other provisions of the Convention which reflect the human rights-based approach to action against trafficking.

77. Further, GRETA urges the competent authorities to ensure that all victims of trafficking for the purpose of sexual or any other type of exploitation who are under 18 years of age are to be considered as child victims of trafficking within the meaning of Article 4 of the Convention.

78. As regards Scotland, GRETA considers that the Scottish authorities should expand the scope of trafficking for the purpose of sexual exploitation to cover all the activities included in the Sexual Offences (Scotland) 2009 Act.

³⁰ Judgment of 20 February 2012 on *R v N and R v LE*, [2012] EWCA Crim 189.

³¹ Equality and Human Rights Commission Scotland (2011), *Inquiry into Human Trafficking in Scotland*.

ii. *Definition of “victim of THB”*

79. 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.

80. There is no legal definition of victim of trafficking in the UK. Two approaches are followed when deciding if a person is a victim of trafficking: one in the context of the identification of victims of trafficking under the NRM, and another for criminal matters requiring sufficient evidence for prosecuting the crime of THB. In the first case, the Home Office guidance for the competent authorities involved in the identification of victims of trafficking states that a “victim of human trafficking within the identification context is a legal concept that triggers certain rights and measures under the Council of Europe Convention”³², and that “it is not a quality, condition or attribute of a person” as it is the authorities who have the responsibility to identify victims of human trafficking.

81. Concerning victims of the crime of THB, the guidance provided by the Crown Prosecution Service to prosecutors in England and Wales³³ states that “there is no definitive definition of a trafficked victim”. According to the guidance, victims of THB are “those persons who are exploited at the hands of their traffickers” and “victims of the criminality as defined by the Palermo Protocol”. The guidance stresses the importance of adhering to the standards set out in the Code of Practice for Victims of Crime. In Scotland, the COPFS Guidance on Human Trafficking Offences refers to victims of trafficking as people “used in a variety of situations, including forced labour; child labour, adoptions, benefits applications, domestic servitude and commercialised sexual exploitation of children; commercialised sexual exploitation; and other forms of involuntary servitude.

82. GRETA notes that individual decisions on the identification of victims by the Competent Authorities under the NRM state whether the person concerned is considered to be a victim of trafficking “for the purposes of the Convention”. British government officials explained to the GRETA delegation that this wording was used in order to differentiate between “historic” victims who had been exploited at some point of time in the past, but who no longer needed assistance and protection. In respect of such “historic” victims, the competent authorities could take negative identification decisions as the Council of Europe Convention’s definition of victim of THB required that a person “is” subjected to trafficking, as opposed to “was” subjected in the past. The GRETA delegation was informed that this possibility was used sparingly and only in respect of cases where the trafficking had happened a long time ago.

83. The Guidance for Competent Authorities contains a section entitled “When trafficking is distant in time/historic claims”, according to which a time gap between the trafficking situation and referral is not in itself reason to conclude that an individual should not be treated as a victim of trafficking. The Guidance reads: “a negative [identification] decision in such cases would not be denying that someone may have been a victim of trafficking in the past, simply that at the time of assessment they did not meet the Convention criteria or need the protection or assistance that it can afford”. The British authorities have also referred to a judgment by the High Court in the case *R v “Y”* (case number CO/9946/2009), which established that the key element for the temporal limits of identification decisions is not the tense used in Article 4(e) of the Convention, but in the concept that “the assistance and protection is not absolute or never-ending, but is limited to the need to assist victims in their physical, psychological and social recovery and must be tailored to their personal situation. The Convention clearly envisages that victim status, in the sense of someone requiring that assistance and protection, may be time-limited, but that the time will vary from case to case.”

³² See footnote 25.

³³ Guidance on Human Trafficking and Smuggling, Crown Prosecution Service.

84. GRETA is concerned about the interpretation of victim whereby the time elapsed since the ending of a situation of exploitation and a presumed diminished urgency of needs for social assistance or protection are used as key considerations in victim identification. In the opinion of GRETA, decisions on the different rights and entitlements according to the Convention must be taken on a case-by-case basis regardless of the time lapsed and the existence of urgent needs for assistance. GRETA notes that many Parties apply harm-based definitions in identification procedures, which are incorporated in national and international legal instruments concerning victims of crime in general, such as the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power of 1985 (Article 1).

85. GRETA urges the British authorities to revisit the guidance given to Competent Authorities on so-called “distant in time /historic claims”, with a view to ensuring that all victims of trafficking are identified as such and have access to the measures included in Articles 11, 12, 13, 14, 15, 16, 26 and 28 of the Convention.

86. The issue of the definition of victim of trafficking will be further discussed in the sections of this report dealing with the identification of victims and assistance measures.

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

i. *Comprehensive approach and co-ordination*

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

88. The new Human Trafficking Strategy (see paragraph 24) reiterates the UK Government's intention to take a comprehensive approach to combating trafficking, through more effective prevention, including by way of international co-operation, improved victim identification and care, and better co-ordination of law enforcement efforts to disrupt traffickers. The Strategy also places emphasis on raising awareness of child trafficking and ensuring child victims are safeguarded and protected from re-trafficking. The Home Office co-ordinates the Implementation of the Strategy. Actions within the Strategy are owned by a range of government departments and agencies including UKBA, SOCA, Department of Health, Department for Education, Ministry of Justice, Foreign and Commonwealth Office, Police, Department for International Development, CPS and CEOP. The Home Office has indicated that it intends to work closely with the Devolved Administrations and NGOs on the implementation of the strategy.

89. The implementation of the Strategy is monitored by the Strategic Board, which brings together officials from 20 relevant governmental departments and the Devolved Administrations and meets on a six-weekly basis (see paragraph 31). The Strategic Board reports to the Inter-Departmental Ministerial Group on Human Trafficking. The British authorities have informed GRETA that the IDMG will produce its first annual report in October 2012. The report will provide an update on progress towards implementing the actions outlined in the Strategy and address key challenges.

90. The National Referral Mechanism (NRM), which was set up in April 2009 to identify and assist victims of trafficking, provides a framework for public bodies, local authorities and NGOs to work together (see paragraphs 28 and 206). The NRM has been enhanced by adding two more NGOs, specialised in child protection, to the initial list of six NGOs designated to refer potential victims for identification. According to the British authorities, the NRM involves multi-agency consultation and engagement as part of the decision making process. That said, NGOs referring potential victims to the NRM deem that their views are not always sufficiently taken into account in the identification process, and that when the credibility of potential victims is questioned, the opinion of experienced frontline staff is not always given due weight (see paragraph 219).

91. The support services for victims of trafficking are mostly funded by the Government through civil society organisations who conclude contracts with the relevant governmental departments (see paragraphs 257, 265 and 268). As explained in paragraph 39, the NRM Oversight Group (previously Strategic Monitoring Group), which is composed of officials from relevant departments and agencies, local authorities and NGOs, monitors the performance of the NRM. The review of the NRM after 12 months involved a range of interested parties, including local authorities and NGOs, and highlighted areas for improvement (see paragraph 215).

92. The UK Government's Human Trafficking Strategy reiterates the importance of working with NGOs to tackle THB and the authorities have indicated that they aim to improve communication with NGOs in order to keep them informed of progress against key strategic commitments and provide them with an opportunity to influence the implementation of Strategy. As mentioned in paragraph 49, a series of workshops and meetings were organised with NGOs to discuss the development of the new strategy and NGO contribution to its implementation.

93. That said, NGOs have regretted the discontinuation of regular meetings between the NGO Stakeholder Group and the Attorney General and the Minister for Policing and Crime Reduction and consider that there was insufficient consultation with civil society during the development of the Human Trafficking Strategy and reduced opportunities for stakeholder consultation on anti-trafficking policy. GRETA was informed of the setting up of five theme-led engagement groups, involving a wide range of NGOs, which met in November 2011, January 2012 and March 2012. Discussions concerned how to strengthen co-ordinated approach in the areas of raising public awareness, working with the private sector and tackling demand, international engagement, and assisting child victims. Thus the private sector group proposed collaboration between the Gangmasters Licensing Authority and a leading supermarket to provide information on forced labour at two supermarkets frequented by agricultural workers. The groups are being refocused to make them more effective and reduce duplications. GRETA welcomes this initiative to strengthen co-ordination with NGOs.

94. The Human Trafficking team of the Home Office's Organised and Financial Crime Unit meets with NGOs to discuss specific issues and participates in the following meetings where a range of NGOs are represented: the bi-annual Human Trafficking and London 2012 Network meetings (hosted by the Greater London Assembly); the Violence against Women and Girls stakeholder meetings (chaired by the Violence and Youth Crime Prevention Unit of the Home Office); the bi-monthly SMG/NRM Oversight Meeting (chaired by the Immigration and Border Policy Directorate of the Home Office) and the quarterly UKHTC Prevention, Protection and Prosecution group meetings.

95. While the UKHTC does not have the authority to direct or task organisations to carry out activities or investigations, it works in partnership with law enforcement agencies and civil society organisations responsible for providing support to victims, and seeks to inform and co-ordinate the response to cases of THB. The UKHTC co-operates with the Department for Work and Pensions, HM Revenue and Customs and the banking industry regarding THB for the purpose of benefit and tax credit fraud. Further, the UKHTC engages with NGOs through UKHTC-directed multi-agency forums, project support and strategic engagement in different forums (e.g. the London 2012 Games Network, the NRM Oversight Group). In addition, the UKHTC has set up a strategic level NGO advisory forum, led by the Head of the UKHTC. That said, according to NGOs, the absence of a clearly identifiable national anti-THB co-ordinator is a source of confusion over the responsibilities of the UKHTC.

96. One of the four key areas of focus of the UK Government's Human Trafficking Strategy is better co-ordination of law enforcement efforts. This co-ordination role is assigned to the future National Crime Agency. The Strategy also refers to the setting up of a multi-agency Organised Crime Co-ordination Centre, which was expected to become operational in November 2011, and which will lay the foundation for the transition to the NCA by improving the co-ordination of responses to organised crime and developing an improved understanding of the threat from organised crime through the analysis of multiple data and intelligence sources.

97. In Northern Ireland, co-ordination between different stakeholders is ensured by the Organised Crime Task Force's Immigration and Human Trafficking Subgroup which is composed of representatives of the Department of Justice, the police, the Public Prosecution Service, UKBA, the Department of Health, GLA, SOCA, and An Garda Síochána (Republic of Ireland). That said, there is no NGO representation in the Subgroup or in the working groups on THB set up by the Ministry of Justice. In April 2012, Northern Ireland's Department of Justice launched a public consultation inviting suggestions on how to strengthen links and improve engagement with the NGO sector against THB. **GRETA stresses the importance of formalised arrangements with NGOs and civil society to discuss and co-ordinate the application of anti-trafficking policy in Northern Ireland and would like to be kept informed of measures taken in the follow-up of the current consultation.**

98. In 2003, Glasgow City Council established an Inter-Agency Working Group on Trafficking to explore the issue of trafficking in women for the purpose of sexual exploitation. The working group includes officials from Glasgow City Council, Strathclyde Police, the National Health Service-Greater Glasgow, UKBA, the Scottish Government, Women's Voluntary Network, Scottish Refugee Council and the Glasgow Asylum Support Service. The Scottish Government works very closely with NGOs whose expertise and views are taken into account in the planning of anti-trafficking measures. As mentioned in paragraph 25, the Scottish Government plans to bring together relevant stakeholders in the course of 2012 to discuss future policy and implementation of anti-trafficking measures.

99. That said, it would appear that there is a significant intelligence gap on trafficking, and in this context there is need to improve levels of trust and co-operation between victims support services and law enforcement agencies³⁴. There have recently been attempts to involve the private sector in preventing human trafficking.

100. The fragmented regulatory framework, with sector-specific regulation and absence of an overarching labour inspectorate, leaves opportunities for trafficking for the purpose labour exploitation. The setting up of the Gangmasters Licensing Authority (GLA), which regulates the supply of work force in certain labour-intensive industries (e.g. agriculture, horticulture, forestry, fishing, food processing), is an example of good practice, but its scope of competence could be further extended to other sectors such as hospitality (including catering companies and hotels) and construction. In early 2011, the UK Government announced a review of workplace rights and enforcement arrangements, and a parallel review of employment law. The British authorities have informed GRETA that in May 2012, the Minister of State for Agriculture and Food announced in Parliament that the GLA will target suspected serious and organised crime by working more closely with SOCA to focus on gross abuse of workers, including THB. However, there are no plans to extend either the scope of the GLA or the sectors in which it operates.

³⁴Equality and Human Rights Commission Scotland (2011), *Inquiry into Human Trafficking in Scotland*.

101. Domestic servitude is the third most frequent type of exploitation to which victims of trafficking are subjected in the UK. The overseas domestic worker system in the UK in place until 6 April 2012 has been praised by NGOs as a preventive measure against THB as workers needed to prove a 12 month pre-existing employment relationship before a visa was issued. Once the domestic worker was in the UK, he/she had the right to change employer and the right to be recognised as a worker with corresponding rights under employment legislation. However, overseas domestic workers in diplomatic households had no right to change employer without losing their immigration status and the requirement for a pre-existing employment relationship or even for a contract of employment did not apply to them. The visa application process required the employer to set out the main conditions of employment, but the diplomatic mission sponsoring the domestic worker was responsible for ensuring that the working conditions comply with UK laws. GRETA notes with concern that the rate of THB for the purpose of domestic servitude is reportedly higher in diplomatic households compared to private households, which illustrates the fact that without the right to change employer, migrant domestic workers are more vulnerable to trafficking.³⁵ According to information provided by the British authorities, between 1 April 2009 and 3 May 2012, there were five diplomatic domestic workers conclusively identified as victims of trafficking (out of 15 referrals), compared to 21 private household cases (out of 67 referrals).

102. The overseas domestic worker system was changed in April 2012 (the pre-April 2012 system continues to apply to overseas domestic workers who were in the UK by 5 April 2012). As a result, overseas domestic workers in private households will only be permitted to accompany and work for visitors and must leave the UK with the visitor after a maximum of six months. Overseas domestic workers in diplomatic households will be able to remain for the diplomat's duration of stay, up to a maximum of five years, and may not switch employer. Pre-entry measures will be established requiring written terms and conditions of employment agreed by the employee and employer. However, some NGOs have expressed concern that the new system, which ties overseas domestic workers to one employer, may increase trafficking for the purpose of domestic servitude in the UK and prevent domestic workers from coming forward in case of abuse as they will be illegal in the UK if they move away from their employers. The British authorities have not seen convincing evidence to demonstrate that the changes to the overseas domestic worker routes of entry, including removal of the right to change employer, will increase human trafficking, and in case of abuse overseas domestic workers will continue to be able to seek referral to the NRM.

103. The Human Trafficking Strategy recognises that THB also occurs within the UK and that children in particular are increasingly vulnerable to falling victim to it. That said, the Strategy does not include specific measures addressing internal trafficking or the trafficking of British nationals abroad.

104. As noted above, the Human Trafficking Strategy pays particular attention to the problem of child trafficking. The responsibility for the protection of children - including victims of trafficking - falls within the designated responsibilities of local authorities. A number of detailed policy documents intended to guide frontline staff in detecting and assisting child victims of trafficking have been produced (see paragraph 237). In November 2011, the Department for Education published an action plan for England and Wales³⁶ to safeguard children and young people from sexual exploitation. The plan refers to research by the University of Bedfordshire according to which three-quarters of local councils have failed to put in place government guidance to protect children from sexual exploitation and that awareness of child sexual exploitation remains low among young people and their parents and carers. A progress report on the implementation of the action plan will be issued in spring 2012.

³⁵ The NGO Kalayaan has estimated that approximately 3.8% of diplomatic domestic workers are trafficked, compared to 0.2% of domestic workers in private households. See *Ending the abuse - Policies that work to protect migrant domestic workers*, May 2011. <http://www.kalayaan.org.uk/documents/Kalayaan%20Report%20final.pdf>

³⁶ *Tackling child sexual exploitation – Action Plan* (23 November 2011), available at <http://media.education.gov.uk/assets/files/pdf/c/tackling%20child%20sexual%20exploitation%20-%20action%20plan.pdf>

105. The British authorities have indicated their commitment to tackling the issue of child sexual exploitation, by building on the work of the CEOP Centre. The authorities recognise that more needs to be done to safeguard children and young people from sexual exploitation through the development of local prevention strategies that help identify children at risk of sexual exploitation as well as take action against traffickers. However, there is a lack of secure accommodation facilities and, as a result, a number of children go missing (see paragraph 240). Further, there is no system of legal guardians who could act independently with authority and in the best interest of children (see paragraph 245).

106. The Children's Commissioner for Wales Act 2001 created the first children's commissioner post in the UK, with the aim of safeguarding and promoting the rights and welfare of children. Subsequent legislation created a children's commissioner for Northern Ireland (in 2003), Scotland (in 2003) and England (in 2004). Unlike the Children's Commissioners for Scotland, Wales and Northern Ireland, the Children's Commissioner for England cannot deal with individual cases but can conduct investigations. In October 2011, the Children's Commissioner for England announced a two-year inquiry into child sexual exploitation in gangs and groups, with the involvement of the Home Office (see paragraph 139). The issue of sexual exploitation of children in the context of gangs is also included in the Government Action Plan on Tackling Child Sexual Exploitation.

107. GRETA welcomes the efforts of the British authorities and the Devolved Administrations to co-ordinate anti-trafficking action. **GRETA considers that the authorities should involve additional relevant bodies in the consultation on and assessment of anti-trafficking action, such as the Gangmasters Licensing Authority, the Children's Commissioners for England, Northern Ireland, Scotland and Wales, and the Anti-Trafficking Co-ordinator for Wales.**

108. **In addition, GRETA invites the British authorities to carry out an independent mid-term evaluation of the Human Trafficking Strategy in order to assess the implementation and impact of the actions planned, and consider whether any adjustments are necessary.**

109. **In order to ensure that action to combat THB is comprehensive, GRETA considers that the British authorities should:**

- **increase efforts to prevent and detect THB within the UK and of British nationals abroad;**
- **step up action to combat THB for the purpose of labour exploitation, in particular in domestic service, care, hospitality, agricultural, fisheries and construction sectors, including through extending the scope of action of the GLA;**
- **pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking;**
- **consider the return of victims of trafficking as an integral part of anti-trafficking policy which is critical to achieve a comprehensive framework for the protection of victims and their rehabilitation.**

110. **Further, GRETA considers that the British authorities should keep under scrutiny the new overseas domestic worker system to ensure that it does not increase trafficking of overseas domestic workers.**

ii. Training of relevant professionals

111. According to information provided by the UK authorities, the UKHTC provides training and support for operational staff. E-learning training has been developed and 24-hour advice and assistance is provided by the UKHTC, including to providers of accommodation for victims, law enforcement agencies, SOCA officers, public officials, etc. The UKHTC delivers training and awareness-raising sessions of the NRM in a multi-agency format. The UKHTC has also delivered training and advice on best practice to the judiciary and prosecutors in the UK and in source countries.

112. The UKBA has developed two e-learning human trafficking training packages for frontline staff. The first, which is introductory and mandatory for all staff under assistant director level, helps staff identify those who might have been trafficked. This package has also been made available to other front line agencies. The second package is tailored for front line operational staff in the Border Force, Asylum Screening Units, asylum processing, enforcement and detention centres, and helps staff understand the steps that should be taken once a potential victim of trafficking has been identified and how they should be referred into the NRM. Approximately 63 000 GBP was spent on developing these training packages. The British authorities have informed GRETA that these training packages, created in 2009, are still relevant and do not require revision.

113. UKBA and UKHTC staff who perform the identification of victims of trafficking under the NRM attend a two-day training course (see also paragraph 213). The training is delivered by a specialist UKBA training provider and includes speakers from the Home Office, UKHTC and NGO support providers. The course includes sessions on the Convention, trafficking indicators, the NRM process, the role of First Responders, sharing information, and decision-making. Approximately 61 500 GBP has been spent on training 136 staff since July 2010.

114. The UKHTC, in conjunction with the National Policing Improvement Agency, has developed training for police officers. The training covers all forms of human trafficking and has been incorporated into programmes for all new officers as well as into specific programmes, such as initial detective training and those aimed at Police Community Support Officers, domestic violence, roads policing and public protection programmes. Further, the UKHTC has developed a 'Senior Investigating Officer Toolkit' to assist with the investigation and identification of human trafficking offences. The Toolkit is a guide aimed at helping prosecutors to identify potential victims of trafficking in associated criminal cases, and to ensure that in case of alleged contravention of human trafficking legislation, prosecutors know how investigations should proceed, and can identify relevant partner agencies and the support services available to victims. The British authorities have informed GRETA that a specific website for UK law enforcement officers (POLKA) is under development and will be launched in the summer of 2012 to provide police officers with access to relevant guidance and policies on THB, as well as the possibility to share best practices. The POLKA website will be jointly managed by ACPO, UKHTC and the National Policing Improvement Agency.

115. Staff of the CEOP Centre receive in-house training during their induction. Members of the Operation Paladin Team, which is a joint UKBA and Metropolitan Police Service team that safeguards children arriving in the UK, have received training covering forgery detection, carriers liability and immigration legislation. Every Paladin officer receives police safeguarding training. In addition, UKBA officers receive Achieving Best Evidence training and training on joint investigations. The annual cost of providing these courses is approximately 7 200 GBP.

116. Human trafficking training for local authorities is delivered either as part of the Local Safeguarding Children Board child trafficking training model or directly by the London Safeguarding Children Board pilot support group to local authorities across the UK. In 2011, the London Safeguarding Children Board launched a trafficking toolkit and guidance which has been developed to aid practitioners at a local level to better identify potentially trafficked children and provide an appropriate response. Local authorities involved in the toolkit pilot project received training on all aspects related to victim identification and referral, multi-agency working and assistance to victims. Further, the cross-government guidance 'Working Together to Safeguard Children' and supplementary guidance developed by the Department for Education and Home Office provides practitioners with a guide to indicators of trafficking and appropriate responses.

117. As regards health professionals, the Department of Health has recognised a gap in training on THB and is working with the Women's organisation Platform 51 on a project that runs from November 2011 to November 2012 to promote understanding and awareness of THB among health professionals. The project aims to develop and adapt a toolkit for health professionals with the aim of improving the health service response to victims of trafficking.

118. As regards prosecutors of the CPS, the British authorities have indicated that training courses and events on THB have been provided to them, although there are no formal plans for regular periodic training. Extensive legal and policy guidance is updated regularly and published to all CPS prosecutors in England and Wales.

119. Since April 2011, the Judicial College has been responsible for the training of judges in England and Wales. The Judicial College provides initial training for new judicial office-holders and those who take on new responsibilities, as well as continuing professional education for existing judicial office-holders. That said, judges are not specifically trained on THB.

120. In Scotland, the Scotland Crime and Drug Enforcement Agency (SCDEA) provides training on human trafficking at the Scottish Police College. A distance learning package has also been developed and is provided to every new recruit at the Scottish Police College, while an e-learning tool to be rolled out to every police officer in Scotland is also under development. The SCDEA is also currently working with the Education Institute of Scotland with the objective of preparing an awareness product for schools. Further, Guidance for Scottish National Health Service (NHS) staff on commercial sexual exploitation, which refers to trafficking, has been issued and work is currently underway to produce further guidance in relation to the other forms of exploitation related to human trafficking. The SCDEA has supplied the Educational Institute of Scotland with a package for preparing an awareness product for schools. In addition, the Senior Investigating Officer Toolkit produced by UKHTC (see paragraph 114) was adapted for Scotland and is available to police officers through the Police Information Network of Scotland.

121. The Crown Office and Procurator Fiscal Service (COPFS) of Scotland has provided training to its area specialists, dedicated solely to examining complexities of investigating and prosecuting human trafficking. Detailed guidance for prosecutors including guidance which highlights factors that prosecutors should be aware of to assist with determining whether a person is a victim of human trafficking has been issued. As for judicial training, it is carried out by the Judicial Studies Committee which runs courses for all branches of the judiciary and issues written materials for judges. The British authorities have informed GRETA that the Judicial Studies Committee has not carried out any specific training or issued guidance materials on THB, but this could be considered as a topic for the next course programme and options for delivering training and/or guidance will be explored.

122. In Northern Ireland, training on THB is provided to all prosecutors, internally and with input from the UKBA. It is anticipated that further training will be provided when the Policy on Prosecuting Cases of Human Trafficking is issued by the Public Prosecution Service (PPS). Further, the Judicial Studies Board is responsible for judicial training. The board runs study programmes and training workshops for the judiciary and issues written material to all judges. According to information provided by the British authorities, the PPS will launch a public consultation on its draft Policy for Prosecuting Cases of Human Trafficking, with the aim of publishing the final policy by October 2012. Further, the Judicial Studies Board in Northern Ireland held a training event on THB for the judiciary in October 2010, and a copy of the training materials is given to all judges appointed since then. Further, the Lord Chief Justice's Sentencing Group has issued sentencing guidelines in this area in April 2012.

123. The International Organisation for Migration (IOM) has provided training and capacity building to consular and diplomatic staff in the UK and to Croydon Council, covering the identification of victims of trafficking, the legislative framework, general indicators of trafficking, the NRM, support mechanisms for victims of trafficking, as well as their return and reintegration. Further, IOM has produced a manual for practitioners dealing with cases of THB and is pursuing a training programme at Gatwick Airport and other ports of entry in the UK.

124. The UK's Human Trafficking Strategy includes plans to work closely with the airline industry to enhance their knowledge of THB and provide staff with the tools needed to identify victims of trafficking, including the development of training to raise awareness of behavioural indicators associated with THB.

125. The British authorities have informed GRETA that Gangmasters Licensing Authority (GLA) enforcement officers receive training to assess compliance with the prohibition of forced labour in the GLA Licensing Standards. GLA officers are also familiar with a range of THB indicators. Furthermore, staff at the Employment Agency Standards have received training on THB issues, including slavery, servitude and forced or compulsory labour, as well as guidance from the Ministry of Justice.

126. GRETA welcomes the steps taken in the UK to provide training to relevant professionals and frontline staff on THB-related issues. That said, GRETA takes note of concerns expressed by certain practitioners that training does not always reach those frontline professionals who are best placed to identify victims of trafficking, in particular health professionals (see paragraph 137), local authorities and neighbourhood police. **GRETA invites the competent authorities to continue ensuring that all relevant staff, including those working in NGOs contracted to provide assistance to victims of trafficking, are trained periodically in order to improve the detection of potential victims of trafficking, the formal identification of victims and the provision of assistance to them. Such training should be provided to law enforcement officers, immigration officials, staff working in immigration removal centres, staff working in shelters for victims of trafficking, local authorities' staff, diplomatic and consular staff, health professionals, social workers and labour inspectors.**

127. Further, **GRETA invites the competent authorities to step up the training provided to prosecutors and judges on the issue of THB and the applicable legislation and case-law, by stressing the importance of applying a human rights-based approach on the basis of the Council of Europe Convention and the case-law of the European Court on Human Rights.**

iii. *Data collection and research*

128. 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 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.

129. The UKHTC is the national repository of data on THB, including the collection and collation of intelligence regarding THB into, within and out of the UK. The intelligence is developed and analysed to inform the national strategic policy as well as operational responses. In addition, the UKHTC produces data regarding the number of referrals to the NRM and decisions taken by the two competent authorities to identify victims of trafficking, with a breakdown by nationality, gender and age, as well as by the type of exploitation. This data is made available in the UKHTC's website.

130. The CEOP Centre, which has the national strategic lead on child trafficking in the UK, has collected data since June 2007 with the aim of building knowledge on the scale and nature of child trafficking. It produces baseline assessments of child trafficking in the UK: the first one identified 330 potential victims of trafficking between March 2005 and January 2007, the second one published in 2009 identified 325 children potential victims of trafficking, and the third one, published in October 2011, reported 202 children identified as victims of trafficking from 1 January 2011 to 15 September 2011.³⁷ The CEOP Centre has also produced a number of thematic assessments on child trafficking.³⁸

131. That said, GRETA notes that there is a lack of centralised data concerning prosecutions and convictions for THB offenses, including on non-punishment of victims of trafficking. Data is also lacking regarding the number of victims of trafficking who successfully claim compensation from the offender and/or apply for State compensation, and the sums awarded to them (see paragraph 292).

132. In Northern Ireland, the Causeway Programme was created as a joint initiative of six criminal justice organisations (the Public Prosecution Service, Forensic Science Northern Ireland, Police Service, Courts and Tribunals Service, Probation Board and Prison Service) in order to share information electronically and ensure data consistency. The Causeway Programme has been in operation since the summer of 2010 and is considered critical to the effective operations of the criminal justice system in Northern Ireland. That said, concerns have been raised about the lack of reliable data on adult and child victims of trafficking in Northern Ireland. Different bodies are involved in collecting data but there is no central data collection and analysis point, which is crucial for planning policies to protect and assist victims of trafficking.

³⁷ *Child trafficking update*, see at http://ceop.police.uk/Documents/ceopdocs/child_trafficking_update_2011.pdf

³⁸ For example, *Children and Young People Encountered in Cannabis Farms* (March 2009), *Child Trafficking for the Purpose of Benefit Fraud* (October 2010).

133. The authorities recognise that collating reliable data on THB from all relevant actors, including government departments, law enforcement agencies, the public and private sectors and civil society, continues to pose a significant challenge. Although the data collected since the setting up of the NRM has contributed to a better understanding of the phenomenon of THB, including as regards main countries of origin, vulnerable groups and forms of exploitation, more needs to be done to ensure that more comprehensive data on all aspects of trafficking and anti-trafficking policies, including the provision of support, are collected, analysed and passed on to the right agencies for action. In this context, the future National Crime Agency and in particular the Organised Crime Co-ordination Centre are expected to contribute to a multi-agency picture of organised crime threats and targets, including the collection of data on traffickers and where they operate. These activities, welcome as they are, are unlikely to fully satisfy the need for comprehensive data on all aspects of the phenomenon.

134. As far as research on THB is concerned, a number of projects have been carried out in recent years by public bodies, NGOs and universities. By way of example, the Home Office sponsored the Project Acumen (see paragraph 43). The project estimated that of the 17 000 migrant women involved in off-street prostitution in England and Wales, 2 600 were victims of trafficking and 9 200 were vulnerable to THB.³⁹

135. There is an increased awareness of the problem of internal trafficking in the UK, which remains an under-reported issue. The UK Government has commissioned research on slavery and human trafficking in the UK, which will be carried out by the Centre for Social Justice and the report is due to be published in September 2012. The research is expected to study the causes of slavery/internal trafficking as well as the identification, support of victims, training and enforcement. Further, the UKHTC, together with police forces, are working on a project in respect of the trafficking of vulnerable males by members of the Travelling Community for labour exploitation.

136. According to NGOs, a number of potential victims of trafficking choose not to be referred to the NRM and remain unidentified (see paragraph 221). In order to study the reasons for and the scale of this phenomenon, the UKHTC is currently working on a project (scoping study of THB in UK), which should involve NGOs. The project will assess information provided by all First Responders and its results will be shared with the NGO sector.

137. The UK Department of Health has recognised the need for better understanding of the issues around health and THB and has commissioned a research project on THB entitled “Optimising identification, referral and care of trafficked people within the NHS”, due to start in the summer 2012 and to be completed by February 2015. The project aims to improve the ability of NHS staff to recognise and refer victims of trafficking, as well as to support NHS co-ordination in the response to THB. Further, the action plan for the implementation of the Strategy to end violence against women and girls (see paragraph 27) includes the commissioning of five research studies on the health aspects of violence against women and girls, including a study focusing on human trafficking.

138. There is also ongoing research on trafficking of Nigerian nationals into the UK, including on coercion and control mechanisms used by traffickers in respect of both sex workers and domestic servants. Research is also being conducted with the Nigerian authorities regarding the use of infants to facilitate false documents and visa entry to the UK. The outcome of this research will be subject to an assessment by SOCA.

139. The Children’s Commissioner for England has carried out two studies on unaccompanied children arriving in the UK⁴⁰ and, as mentioned in paragraph 106, has initiated an inquiry on the scale and scope of sexual exploitation of children in the UK associated with gangs.

³⁹ K. Jackson, J. Jeffery and G. Adamson, *Setting the record – The trafficking of migrant women in the England and Wales off-street prostitution sector*, ACPO, August 2010. Available at <http://www.acpo.police.uk/documents/crime/2010/201008CRITMW01.pdf>

⁴⁰ Office of the Children’s Commissioner (2011), *Landing in Kent: The experience of unaccompanied children in the UK*, and Office of the Children’s Commissioner (2012), *Landing in Dover*.

140. In Scotland, the Equality and Human Rights Commission published at the end of November 2011 the results of a comprehensive inquiry into human trafficking in Scotland led by Baroness Helena Kennedy QC. The inquiry was based on analysis of a wide range of written evidence and face-to-face interviews, including statements from 13 victims of trafficking and responses from 22 public authorities.⁴¹ The inquiry found, *inter alia*, that awareness of trafficking is still low and many crimes remain undetected, which contributes to maintaining the unseen nature of trafficking. Further, Scotland's Commissioner for Children and Young People and the Centre for Rural Childhood at Perth College carried out a scoping study on child trafficking in Scotland in 2011⁴². Research on child trafficking in Scotland has also been also carried out by the Glasgow Child Protection Committee.

141. In June 2011, the Institute for Conflict Research published a report⁴³ on forced labour in Northern Ireland, focusing on exploitation of migrant workers in the mushroom and fishing industries and within the Roma community. The report found that vulnerability to such exploitation was associated with factors such as legal status, English language skills, lack of access to advice and information and absence of community-based support networks. The report concluded that coercion and exploitation increase vulnerability to THB and recommended, *inter alia* extending the remit of the GLA to regulate and inspect all sectors and raising awareness about this issue.

142. The Joseph Rowntree Foundation has conducted research on forced labour in the UK⁴⁴ and plans to continue funding research in this area, including on issues such as the harm created by forced labour, how the law enforcement system treats persons who have experienced forced labour and how human rights violations link with labour regulatory practices, business culture, and macro-economic policies in the UK⁴⁵.

143. GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking legislation and policy, the British authorities as well as the authorities of the constituent UK countries should continue developing a comprehensive and coherent data collection system on trafficking in human beings by compiling statistical information from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination, etc.). This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection.

144. In addition, GRETA invites the British authorities to continue conducting and supporting research on trafficking-related issues as an important source of information for future policy measures. Areas where additional research is needed include internal trafficking in the UK and trafficking for the purpose of labour exploitation and domestic servitude, including in diplomatic households. It is also important to study the reasons why potential victims of trafficking refuse to enter the NRM and what could be done to discourage demand for the services of trafficked people.

⁴¹ Equality and Human Rights Commission Scotland (2011), *Inquiry into Human Trafficking in Scotland*.

⁴² Scotland's Commissioner for Children and Young People and the Centre for Rural Childhood, Perth College (2011), *Scotland: A safe place for child traffickers?*, pp. 56-59.

⁴³ L. Allamby, J. Bell, J. Hamilton, U. Hansson, N. Jarman, M. Potter, S. Toma, *Forced labour in Northern Ireland: exploiting vulnerability*, available at

<http://www.conflictresearch.org.uk/Resources/Documents/Jarman-Forced%20Labour%20report%202655.pdf>

⁴⁴ K. Skrivankova, *Between decent work and forced labour: examining the continuum of exploitation* (November 2010) and P. Dwyer, H. Lewis, L. Scullin and L. Waite, *Forced labour and UK immigration policy: status matters?* (October 2011).

⁴⁵ A. Balch, *A systematic response? Regulation and Enforcement Around Forced Labour in the UK*, (January 2012).

iv. International co-operation

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

146. One of the objectives of the UK’s Human Trafficking Strategy is to deter and disrupt trafficking overseas by sharing intelligence with other countries and targeting traffickers before they reach the UK. The future National Crime Agency is expected to work with international agencies, such as Interpol, Europol and Frontex, as well as with partners in the UK such as UKBA, the Foreign and Commonwealth Office (FCO) and the Department for International Development (DFID). Further, the Strategy indicates that there will be a focus on priority countries, i.e. countries of origin and transit from where the greatest threat originates. The Strategy also refers to plans to work closely with labour inspectorates in EU Member States in order to promote common standards on identifying and prosecuting cases of trafficking for the purpose of labour exploitation.

147. The Home Office has published guidelines for overseas authorities seeking mutual legal assistance (MLA) from the UK⁴⁶. The type of mutual legal assistance available includes procedural documents, witness evidence, banking and telecommunications data, search and seizure and temporary transfer of prisoners. A request for MLA in criminal matters is only appropriate if evidence (as opposed to intelligence) from the UK is required for a criminal matter. Central authorities in the UK receive and ensure the execution of MLA requests, while Scotland’s Crown Office and Procurator Fiscal Service deals with MLA requests for Scotland.

148. Requests for intelligence can be made on a police to police basis and are referred to as police co-operation, mutual assistance or mutual administrative assistance. This entails law enforcement officers in a requesting State asking for the assistance of law enforcement agencies in the UK to gather intelligence for an investigation. Intelligence can be an easier and quicker way to obtain information and, in many countries, intelligence collected by UK law enforcement agencies will constitute as admissible evidence in criminal trials. SOCA International, UKBA, Her Majesty’s Revenue and Customs (HMRC) and the police forces can receive intelligence enquiries directly from law enforcement officers in foreign countries, as well as from Europol and Interpol. Information is either shared on a bilateral basis through SOCA International branch officers based overseas (their network involves over 130 officers in around 40 countries), through Europol via SOCA Officers based in the Hague, or via SOCA multilateral to local Interpol NCBs. All disclosures are risk assessed and transmitted on approved networks.

149. The UKHTC is a member of, and regularly shares information with, the Cross Channel Intelligence Committee regarding organised criminality on THB in the UK, Belgium, France and The Netherlands. UKHTC also regularly shares information with Europol’s Analytical Work Files (AWF) Phoenix and Furtum. This is carried out either through SOCA officers based in the Hague or through SOCA’s Europol liaison officers based in London. The UKHTC also chairs a new Europol working group on Human Trafficking bringing together law enforcement bodies from a number of EU Member States to co-ordinate EU-wide strategic priorities and responses to tackling THB.

150. Further, UKBA’s Risk and Liaison Overseas Network (RALON), which operates in more than 50 locations worldwide, works with airlines to prevent the carriage to the UK of inadequately documented passengers, which may include victims of trafficking. RALON officers have provided training to airline staff to enable them to identify traffickers and victims.

⁴⁶

Available at <http://www.homeoffice.gov.uk/police/mutual-legal-assistance/Assistance-from-UK/>

151. According to information provided by the British authorities, SOCA, SCDEA, the police, UKBA and GLA have all co-operated on joint operational activity in recent years. Among the bilateral/multilateral work in which UKHTC is involved, reference can be made to support in the creation of a joint investigation team (JIT) with Hungary, provision of training to police forces in Poland, Israel, China and the Republic of Moldova, and a joint project with UNODC, IOM and Anti-Slavery on the trafficking of Nigerian people for sexual exploitation, labour exploitation and domestic servitude.

152. Further, in September 2008 a JIT was set up between the UK and Romania (Operation Golf), comprising officers from the Metropolitan Police Service (MPS), UKHTC and the Romanian National Police. The MPS assisted the Romanian National Police in bringing prosecutions of the 26 arrested suspects by providing evidence of offences in 41 police force areas and the circumstances around the forced criminality of identified children. 181 trafficked children have been identified as a result. As part of Operation Golf, the launch of Operation Norman on 12 October 2010 on 16 premises safeguarded 41 children and arrested 8 adults. After being assessed for risk of harm and welfare needs, 40 children were returned to their families and one girl was placed temporarily with foster carers.

153. SOCA and Lithuanian law enforcement agencies carried out joint work leading to the identification of six networks of THB, the recovery of 16 victims of trafficking for the purpose of sexual exploitation and the conviction of 18 persons. The operation got extensive press coverage and heightened awareness in Lithuania. As a result, there has been a significant reduction in cases of trafficking of women to the UK.

154. The Crown Prosecution Service (CPS) works with countries of origin to improve the capacity of investigators and prosecutors through training, identification of weaknesses in the criminal justice systems and improving criminal justice engagement with other agencies. Further, the CPS is contributing to a three-year programme led by law enforcement agencies and prosecutors from the Netherlands and focusing on improving the ability of investigators and prosecutors in the Nigerian Agency for the Prevention of Trafficking in Persons (NAPTIP) to prosecute traffickers. The CPS is also working with the Supreme People's Procuracy of Vietnam to improve evidence gathering and expediting enquiries with a view to assisting prosecutions involving THB into the UK, including of Vietnamese youths trafficked to work in cannabis farms.

155. In September 2010, the Northern Ireland Assembly held a debate on THB and called on the Minister of Justice to work closely with the Irish Government and the EU to ensure that Northern Ireland is part of an all-island, European-wide response to this serious issue. The Police Service of Northern Ireland has had a number of successful joint operations on THB with SOCA, An Garda Síochána (Ireland) and other police services in the UK, as well as co-operation with law enforcement agencies in the Czech Republic.

156. Since 1999, the UK Department for International Development (DFID) has funded a number of anti-trafficking projects in South East Asia, West Africa and Central Asia, with partners such as the ILO, IMO, UNIFEM (the United Nations Development Fund for Women), Save the Children, Anti-Slavery International and World Vision. The assessment of these projects has highlighted the importance of treating THB as part of a wider poverty reduction and development agenda. DFID has developed a four-year Asia Regional Trafficking Programme (2011-2015) aimed at reducing the number of women and girls being trafficked in the garment and domestic work sectors and protecting the rights of migrant workers. The programme targets countries of origin and transit such as India, Bangladesh and Nepal, as well as destination countries in the Middle East, Europe, Pakistan and Malaysia. DFID also supports the Malawi Anti-Child Trafficking project, run by the Salvation Army, which aims at improving knowledge and access to rights for children who have been trafficked or are vulnerable to being trafficked.

157. GRETA welcomes the international co-operation developed by the UK's law enforcement bodies in order to achieve successful investigation and prosecution of traffickers in the UK and abroad. That said, GRETA notes that there is scope for further developing international co-operation to prevent THB and to protect and assist victims of trafficking, including in the context of their return, reintegration and rehabilitation in their countries of origin. **GRETA invites the British authorities to continue developing the aspect of international co-operation with a view to preventing THB, assisting victims of trafficking, ensuring victims' safe return, and prosecuting offenders, including through exploring further possibilities for co-operation with governmental and non-governmental actors in countries of origin and transit.**

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

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

a. Measures to raise awareness

159. The campaign Blue Blindfold, which was developed by the UKHTC in 2007, aimed at raising awareness of human trafficking amongst the general public and highlighting that human trafficking could be happening in their neighbourhood. It comprised outdoor advertising and the distribution of leaflets in Bristol and Leeds throughout April and May 2009. Blue Blindfold information packs continue to be distributed to partners involved in combating human trafficking and as an awareness raising tool amongst the wider population. The Blue Blindfold campaign was re-launched in Northern Ireland in January 2011 by means of advertisements on buses, internet advertising, and posters and leaflets sent to health centres and distributed through the community safety partnership network. Evaluation of the campaign in Northern Ireland showed that approximately 500 000 adults were aware of the campaign. Of those who saw the advertising, 60% agreed that they knew something about human trafficking; 75% agreed that it is an issue in Northern Ireland, and 84% agreed that they would call Crimestoppers⁴⁷ or the Police Service of Northern Ireland if they were suspicious of human trafficking taking place.

160. That said, some NGOs have informed GRETA that despite convening a multi-disciplinary working group on prevention, the UKHTC developed the Blue Blindfold campaign without consultation with NGOs and other civil society partners. The campaign was used in several towns and cities across the UK, however it appeared to be rolled out in an ad-hoc fashion, when individual police forces or local councils contacted the UKHTC and requested to use the materials, rather than strategically targeting particular areas or regions. Further, NGO partners working in Northern Ireland have questioned the level of awareness in the population and the impact of the campaign. No evaluation of the campaign has been made elsewhere in the UK.

161. According to the British authorities, the International Centre for the Study of Sexually Exploited and Trafficked Young People, based at the University of Bedfordshire, has received funding to review the lessons learnt from the prevention campaigns carried out in the last 15-20 years against trafficking of children and young people. The focus of the study is on Eastern Europe, West and Southern Africa and South and Southeast Asia. **GRETA would like to receive a copy of this study when it is available.**

⁴⁷ An independent charity working to help find criminals and solve crimes, including through an anonymous telephone number that they run to receive information about crime.

162. The UKHTC has produced the "My Dangerous Lover Boy" DVD and education pack with contributions from partners. It is designed to raise awareness of internal trafficking of girls and young women for the purpose of sexual exploitation in the UK. To date, some 1 000 packs have been disseminated and are being used to educate young people who fall within the target group preferred by the traffickers. The packs are available to any school or community group in the UK, as well as on YouTube. Discussions are underway to formalise a UK-wide launch of the DVD through the Department of Education, the Department of Health and Social Services. That said, no evaluation of the impact of the campaign is known to have been carried out. GRETA was informed that prevention of THB is not included in the curricula of all schools and that this would be difficult to achieve, given that there are many independent schools in the UK.

163. In May 2008, the Home Office launched a poster campaign to raise awareness about THB among those who pay for sexual services. Advertisements were placed in pubs and clubs, depicting a brothel with the caption: "Walk in a punter. Walk out a rapist." The campaign urged men who discover a woman they believe may have been trafficked to contact Crimestoppers.

164. In addition, there is an ongoing multi-language poster campaign "Friend or Human Trafficker?" at a number of UK ports, with a message encouraging passengers to question whether they been tricked or deceived into coming to the UK and urging them to speak with a border official or the police.

165. Various other awareness-raising campaigns have been carried out on a more local level. These campaigns tend to be carried out by NGOs or other services and predominantly aim to raise awareness and provide contact details for their service.

166. In June 2010, the Ministry of Justice published a leaflet with guidance on the implementation of Section 71 of the Coroners and Justice Act 2009, in order to raise awareness about forced labour and servitude. The leaflet is in the process of being redrafted and is scheduled to be reprinted during the course of 2012. **GRETA would like to receive a copy of this leaflet when it is available as well as further details on its distribution.**

167. Further, the UKHTC Tactical Advisors and Vulnerable Persons Team have provided advice and support to police forces throughout the UK to raise awareness, investigate and prevent internal trafficking of children for sexual exploitation and vulnerable adult men for the purpose of forced labour. The team is composed of trained victim care officers who can be deployed to conduct or assist with victim interviews and debriefs. In addition, the UKHTC has a tactical advisor on call 24 hours a day to respond to calls from First Responders. Tactical advisors are highly experienced investigators on all forms of human trafficking. The UKHTC is currently introducing a system whereby advice given to a police officer is automatically copied to a senior officer to ensure oversight.

168. In Northern Ireland, a campaign aimed at potential victims of THB was launched in October 2010. The "Visitor or Victim" campaign encouraged those who consider themselves as victims of trafficking to contact support services. The campaign poster and leaflet, in nine languages, was placed in ports of entry to Northern Ireland including airports, as well as in main railway stations, health centres, Citizens Advice Bureaux and libraries. No post-campaign evaluation has been carried out. Further, the Department of Justice of Northern Ireland has sponsored a number of awareness raising conferences on THB, including within the faith community and the NGO sector, and plans to work with Amnesty International to develop a multi-lingual leaflet for victims.

169. In Scotland, the Scottish Crime and Drug Enforcement Agency (SCDEA) is working with the Education Institute of Scotland in order to prepare awareness-raising materials for schools. In March 2010, the Scottish Government and SCDEA jointly hosted a workshop on THB for stakeholders. The NGO TARA and UKHTC hosted a seminar in March 2011 to raise awareness of THB among victim support organisations. Further, an awareness-raising conference was held to inform practitioners about the activities of the Scottish Government against child trafficking. The Scottish Government has raised awareness amongst front-line staff through training seminars for senior investigating officers.

170. As regards future awareness raising activities, the UKHTC is developing a UK-wide awareness campaign together with Crimestoppers. The campaign, which is expected to be launched in 2012, will focus on labour exploitation and include a hotline number, but funding for it has not yet been secured.

171. In addition, the UKHTC together with ACPO and NGO partners are developing measures to raise awareness and prevent trafficking of vulnerable men for the purpose of labour exploitation by members of the Travellers Communities.

172. Further, SOCA is currently developing Project Befall, an interactive 3D model - process map on child trafficking, which maps victims and could be used in the future for labour trafficking. Other projects under discussion include Google Ad-words to use electronic pop-up web pages in order to highlight the dangers of trafficking when searching for work in the UK from abroad.

173. The British authorities are also making efforts to raise awareness and prevent THB in countries of origin. The UK's Human Trafficking Strategy recognises the importance of this aspect and refers to work carried out in China and Thailand with together the IOM, the United Nations Office on Drugs and Crime (UNODC) and other organisations, as well as a project run by the Salvation Army in Malawi on children vulnerable to being trafficked and child victims of trafficking. The GRETA delegation was also informed of steps taken together with the embassies of Romania and Lithuania to prevent trafficking for sexual exploitation during the Olympic Games in 2012.⁴⁸ Reference has already been made in paragraph 151 to the project in Nigeria, which includes awareness-raising measures.

174. GRETA welcomes the awareness-raising measures already taken and stresses the importance of having their impact assessed in order to better target future actions. **GRETA considers that the competent authorities should plan future information and awareness-raising campaigns with the involvement of civil society and on the basis of previous research and impact assessment. More should be done to raise awareness of internal trafficking and the risks of trafficking of British nationals abroad, with a special emphasis on trafficking in children. More attention should also be paid to raising awareness of the risks of trafficking in men.**

175. **Further, GRETA invites the British authorities to continue contributing to awareness-raising prevention activities in the main countries of origin of victims of trafficking in the UK.**

b. Measures to discourage demand

176. In accordance with the Convention, measures to discourage demand for the services of victims of trafficking, especially women and children, should be understood as a positive obligation on Parties to adopt and reinforce such measures as regards THB for the purpose of any form of exploitation (see paragraph 108 of the Explanatory Report of the Convention). As it is stated in the Recommended Principles and Guidelines on Human Rights and Human Trafficking, strategies aimed at preventing THB shall address demand as a root cause of trafficking⁴⁹.

177. The UK's Human Trafficking Strategy recognises that a key element to disrupt the market for trafficking and reduce its profitability is to tackle demand by targeting those who pay for sexual services from trafficked women. Legislative measures have been taken in this respect, such as the Policing and Crime Act 2009, which amended the Sexual Offences Act 2003 and the Sexual Offences (Northern Ireland) Order 2008 to introduce the offence of paying for the sexual services of a prostitute subjected to force, deception, threats or any other form of coercion. This offence came into effect in April 2010 and the CPS has recorded charges for 40 offences up to June 2011 (see also paragraph 316). Reference is also made to the campaign described in paragraph 163.

⁴⁸ According to research commissioned by London Councils to review the potential impact of the 2012 Olympic and Paralympic Games on THB, it is difficult to predict the number of people that could be trafficked into or within the UK in relation to the 2012 Games. However, many agencies are of the opinion that there is a risk of increased trafficking during 2012. In particular, it is anticipated that increased numbers of Roma people may be trafficked for begging and street crime.

⁴⁹ Principle 4 of Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

178. The UK's Human Trafficking Strategy also refers to the need to tackle the demand for inexpensive, unprotected and often illegal labour. The Strategy recognises that there is growing awareness among consumers of the harm caused by unethical business practices and stresses that more needs to be done to increase understanding and encourage greater corporate responsibility within the private sector. No specific actions are included in the Strategy apart from a general reference to working with the private sector "to strengthen our overall approach to tackling trafficking". One of the NGO groups mentioned in paragraph 93 focuses on engagement with the private sector and tackling demand. Further, the British authorities have informed GRETA that the GLA and major food retailers and suppliers have established a Protocol that identifies how they will work together to improve standards and protect workers. The aim of the Protocol is to promote strong links between the supply chain and the GLA, to ensure that safety and welfare standards for workers are maintained and any exploitation of workers is eliminated. The Protocol states that retailers, suppliers and the GLA will communicate regularly with each other, with the industry providing information on any breaches of the licensing standards and the GLA offering advice and guidance.

179. A recent report by the Anti-Trafficking Monitoring Group of NGOs⁵⁰ refers to research on the demand for services from trafficked persons, which has focused on demand for sexual services⁵¹.

180. IOM works to prevent THB for the purpose of labour exploitation and forced labour through tackling demand and increasing the awareness of consumers and supply chain management. IOM's Information, Education and Communication strategy, known as the "Buy Responsibly campaign", in partnership with the advertising agency Saatchi & Saatchi, aims at raising awareness about the link between everyday products and the exploitative conditions under which potential victims of trafficking may have produced them. The campaign is part of a global effort to address the demand side of trafficking and was launched in London in October 2011.

181. In addition, awareness raising work led by NGOs targets trade unions, business communities and members of the public about the impact of demand for cheap goods and services, especially groups who are more likely to encounter trafficked people such as business travellers, hospitality industry representatives who employ subcontracted labour and those whose work (horticulture, agriculture, fisheries) is regulated by the GLA.

182. GRETA welcomes the British authorities' plans to tackle demand for the services of trafficked persons, in partnership with the private sector and civil society. **In addition to continuing efforts to discourage demand for sexual services, GRETA considers that the British authorities should step up their efforts to discourage demand for the services of trafficked persons for the purpose of domestic servitude and for labour exploitation, including in the agriculture, fisheries, construction, hospitality and cleaning sectors, *inter alia*, through strengthening the role of labour inspections.**

⁵⁰ The Anti-Trafficking Monitoring Group (April 2012), *All Change: Preventing Trafficking in the UK*.

⁵¹ Macleod *et al* (2008), *Challenging Men's Demand for Prostitution*; Farley *et al* (2009), *Men who Buy Sex: Who they Buy and What they Know*.

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

183. The UK's Human Trafficking Strategy recognises that trafficking also occurs within the UK and that children in particular are increasingly vulnerable to falling victim to exploitation. However, there are no specific actions planned to tackle this.

184. GRETA was informed by NGO representatives that there was a lack of effort to identify groups within the UK particularly vulnerable to THB and to target social or economic initiatives in their direction. Many initiatives aimed at tackling social exclusion, gender discrimination and child poverty, which would also have had the effect of addressing the vulnerability of disadvantaged groups to exploitation and trafficking, have been stopped as the funding of local councils is reduced. Provision of services tends to centre on the bigger cities and, where services do exist, waiting lists lasting several months are not uncommon. There are additional barriers to access for migrants and people whose vulnerability lies in their having previously been trafficked into the UK: many categories of immigrants are ineligible for mainstream services, good quality translation and interpretation services are hard to access outside of major cities, and the services are not always appropriate for the specific needs of abused or exploited people.

185. GRETA is aware of some NGO-led local initiatives, such as a service in East London for girls and young women at risk of sexual exploitation, free English and computer classes for migrant workers, and a business and education mentoring scheme for trafficked women. However, these services have limited capacity, insecure funding and are not available in every area. Work to prevent internal trafficking for labour exploitation, illicit activities, or to educate migrant workers about labour rights is even less common and almost always NGO or trade union led.

186. Regarding vulnerability to trafficking for the purpose of labour exploitation, the Trade Union Congress established a Commission on Vulnerable Employment which estimated that there were some two million workers in the UK in vulnerable employment, which is defined as precarious work placing people at risk of continuing poverty.⁵² Vulnerable workers are those without contract of employment, working through agencies or with reduced rights because of their immigration status, making them more vulnerable to THB. The report pointed to the lack of resources and joint work of enforcement agencies to guarantee employment rights and stressed particular problems in certain low-paid sectors including care, cleaning, hospitality, security and construction.

187. The statistics from the first two years of the functioning of the NRM show that a number of child victims of trafficking identified were British nationals (33 out of 141), which suggests that British children are also vulnerable to THB. Education is free to all children in the UK up to the age of 18; and renewed efforts have been made in supporting the long-term unemployed into work. Emergency health services, including emergency mental health services are also free to anyone in the UK.

188. In Scotland, the criteria to receive support from the NGO TARA require that exploitation must have occurred in the UK before women are eligible for services, which means that foreign women recovered before exploitation takes place are not provided with social or economic empowerment measures and therefore they remain vulnerable to THB. Women who are UK citizens can access various benefits and services to assist them in their social and economic empowerment. In addition, Glasgow City Social Service (GCSS) provides a comprehensive service for all women involved in prostitution within Glasgow to support them in exiting from any form of prostitution.

189. GRETA considers that the British authorities should take steps to address the vulnerability to trafficking of adults and children from disadvantaged groups in the UK through targeted social, economic and other initiatives, and to secure funding for such initiatives.

⁵² TUC Commission on Vulnerable Employment, *Hard Work, Hidden Lives*, available at http://www.vulnerableworkers.org.uk/files/CoVE_full_report.pdf

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

190. The UK's Human Trafficking Strategy includes the aim of improving the co-ordination of border and policing law enforcement efforts to prevent traffickers from entering the UK. The strategy refers to the use of intelligence to target those convicted or suspected of trafficking at the border as well as the development of risk-based indicators to facilitate the systematic targeting of high risk passengers. In addition, the strategy recognises that a significant number of victims of trafficking enter the UK illegally and thus a key element of UK's border control is performed in northern France and Belgium at the 'juxtaposed controls' (i.e. immigration controls carried out outside the UK by UK immigration staff), which have strengthened the cross-channel border control in order to reduce the number of illegal migrants travelling to the UK. The UKBA has resources deployed in ports, at international rail terminals and on board Eurostar services to stop illegal immigrants before they get to the UK.

191. An example of the effect of juxtaposed control concerned the identification of a trend of Nigerian adults and children arriving at UK airports and destined for the sex industry. A UKBA officer at the juxtaposed control in Paris intervened in a case where six victims of trafficking were referred to local law enforcement for questioning and support, while the suspected trafficker was prevented from reaching the UK with the help of the French Border Police, which facilitated his removal to Nigeria.

192. The UK's Human Trafficking Strategy also mentions recent scoping work with the European border agency (Frontex) to develop a set of UK specific risk indicators that can be deployed at UK ports. Frontex is drawing up risk profiles on victims in co-operation with selected EU Member States, and profiles for traffickers in co-operation with Europol. The risk profiles will be used during border control activities across Europe and they will contribute to more carefully targeted operations against THB to identify traffickers and their victims.

193. Visa applicants are required to provide biometric data which are checked against a range of police and immigration databases. The UK visa system is now based on an assessment of the application form rather than face-to-face contact with applicants, although interviews can take place on a risk assessment basis. If an entry clearance officer identifies any applicant as a potential victim of trafficking they can refer the case for additional evaluation, subject documents to additional verification checks and call the applicant for a face-to-face interview before a visa is issued. According to the UK authorities, Risk and Liaison Overseas Network (RALON) officers use risk profiles in order to identify and tackle THB at the visa issuing stage. They also engage with local NGOs in priority countries to develop relationships and encourage information sharing to allow visa officers to better identify potential victims of trafficking and provide better access to care. RALON officers (see paragraphs 33 and 150) are based both in visa centres and international airports.

194. A Common Travel Area (CTA) for the free movement of nationals of the UK, Ireland and the Crown Dependencies (Isle of Man, Bailiwick of Jersey and Bailiwick of Guernsey) was set up in the 1920s. Once a person is granted leave to enter one part of the CTA, they do not require leave to enter another part of it whilst that leave is still valid and provided that they do not leave the CTA. The UK is working with Ireland to preserve the CTA and protect the external CTA border from common threats, including organised crime risks such as THB. Both countries have worked closely to develop joint initiatives to mitigate abuse and threats to joint borders, including data sharing, closer alignment of visa regimes and electronic border systems.

195. The UK authorities have informed GRETA that children applying to enter the UK and those sponsoring them are subject to rigorous checks, including of fingerprints and biographic details. Risk assessed checks are also made on the child and any accompanying adult, and permission is obtained from the parents before a visa is granted. In the event that any doubts about the safety of the child are raised, further checks are made and, if the visa officer is unable to resolve those doubts, the visa is refused. If criminality is suspected UKBA inform the local authorities.

196. According to NGOs, there is no data available on the number of known or suspected cases of THB identified at borders so it is difficult to assess whether the above measures and interventions have been effective.

197. Information is provided to foreign migrants on legal opportunities for migration and employment in the UK as well as on their rights (including social, immigration and labour rights). The UKBA website and local country sites have detailed guidance for overseas visa applicants, including a telephone and email service, leaflets, and guidance available at Visa Application Centres and embassies. Press releases on immigration rules and policy and the danger of illegal working and THB are issued regularly and events with immigration agents, corporate partners and student bodies are organised to inform them of immigration rules and how to apply for a visa. There have also been targeted information campaigns on migrants' employment rights, including dissemination of leaflets by the UKBA and Trades Union Congress to East European workers.

198. A new leaflet entitled "Your Stay in the UK" is also available on the UKBA website (in English only) and provided in hard copy to successful visa applicants planning to visit, study or work in the UK. The leaflet provides advice for visa holders about the terms of their visa and how to ensure they do not abuse them, as well as information about arriving in the UK and a short section on "Help us to stop human trafficking". The UK authorities estimated that by March 2012 they had issued printed copies of the leaflet to 900 000 visa holders in target countries, which include India, Pakistan, Nigeria, Bangladesh, China, Afghanistan, Zimbabwe, Iran, Sri Lanka, Jamaica, Ghana, Brazil, Malaysia and Mauritius.

199. NGOs have expressed concern about the lack of information provided to migrant domestic workers coming to the UK regarding their rights. They have also pointed out that the UKBA guidance is often not followed as regards the need to carry out interviews of applicants for overseas domestic worker visas with the domestic worker alone (i.e. without their employer), in order to ensure that they understand the terms and conditions of the employment and that they are willing to travel to the UK. NGOs have indicated that the rate of THB affecting diplomatic domestic workers is much higher than within domestic workers in private households, even if the number of entries into the UK by the latter group is much higher. A leaflet on the rights and responsibilities of migrant domestic workers was available in English some years ago, including information on where they could go to for help.

200. GRETA notes the measures already taken by the British authorities to enable legal migration. **GRETA considers that the British authorities should step up their efforts to detect potential victims of trafficking at borders and provide written information to foreign nationals planning to travel to the UK in a language that they can understand, in order to alert them about the risks of THB for sexual and labour exploitation and domestic servitude, inform them of where they can go for help and advice, and provide them with information on their rights.**

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

201. The Identity and Passport Service, which is responsible for issuing passports to UK nationals, is committed to maintaining the integrity and security of UK passports, which are designed and manufactured to fully comply with International Civil Aviation Organisation and EU standards for security features. The passport design team includes experts from the National Document Fraud Unit, an expert body in the examination and assessment of fraudulently altered and counterfeit passports. Electronic passports were introduced in 2006, featuring an electronic chip with the holder's personal details along with biometric photographs. In addition to the security design features, face to face interviews were introduced for first time adult passport applicants in order to combat fraudulent applications. UKBA conducts forgery checks on all passports, with targeted verification checks on supporting documentation based on risk profiles. Further, a number of assessments relating to the quality, security and integrity of UK passports have been carried out.

202. In October 2010, a new version of the UK passport was introduced, featuring a new design and improved security features, including holographic features and watermarks that are difficult to forge. In addition, passports issued to children aged 15 or younger are only valid for five years in order to help reduce the risk of child abduction and to allow for the fact that children's appearance can change significantly during this period.

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

a. Identification of victims of trafficking in human beings

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

204. As already noted in paragraph 28, the National Referral Mechanism (NRM), in force since 1 April 2009, was set up as part of the UK's implementation of the Council of Europe Convention. Prior to this, NGOs and other service providers identified potential victims of trafficking through their own assessment procedures. The NRM is a formal victim identification and support process designed to make it easier for the different agencies that could be involved in a trafficking case to co-operate, share information about potential victims and facilitate their access to advice, accommodation and support. All agencies who find themselves with grounds for concern that a person may be a victim of trafficking have responsibility for putting him/her in touch with the responsible authorities and support providers, but there is no obligation to refer them to the NRM.

i. Description of the National Referral Mechanism

205. The NRM establishes a three-stage procedure for identification: i) initial referral of a potential victim by frontline staff from designated organisations known as "First Responders; ii) consideration of the merits of the case by an official from a designated "Competent Authority" in order to determine whether a person might have been a victim of trafficking (known as "reasonable grounds decision"); iii) a conclusive decision by the Competent Authority whereby a person is considered as a trafficking victim. This identification procedure applies across the UK countries and covers both adults and children (as regards the identification of children, see paragraphs 235 to 250).

206. Designated First Responders include the following governmental structures: local authorities; police; the UK Border Agency (UKBA); Serious Organised Crime Agency (SOCA); Gangmasters Licensing Authority. A number of non-governmental organisations have also been designated as First Responders: Eaves Housing for Women POPPY Project; Trafficking Awareness Raising Alliance (TARA); Migrant Help; Kalayaan; Medaille Trust; The Salvation Army; Unseen UK; Barnardo's; and NSPCC's Child Trafficking Information Line. The last two NGOs, which are specialised in children, were added to the list of First Responders in 2011, and there are proposals to further expand this list. A referral by a First Responder does not imply that the person is a victim of trafficking; rather it indicates that the referring agency believes there are indicators of trafficking that require further consideration by a trained specialist. Referrals are made using designated referral forms (there are separate forms for adults and children). There is published guidance on how to complete these forms and First Responders are encouraged to include as much information as possible. The First Responder must obtain an adult's consent to being referred into the NRM, but children do not need to sign the consent form. A First Responder who encounters a potential victim of trafficking may contact the UK Human Trafficking Centre (UKHTC) under SOCA for advice on whether a referral to the NRM is appropriate (four tactical advisors are available around the clock for consultations on the phone).

207. The formal identification is made by the Competent Authorities, which sit in two government agencies: UKBA and UKHTC. The UKBA deals with non-European Economic Area (EEA) nationals where an allegation of trafficking is raised as part of an asylum claim or in the context of another immigration process. The UKHTC deals with all cases involving a UK or EEA-national, and also acts at the first point of contact for referrals made by external agencies such as the police, local authorities, etc. If the UKHTC receives a case involving a person who is subject to immigration control, they refer it to the UKBA Competent Authority.

208. Once the case has been referred to the Competent Authority, a decision maker considers the details supplied on the First Responder form, along with any other evidence (e.g. information from the police, health professionals, legal representatives, asylum interviews, etc.) in order to make a reasonable grounds decision. This decision is a low threshold one, which is made by applying a "reasonable grounds" test to consider if the statement "I suspect but cannot prove" that the person is a victim of trafficking holds true. There is also an opportunity for interested parties to provide additional information if the Competent Authority is initially unable to make a positive reasonable grounds decision. According to UKBA officials, the target is to make a reasonable grounds decision within five working days from referral. However, in practice this can take longer, and the median time taken for a reasonable grounds decision to be made was nine working days for the quarter July-September 2011. There are monthly Practitioners Group meetings to ensure that decisions by the Competent Authorities are as timely as possible.

209. The First Responder and the potential victim are both notified of the reasonable ground decision. A positive decision entitles the person concerned to a minimum of 45 days of recovery and reflection period, during which the Competent Authority determines if there is sufficient evidence to confirm conclusively that the person has been trafficked. At the conclusive decision stage the standard of proof is whether, on the balance of probability, there is sufficient information to conclude that the person is a victim of trafficking ("balance of probabilities" essentially meaning that trafficking is more likely than not to have happened). The GRETA delegation was informed by UKBA officials that the median time taken for a conclusive decision to be made was 83 calendar days for the quarter July-September 2011. The time taken for a decision to be reached depends on a variety of factors, including the timeframe for the potential victim to be able to talk about their experience and the amount of evidence that is available. In cases where no conclusive decision is reached within 45 days, the recovery and reflection period is extended. All conclusive decisions by UKBA are signed off by a second person ("second pair of eyes"), normally a senior Competent Authority official, who is outside the asylum decision making management chain.

210. If a person is conclusively identified as a victim of trafficking, he/she may be granted discretionary leave to remain in the UK (see paragraph 285) or can receive help and financial assistance to return home through the Assisted Voluntary Return of Irregular Migrants programme (see paragraph 301). Persons who are not assisting with police enquiries can be conclusively found to be victims trafficking, as can persons who do not qualify for any other form of leave in the UK.

211. A negative conclusive decision ends the person's eligibility for support. That said, GRETA was assured by the British authorities that the person concerned would not be automatically evicted from the accommodation facility and that the service provider would reach an agreement with this person as to when he/she will exit the system and will try to follow up on what happens to those who exit the system. According to information provided by the British authorities, persons confirmed not to be victims are referred to a law enforcement agency (UKBA or police). Decisions on returns are made on a case by case basis and removal or repatriation action is only taken when it is considered both possible and safe to do so after an evaluation of individual circumstances (see paragraph 310).

212. Common criteria for granting the legal status of a victim of THB have not been defined in legislation, but have been given effect through policy guidance⁵³ which general principles of UK public law require the Competent Authorities to comply with. Pursuant to this guidance. Competent Authority decision makers apply the definition of trafficking as defined in the Council of Europe Convention.

213. All Competent Authorities decisions makers (UKBA and UKHTC staff) follow a training course lasting two days, which covers *inter alia* trafficking indicators, the Council of Europe Anti-Trafficking Convention, interviewing potential victims, and case studies. There are just over 100 trained staff acting as Competent Authorities in UKBA who deal both with asylum claims and trafficking victim identification claims concerning the same person. Through training, the need to separate the two decisions is emphasised. Training is also provided to First Responders, but separately from the Competent Authorities' decision makers.

214. There is no formal appeal process against NRM decisions at either the reasonable grounds or conclusive decision stage. However, on a case by case basis, if the person makes a further disclosure or other information comes to light, decisions are reconsidered by Competent Authorities and, if the information is substantive and persuasive, a new decision can be issued. This has reportedly happened on a number of occasions. As a last resort, both reasonable grounds and conclusive decisions can be challenged by judicial review. According to information provided by the British authorities, 17 cases have reached the application stage of judicial review; of those that were granted permission by the court, two decisions were overturned following a full hearing.

215. A review of the NRM was carried out in 2010 by the Home Office. A range of interested parties, including local authorities and NGOs, were asked to complete a detailed questionnaire on the operation of the NRM, and a stakeholder workshop was organised in June 2010 to discuss ways of improving the NRM. The general assessment of the Home Office was that the NRM had made a real difference to victim identification and support. With a view to improving identification, a new training package for Competent Authorities decision makers (see paragraph 213) and guidance for Competent Authorities⁵⁴ and frontline UKBA staff⁵⁵ were developed, with the involvement of NGOs. Further, in order to increase the expertise of Competent Authorities, it was proposed that the latter "work shadow" NRM partners (i.e. follow professionals and observe their daily work) and in particular support providers. The review of the NRM highlighted the need for enhancing the role of a second case worker who reviews victim identification decisions, as well as for developing an internal thematic audit of decision making.

216. Various steps have been taken to enhance NGO engagement during the decision making process, for instance through the Strategic Monitoring Group (NRM Oversight Group from October 2011), which oversees the operation of the NRM and includes several NGOs (see paragraph 39), and multi-agency case reviews which aim at developing best practice and learning. Further, there is a dedicated single point of contact on human trafficking in each UKBA region, known as the "Competent Authority lead", who develops and maintains relationships with NGOs, including the arrangement of work shadowing, visits to victim care providers and workshops.

217. According to statistics from the first two years of the functioning of the NRM, about 60% of the referrals to the NRM met the reasonable grounds threshold, and 33% of all referrals resulted in a positive conclusive decision. The proportion of persons who were conclusively identified as victims of trafficking varies depending on the nationality: 86% of UK nationals, 71% of other EU/EEA nationals, and 21% of non-EU/EEA nationals were positively identified.

⁵³ The relevant UKBA policy guidance can be found here:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/specialcases/guidance/competent-guidance>

⁵⁴ Victims of trafficking: guidance for competent authorities, see footnote 25.

⁵⁵ Victims of trafficking: guidance for frontline UKBA staff.

ii. GRETA's assessment of the NRM

218. GRETA considers that the setting up of the NRM is a positive development, to the extent that it formalises the process of victim identification and referral to support, irrespective of whether a person co-operates with the authorities. The development of the NRM has been accompanied by multi-agency consultation and engagement, issuing of guidance and provision of training. That said, GRETA notes that the NRM has been criticised by various stakeholders⁵⁶ as being too centralised, lacking accountability and transparency, creating a conflict of interest in decision making (due to the dual role of UKBA officials who deal with two parallel claims, one on trafficking and one on asylum), and ultimately failing to ensure that all potential victims of trafficking are identified, supported and protected and that traffickers are prosecuted

219. Whilst the NRM scheme permits a range of First Responders to refer trafficking victims for formal identification to the two Competent Authorities, that is the end of the role of the First Responders in the formal identification process. The decision as to whether a person was trafficked is made independently by the Home Office agencies designated as Competent Authorities, UKBA and UKHTC, alongside discharging their respective primary functions of immigration control and tackling serious organised crime. NGOs acting as First Responders deem that their views are not sufficiently taken into account in the identification process, and that when the credibility of potential victims is questioned, the opinion of experienced frontline staff is not always given due weight. Further, GRETA was told that the Competent Authority decision makers usually base their decision on paper work and rarely interview potential victims. In addition, GRETA understands that as UKBA is a designated First Responder – as well as being a Competent Authority – there are many cases in which no other agency is involved in the identification process, the whole decision making being in the hands of the same UKBA official (who is also an asylum case owner). As a result, the NRM identification procedures in such cases preclude decision-making on victim identification in partnership with different government agencies, local authorities, specialist organisations and victim support providers.

220. Solicitors dealing with trafficking cases have criticised the identification decision-making process for operating a “balance of probabilities” (preponderance of evidence) standard of proof which is said to be higher than the standard of proof applied to asylum claims (namely a “reasonable degree of likelihood” test, known as the *Sivakumaran* standard). It is argued that the former standard of proof, which is ordinarily applicable to civil court proceedings whereby both parties produce evidence for adjudication by a judge, is not appropriate for victim identification decisions taken by Government officials, given in particular the well-recognised barriers to disclosure for the person concerned such as fear, trauma-related illness, stigma-related concerns, etc. The difference in the standards of proof can be detrimental to victims of trafficking who seek asylum because, if they receive a negative conclusive decision under the NRM, they are more likely to be prejudiced in their asylum appeals as compared to asylum-seeking victims of trafficking whose cases were not referred into the NRM. According to solicitors, by operating a standard of proof for conclusive identification that is too high for many victims of trafficking to meet, the NRM prevents the positive identification of victims and prejudices the rights of applicants, not only in terms of achieving legal status as victims of trafficking, but also in being granted residence permit and compensation. The British authorities have informed GRETA that an essential feature of the UK's two stage identification process is that the standard of proof at the conclusive grounds stage is higher than that at the reasonable grounds stage, and that it is appropriate for the conclusive decision to align with the existing UK civil standard (“balance of probabilities”). The authorities have underlined that the NRM decision is made independently of any asylum claim, in accordance with the Convention.

⁵⁶ See, for example, Equality and Human Rights Commission Scotland (2011), *Inquiry into Human Trafficking in Scotland*, pp. 29-30.

221. It is a matter of concern for GRETA that a number of persons identified by support organisations were reportedly not referred to the NRM for a variety of reasons, but primarily because they did not see the benefit of being referred or were fearful of the consequences of being brought to the attention of the authorities because of their irregular immigration status.⁵⁷ As noted in paragraph 217, positive conclusive identification decisions were made in only 33% of the total number of cases referred into the NRM in the first two years of its functioning. The positive turnout in the case of non-EU/EEA nationals (21%) is strikingly lower than for EU/EEA-nationals (71%). This variance raises questions as to the identification decision-making process. Because of the likelihood of receiving a negative conclusive decision which can result in their removal from the UK, non-EU/EEA nationals may choose not to have their cases referred into the NRM.

222. The British authorities have informed GRETA that the NRM Oversight Group recently commissioned an analysis of NRM data and conducted a multi-agency case review exercise to better understand these differences. The group found that differing rates of positive NRM decisions exist due to differing case types and level of evidence available, and therefore there was no evidence of bias in the decision making. The EU/EEA cases were often a direct result of a First Responder action (e.g. the police) to remove a victim from a trafficking situation, and in such cases there was strong and objective supporting evidence available to the decision makers. The majority of non-EU/EEA cases were referred following an individual's own claim of THB raised in the context of asylum applications or another immigration matter, and in a significant proportion of such cases, there was a lack of reliable supporting information, the information provided was contradictory and/or the claimed exploitation had taken place a number of years earlier and the individual had moved on with their life. GRETA notes that the difficulties in obtaining evidence in the case of non-EU/EEA nationals could account for the different proportion of positive conclusive decisions. That said, GRETA is concerned by the implications of disregarding trafficking cases of non-EU/EEA nationals on the basis that trafficking took place in the past (see paragraph 94).

223. Further, it is claimed by some NGOs that the NRM system does not identify as victims all those who were subject to trafficking, as provided by the Convention, by applying a narrow interpretation of a victim or attaching conditions which impede identification and undermine prosecution in some cases. For example, there have reportedly been cases in which the authorities concluded that as the person concerned agreed to come to the UK for work, they could not have been trafficked despite the fact that according to the Convention, deception and abuse should render such consent irrelevant. In addition, GRETA understands that if a victim is thought to have been too long outside the perceived control of a trafficker, they may be considered to have been a victim historically, but to be ineligible for protection and assistance, therefore not considered to be a victim "for the purposes of the Convention" (see paragraph 82). According to the British authorities, this policy is only applied in cases where significant time has elapsed since the trafficking offence occurred and the circumstances of the individual have changed considerably. However, GRETA has learned of a case where the person was not considered to be a victim "for the purposes of the Convention" only six months after the trafficking episode.

224. GRETA has also been alerted to the absence of guidance issued by the Government to First Responders defining common criteria. It would appear that when the police act as a First Responder, they would not fill in the NRM referral form unless they are sure that a person is a victim of trafficking. Similarly, there is a lack of clarity as to who is responsible for facilitating access to translation and interpreting services. It goes without saying that interpretation is of crucial importance for correctly identifying a victim. Some First Responders, such as Kalayaan, receive no funding for interpreting, in spite of the fact that any referral to the NRM should only be done with the informed consent of the victim, which is impossible if the implications and process of a referral to the NRM are not explained in a language the victim understands.

⁵⁷ More than 130 persons identified by support organisations in the first year of the functioning of the NRM were reportedly not referred to the NRM, according to a 2010 report by the Anti-Trafficking Monitoring Group (see footnote 14).

225. As regards Northern Ireland, there is reportedly some confusion as to which First Responders can act and make referrals into the NRM. In addition, it would appear that recognised First Responders in Northern Ireland are unclear as to the proper process of referral. The British authorities have informed GRETA that First Responders are not restricted to any constituent parts of the UK (see the full list of First Responders in paragraph 206).

226. Failure to recognise a victim at the outset can result in him/her being treated as an irregular migrant, detained and/or peremptorily removed from the UK. Much depends upon the access a person has to legal advice and representation to be able to put forward the evidence that he/she has been trafficked and is in need of protection. The British authorities have informed GRETA that the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (see paragraph 19), which has removed free legal aid for immigration cases while retaining it in asylum cases, makes an exception for victims of trafficking so that identified victims will have access to legal aid in immigration as well as asylum cases.

227. As noted in paragraph 214, there is no formal right of appeal on trafficking victim status. The possibility for judicial review is not a replacement of or an alternative to appeal because, unlike appeal, judicial review cannot re-examine the facts of the case and take a new decision; it rather looks at the lawfulness of a decision made by a public body and has the power to challenge the way in which the decision has been made. A judicial review application must demonstrate that the decision reflects an error in the application of the law; however, as the majority of trafficking identification guidance is in the form of policy, not legislation, permission to have such decisions reviewed is difficult to obtain. Furthermore, legal aid for judicial review is restricted.

228. A number of potential victims of trafficking are reportedly detained in immigration detention centres, police cells or prisons. The Poppy Project refers to 180 cases of victims of trafficking known to them who were held in detention.⁵⁸ According to other NGOs, potential victims of trafficking are placed in detention facilities where they are interviewed by UKBA officials, and may serve their recovery and reflection period in custody. There are a number of reports about foreign nationals, including children, found by the police on cannabis farms across the UK, taken into custody and prosecuted, some of whom have subsequently been recognised as victims of trafficking. Officials met during GRETA's country visit indicated that if a person is in immigration or other detention, as soon as a positive reasonable grounds decision is reached through the NRM, the person is taken out of custody and moved to a support provider. The British authorities have informed GRETA that the Crown Prosecution Service has agreed with the Competent Authority that, in circumstances where a potential victim of trafficking has been apprehended by law enforcement officers, a reasonable grounds decision will be reached within 24 hours. The GRETA delegation was informed that planned police operations in cannabis farms in South-West England would involve NGO representatives to assist with the possible identification of trafficking victims, which could be an example of good practice. In Scotland, GRETA also heard examples of good practice when potential victims of trafficking were successfully identified after police officers had taken them to a safe place instead of placing them in custody.

229. In Northern Ireland, GRETA learned that as part of Operation Gull (a joint operation between An Garda Síochána, PSNI and UKBA running since 2005 and led by the Northern Ireland Immigration team since 2010) persons entering Northern Ireland at sea and airports may be questioned in relation to their immigration status and may face detention and/or removal. In July 2011, Larne House Short-term Holding Facility was opened and approximately 130 persons were reportedly held there in July-September 2011. Concerns have been expressed that persons held at Larne may include trafficking victims who are not identified because of the speed and secrecy with which operations take place. The British authorities have informed GRETA that all staff involved have undertaken e-learning training courses on THB and actively look for indicators of THB. Further, all persons held in Larne have had some form of interaction or interview with either the UK Border Agency or Border Force; should someone in detention raise the issue of THB, he/she will be given the opportunity to discuss their case with an immigration officer. In this context, GRETA stresses the importance of not relying exclusively on self-identification and developing a proactive detection of potential victims of trafficking.

⁵⁸ See footnote 14.

230. GRETA is concerned by reports that there is a gap in detecting potential victims of trafficking, in particular those subject to labour exploitation. The setting up of the Gangmasters Licensing Authority, which regulates the supply of work force in certain labour-intensive industries (e.g. agriculture, horticulture, forestry, fishing, food processing), is an example of good practice, but its scope of competence could be further extended. The previously mentioned report by the Equality and Human Rights Commission of Scotland concerning an inquiry into human trafficking in Scotland highlights the need for organisations responsible for regulating and inspecting employment standards and agencies in sectors with significant number of migrant workers, environmental health and health and safety at work, domestic work, or making licensing decisions, to seek First Responder status in the NRM and embed anti-trafficking into their regulatory frameworks and practices.⁵⁹ It is important for such organisations to learn from the regulatory model and practices of the Gangmasters Licensing Authority on labour exploitation, forced labour, and human trafficking.

231. The British authorities acknowledge that there is a gap to the extent that there are victims of trafficking who do not consent to enter the NRM, and the authorities are looking for ways to address this. The above-mentioned review of the first year of the functioning of the NRM set as one of the future aims to convince more NGOs, victims and their representatives to use the NRM. As a way of increasing the number of referrals to the NRM, the workshop referred to in paragraph 215 proposed the introduction of a pre-reasonable ground decision period, during which victims can access services without having to engage with immigration and police officers, as well as creating more opportunities for NGOs to provide support at interviews. Other factors underlined at the workshop concerned the need to provide better training to First Responders as regards supporting victims, to raise awareness of trafficking and the NRM process amongst frontline staff and support agencies, and to improve multi-agency collaborative working. The workshop also came up with proposals for alternative decision-making models.

232. While welcoming the introduction of a formalised victim identification and referral process, **GRETA considers that the British authorities should take further steps to secure that all victims of trafficking are properly identified and can benefit from all the assistance and protection measures contained in the Convention (see also paragraph 85). To this end, the British authorities should continue to review the identification procedure and decision making process under the NRM in the light of experience gathered since its inception, analysis of NRM data and research.**

233. **As part of the review of the NRM, GRETA considers that the British authorities should:**

- **expand the list of First Responders by including more civil society organisations as well as agencies responsible for employment standards inspections, regulating domestic work and making licensing decisions;**
- **entrust the identification of victims of trafficking who are illegally present in the UK to persons who are not involved in the asylum seeking procedure of the applicant, to avoid conflicts in the decision making;**
- **ensure that the guidance, toolkits and criteria used for the identification of victims of trafficking by frontline staff are harmonised and that application is rigorously monitored;**
- **review current practice as regards reconsidering identification decisions when new information is available;**
- **improve the identification of victims of trafficking in detention centres, by giving access to such centres to specialised NGOs and enabling detained irregular migrants to have access to legal assistance;**

⁵⁹

Equality and Human Rights Commission Scotland (2011), *Inquiry into Human Trafficking in Scotland*, p.28.

- **pursue a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by encouraging regular and co-ordinated multi-agency inspections by organisations responsible for regulating employment, health and safety in sectors most at risk;**
- **ensure that following a positive reasonable grounds decision, potential victims of trafficking are speedily removed from detention and offered assistance and protection as provided in the Convention.**

234. **Further, GRETA invites the British authorities to:**

- **further develop multi-agency training for frontline staff, First Responders and Competent Authorities on the identification of victims and their protection;**
 - **ensure that there is a regular exchange of information to enhance anti-trafficking practice across partner agencies;**
 - **commission an independent review of the NRM.**
- b. Special provisions in the context of the identification of child victims of trafficking

235. The Convention provides for special measures and procedures for children in the context of victim identification, such as in case of age disputes and in respect of unaccompanied children.

236. The British authorities view child trafficking as a form of child abuse and the responsibility for the protection of children – including victims of trafficking - falls within the designated responsibilities of local authorities by virtue of the 1989, 1995 (Scotland), and 2004 Children Acts. The local authorities must ensure that sufficient resources are available for safeguarding and promoting the welfare of all children. Separated and vulnerable children from abroad enjoy the same entitlements as all UK born or resident children.

237. There are a number of detailed policy documents intended to guide frontline staff in detecting and assisting child victims of trafficking. The UK Government (Department of Education and Home Office) has produced a practice guidance document called “Safeguarding children who may have been trafficked”⁶⁰, which was updated in 2011, and the Scottish Government has published guidance entitled “Safeguarding children in Scotland who may have been trafficked”⁶¹. An “All Wales Protocol on Child Trafficking” was published in September 2011 to provide practical guidance to professionals and volunteers on safeguarding child victims of trafficking. In February 2011, the Department of Health, Social Services and Public Safety and Police Service of Northern Ireland published guidance on dealing with trafficked children in Northern Ireland. Also in 2011, the London Children Safeguarding Board launched a child trafficking guidance and toolkit which are aimed at helping frontline staff identify child victims of trafficking and ensuring that the child’s specific safeguarding needs are met.⁶² Harrow Council and Harrow Safeguarding Children Board have also issued a risk assessment matrix and good practice guidance for trafficked children in care. Further, Glasgow Child Protection Committee has prepared an inter-agency guidance for child trafficking, including an indicator matrix and a child trafficking assessment, which help professionals and others to identify trafficked children and make appropriate referrals.⁶³ In addition, the Child Exploitation and Online Protection Centre (CEOP) has issued guidance to all police forces on child trafficking and in 2010, the Association of Chief Police Officers provided guidance to officers investigating commercial cannabis cultivation offences on how to deal with children found in these circumstances.

⁶⁰ <https://www.education.gov.uk/publications/standard/publicationDetail/Page1/DFE-00084-2011>

⁶¹ <http://www.scotland.gov.uk/Publications/2009/02/18092546/0>

⁶² The guidance and toolkit can be found here:

http://www.londonscb.gov.uk/files/2010/trafficking/london_safeguarding_trafficked_children_guidance_mar_2011.pdf

http://www.londonscb.gov.uk/files/2010/trafficking/london_safeguarding_trafficked_children_tools_mar_2011.pdf

⁶³ Glasgow Child Protection Committee (September 2011), Inter-Agency Guidance for Child Trafficking.

238. When a professional or another person has concerns that a child may have been trafficked, they should refer the child to local authority children's social care and the NRM. GRETA was informed that in the case of a child referral to the NRM, police officers, UKBA or UKHTC officials and social workers would come together to discuss the case. That said, GRETA notes that local authorities, which have responsibility for child welfare and strong expertise in child protection, have not been given a role in the identification of children who may have been trafficked. Instead, as for adults, assessment and identification decisions as to whether the child is a victim of trafficking are made by staff of UKBA or UKHTC, who may not necessarily have requisite expertise in relation to children.

239. According to a 2011 scoping study on child trafficking in Scotland⁶⁴, the official number of referrals to the NRM may be far below the overall number of potential child victims of trafficking. Based on the research of the Glasgow Child Protection Committee, a decision was made in Glasgow that the First Responders for children would be social workers and police via a multi-agency case discussion process. This has been identified as a good practice model because it brings together professionals from all relevant agencies. The social work child protection team has established a database to monitor all enquiries that are made about child trafficking. Between 2008 and the end of September of 2011, concerns relating to 100 children had been referred to this team, 68 of which were identified with indicators that would have merited a referral to the NRM. However, there appear to be discrepancies between the referrals recorded on the team's database and those published by UKHTC about child referrals from Scotland, and, in this context, GRETA was informed that UKHTC has refused to accept some referrals into the NRM. The British authorities have informed GRETA that UKHTC is currently dealing with this issue. There have reportedly been four cases in which child referrals were refused, two concerned EU/EEA nationals and two non-EU/EEA nationals.

240. GRETA is concerned by reports according to which a significant number of unaccompanied children who are placed in local authority care go missing. The problem is linked to the absence of safe residential care or private fostering arrangements in some local authorities (see paragraph 272). According to recent report by ECPAT UK, there are no commonly agreed safety and protection standards across the UK for the placement of children who are suspected or known to be trafficked.⁶⁵ Out of 153 children referred into the NRM by 1 January 2010, 18 subsequently went missing.⁶⁶ A 2010 study by CEOP, which since July 2011 has national responsibility for missing children, reported that 18% (53) of the children identified in the study were recorded as having gone missing from care at some point, with 15% (42) still recorded as missing.⁶⁷ It is noteworthy that some local authorities (e.g. in Hertfordshire and Hillingdon) have minimised the number of missing children through effective multi-agency arrangements ensuring that children are well looked after.

241. Local authorities have an overall statutory duty for the safeguarding of children, which includes responsibility for preventing and mitigating the risk of them going missing from care. The British authorities have informed GRETA that the UK Government is committed to preventing trafficked children going missing from local authority care and that there are good examples of measures that have helped reduce the number of children going missing, such as the installation of CCTV or the use of interpreters to ensure the children are aware of risks. Further, the 2011 Scottish Commissioner's Report on Child Trafficking recommended that the Scottish Government gather information on the number of separated children going missing from care. The Care Inspectorate is collecting information in relation to the number of children who have absconded from care and the Scottish Government will explore what action can be taken to address this issue. In Northern Ireland, the issue of children who go missing from care is under active consideration by the Health and Social Care Board, which recognises that it is a problem which is likely to require a multi-layered response, including potential changes to legislation and established practice.

⁶⁴ Scotland's Commissioner for Children and Young People and the Centre for Rural Childhood, Perth College (2011), *Scotland: A safe place for child traffickers?*, pp. 56-59.

⁶⁵ ECPAT UK (2011), *On the Safe Side: Principles for the safe accommodation of child victims of trafficking*

⁶⁶ Freedom of information request 20100222, submitted by UNICEF, quoted here:

http://www.antislavery.org/includes/documents/cm_docs/2011/c/children.pdf

⁶⁷ CEOP (2010) *Strategic threat assessment: child trafficking in the UK*, p. 21.

242. Further, the British authorities have informed GRETA that the UK Government made a commitment to end child detention for immigration purposes and has radically changed the system to ensure that the welfare of children is at the heart of the decision and removals process. A new approach to managing the return of families with no right to remain in the country has been introduced in order to encourage and support families to leave voluntarily, with financial and practical assistance, without the need for enforcement action. As a result, the number of children entering detention at immigration removal centres and short-term holding facilities fell from 1 119 in 2009, to 436 in 2010 and 99 in 2011.

243. Two reports by the Children's Commissioner for England⁶⁸ highlight the problem of unaccompanied children who may have been victims of trafficking being "bounced back" to France within 24 hours of arrival in the UK, without any contact with social services or children protection staff, pursuant to a secret "gentlemen's agreement" between the two countries. The reports highlights the cases of seven Vietnamese children, who had been trafficked to work in cannabis factories in 2010, and were sent back to France (two of them reportedly later returned to the UK and were recognised as potential victims of trafficking when they claimed asylum). According to a news article quoting the chief executive of UKBA, the agreement between the UK and France covers adults as well as children who try to enter the UK illegally. Following the Children's Commissioner's reports, all British ports had been notified that the practice of removing unaccompanied minors to France should cease immediately. The reports also highlight the excessive periods of detention endured by some unaccompanied children who were subsequently released into the care of social services.

244. Age assessment is the responsibility of local authority children's services. The process by which a child's age is assessed is known as a "Merton Compliant Age Assessment"⁶⁹. Although policy guidance emphasises that the "benefit of the doubt" should be given to young people in disputed cases, GRETA understands that this was not always the case and that pressure may be put on frontline staff to determine that the child is older than they are. There are indications that UKBA officials sometimes put an age on the registration forms before an age assessment has been conducted by the local authority.⁷⁰ The Children's Commissioner for England has also raised concerns about the use of X-rays for age determination and has stressed the need for involving paediatricians in assisting social workers with age assessments.⁷¹ Further, age assessment has implications for the prosecution of potential victims of trafficking (see paragraph 333). The Scottish Government has been closely involved in the development of the age assessment tool by the Scottish Refugee Council, together with COSLA, UKBA and other stakeholders, and is providing funding for training events on the tool.

245. Pursuant to Article 10(4) of the Convention, provision should be made for the representation of unaccompanied minors by a legal guardian, organisation or authority which acts in the best interest of the child. There is no system of legal guardianship for trafficked children at the UK level. According to the Government, existing measures of having a State-allocated social worker and advocate are adequate. However, a social worker or a voluntary advocate fall short of providing a legal guardian who can act independently with authority and uphold the child's best interests. A system of guardianship is essential to ensure the children's protection and rehabilitation, assist in severing links with traffickers and minimise the risk of children going missing.⁷² The Children's Commissioner for England is in the process of commissioning an independent study to review the practical care arrangements for trafficked children considering the experiences of trafficked children and relevant social workers and officers. The review will be funded by the Home Office and made publicly available upon completion, which is expected by April 2013.

⁶⁸ Office of the Children's Commissioner (2011), *Landing in Kent: The experience of unaccompanied children in the UK*, and Office of the Children's Commissioner (2012), *Landing in Dover*.

⁶⁹ See HM Government (2001), *Safeguarding children who may have been trafficked*, p. 26-27.

⁷⁰ Office of the Children's Commissioner (2011), *Landing in Kent: The experience of unaccompanied children in the UK*, p. 25.

⁷¹ *Ibidem*.

⁷² ECPAT UK (2011), *Watch over me: a system of guardianship for child victims of trafficking*.

246. Since September 2010, the Scottish Government has been funding the Aberlour Child Care Trust and the Scottish Refugee Council to pilot a Guardianship Service for all separated children, including those who may have been trafficked. Children newly arrived in Scotland are allocated a guardian who sees them as regularly as necessary and acts as a link between all services and professionals that are involved, assisting them in understanding the complex immigration and welfare processes, advocating on their behalf and helping them to make informed decisions. During the first year of the project's functioning, some 57 children were assigned independent guardians. The Scottish guardianship project, which runs for a 30-month period, will be evaluated by independent evaluators and will be subject to an internal evaluation. Subject to the outcome of these evaluations, GRETA considers that the Scottish guardianship project could be seen as an example of good practice with a potential for wider application in the UK and elsewhere. Further, a local working group comprising the voluntary sector and the Regional Health and Social Care Board (HSCB) has been set up in Northern Ireland to discuss a possible guardianship system. The HSCB will take the lead in deciding on the services to be provided to child victims of trafficking, taking into consideration existing services.

247. In the light of the above, **GRETA urges the British authorities to take further steps to improve the identification of child victims of trafficking, and in particular to:**

- **enhance the involvement of local authorities in the decision making process in order to ensure that the special needs and circumstances of children are taken into account during identification; in this context, it would be appropriate that Local Children Safeguarding Boards (Health and Social Care Trusts in Northern Ireland) act as the Competent Authority in child cases;**
- **ensure that unaccompanied children are not returned from entry points before being fully assessed by local authority children's services;**
- **conduct interviews with child victims of trafficking in a child-friendly setting;**
- **train all professionals working with child victims of trafficking to recognise and respond appropriately to their needs;**
- **ensure that all unaccompanied minors who are potential victims of trafficking are assigned a legal guardian.**

248. Further, **GRETA urges the British authorities to take steps to address the problem of children going missing from local authority care, by providing suitable safe accommodation and adequately trained supervisors or foster parents.**

249. **GRETA also invites the British authorities to uphold their commitment to end child detention for immigration purposes and seek alternatives to detention, in line with the best interest of the child.**

250. In addition, **GRETA invites the British authorities to ensure full compliance with Article 10(3) of the Convention concerning age verification.**

c. Assistance to victims

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

252. In the UK, the provision of assistance to victims of human trafficking is one of the "devolved" areas and certain differences are noticeable between the constituent countries of the UK. The NRM is a gateway to services for potential victims of trafficking and the particular needs of each victim are assessed upon referral into the NRM. The following forms of support are available to victims where necessary: safe and secure accommodation; emergency medical treatment, including access to sexual-health services; interpretation and translation services; information and counselling on legal rights; referral to other relevant services (such as counselling and legal advice); psychological assistance; support to participate in the criminal justice system; specialist services sensitive to the gender, age and special requirements of the victim; subsistence support; and advocacy for specialist services from other agencies. Further, identified victims of trafficking have full access to the UK National Health Service free of charge. There are no differences in the support services offered to victims of transnational and national trafficking. Most of the services are funded by the Government through organisations known as "prime contractors", which are also responsible for facilitating access to those services that are not provided directly (such as legal advice and medical care).

253. The British authorities have informed GRETA that all referrals, from First Responders and others, can now be made via a 24-hour helpline, which provides a single pathway to all victim care services, including safe accommodation and other support services. If a potential victim is in need of immediate emergency accommodation before being referred to the NRM, the First Responder has to negotiate this with a service provider and may seek assistance from a UKHTC tactical advisor who can direct the victim to government funded support providers, charitable third sector providers or local authorities (in the case of children). The First Responder may also be asked to provide accommodation. Persons may also be accommodated in asylum support accommodation or other government funded accommodation. To the extent that a conclusive decision should normally be reached within 45 days, this is the length of time during which victims are usually accommodated and supported, but this period may be extended if the decision-making process takes longer.

254. The Criminal Justice System (CJS) of England and Wales has issued a Trafficking Toolkit⁷³ which provides advice to frontline practitioners, inter alia, on protecting and supporting victims. CJS has also produced a brochure "Help for victims of human trafficking" with information on the rights of victims of trafficking (including on the NRM, support services, compensation and witness protection) and contact numbers. The British authorities have informed GRETA that the brochure has been translated into a range of languages.

255. In Northern Ireland, NGOs met by GRETA were not aware of any leaflet that outlines the rights and entitlements of victims of trafficking and indicated that victims did not receive information from their first contact with the authorities on the relevant judicial and administrative proceedings.

⁷³ Criminal Justice System (England and Wales) (2009), Trafficking Toolkit. Available at http://www.falkirk.gov.uk/services/social_work/children_and_family_services/child_protection/child_protection_committee/child_trafficking_docs/11_toolkit_tackling_trafficking.pdf

256. NGOs met by the GRETA delegation have expressed concern about the lack of support service standards throughout the UK, as a result of which victims are receiving different levels of assistance based on the agency supporting them. GRETA was informed that appropriate accommodation for women is not always available and that some of them were housed in unsuitable places. Further, accommodation for male victims is severely limited. There are also problems with securing access to specialised services, such as interpretation and legal assistance, and NGOs indicated that they had to raise funds privately to fund such services or rely on volunteers. Further, accessing health care can reportedly be challenging and specialised mental health services in particular are not guaranteed.

i. England and Wales

257. Until June 2011, the main provider of Government funded accommodation for adult victims of trafficking was the POPPY Project, part of the NGO Eaves. A new model for funding adult victim support was introduced on 1 July 2011 when, following a competitive tender, the Ministry of Justice concluded a contract with a faith-based organisation, the Salvation Army, which in turn has sub-contracted a number of organisations to provide services to victims. The intention of this change was to adapt to changing demand and develop a wider range of service provision adapted to individual needs by involving a larger number of providers. The Government funding for adult victim support in England and Wales has been preserved at the level of previous years (2 million GBP, i.e. 2.26 million Euros, per year) and will remain at this level for the next three years.

258. The Ministry of Justice has issued a service specification for the provision of support to adult victims of trafficking in England and Wales. The aim of this document is to ensure the provision of a diverse range of support services to all identified adult victims, to ensure effective co-ordination and monitoring of the services and equal access for all victims. Reference is made to the obligations under the Council of Europe Anti-Trafficking Convention. The British authorities have informed GRETA that, in accordance with the contract with the Salvation Army, two quarterly contract review meetings took place in December 2011 and April 2012, when it was agreed that a set of “Key Performance Indicators” will be developed and agreed between the Salvation Army, the Ministry of Justice and the Home Office. These performance indicators aim to measure success in delivering the contract and should be in place by July 2012. The next quarterly meeting, to be held in late summer 2012, will address the annual report of The Salvation Army on the first year of running the contract.

259. The Salvation Army has selected 12 sub-contractors (one of which is based in Wales) to provide accommodation and other services to victims. Some of these sub-contractors, such as Migrant Helpline, have been working with victims of trafficking for years, while others are relatively new in this area, but have experience in working with victims of domestic violence. The selection criteria include safety and geographical location of the accommodation facilities, staff experience in dealing with victims, and cost. The contracts are of two types: “block contracts”, whereby a set number of units (i.e. beds) are reserved and financed for a given duration of time (e.g. six or 12 months), and “spot contracts” whereby units are provided on a needs basis. In total, 121 units of accommodation have been contracted by the Salvation Army and, at the time of GRETA’s country visit, about 82 of them were in use. The British authorities have informed GRETA that accommodation is provided in 15 safe houses, of which eight support women, four support men and three support both men and women. Seven safe houses can accommodate same or opposite sex couples, seven can house pregnant women, and four can support families or parents (male or female) with children. The percentage of male victims provided with assistance by the Salvation Army in 2011 was 41%.

260. Some of the sub-contractors (Migrant Helpline, Unseen UK and the Medaille Trust) act as First Responders. Other sub-contractors are required to collect data from victims and pass it on to the Salvation Army. The Salvation Army supervises performance management of sub-contractors through regular meetings. Further, sub-contractors are asked to produce monthly monitoring reports on service users including statistics and information on the progress of individual victims. Further, each sub-contractor is expected to complete a quarterly monitoring report and there are periodic visits by a Salvation Army officer. The Salvation Army also provides sub-contractors with awareness training on trafficking and the NRM, and is reportedly making efforts to ensure that they extend their services to male victims of trafficking. Practical support and training delivered to the sub-contractors of the Salvation Army has included coaching in support planning and delivery and a workshop for support workers.

261. The GRETA delegation visited a safe house in West London run by the NGO Hestia, which has long experience in supporting homeless people and victims of domestic violence and was selected by the Salvation Army as one of the sub-contractors. Since September 2011, the safe house, which had been used to accommodate women victims of domestic violence and their children, was also accommodating victims of trafficking in human beings. There were three permanent staff and a pool of other staff attending on a needs basis. The facilities were of a good standard: there were 12 rooms with a total capacity of 24 places, a kitchen unit and bathroom on each floor, and a play area for children. All the rooms were occupied on the day of GRETA's visit. A new safe house for victims of trafficking, with six rooms, was opened in November 2011 by Hestia. A project manager and a support worker, trained on THB and sexual violence against women, have been appointed for the new safe house, and all Hestia staff (around 80 people) are in the process of receiving THB awareness training.

262. The GRETA delegation was informed that a Hestia project manager performs a risk and needs assessment of all clients upon their arrival and draws up a support plan together with them. The informed consent of each person is sought in advance. Victims are given an induction and a copy of the house rules. Further, they are registered with a doctor and a dentist, offered English language classes and can be referred for counselling (which is provided by the local authorities). There is a budgetary allocation for interpretation, when needed, through a language phone line.

263. Outside of the NRM, a number of independent support providers work across England and Wales. The Poppy Project is the largest independently funded service which delivers support and accommodation to female victims of trafficking. It has a 24-hour number available on their website and has received over 2 000 referrals. Women accessing Poppy Project services are not required to cooperate with the authorities as a condition of receiving assistance, but are supported to do so if and when they choose. Support includes accommodation, access to legal advice, health services, counselling, information about compensation, translation and interpretation, English classes and assistance accessing education and the labour market, information and assistance to return home if desired, financial support and a travel allowance. The Poppy Project also has specialist services for women aged 16 to 25, for pregnant women and for mothers with children in the UK or abroad.

264. At the time of GRETA's country visit, the new service arrangements were still in the process of fine-tuning and there was a feeling of uncertainty amongst NGOs acting as First Responders about the exact nature of the service and the process of referral to the Salvation Army. Some First Responders indicated that they were reluctant to refer people to the Salvation Army, in particular due to a lack of assurance that all victims will be given access to adequate legal advice before or at least during the NRM process. Concerns were also expressed that the Salvation Army had been contracted only to provide access to services during the recovery and reflection period, which may result in many victims being homeless and vulnerable after 45 days, and that all information gathered from victims was passed to law enforcement without the victim's consent. More generally, there was a feeling in the NGO community that the wealth of experience and expertise available from eight years of victim support had not been fully harnessed in the preparation of the new process.

ii. Northern Ireland

265. In Northern Ireland, the Department of Justice is responsible for the provision of care for victims of trafficking through a tendered contract with the NGO Migrant Help. The budget allocated for 2011/12 was 60 000 GBP (68 000 Euros). This figure is kept under review and reassessed in line with demand. GRETA understands that in January 2012 the contract with Migrant Help was renewed for another one year period.

266. Migrant Help, in conjunction with their subcontractor, Women's Aid, provide assistance and protection measures and are reimbursed by the Department of Justice. Migrant Help specialises in providing assistance to men and Women's Aid to women victims of trafficking. The provision of care can be extended beyond the 45-day recovery and reflection period depending on circumstances. In addition to the services mentioned in paragraph 252, Migrant Help and Women's Aid assist victims of trafficking to regularise their immigration status, find employment and suitable accommodation, apply for benefits or be repatriated. They also provide access to education for adults within the support system.

267. The GRETA delegation visited a safe house in Belfast run by the NGO Women's Aid, intended for victims of violence and also accommodating victims of trafficking when needed. The conditions were of a high standard (20 rooms, with only one victim of trafficking present at the time; very good common facilities). There were 12 staff. Women's Aid has access to three other safe houses in Belfast and one in Londonderry.

iii. Scotland

268. The Scottish Government funds two NGOs, TARA and Migrant Help, to provide services to potential and actual victims recovered across Scotland. Both NGOs are designated First Responders and have long experience in supporting trafficking victims. TARA specialises in helping women over 18 years old who have been trafficked for the purpose of sexual exploitation, and Migrant Help provides support to all other adult victims. Funding of 319 000 GBP (360 000 Euros) and 405 000 GBP (458 000 Euros) has been awarded to TARA and Migrant Help respectively for the financial year 2011-2012.

269. The GRETA delegation visited a safe house for victims of trafficking run by Migrant Help in Paisley, near Glasgow. Since 2009, Migrant Help has been involved in supporting trafficking victims, as well as asylum seekers and other categories of foreign nationals in the UK. Migrant Help operates an interpreter service (Clear Voice) and can receive victims around the clock. The majority of the trafficking victims supported by Migrant Help since 2009 (138 by the time of the GRETA) had been victims of labour exploitation, primarily men; about three-quarters of the victims originated from the Slovak Republic, the Czech Republic and Romania. The safe house in Paisley offers very good living conditions (15 en-suite single or double bedrooms, all of which were occupied at the time of the GRETA visit, and excellent communal facilities). If necessary, Migrant Help can access more beds in other locations at short notice. The services offered to victims include health care, specialised counselling, toiletries and clothing if needed, training and English lessons, help with documentation and appointments with embassies, solicitors, UKBA officials, etc. Assistance in returning to the country of origin or a safe third country is also offered. For those with leave to remain in the UK, Migrant Help provides assistance in finding work and accommodation. Risk assessment of the accommodation is made by the police.

270. The other service provider in Scotland, TARA, does not have a dedicated safe house for victims of trafficking, but can access a range of accommodation facilities on a needs basis (women's aid refuges, B&B, flats). Although Glasgow City Council has made two beds available for trafficking victims, there is an accommodation gap for victims of sexual exploitation outside Glasgow. TARA employs six full-time and three part-time staff. Women are able to access primary healthcare through TARA and fast track, specialist sexual health screening is routinely available. An in-depth identification, risk and long term needs assessment is undertaken and care planning used to enable women to set goals and become more empowered. Women are supported to access educational and employment opportunities where this is allowed. The Scottish Government have recently agreed to fund a pilot secondment of an experienced psychologist to TARA for six months to provide psychological services exclusively to trafficked women. TARA staff are also working with solicitors to enable women to apply for criminal injuries compensation.

271. The Scottish Government has allocated 100 000 GBP for the provision of legal assistance to victims of trafficking by solicitors from the Legal Services Agency. Legal aid is provided through the Scottish Legal Aid Board.

iv. Provisions for children

272. The child trafficking guidance and toolkits referred to in paragraph 237 are examples of good practice. However, it is the responsibility of individual local authorities to implement them, which has led to inconsistent approaches across the UK and patchy provision of support. There are no national standards for safe accommodation for child victims of trafficking. Accommodation provision for trafficked children varies significantly, e.g. residential care homes, shared flats and houses, bedsits, bed and breakfast (B&B) emergency housing, and foster care. Children under the age of 16 are entitled to receive foster care and those over 16 are usually accommodated in B&B housing. Not all trafficked children receive accommodation specific to their safety and security needs. Due to a lack of centralised, secure accommodation facilities, a considerable number of children go missing (see paragraph 240) and there is evidence that they rejoin their traffickers and subsequently get exploited.

273. The NGOs Barnardo's and NSPCC, which specialise in children, provide services across the UK to separated/trafficked children, including foster care, supported lodgings, independent visiting services, outreach work, sexual exploitation services and specialist therapeutic support.⁷⁴ GRETA was informed that the NGO Barnardo's is in the process of setting up a safe house for trafficked children.

274. Local authorities can offer services to children not identified by the NRM or not having gone through the mechanism. The local authority children's service allocates a social worker to manage the case of each child. The social worker, together with the child, makes a needs assessment and draws up a care plan which also includes a risk assessment setting out how the local authorities intends to safeguard the child. An independent review officer examines the care plan and checks if the child's best interests are taken into account. The child is also entitled to support from an advocate who can assist the child in obtaining legal advice.

275. The services available to children in care include educational support (the same as any other child whilst they remain in statutory secondary education) and, if necessary, support to learn English. According to the Child's Commissioner for England, the local authorities do not always provide all the support children are entitled to; in particular, providing education can be problematic under the new schooling system.

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Barnardo's Northern Ireland (2011), Separated children and child trafficking in Northern Ireland.

276. The British authorities have informed GRETA that turning 18 would not necessarily result in a victim of trafficking being returned to their home country, as this would depend on their immigration status and the conclusion of any asylum proceedings. UKBA provides funding to local authorities for the cost of care of asylum seekers up until 18. If the asylum decision is pending when a child victim of trafficking reaches the age of 18, they will be moved to UKBA accommodation and receive benefits until they receive refugee status or are returned. Victims of trafficking with the right to stay in the UK, become “care leavers” when they reach 18 and are entitled to the same mainstream arrangements for obtaining financial help as other young people. Entitlement to care leaving services continues until a young person is at least 21 and they are allocated a Personal Adviser to support them and continue to maintain a pathway plan for each individual care leaver. Since April 2011, young people have been able to resume entitlement to leaving care support up to the age of 25 when they take up education or training.

277. The British authorities have informed GRETA that under Section 25 of the Children (Scotland) Act 1995, local authorities have a duty to provide accommodation for children for whom no-one has parental responsibility, up until the age of 18. Local authorities have the duty of safeguarding and promoting the welfare of these children and may continue to provide accommodation for the young person up until the age of 21 if they consider that it would safeguard or promote the young person’s welfare. In addition, when a child who has been supported by the Scottish Guardianship service reaches 18, a full service will be continued to be provided if the young person so wishes but he/she may decide to disengage. Social Work Services will be notified that young adults may take part in group work. This was decided in the context that, while classed as an adult for immigration purposes, the young adults may still require ongoing support.

278. While welcoming the steps taken to assist victims of trafficking and to secure Government funding at a time of financial pressure, **GRETA considers that the authorities of the UK and the constituent countries should make further efforts to ensure that all potential and actual victims of trafficking are provided with adequate support and assistance from their identification through to their recovery. This should involve, in particular:**

- **adopting clear support service minimum standards for victims of trafficking and the provision of adequate funding to maintain them;**
- **ensuring that all children victims of trafficking benefit from the assistance measures provided for under the Convention, including appropriate accommodation and access to education (as regards accommodation for children, see paragraph 248);**
- **enabling victims of trafficking to have access to the labour market, vocational training and education as a form of rehabilitation;**
- **ensuring that victims of trafficking who need it can benefit from translation and interpretation services;**
- **improving the provision of legal advice or assistance to victims on various matters (NRM, asylum criminal proceedings, compensation).**

d. Recovery and reflection period

279. As victims of trafficking are extremely vulnerable after the trauma they have experienced, Article 13 of the Convention introduces the obligation for Parties to provide in their internal law for a recovery and reflection period of at least 30 days. The minimum 30-day period constitutes an important guarantee for victims and potential victims and it serves a number of purposes, including to allow them to recover and escape the influence of traffickers and/or to take a decision on co-operating with the competent authorities. During this period, Parties must authorise the person concerned to stay on their territory and expulsion orders cannot be enforced.

280. In the UK, the length of the recovery and reflection period has not been defined in legislation but has been given effect through policy guidance for the Competent Authorities (see paragraph 72). Pursuant to this guidance, all victims of trafficking who receive a positive reasonable grounds decision are entitled to a 45-day recovery and reflection period. The guidance allows the Competent Authorities to consider whether an extension to the recovery and reflection period is appropriate, taking into account factors such as health issues, mental health/psychological issues (including post traumatic stress disorder), and high levels of victim intimidation. There is currently no maximum length for the recovery and reflection period.

281. Provisions for victims who are subject to immigration control to remain in the UK for the duration of the recovery and reflection period is provided for in immigration legislation. Those potential victims who are granted temporary admission to the UK are released from immigration detention (unless their detention is justified on grounds of public order) under paragraph 21 of Schedule 2 to the Immigration Act 1971. No detention or removal action is taken against the potential victim during the recovery and reflection period.

282. GRETA notes that the use of the 45-day recovery and reflection period has been subject to criticism by NGOs who point out that this period is designed for the presumed trafficked person to begin recovery and to make informed decisions about disclosure to the police rather than an opportunity for the Competent Authority to scrutinise the credibility of the information provided. The above-mentioned guidance states that the 45-day period provides the conditions for a fuller evaluation to be made and should be used to “carry out evidence gathering and further enquiries as required” in order to confirm an individual’s status as a trafficked person. It is also stated in the guidance that the Competent Authorities should not normally conduct an NRM interview during the first 30 days for the recovery and reflection period, unless there are strong reasons why this would be appropriate. It would appear that, in practice, there is confusion as regards the exercise of discretion by the Competent Authorities.⁷⁵

283. GRETA invites the British authorities to enshrine in law the right to a recovery and reflection period and to emphasise to Competent Authorities officials the need to respect this period as defined in the Convention. Potential victims of trafficking should be systematically informed of the implications of this period, in line with Article 13 of the Convention.

e. Residence permits

284. 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.

285. In the UK, persons conclusively found to be victims of trafficking may be eligible for a residence permit if their personal circumstances warrant them remaining in the UK or if they are co-operating with the authorities in a criminal investigation or proceedings and their presence in the UK is required for this purpose.

286. In the first case, the granting of leave to remain in the UK is considered under standard UKBA leave processes and any other connected protection claims will be considered through that avenue. This may be extended if the individual makes an application for further leave to remain. However, it is unclear what the criteria for consideration are. GRETA was told that leave being granted under personal circumstances requires in-depth reports, such as medical ones for which there is not always sufficient funding. According to some NGOs, the professional opinion and expertise of the service provider does not always seem to be given due weight by the Competent Authority and is dismissed by the UKBA.

⁷⁵ Scotland’s Commissioner for Children and Young People and the Centre for Rural Childhood, Perth College (2011), *Scotland: A safe place for child traffickers?* pp. 62-63.

287. In instances where a victim has agreed to co-operate with the police, they are granted a period of 12 months discretionary leave specifically to assist with police enquiries. A request must be put forward by the police (or the Crown Office and Procurator Fiscal Service in Scotland) and if granted, the person concerned is issued with a temporary residence permit. The UKBA guidance states that where discretionary leave is appropriate, it should be granted for exactly 12 months, without the right of appeal, but NGOs have reportedly supported victims in receipt of permits of as little as 12 weeks. The permit may be extended where it is considered necessary, for example, when a criminal prosecution takes longer than expected and the police have confirmed/requested that an extension is required. Involved stakeholders, such as police or legal representatives, can write to UKBA to provide evidence for an extension, but there is no prescribed response time and NGOs have reported cases in which a whole year elapsed before the extension was granted. GRETA understands that the Government is currently looking to further raise awareness amongst law enforcement officers of this possibility, which can help investigations.

288. According to information provided by UKBA, between 1 April 2009 and 27 October 2011, out of the 373 non-EU nationals conclusively found to be victims of trafficking, 262 (i.e. 70%) were granted some form of temporary residence permit. Out of them, 68 persons received 12-month residence permits in order to co-operate with the police, 25 received residence permits of up to three years due to their personal circumstances, 96 were granted asylum for five years, 10 received humanitarian protection for five years, 51 were granted discretionary leave to remain for up to three years, five were granted indefinite leave to remain (for various reasons), and six domestic workers were granted 12-months leave to remain. EU/EEA nationals have the right to remain in the UK and therefore the granting of residence permits is not relevant for them.

289. GRETA welcomes the legal possibility in the UK to grant residence permits to victims of trafficking both on the basis of their personal situation and when co-operating with the competent authorities. **GRETA invites the British authorities to further sensitise law enforcement agencies of the possibility to request temporary residence permits for victims of trafficking who co-operate in the investigation or criminal proceedings.**

f. Compensation and legal redress

290. Article 15 of the Convention establishes the obligation for Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. Parties must also provide for the right of victims of trafficking to compensation from the perpetrators as well as adopt legislative or other measures to guarantee compensation for victims from the State. Further, the Convention establishes that victims of trafficking must have access to information on relevant judicial and administrative proceedings in a language which they can understand.

291. In the UK, there are four avenues for victims of trafficking to claim compensation:
- (i) through prosecutors requesting a compensation order upon conviction in appropriate cases under Sections 130-132 of the Powers of the Criminal Courts (Sentencing) Act 2000;
 - (ii) through confiscation and compensation under Section 13(2) of the Proceeds of Crime Act 2002;
 - (iii) through the victim suing the offender in civil courts;
 - (iv) through the Criminal Injuries Compensation Authority (CICA). Under this State compensation scheme, victims of violent crimes may be awarded compensation for personal injury (which includes physical injury, mental injury and disease). The maximum award that may be made in respect of the same injury is 500 000 GBP. Any other compensation received is to be deducted. The scheme does not require a prosecution, but it is necessary for the victim to report the crime to a public authority. Victims who claim compensation do not have to remain in the UK. CICA has a national helpline number and has produced an online guide "Compensation for victims of violent crime".⁷⁶ To apply for compensation, victims have to fill in an application form; no legal assistance is needed. Victims are asked to give the police crime reference number and hospital reference number in order for CICA to find out about the circumstances of the crime and how seriously the person was injured.

292. The absence of statistics on the number of victims of trafficking who have obtained compensation through any of the above-mentioned channels makes it difficult to assess their effectiveness. Research on access to compensation for trafficked persons in the UK⁷⁷ carried out in 2008 found only one known instance where the prosecution expressed an intention to apply for a compensation order on behalf of a trafficked person, and out of 41 cases reviewed, there were no cases where the court ordered the trafficker to pay compensation to the victim. The same research also suggests that trafficked persons rarely pursue remedies through civil courts or employment tribunals. GRETA was informed by NGOs that there are numerous practical and legal barriers that trafficking victims face when trying to obtain compensation. It would appear that information on access to compensation is not systematically provided to trafficked persons in a language that they understand (see paragraph 254). Concerns have also been expressed that victims of trafficking are prevented from pursuing compensation because of having to leave the UK.

293. The British authorities acknowledge that very few victims of trafficking seek compensation. According to available information, the maximum compensation awarded to four victims of trafficking through civil proceedings against traffickers was 600 000 GBP. A representative of CICA informed the GRETA delegation that 140 000 GBP was awarded to a victim of trafficking under the State compensation scheme. In Northern Ireland, no victim of trafficking has yet received compensation.

⁷⁶ Available at: <http://www.victimsupportscsco.org.uk/lib/liDownload/370/CICA,%20Compensation%20to%20victims%20of%20violent%20crimes%20-%20a%20short%20guide.pdf?CFID=7864159&CFTOKEN=79069100>

⁷⁷ Anti-Slavery International (October 2008), *Opportunities and Obstacles: Ensuring access to compensation for trafficked persons in the UK*.

294. The Criminal Injuries Compensation Scheme (2008) does not recognise victims of trafficking as a separate category of applicants. GRETA understands that a Scottish legal agency has requested CICA to create a specific tariff award should be created for victims of THB because the current tariff of injuries does not contain provision to adequately compensate such victims. For example, under the tariff, a victim of trafficking for the purpose of sexual exploitation would most likely be entitled to an award for sexual assaults (the most severe being non-consensual rape resulting in a permanently disabling mental illness confirmed by psychiatric diagnosis) and/or a persistent pattern of physical abuse or a specific physical injury, and/or an award for mental illness. But there is nothing within the current tariff which compensates for the element of imprisonment, slavery-like circumstances and the constant fear for their life, along with the humiliation, distress and degradation that many victims of human trafficking experience. The British authorities have informed GRETA that a public consultation to review the compensation scheme was run from January to April 2012. As a result, CICA is exploring ways to relate the awards paid to the crimes of which applicants were victims. **GRETA would like to be kept informed of any changes to the existing compensation scheme for victims of crime.**

295. A further concern expressed by NGOs is that in cases of trafficking for domestic servitude where the police have been involved and are interested in pursuing a prosecution, victims have been discouraged from pursuing a claim in the Employment Tribunal as this might interfere with a criminal case. In some cases, such victims have not been paid for years. Denial of the opportunity to receive payment for work done leaves the victim at least as vulnerable as they were prior to being trafficked, if not more so, often having incurred debts for travel, agency fees, etc.

296. As regards legal aid, the British authorities have informed GRETA that the new Legal Aid, Sentencing and Punishment of Offenders Act 2012 allows victims of trafficking to access legal aid to seek compensation in civil courts and Employment Tribunals. However, this provision does not include claims to CICA, which provides guidance for applicants to help them submit their claim. In order to access this legal aid, victims of trafficking need to have a positive reasonable ground decision under the NRM and a positive or pending conclusive decision. GRETA was further informed that in Scotland the provision of a court compensation order following criminal proceedings is a matter for the court, but prosecutors can invite the court to consider imposing an order for compensation. COPFS guidance on this matter will be updated to reflect this position.

297. There are a number of solicitors in the UK who pursue compensation for trafficking victims in a civil claim through pro bono work. The Compensation Agency in Northern Ireland provides an effective scheme for persons who have suffered physical and/or mental trauma as a result of crimes of violence committed against them there. This includes compensation for crimes that may be committed as a result of human trafficking. Victim Support Northern Ireland is specifically funded by the government to assist victims, free of charge, with the compensation process. Similarly, Victim Support Scotland is funded by the Scottish Government.

298. **GRETA considers that the British authorities should adopt measures to facilitate and guarantee access to compensation for victims of trafficking, and in particular to:**

- **ensure that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;**
- **ensure that all victims of trafficking are eligible for compensation from the existing compensation scheme;**
- **enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid;**
- **encourage prosecutors to request compensation orders to the largest possible extent;**
- **enable victims of trafficking who have left the UK to benefit from the possibilities to claim compensation.**

299. **Further, GRETA invites the British authorities to introduce a system for registration of compensation claims and awards to victims of trafficking regarding all forms of compensation.**

g. Repatriation and return of victims

300. Article 16 of the Convention requires Parties to establish repatriation programmes which aim at avoiding re-victimisation and involve relevant national or international institutions and NGOs, as well as to make efforts to favour the reintegration of victims into the society of the State of return. Parties must also make available to victims of trafficking contact information or structures that can assist them in the country of return, such as law enforcement offices, NGOs, legal professionals and social welfare agencies. The return of victims of trafficking must preferably be voluntary and needs to be carried out with due regard for the rights, safety and dignity of the person and for the status of any legal proceedings related to the fact that the person is a victim of THB.

301. The policy guidance for the Competent Authorities includes a reference to Article 16 of the Convention and instructs the authorities to inform conclusively identified victims of trafficking who are not assisting with police enquiries and are not eligible for a grant to leave of the opportunity to make a voluntary return. The British authorities run three Assisted Voluntary Return (AVR) programmes, all of which can assist victims of trafficking. All nationalities, except British, Swiss and EU/EEA citizens, are eligible for these programmes, which are designed to achieve a dignified and sustainable return for persons leaving the UK voluntarily. According to the authorities, information on the possibilities for voluntary return is included in all decision letters issued to persons referred into the NRM. That said, no information is apparently provided on the possibility to claim asylum.

302. The first AVR, called Voluntary Assisted Return and Reintegration Programme (VARRP), is for persons who have sought asylum and those with certain forms of related temporary status in the UK. Returnees receive support in acquiring travel documentation, flight to country of origin and onward domestic transport, airport assistance at departure and arrival airports and up to 1 500 GBP (1 695 Euros) worth of reintegration assistance per person including a 500 GBP (565 Euros) relocation grant on departure for immediate resettlement needs, additional luggage allowance and, once home, a range of reintegration options. The majority of returnees use their reintegration assistance in income generation activities.

303. In the second place, the Assisted Voluntary Return for Families and Children (AVRFC) is for families comprising a maximum of two adult parents or legal guardians and at least one child (under 18) and for unaccompanied children (under 18) who have either sought asylum or who are in the UK illegally and wish to return home. Returnees receive support in acquiring travel documentation, flight to country of origin and onward domestic transport, airport assistance at departure and arrival airports and up to 2000 GBP (2 260 Euros) worth of reintegration assistance per person, including a 500 GBP (565 Euros) relocation grant on departure for immediate resettlement needs, additional luggage allowance and, once home, a range of reintegration options. The scheme offers flexibility of reintegration for the whole family and increased emphasis is placed on the use of reintegration assistance for educational needs as well as income generation.

304. Finally, the Assisted Voluntary Return for Irregular Migrants (AVRIM) is for migrants who have not sought asylum, but who are in the UK illegally and wish to return home. Returnees receive support in acquiring travel documentation, flight to country of origin and onward domestic transport, and airport assistance at departure and arrival airports. There is generally no reintegration assistance for AVRIM applicants, however, there is discretionary reintegration assistance of up to 1 000 GBP (1 130 Euros), considered on a case by case basis.

305. In April 2011, following a competitive tendering process, the Home Office concluded an AVR grant agreement with the NGO Refugee Action for three years. As a result, the International Organisation for Migration (IOM) no longer receives Government funding for AVR. NGOs have expressed concerns that a solely national organisation, with no previous experience in anti-trafficking work and no international links or operations, might not be able to facilitate links to services in the country of return.

306. According to information provided by the British authorities, two victims of trafficking were returned under AVR arrangements in 2010 and six possible victims of trafficking in 2011. A further three cases have been approved and were awaiting departure in May 2012. The British authorities have informed GRETA that where a grant of leave to remain is not appropriate, return to the country of origin is discussed with the concerned person either by Refugee Action or UKBA.

307. GRETA was informed that the procedure for arranging AVR was very long (some 8-10 weeks), which is why in Scotland the NGO Migrant Help organises the purchase of tickets and the Scottish Government pays for them.

308. GRETA notes that the above-mentioned AVR programmes are not specialised for victims of trafficking, but are for asylum and refused asylum seekers, families, irregular migrants and those granted discretionary leave. Safe repatriation of trafficking victims should be a priority to minimise the risk of re-trafficking, but it is unclear what risk and support assessments are carried out in the UK and in the source country. GRETA was informed that NGOs acting as support providers often make contact with NGOs in source countries to establish the quality of support. Thus, the POPPY Project makes arrangements for reception, accommodation and other services upon arrival in the country of origin. Migrant Help in Scotland has developed links with NGOs in Moldova and Romania, and has visited Latvia and Ghana to establish return home arrangements.

309. No government support for repatriation is available to victims of trafficking who are EU/EEA nationals and they must either approach the IOM or their individual embassies for assistance to return home. IOM has established a victim fund, through private donations, to assist EU/EEA nationals who wish to return to their country of origin and receive reintegration assistance. IOM UK works in close co-operation with the referring service provider and IOM office in the country of origin. The Salvation Army, which is the primary support contractor for England and Wales, is not permitted to use any support funds to arrange their return or provide support in the country of destination. GRETA was concerned to learn that NGOs were "returning" victims of trafficking on very long bus journeys as this was the cheapest option for them.

310. According to the British authorities, there is currently no record of any enforced return of persons conclusively found to be victims of trafficking under the NRM. Once a conclusive decision has been issued, decisions on enforced returns are made by UKBA on a case by case basis and removal or repatriation action is only taken when it is considered both possible and safe to do so after an evaluation of individual circumstances. The British authorities have informed GRETA that in every case where a return is being considered the UK takes into account obligations under the 1951 United Nations Convention relating to the Status of Refugees and the European Convention on Human Rights and undertakes an examination of the assessment for the country to which a person is to be returned. If there is information or evidence that there is a risk to the person concerned removal may be postponed or cancelled. That said, there is no policy document for considering the safety of return and the conduct of risk assessment.

311. NGOs met during the country visit indicated that some of their clients had been removed from the UK within hours of being served with a negative identification decision, without little or no notice given to the NGO concerned, and no possibility to make the necessary arrangements for a safe return. GRETA also understands that in Northern Ireland some potential victims of trafficking from EU countries who were referred to the NRM were repatriated two to four days after the referral. The British authorities have informed GRETA that UKBA deals with representations submitted after removal decisions are taken, stressing that all claims are considered by a trained expert. There is a 72 hours' notice prior to removal and if there are reasonable grounds to believe that the THB claim is true, removal will be postponed and a minimum 45- day recovery and reflection period will apply.

312. GRETA is concerned that expedited removal procedures can allow insufficient time for identification of trafficking cases and assessment of the risks of return. While welcoming the availability of general assisted voluntary return arrangements, **GRETA urges the British authorities to review the appropriateness of existing assisted voluntary return programmes for victims of trafficking as a specific category and to adopt a clear legal and policy framework for the return of trafficked persons. In this context, the British authorities should take steps to:**

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

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

a. Substantive criminal law

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

314. The criminal legislation applicable to THB-related offences in England, Wales and Northern Ireland, namely Section 4 of the Asylum and Immigration (Treatment of Claimants) Act 2004 and Sections 57 to 60 of the Sexual Offences Act 2003, covers all forms of exploitative conduct and provides for up to 14 years imprisonment. There is no minimum penalty.

315. As regards Scotland, Sections 4 and 5 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 and Section 22 of the Criminal Justice (Scotland) Act 2003, both as amended by Section 46 of the Criminal Justice and Licensing (Scotland) Act 2010, also envisage up to 14 years imprisonment, without a minimum penalty.

316. Further, as noted in paragraph 177, in April 2010 the offence of paying for the sexual services of a person subjected to force, deception, threats or any other form of coercion was introduced as Section 53A of the Sexual Offences Act 2003 (applicable in England, Wales and Northern Ireland). There is no similar provision applicable in Scotland. The envisaged penalty under Section 53A is a fine not exceeding level 3 on the standard scale (i.e. 1 000 GBP). The police have discretion to charge this offence without reference to the CPS. They can also issue a simple caution or decide that no further action should be taken. The British authorities have indicated that the offence is difficult to prove and is generally charged when accompanying other more serious offences. The British authorities have informed GRETA that there have been no convictions for the Section 53A offence in England and Wales, which has only been used in circumstances where the defendant was kerb crawling to obtain sexual services from street prostitution.

317. Regarding the corporate liability of legal persons for trafficking in human beings offences, the British authorities have indicated that Section 60(2) of the Sexual Offences Act 2003 covers trafficking offences by a body incorporated under UK law. In addition, the Serious Crime Act 2007, which applies in England, Wales and Northern Ireland, considers THB as a serious offence for which corporate bodies, including limited liability partnerships, can be liable. The British authorities have informed GRETA that Section 5(1)(c) of the Asylum and Immigration Act 2004 provides for criminal liability of bodies incorporated under law for all other forms of exploitation. This applies in England, Wales, Northern Ireland and Scotland.

318. Aggravating circumstances for trafficking in human beings are not enshrined in the legislation, but are provided for in sentencing guidelines. The Sentencing Council for England and Wales, which was set up by the Coroners and Justice Act 2009 to promote greater transparency and consistency in sentencing, whilst maintaining the independence of the judiciary, is an independent, non-departmental public body of the Ministry of Justice which issues guidance on sentencing, including mitigating and aggravating circumstances. In April 2007, the Sentencing Council published guidelines on the Sexual Offences Act 2003.⁷⁸ The British authorities have informed GRETA that the aggravating circumstances under Article 24(a), (c) and (d) of the Convention would be taken into account in sentencing, if evidenced. In May 2012, discussions between the Sentencing Council and the CPS on the Sexual Offences Act 2003 addressed the need to better define sentencing guidelines for judges and to focus on the role and culpability of the offender and the harm and vulnerability of the victim of trafficking for the purpose of sexual exploitation. However, there is not yet a Sentencing Council guideline for THB for non-sexual types of exploitation, an issue which the CPS has raised. Comments from judgments on cases referred to the Court of Appeal in relation to THB for non-sexual types of exploitation can be, and are, cited in subsequent cases to ensure aggravating factors are consistently accounted for.

319. There are currently no sentencing guidelines in Scotland concerning aggravating circumstances for THB. The Scottish authorities are committed to the establishment of a Scottish Sentencing Council which would give effect to a new system of sentencing guidelines. In Northern Ireland, the first judgment concerning THB (*R v. Matayas Pis* [2012] NICC 14), delivered in April 2012, includes guidelines for the courts on sentencing THB cases, as required by the Lord Chief Justice's Sentencing Group until the Court of Appeal has an opportunity to provide an authoritative guideline.

320. Confiscation of the proceeds of crime is available following any criminal conviction. THB-related offences are considered "lifestyle offences" which means that offenders are subject to the extended confiscation regime, pursuant to Section 74 of the Proceeds of Crime Act 2002 (applicable in England, Wales and Northern Ireland) and Sections 21, 34 and 35 of the Proceeds of Crime (Scotland) Act 1995. There are also civil procedures to recover the proceeds of crime, namely civil recovery, cash forfeiture and taxation. The Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 regulate co-operation with other countries in freezing and confiscating assets. The Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) Order 2005 enables assistance to be given to designated countries by enforcing a forfeiture order in respect of anything used or intended for use in connection with the commission of an offence.

321. According to information provided by the British authorities, 53 confiscation orders were made in respect of THB between 2006 and 2010, amounting to a total of around 8 million GBP. Some of the confiscation orders under the category "money laundering (non-drugs)" may also concern THB offences, but it is not possible to separate the data.

322. In Scotland, the previously mentioned report by the Equality and Human Rights Commission notes that, although law enforcement bodies have experience in the application of asset recovery powers, there have been few operations targeting organised human traffickers. In Northern Ireland, the legislation on confiscation of assets for THB cases has not been used yet.

323. Section 1 of the Criminal Damage Act 1971, Sections 1 and 3 of the Forgery and Counterfeiting Act 1981, Sections 4-6 of the 2010 Identity Documents Act and Section 1 of the Theft Act 1968 criminalise forging travel or identity documents, procuring or providing a false document, retaining, removing or concealing a travel or identity document or damaging or destroying such a document. The British authorities have indicated that where it is proved that a person did any of the above for the purpose of enabling human trafficking, this is likely to be prosecuted as an act of arranging or facilitating trafficking and therefore it is covered by existing offences. The British authorities have informed GRETA that law enforcement officers consider identity card offences within the evidence for serious criminal offences. For example, a suspected trafficker was recently charged under Section 4 of the Identity Cards Act 2010 as she was found with passports not belonging to her.

⁷⁸

See at http://sentencingcouncil.judiciary.gov.uk/docs/web_SexualOffencesAct_2003.pdf

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

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

325. In 2007, the CPS and COPFS issued policy guidance advising prosecutors on the steps to be taken when prosecuting suspects who might be victims of trafficking, including the possibility of discontinuing a prosecution before a case reaches the courts in cases where a victim of trafficking was compelled to commit a criminal offence and, if the circumstances are less clear or they had been coerced, the case can be discontinued on the grounds of public interest. The CPS guidance advises prosecutors that they should be proactive in enquiring about the circumstances in which the suspect was apprehended, and alert as to the presence of signs that could indicate THB. The judgment by the Court of Appeal in the case of *R v O [2008] EWCA Crim 2835* CPS advised that the CPS guidance be published more widely to ensure awareness. The court further emphasised the duty of both prosecutors and defence lawyers to make enquiries in criminal prosecutions involving individuals who may be victims of trafficking, including in case of doubt about the age of a defendant who may be a child victim of trafficking.

326. Further, the COPFS guidance for prosecutors in Scotland refers to the duty imposed on prosecutors by Article 26 of the Council of Europe Convention and the need to consider “the seriousness of the offence, the degree of coercion used and whether a defence of coercion would be likely to be successful”⁷⁹. The COPFS guidance also refers to the above-mentioned case of *R v O [2008] EWCA Crim 2835* which confirmed the duty of prosecutors to make full and proper enquiries in criminal prosecutions involving individuals who may be victims of trafficking, and to be proactive in establishing if an accused is a potential victim of trafficking.

327. The CPS issued a new guidance in May 2011 which includes a chapter on prosecuting suspects who might be trafficked victims.⁸⁰ The guidance refers to the obligation under Article 26 of the Council of Europe Convention and describes situations where a victim of trafficking could possibly commit an offence. The guidance indicates that decisions on the identification of victims of trafficking (both at the reasonable grounds and the conclusive decisions stages) should be taken into account when considering the decision to proceed with a prosecution. The guidance further states that in case of conviction of a victim of trafficking, not yet sentenced, for whom it comes to light that the offence was committed as a direct consequence of the trafficking situation, it is for the victim’s legal representative to make relevant representations to court.

328. Prosecutors are required to consider whether there is clear evidence of trafficking, whether the suspect was compelled or coerced into committing the offence, whether the offence was committed as a direct consequence of their trafficking situation and whether the offence is so serious that it calls for a prosecution in the public interest. Further, when a suspect pleads guilty and later information indicates that they may have been trafficked, it is open to their legal representative to ask for the review of the decision to prosecute. In cases where a suspect has already been sentenced, their legal representative can seek leave to appeal conviction and sentence. NGOs can provide evidence to inform decisions not to prosecute victims of trafficking charged with criminal offences.

⁷⁹ Section 4 of the COPFS guidance, available at:

<http://www.copfs.gov.uk/sites/default/files/Publications/Resource/Doc/13547/0000652.pdf>

⁸⁰ CPS Policy for Prosecuting Cases of Human Trafficking. See at

http://www.cps.gov.uk/publications/docs/policy_for_prosecuting_cases_of_human_trafficking.pdf

329. CEOP, which leads the UK's operational policing response to combating child trafficking, notes in its latest annual Strategic Overview that trafficking for exploitation in cannabis farms is currently the largest trend for child trafficking in the UK. As noted in paragraph 237, ACPO has issued a paper on Children and Young People Recovered in Cannabis Farms, setting out comprehensive guidance to officers investigating commercial cannabis cultivation offences on how to deal with and safeguard children found in these circumstances. Pursuant to this guidance, children found in cannabis farms should be assessed on a case-by-case basis to ascertain whether they may have been trafficked. No decision on charges against such children should be made until all relevant assessments have been undertaken. Further, the UKHTC is currently supporting a project in Bristol where the police works in association with a local NGO when carrying out raids on cannabis factories in order to be assisted by the NGO in assessing whether recovered children might be trafficked (see paragraph 228). The British authorities have informed GRETA that the operational part of the project is still ongoing.

330. The previously mentioned sentencing guidelines on the Sexual Offences Act 2003 (see paragraph 318) include consideration of the offender as a victim of trafficking, which could be a mitigating factor if not accepted as a defence⁸¹. The Sentencing Council for England and Wales has also published guidelines in relation to drug offences, including the cultivation of cannabis plants, which list factors that reduce the seriousness of the offence or reflect personal mitigation⁸². The guidelines do not refer specifically to victims of trafficking, but mention the involvement of the offender "due to pressure, intimidation or coercion falling short of duress", as well as the exploitation of the offender's vulnerability. Further, the CPS Guidance on drug offences states that, regarding cultivation of cannabis plants, prosecutors should be alert to the possibility that a young offender may actually be a victim of trafficking and have committed the offence under coercion⁸³.

331. Further, the Law Society of England and Wales has published a practice note concerning criminal prosecutions of victims of trafficking⁸⁴ which highlights the duty to enquire and, if necessary, investigate further any claim that an individual may be a victim of trafficking. In addition, it states the "particular responsibilities for solicitors in trafficking cases", including to be aware of certain factors indicating a potential victim of trafficking. The note further indicates that solicitors may want to consider that, even if the case falls outside the remit of the CPS guidance, the authorities have an obligation under Article 26 of the Convention not to impose penalties on victims of trafficking for their involvement in unlawful activities, to the extent that they have been compelled to do so. In addition, the guidance recalls that child victims of trafficking require special protective measures and that legal professionals play an important role in ensuring that the rights of child victims are safeguarded.

332. According to information provided by the Law Centre Northern Ireland⁸⁵, victims of trafficking have been prosecuted and detained in Northern Ireland before it was established whether their involvement in unlawful activities had been due to coercion. The Public Prosecution Service of Northern Ireland has issued a draft policy on prosecuting cases of human trafficking for consultation, including guidance on protection against punishment for trafficked victims who commit offences as a result of their trafficking. The aim is to publish the final policy by October 2012. The proposed policy mirrors that of the CPS with respect to guidance for prosecutors when taking decisions in cases where the suspect is, or may be, a victim of trafficking.

⁸¹ See at http://sentencingcouncil.judiciary.gov.uk/docs/web_SexualOffencesAct_2003.pdf, p.130.

⁸² See at [http://sentencingcouncil.judiciary.gov.uk/docs/Drug_Offences_Definitive_Guideline_\(web\).pdf](http://sentencingcouncil.judiciary.gov.uk/docs/Drug_Offences_Definitive_Guideline_(web).pdf)

⁸³ See at http://www.cps.gov.uk/legal/d_to_g/drug_offences/

⁸⁴ See at http://www.lawsociety.org.uk/productsandservices/practicenotes/victimsoftrafficking/4486.article#vot5_1

⁸⁵ See at <http://www.lawcentreni.org/policy/consultation-responses/848.htm>

333. GRETA understands that there have been cases of victims of trafficking arrested, prosecuted and convicted in relation to migration and non-migration offences, including child victims of trafficking⁸⁶ arrested and convicted for cannabis cultivation. As already mentioned in paragraph 228, the CPS is working with the Competent Authorities under the NRM to expedite assessments for reasonable ground decisions in 24 hours regarding potential victims who have been arrested for an offence, so that prosecutors are assisted in their decisions to charge and prosecute. That said, GRETA is concerned by reports from NGOs regarding the high number of potential victims of trafficking who are detained (see paragraph 228). There is no data on the number of potential and confirmed victims of trafficking who are detained.

334. GRETA notes that in a recent judgment by the Court of Appeal of 20 February 2012 in the case *R v N and R v LE*⁸⁷, a Vietnamese minor who had been arrested in a cannabis farm and sentenced to 20 months imprisonment saw his conviction confirmed even though a conclusive decision by the UKBA had identified him as a victim of trafficking. The judgment backed the decision of the Crown Prosecution to continue the prosecution after a positive reasonable ground decision and confirmed the conviction after the conclusive decision was issued. The identification decision was challenged by the prosecutor on the grounds that there was evidence suggesting that the minor could not be described as a trafficked person as he was found with cash on him, had been provided with a mobile phone, lived in an ordinary house and was supplied with groceries weekly. The Court concluded that there was no reason to review the initial assessment of the public interest, confirmed that the appellant should be prosecuted but reduced the initial custodial sentence from 20 to 12 months.

335. The above judgment is important as it provides “guidance of general application” on the Court of Appeal’s approach to the exercise of prosecutorial discretion regarding victims of trafficking. The judgment states that “in future the only publication likely to be relevant to an inquiry into an alleged abuse of process in the context of Convention obligations is the CPS Guidance in force at the time when the relevant decisions were made”. The Court of Appeal emphasised that the remedy available to prosecuted and convicted victims of trafficking is not judicial review, but appeal against conviction on the grounds that the conviction was unsafe. The British authorities have stressed that the decision to prosecute is a discretionary one by the prosecution service. If prosecutors are made aware of later findings by a Competent Authority, they are not necessarily bound by them as they have to consider whether the offence has been committed as a direct consequence of the trafficking situation, whether there has been any coercion or compulsion to commit the offence, and whether the offence is so serious that it calls for a prosecution in the public interest. Guidance is available for prosecutors in Scotland relating to COPFS prosecution policy concerning victims of trafficking, including a presumption against the prosecution of a victim of trafficking for crimes that arise as a consequence of the trafficking situation. But this presumption is rebuttable and likely to be rebutted when there is sufficient evidence to prove a crime which would ordinarily proceed on indictment.

336. GRETA urges the British authorities to step up their efforts to adopt a victim-centred approach when implementing Article 26 of the Convention by:

- **encouraging prosecution services to consider THB as a serious violation of human rights when assessing the public interest of prosecuting identified victims of trafficking;**
- **ensuring that CPS, COPFS and ACPO guidance are fully applied in order to prevent imposing penalties on identified victims of trafficking for their involvement in unlawful activities to the extent that they were compelled to do so;**
- **ensuring that, while the identification procedure is ongoing, potential victims of trafficking are not punished for immigration-related offences;**
- **conducting age assessments promptly and applying the benefit of the doubt as regards the age of child victims of trafficking who were compelled to be involved in unlawful activities.**

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The age of criminal responsibility in England, Wales and Northern Ireland is 10, while in Scotland it is 12

⁸⁷

See footnote 31, [2012] EWCA Crim 189.

c. Investigation, prosecution and procedural law

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

338. All UK police forces have Public Protection Units which can be utilised for reactive and proactive investigations. Further, the UKBA's Immigration Crime Teams include seconded police staff and work closely with law enforcement partners to share and build intelligence and mount joint operations. These teams are based in a different Directorate from the UKBA staff carrying out the tasks as a competent authority in the identification of victims of trafficking.

339. Law enforcement agencies in the UK have a duty to investigate all cases where a complaint about a criminal offence has been made. A decision not to investigate can be appealed against to a senior officer. Every law enforcement agency has a professional standards department. Further, there is an Independent Police Commissioner for England and Wales, a Police Ombudsman in Northern Ireland and a Police Complaints Commissioner for Scotland, who deal with complaints against police officers. The British authorities have referred to two complaints against police action regarding THB cases. The first one, in 2009-2010, was a civil action against the Chief Constable of Hertfordshire Police and the Commissioner of the London Metropolitan Police by an Indian overseas domestic worker who had reported her exploitation and trafficking to the police but was returned to her employers. In the second case, in 2011, the High Court found that the London Metropolitan Police had failed to investigate the claims of four victims of trafficking from Nigeria who had been trafficked to the UK as children and had been exploited for forced labour.

340. Investigative techniques are regulated by the Regulation of Investigatory Powers Act (RIPA) 2000 and include wiretapping. UKHTC's tactical advisors are experienced in all aspects of anti-trafficking investigative techniques and support investigating bodies accordingly.

341. As regards trafficking for the purpose of domestic servitude, the police investigates allegations against persons entitled to immunity and reports the results to the Foreign and Commonwealth Office (FCO), which deals with any allegation of mistreatment of domestic workers in diplomatic households and liaises with the relevant diplomatic mission and the UKBA. If the case requires further investigation, the FCO can request a waiver of immunity from the diplomatic mission concerned. Failure to provide a waiver may result in a request for withdrawal of the diplomat. The British authorities have informed GRETA that the diplomatic community in the UK is made up of 22 500 people and that there have been relatively few detected cases of alleged abuse from this community (four cases since 2010, including one under investigation).

342. According to information provided by the British authorities, the average sentence for trafficking for the purpose of sexual exploitation is between four and five years' imprisonment, while sentences for trafficking for the purpose of forced labour average between 18 months and two years. The highest sentence for THB so far, which was passed in January 2011, involved 21 years imprisonment as a result of several consecutive sentences. According to the British authorities, 56 convictions for THB were obtained in 2009 and 29 in 2010. The British authorities have indicated that it is not possible to provide reliable statistics on all convictions related to THB because charges are often brought for forced prostitution or controlled prostitution for gain, including both victims of trafficking and non-victims of trafficking. GRETA notes with concern the gap between the number of THB victims identified annually and the much lower numbers of convictions. It also notes that cases of THB are often prosecuted for lesser offences (e.g. controlling prostitution), due to difficulties in producing sufficient evidence and refusal of victims of trafficking to testify. Further, no comprehensive statistics on convictions for all THB related cases are available for monitoring and evaluation purposes.

343. Courts take account of previous convictions for THB-related offences, both from British and foreign jurisdictions. There is no information on whether this has been applied in practice. In the only successful prosecution for THB in Scotland, the accused did not have a previous conviction on THB from any other jurisdiction. In Scotland, previous convictions in EU countries need to be obtained and considered for every prosecution after December 2010.

344. NGOs can intervene as third parties and provide oral evidence or written reports in legal proceedings, but they do not have a formal legal status in the proceedings. There has been experience of well-received contributions from NGOs, in both immigration and criminal matters.

i. England and Wales

345. The Metropolitan Police Service has recently introduced a free telephone number on which potential victims and members of the public can report crimes, as well as a system whereby NGOs can report crimes via e-mail. As mentioned in paragraph 40, the Metropolitan Police Service has a specialised unit on Human Exploitation and Organised Crime (SCD9) and brings together expertise on THB through its Human Trafficking Team, Operation Maxim (set up to tackle organised immigration crime in London, including human smuggling, THB and counterfeit immigration documentation) and Operation Swale (a joint ACPO/MPS/UKBA unit focusing on those who profit from smuggling and exploiting migrants to the UK). Since the creation of SCD9 there has reportedly been a significant rise in the number of investigations of THB, including cases of THB for the purpose of sexual exploitation, domestic servitude and forced labour. Other than SCD9 and the Metropolitan Police Service, there are no specialised investigative units on THB anywhere in England and Wales.

346. All criminal prosecutions in England and Wales are instituted by the Director of Public Prosecutions. The right to bring private prosecutions is provided for by Section 6(1) of the Prosecution of Offences Act 1985 but the Director of Public Prosecutions has the power to take over private prosecutions in some cases. The private prosecutor must seek the consent of the Attorney General or the Director of Public Prosecutions before the commencement of proceedings,

347. The Crown Prosecution Service (CPS) for England and Wales prosecutes cases of THB investigated by the police and SOCA. Cases of serious organised human trafficking are dealt with by specialist prosecutors based in CPS Complex Casework Units. These prosecutors deal with the most complex and sensitive prosecutions and cross border crimes investigated by the police and UKBA. Additionally, the Organised Crime Division of CPS deals with cases of serious organised crime investigated by SOCA.

348. According to information provided by the British authorities, the CPS guidance on THB was subject to a review at the end of 2011 to tackle shortcomings in the collection of evidence. The British authorities have informed GRETA that the review awaited the judgment in *R v N*, which was issued in February 2012. Revised guidance will be published shortly and GRETA will be provided with a copy. The CPS has commissioned a scoping exercise to deliver an e-learning product on THB for experienced prosecutors in order to improve their expertise by highlighting complex issues connected with international co-operation. The scoping exercise is to be concluded by 30 July 2012 and the product developed by 31 December 2012.

ii. Northern Ireland

349. The Organised Crime Task Force in Northern Ireland has formed an Immigration and Human Trafficking Expert Group to provide a flow of intelligence on THB. The Group's membership includes a range of stakeholders from within Northern Ireland, the rest of the UK and the Republic of Ireland in order to tackle cross-border THB risks. Operation Apsis was led by the Police Service of Northern Ireland and involved searches in Northern Ireland, Scotland, England and Wales that led to the recovery of 15 potential victims of trafficking in different parts of the UK, the arrest of four traffickers and the first conviction for THB in Scotland in September 2011 (see paragraph 356).

350. Criminal prosecutions are initiated by the Director of Public Prosecutions. Prosecutions may also be initiated by a private prosecutor or a prosecuting authority established by Act of Parliament. The Prosecution Service may exercise its powers under Sections 31(4) and 32(1) of the Justice (Northern Ireland) Act 2002 to take over such prosecutions. As a general rule, the Prosecution Service will only take over a private prosecution or a prosecution initiated by a prosecuting authority established by Act of Parliament when there is a particular need to do so on behalf of the public. If that need does not arise the prosecutor will be allowed to carry on with the case.

351. Complex THB cases are dealt with by specialist prosecutors in the central prosecutions section of the Public Prosecution Service (PPS). These prosecutors deal with complex cases which may involve allegations of significant criminality in more than one jurisdiction. Since January 2007, the PPS has received 14 THB cases with a total of 27 suspects. Of the 14 cases, 11 related to THB for sexual exploitation and three to THB for labour exploitation. Prosecutorial decisions were issued in 10 cases involving 21 suspects, 11 of which were prosecuted for offences other than THB (e.g. controlling prostitution for gain, brothel keeping, etc.). Five suspects were prosecuted for THB for the purpose of sexual exploitation, leading to the conviction of two persons in 2012. Five suspects were not prosecuted, including three persons from a THB case which was transferred to Scotland and resulted in convictions in 2011. There are currently four cases of THB awaiting decision (involving six suspects), one of which concerns THB for labour exploitation.

352. The authorities of Northern Ireland have informed GRETA that there are no plans to remove legal aid for immigration cases, including THB cases. Legal aid is under review following publication of the Access to Justice review in Northern Ireland but help will reportedly continue to be available to victims of trafficking and it will so be reflected in any future changes. The Northern Ireland Courts and Tribunal Service will keep GRETA updated on the outcome of the review, to be published by the Minister of Justice for Northern Ireland in June 2012.

353. GRETA notes that there have been only two successful prosecutions for THB offences in Northern Ireland, which has a detrimental impact on victims and fails to provide them with the option of claiming compensation from the offender in the framework of a criminal trial. A number of investigations are underway by the Police Service of Northern Ireland, including on labour exploitation and child trafficking for sexual exploitation. **GRETA calls on the Public Prosecution Service to promptly issue guidance on THB offences.**

iii. Scotland

354. The previously mentioned report by the Equality and Human Rights Commission on the inquiry into THB in Scotland referred to a significant intelligence gap on THB in Scotland's police service and the need to improve the levels of trust and co-operation between victim support services and law enforcement agencies. The report recommends the setting up of a multi-agency group dedicated to strategic, operational, and formalised intelligence sharing, analysis, and enforcement action as part of a strategic approach to THB.

355. In Scotland criminal prosecutions are undertaken by the Lord Advocate. Private prosecutions are, in theory, possible and require the consent of the Lord Advocate, but in practice this has been exceedingly rare. A senior member of the Sexual Crimes Unit of the Crown Office and Procurator Fiscal Service (COPFS) has been appointed as the national lead for the prosecution of THB offences to assist in applying a consistent approach and identify "credible" victims of trafficking as an important part of the successful prosecution in THB cases.

356. The GRETA delegation was informed that there have been seven reports concerning THB to the COPFS since 2001. Only one of them resulted in two convictions, in September 2011; in two other cases, there was insufficient evidence and no proceedings were opened. The report by the Equality and Human Rights Commission on the inquiry into THB in Scotland points out that “the requirement for corroboration in Scots law and the likelihood of victims being reluctant to be witnesses necessitates a deepening of the COPFS’s specialism in human trafficking, particularly in terms of victim liaison”.⁸⁸

357. **GRETA considers that the competent authorities should:**

- **continue efforts to train law enforcement officials to detect cases of THB and to step up proactive investigations, including through co-operation between the police, UKBA and other relevant actors and the setting up of more units of specialised investigators;**
 - **review the enforcement system for labour regulations and standards in the UK and address training and other relevant needs to increase detection and investigation of THB for labour exploitation, forced labour and domestic servitude across the UK;**
 - **encourage the prosecution services in each UK country to develop their specialism in THB with a view to improving the collection of sufficient evidence to successfully prosecute more traffickers.**
- d. Protection of victims and witnesses

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

359. In the UK, protecting the identity of victims of trafficking is the role of the police and the prosecution services, while safety is generally the responsibility of the support provider, with assistance from statutory bodies where necessary. During a trial, prosecutors can make an application to the court for the range of special measures, in order to support and protect victims of trafficking when they give evidence against the perpetrators. The British authorities have informed GRETA that victims of trafficking have access to special and other measures to preserve their anonymity and protect them. To ensure that victims are kept informed about case developments and progress, information is passed to the senior investigating officer so that the victim’s support provider is notified.

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Equality and Human Rights Commission, Scotland (2011), *Inquiry into Human Trafficking in Scotland*, p.27.

i. England and Wales

360. The Youth Justice and Criminal Evidence Act 1999 provides for the support and protection of victims during trial through special measures and can provide for anonymity and protection of their identity. In June 2011, a number of important amendments to this Act came into force, including the automatic admissibility of video recorded evidence in chief for adult complainants in sexual offence trials in the Crown Court; the extension of the automatic eligibility for special measures to witnesses under the age of 18 (as opposed to 17 before); the removal of the category of child witnesses in need of special protection (this places all child witnesses in the same position regardless of the offence); and the relaxing of restrictions on a witness giving additional evidence in chief after their video-recorded statement has been admitted. The Vulnerable Persons Team based in the UKHTC is responsible for interviewing all vulnerable and intimidated victims and witnesses of THB. Courts can impose reporting restrictions under Section 46 of the Youth Justice and Criminal Evidence Act 1999 to restrict media coverage of cases that reveal a witness's identity and may create safety issues.

ii. Northern Ireland

361. The Criminal Evidence (Northern Ireland) Order 1999 provides for special measures for vulnerable or intimidated witnesses in order to assist them to give their best evidence, including giving evidence via video link, screening the defendant and clearing the public gallery. Provision is made by the Coroners and Justice Act 2009 for a witness to give evidence anonymously where the court is satisfied that this is necessary to protect the safety of the witness, that it is consistent with the fair trial of the defendant and that it is in the interests of justice for the witness to give evidence. A witness anonymity order can allow for the witness's name and other identifying details to be withheld or removed from materials disclosed to any party to the proceedings, the use of a pseudonym, not being asked questions of any specified description that might lead to the identification of the witness, screening, and subjecting the witness's voice to modulation. In addition, victims of rape and serious sexual offences are entitled as a matter of law to anonymity in the media, even if their name has been given in court. Similarly to England and Wales, courts can also impose reporting restrictions under Section 46 of the Youth Justice and Criminal Evidence Act 1999, which is also applicable in Northern Ireland. Where a victim wishes to remain in their home country, the prosecutor can make an application under Section 80A of the Police and Criminal Evidence (Northern Ireland) Order 1989 for them to give evidence via a video link from there. This has so far been used once in a THB case in Northern Ireland.

iii. Scotland

362. The Scottish Government has developed and published guidance for supporting vulnerable adult and child witnesses when they give evidence. A number of special measures can be requested by application to the court, by the Procurator Fiscal or Defence Agent. The same range of special measures is potentially available to all vulnerable witnesses in criminal cases whether the proceedings are solemn or sheriff court summary.

363. Chapter 4, part 2, of the Serious Organised Crime and Police Act 2005 covers victim protection. In addition, special measures are provided in Sections 271-271M of the Criminal Procedure (Scotland) Act 1995 (as inserted by the Vulnerable Witnesses (Scotland) Act 2004) and Sections 274 and 275 of the Criminal Procedure (Scotland) Act 1995, restricting the circumstances in which sexual history and character evidence is admissible in sexual offence trials (inserted by the Sexual Offences (Procedure and Evidence) (Scotland) Act 2002).

364. The court does not have responsibility for witness welfare at the conclusion of proceedings, but Victim Information and Advice officers appointed by COPFS will advise of any support organisations that may assist prosecution witnesses and offer to refer them onto the project. In the case of women who have ongoing support from TARA, a support package will be designed and made available before, during and after any court proceedings.

365. GRETA understands that THB cases generally involve the application of the above-mentioned special measures because of the nature and the severity of THB offences. For victims of trafficking, the police conducts a risk assessment from the outset to identify the most appropriate protection or support measures on a case by case basis, including any special witness protection systems required. This is reportedly of rare application to victims of trafficking as they are mostly foreign nationals and this procedure is normally for victims who are known within a particular community. However, in the THB case prosecuted in Scotland in 2011, two victims of trafficking received special measures.

366. Further, GRETA notes with concern that no security, anonymity or safety measures are in place at the Employment Tribunal, which is often the only forum where a victim of trafficking for the purpose of labour exploitation may have access to justice. NGOs have reported cases in which they supported victims of trafficking for the purpose of labour exploitation who have been cross-examined by their traffickers, who chose to represent themselves in court.

367. **GRETA urges the competent authorities to:**

- **step up efforts to protect victims and to prevent intimidation during the investigation and during and after the court proceedings, including measures to protect their private life and safety. In this context, the British authorities should take additional measures to ensure that victims of trafficking are adequately informed and assisted during the pre-trial and court proceedings;**
- **address the gap in victim protection at Employment Tribunals for victims of trafficking for the purpose of labour exploitation.**

5. Concluding remarks

368. GRETA welcomes the important steps taken by the British authorities to combat THB and support its victims, including through the adoption of a National Referral Mechanism following the UK's ratification of the Convention. THB is considered as a human rights violation, both in law and through policy, and remains in the focus of parliamentary activity in the UK and the constituent countries. The active involvement of civil society in preventing THB and supporting its victims is also symptomatic of a human-rights based approach.

369. That said, GRETA considers that the British authorities should take further steps to ensure that the human rights-based and victim-centred approach underpinning the Convention is fully reflected and applied in the national policy to combat THB, from prevention to protection, prosecution and redress.

370. This includes, as a first step, taking measures to ensure that all persons who were subject to trafficking are identified as victims of trafficking, regardless of when the trafficking took place and what the person's needs for assistance are at the time of referral. Identification will ensure that victims, even when they are "historic", can benefit from the right to compensation and legal redress and be protected from punishment for their involvement in unlawful activities while being trafficked.

371. Further, GRETA notes that expedited removal procedures can allow insufficient time for the identification of victims of trafficking and assessment of the risks of return, including re-trafficking. The return of victims of trafficking should be treated as an integral part of the process of referral.

372. Strengthening the effectiveness of investigations and prosecutions of THB-related offences with a view to securing proportionate and dissuasive sanctions is another area where further action is needed in order to fully apply the human rights-based and victim-centred approach promoted by the Convention.

373. All relevant officials and professionals in contact with victims or potential victims of trafficking, including law enforcement officials, prosecutors, judges, labour inspectors and social workers, need to be continuously informed and trained about the need to apply a human rights-based approach to action against THB on the basis of the Council of Europe Anti-Trafficking Convention and the case-law of the European Court of Human Rights.

374. Further co-ordination and partnerships among governmental agencies, NGOs and other members of civil society in the UK are crucial for the protection of victims and combating THB.

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

Appendix I: List of GRETA's proposals

Core concepts and definitions

1. GRETA considers that the competent authorities should address the consequences of having numerous pieces of legislation on THB and ensure that all types of THB are included and applied in full conformity with the Council of Europe Convention. In this context, GRETA considers that a dedicated legislation on human trafficking would provide legal status to victims of trafficking, including the right to a recovery and reflection period, as well as other provisions of the Convention which reflect the human rights-based approach to action against trafficking.
2. GRETA urges the competent authorities to ensure that all victims of trafficking for the purpose of sexual or any other type of exploitation who are under 18 years of age are to be considered as child victims of trafficking within the meaning of Article 4 of the Convention.
3. As regards Scotland, GRETA considers that the Scottish authorities should expand the scope of trafficking for the purpose of sexual exploitation to cover all the activities included in the Sexual Offences (Scotland) 2009 Act.
4. GRETA urges the British authorities to revisit the guidance given to Competent Authorities on so-called "distant in time/historic claims", with a view to ensuring that all persons subject to THB are identified as victims of trafficking and have access to the measures included in Articles 11, 12, 13, 14, 15, 16, 26 and 28 of the Convention regardless of what the immediate assistance needs of such victims may be.

Comprehensive approach and co-ordination

5. GRETA considers that the authorities should involve additional relevant bodies in the consultation on and assessment of anti-trafficking action, such as the Gangmasters Licensing Authority, the Children's Commissioners for England, Northern Ireland, Scotland and Wales, and the Anti-Trafficking Co-ordinator for Wales.
6. In addition, GRETA invites the British authorities to carry out an independent mid-term evaluation of the Human Trafficking Strategy in order to assess the implementation and impact of the actions planned, and consider whether any adjustments are necessary.
7. In order to ensure that action to combat THB is comprehensive, GRETA considers that the British authorities should:
 - increase efforts to prevent and detect THB within the UK and of British nationals abroad;
 - step up action to combat THB for the purpose of labour exploitation, in particular in domestic service, care, hospitality, agricultural, fisheries and construction sectors, including through extending the scope of action of the GLA;
 - pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking;
 - consider the return of victims of trafficking as an integral part of anti-trafficking policy which is critical to achieve a comprehensive framework for the protection of victims and their rehabilitation.
8. Further, GRETA considers that the British authorities should keep under scrutiny, together with NGOs, the new overseas domestic worker system to ensure that it does not increase trafficking of overseas domestic workers.

Training of relevant professionals

9. GRETA invites the competent authorities to continue ensuring that all relevant staff, including those working in NGOs contracted to provide assistance to victims of trafficking, are trained periodically in order to improve the detection of potential victims of trafficking, the formal identification of victims and the provision of assistance to them. Such training should be provided to law enforcement officers, immigration officials, staff working in immigration removal centres, staff working in shelters for victims of trafficking, local authorities staff, diplomatic and consular staff, health professionals, social workers and labour inspectors.

10. Further, GRETA invites the competent authorities to step up the training provided to prosecutors and judges on the issue of THB and the applicable legislation and case-law, by stressing the importance of applying a human rights-based approach on the basis of the Council of Europe Convention and the case-law of the European Court on Human Rights.

Data collection and research

11. GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking legislation and policy, the British authorities as well as the authorities of the constituent UK countries, should continue developing a comprehensive and coherent data collection system on trafficking in human beings by compiling statistical information from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination, etc.). This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection.

12. In addition, GRETA invites the British authorities to continue conducting and supporting research on trafficking-related issues as an important source of information for future policy measures. Areas where additional research is needed include internal trafficking in the UK and trafficking for the purpose of labour exploitation and domestic servitude, including in diplomatic households. It is also important to study the reasons why potential victims of trafficking refuse to enter the NRM and what could be done to discourage demand for the services of trafficked people.

International co-operation

13. GRETA invites the British authorities to continue developing the aspect of international co-operation with a view to preventing THB, assisting victims of trafficking, ensuring victims' safe return, and prosecuting offenders, including through exploring further possibilities for co-operation with governmental and non-governmental actors in countries of origin and transit.

Measures to raise awareness

14. GRETA considers that the competent authorities should plan future information and awareness-raising campaigns with the involvement of civil society and on the basis of previous research and impact assessment. More should be done to raise awareness of internal trafficking and the risks of trafficking of British nationals abroad, with a special emphasis on trafficking in children. More attention should also be paid to raising awareness of the risks of trafficking in men.

15. Further, GRETA invites the British authorities to continue contributing to awareness-raising prevention activities in the main countries of origin of victims of trafficking in the UK.

Measures to discourage demand

16. In addition to continuing efforts to discourage demand for sexual services, GRETA considers that the British authorities should step up their efforts to discourage demand for the services of trafficked persons for the purpose of domestic servitude and for labour exploitation, including in the agriculture, fisheries, construction, hospitality and cleaning sectors, *inter alia*, through strengthening the role of labour inspections.

Social, economic and other initiatives for groups vulnerable to THB

17. GRETA considers that the British authorities should take steps to address the vulnerability to trafficking of adults and children from disadvantaged groups in the UK through targeted social, economic and other initiatives, and to secure funding for such initiatives.

Border measures to prevent THB and measures to enable legal migration

18. GRETA considers that the British authorities should step up their efforts to detect potential victims of trafficking at borders and provide written information to foreign nationals planning to travel to the UK in a language that they can understand, in order to alert them about the risks of THB for sexual and labour exploitation and domestic servitude, inform them of where they can go for help and advice, and provide them with information on their rights.

Identification of victims of trafficking

19. GRETA considers that the British authorities should take further steps to secure that all victims of trafficking are properly identified and can benefit from all the assistance and protection measures contained in the Convention. To this end, the British authorities should continue to review the identification procedure and decision making process under the NRM in the light of experience gathered since its inception, analysis of NRM data and research.

20. As part of the review of the NRM, GRETA considers that the British authorities should:

- expand the list of First Responders by including more civil society organisations as well as agencies responsible for employment standards inspections, regulating domestic work and making licensing decisions;
- entrust the identification of victims of trafficking who are illegally present in the UK to persons who are not involved in the asylum seeking procedure of the applicant, to avoid conflicts in the decision making;
- ensure that the guidance, toolkits and criteria used for the identification of victims of trafficking by frontline staff are harmonised and that application is rigorously monitored;
- review current practice as regards reconsidering identification decisions when new information is available;
- improve the identification of victims of trafficking in detention centres, by giving access to such centres to specialised NGOs and enabling detained irregular migrants to have access to legal assistance;
- pursue a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by encouraging regular and co-ordinated multi-agency inspections by organisations responsible for regulating employment, health and safety in sectors most at risk;
- ensure that following a positive reasonable grounds decision, potential victims of trafficking are speedily removed from detention and offered assistance and protection as provided in the Convention.

21. Further, GRETA invites the British authorities to:

- further develop multi-agency training for frontline staff, First Responders and Competent Authorities on the identification of victims and their protection;
- ensure that there is a regular exchange of information to enhance anti-trafficking practice across partner agencies;
- commission an independent review of the NRM.

Special provisions in the context of the identification of child victims of trafficking

22. GRETA urges the British authorities to take further steps to improve the identification of child victims of trafficking, and in particular to:

- enhance the involvement of local authorities in the decision making process in order to ensure that the special needs and circumstances of children are taken into account during identification; in this context, it would be appropriate that Local Children Safeguarding Boards (Health and Social Care Trusts in Northern Ireland) act as the Competent Authority in child cases;
- ensure that unaccompanied children are not returned from entry points before being fully assessed by local authority children's services;
- conduct interviews with child victims of trafficking in a child-friendly setting;
- train all professionals working with child victims of trafficking to recognise and respond appropriately to their needs;
- ensure that all unaccompanied minors who are potential victims of trafficking are assigned a legal guardian.

23. Further, GRETA urges the British authorities to take steps to address the problem of children going missing from local authority care, by providing suitable safe accommodation and adequately trained supervisors or foster parents.

24. GRETA also invites the British authorities to uphold their commitment to end child detention for immigration purposes and seek alternatives to detention, in line with the best interest of the child.

25. In addition, GRETA invites the British authorities to ensure full compliance with Article 10(3) of the Convention concerning age verification.

Assistance to victims of trafficking

26. GRETA considers that the authorities of the UK and the constituent countries should make further efforts to ensure that all potential and actual victims of trafficking are provided with adequate support and assistance from their identification through to their recovery. This should involve, in particular:

- adopting clear support service minimum standards for victims of trafficking and the provision of adequate funding to maintain them;
- ensuring that all children victims of trafficking benefit from the assistance measures provided for under the Convention, including appropriate accommodation and access to education (as regards accommodation for children, see paragraph 248);
- enabling victims of trafficking to have access to the labour market, vocational training and education as a form of rehabilitation;
- ensuring that victims of trafficking who need it can benefit from translation and interpretation services;
- improving the provision of legal advice or assistance to victims on various matters (NRM, asylum criminal proceedings, compensation).

27. GRETA invites the British authorities to enshrine in law the right to a recovery and reflection period and to emphasise to Competent Authorities officials the need to respect this period as defined in the Convention. Potential victims of trafficking should be systematically informed of the implications of this period, in line with Article 13 of the Convention.

Residence permits

28. GRETA invites the British authorities to further sensitise law enforcement agencies of the possibility to request temporary residence permits for victims of trafficking who co-operate in the investigation or criminal proceedings.

Compensation and legal redress

29. GRETA considers that the British authorities should adopt measures to facilitate and guarantee access to compensation for victims of trafficking, and in particular to:

- ensure that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;
- ensure that all victims of trafficking are eligible for compensation under the existing compensation scheme;
- enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid;
- encourage prosecutors to request compensation orders to the largest possible extent;
- enable victims of trafficking who have left the UK to benefit from the possibilities to claim compensation.

30. Further, GRETA invites the British authorities to introduce a system for registration of compensation claims and awards to victims of trafficking regarding all forms of compensation.

Repatriation and return of victims of trafficking

31. GRETA urges the British authorities to review the appropriateness of existing assisted voluntary return programmes for victims of trafficking as a specific category and to adopt a clear legal and policy framework for the return of trafficked persons. In this context, the British authorities should take steps to:

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

Non-punishment of victims of trafficking

32. GRETA urges the British authorities to step up their efforts to adopt a victim-centred approach when implementing Article 26 of the Convention by:

- encouraging prosecution services to consider THB as a serious violation of human rights when assessing the public interest of prosecuting identified victims of trafficking;
- ensuring that CPS, COPFS and ACPO guidance are fully applied in order to prevent imposing penalties on identified victims of trafficking for their involvement in unlawful activities to the extent that they were compelled to do so;
- ensuring that, while the identification procedure is ongoing, potential victims of trafficking are not punished for immigration-related offences;
- conducting age assessments promptly and applying the benefit of the doubt as regards the age of child victims of trafficking who were compelled to be involved in unlawful activities.

Investigation, prosecution and procedural law

33. GRETA calls on the Public Prosecution Service to promptly issue guidance on THB offences in Northern Ireland.

34. GRETA considers that the competent authorities should:

- continue efforts to train law enforcement officials to detect cases of THB and to step up proactive investigations, including through co-operation between the police, UKBA and other relevant actors and the setting up of more units of specialised investigators;
- review the enforcement system for labour regulations and standards in the UK and address training and other relevant needs to increase detection and investigation of THB for labour exploitation, forced labour and domestic servitude across the UK;
- encourage the prosecution services in each UK country to develop their specialism in THB with a view to improving the collection of sufficient evidence to successfully prosecute more traffickers.

Protection of victims and witnesses

35. GRETA urges the competent authorities to:

- step up efforts to protect victims and to prevent intimidation during the investigation and during and after the court proceedings, including measures to protect their private life and safety. In this context, the British authorities should take additional measures to ensure that victims of trafficking are adequately informed and assisted during the pre-trial and court proceedings;
- address the gap in victim protection at Employment Tribunals for victims of trafficking for the purpose of labour exploitation.

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

Public bodies

UK

- Home Office
- Ministry of Justice
- Department of Education
- UK Human Trafficking Centre
- UK Border Agency
- Crown Prosecution Service
- Association of Chief Police Officers
- Specialist Crime Directorate
- Serious Organised Crime Agency
- Child Exploitation and Online Protection Centre
- Gangmasters Licensing Authority
- London Safeguarding Children Board
- Office of the Children's Commissioner for England
- UK Parliament All-Party Parliamentary Group on Human Trafficking

Northern Ireland

- Department of Justice
- Police Service Northern Ireland
- Community Safety Unit
- Health and Social Care Northern Ireland
- Public Prosecution Service Northern Ireland
- Compensation Agency
- Commissioner for Children and Young People
- Northern Ireland Human Rights Commission

Scotland

- Justice Directorate
- Scottish Crime and Drug Enforcement Agency
- Scottish Education Department
- Department of Health
- Crown Office and Procurator Fiscal Service
- Criminal Injuries Compensation Authority
- Convention of Scottish Local Authorities
- Glasgow City Council
- Scottish Parliament Equal Opportunities Committee
- Equality and Human Rights Commission Scotland
- Scotland's Commissioner for Children and Young People

NGOs and other non-governmental actors

- Africans Unite Against Child Abuse (UK)
- Anti-Slavery International
- Black Association of Women Step Out (BAWSO)
- The Bromley Trust
- City Hearts
- Comic Relief
- ECPAT UK
- Helen Bamber Foundation
- Human Trafficking Foundation
- Immigration Law Practitioner Association
- Joseph Rowntree Foundation
- Kalayaan
- Law Centre (Northern Ireland)
- Legal Services Agencies Ltd. (Scotland)
- Migrant Helpline
- North Kensington Law Centre
- POPPY Project
- Refugee Council
- Salvation Army
- Scottish Refugee Council
- Stop the Traffik
- TARA Scotland
- Trade Union Congress
- Unite the union
- Unseen UK
- Women's Aid (Belfast)

Government's comments

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

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

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the British authorities on 20 July 2012 and invited them to submit any final comments. The British authorities' comments, submitted on 4 September 2012, are reproduced hereafter.

**United Kingdom authorities' Comments on the Report
concerning the implementation of the Council of Europe Convention on
Action against Trafficking in Human Beings by the United Kingdom**

The British authorities wish to thank the Delegation of GRETA composed of Ms Nell Rasmussen, Mr Jan van Dijk, Ms Petya Nestorova, and Ms Carolina Lasén Diaz, Administrator at the Secretariat of the Convention, for the spirit of co-operation during the monitoring process.

Herewith the United Kingdom would like to submit their comments and observations on the *Report on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom* with regard to the following paragraphs of the Report:

1. *Paragraph 4 of Executive Summary and Paragraph 221*

The UK Government recognises the importance of ensuring all genuine victims receive the support to which they are entitled and is committed to making the NRM as accessible as possible and to respecting the recovery and reflection period where granted. However, any system where there is a linked possibility of a residence permit needs to be managed to prevent abuse. Anyone referred in as a potential victim of trafficking needs to be formally assessed before their stay can be considered beyond the recovery and reflection period. Once a decision has been made through the NRM by a trained Competent Authority that an individual is not a victim and has no other basis of stay, we cannot tolerate illegal presence in the UK. The position on illegal presence in the UK will also apply if the person does not enter the NRM and of course they will not benefit from any recovery and reflection period.

2. *Paragraph 5 of Executive Summary*

As part of the support service provided by The Salvation Army, victims are provided with a support plan tailored to their specific needs. If these include access to the labour market, the victim will be supported to engage with Jobcentre Plus. This will enable the victim to access all services available to job seekers, including the tracing or allocation of a National Insurance Number, access to training, job search facilities and other welfare to work initiatives.

The UK Government does not believe that routinely granting victims, who would not otherwise have permission (e.g. as EU nationals), access to the labour market is appropriate or required by the Convention.

3. *Paragraph 7 of Executive Summary*

The UK Government will look to ensure that the current Assisted Voluntary Return arrangements are sufficiently communicated to human trafficking victims.

4. *Paragraph 9 of Executive Summary*

The UK Government agrees that, while the NRM identification process is continuing, potential victims of trafficking should not be punished for offences related to their trafficking experience. The Government's policy is not to detain victims of trafficking except in exceptional circumstances on public order or protection grounds.

The UK Government recognises a small number of victims may be detained for a short period of time in connection with a suspected immigration or other criminal offence before their trafficking experience is identified. Unless public protection issues prevent the UK from doing so, following identification they will always be released into appropriate care.

5. *Paragraph 70*

The UK Government notes this proposal but is content that, in relation to assistance to victims, anyone under the age of 18 is considered a child victim.

6. *Paragraph 76 (proposal 1)*

The recent review of UK legislation by the UK Government concluded that the introduction of a bespoke Bill in England and Wales is not necessary or proportionate.

There is equally no evidence that current human trafficking legislation is inadequate in Scotland. While the Scottish Government is sympathetic to the motivation behind this proposal and does not rule out the possibility of bringing together all aspects of human trafficking legislation into one Act, any such proposal would have to be considered alongside a wide range of other potential priorities for legislation. The Scottish Government will however, explore the possibility of introducing a statutory human trafficking criminal aggravation as suggested by the Lord Advocate in response to the Report by the Equality and Human Rights Commission.

7. *Paragraph 77 (proposal 2)*

The UK Government notes this proposal but is content that, in relation to trafficking offences and assistance to victims, anyone under the age of 18 is considered a child victim.

8. *Paragraph 78 (proposal 3)*

The Scottish Government reiterates its view that, while trafficking for exploitation by way of prostitution or the involvement of the victim in the making or production of obscene or indecent material are the only forms of sexual exploitation that are covered by section 22 of the Criminal Justice (Scotland) Act 2003, sections 4 and 5 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 contains no provisions to exclude any form of sexual exploitation. Section 4(4)(c) and (d) of the 2004 Act is very wide ranging. Where a trafficked victim is subjected to any type of exploitative behaviour it could be said that they are providing a service or benefit for or to whoever is exploiting them. The provision of services or benefits or the acquisition of benefits of any kind would cover forms of sexual exploitation too. As such it is our view that other forms of sexual exploitation would be covered by the 2004 Act.

The Sexual Offences (Scotland) Act 2009 provides for a wide range of sexual offences, many of which are unlikely to be relevant in the context of trafficking. It is not clear why or if a person would ever be trafficked for the purpose of exploitation by way of, for example, indecent communications (section 7), coercing a person to look at a sexual image (section 6) or voyeurism (section 10). If a person were to be trafficked for the purpose of exploitation by way of committing a serious sexual offence against them, such as rape or sexual assault, the maximum penalties for these offences under the 2009 Act (life imprisonment) would be higher than the maximum penalty for trafficking offences (14 years) and prosecutors would be likely to prefer to charge using the 2009 offences.

9. *Paragraph 85 (proposal 4)*

The Government agrees that in determining whether a person is in need of the protection and assistance offered under the Convention it will be necessary to consider all of the person's circumstances in the context of the general spirit of the Convention at the time a case is referred into the NRM.

However, we do not believe that specific changes to the guidance to Competent Authorities relating to historic claims are required. In the UK High Court Judgment of *R v "Y"* (case number CO/9946/2009), which considered the guidance, it was confirmed that "the Convention clearly envisages that victim status, in the sense of someone requiring the assistance and protection, may be time-limited, but that the time will vary from case to case".

10. *Paragraph 97 (request for information)*

Responses to the consultation are being considered and the Minister of Justice will announce proposals on how to strengthen links and improve engagement with the NGO sector at an event for NGOs on EU Anti-Trafficking Day on 18 October 2012. The Department of Justice will write to GRETA to advise them of the proposals when they have been announced.

11. *Paragraph 102*

These changes were laid before the UK Parliament in advance of coming into effect on 6 April 2012.

12. *Paragraphs 105 and 245*

We are committed to ensuring we gain a better understanding of how our current policies are operating in practice so we can get to the heart of children's experiences and ensure they are receiving the care and support they deserve.

To this end we are commissioning a review of practical care arrangements for children. A main objective of this review is to develop an understanding of the real experiences of trafficked children and existing social work practice. Commissioning a study with this scope adds real value in our understanding of this issue going forward.

To deliver this work we have set up a steering group comprising a range of experts including representation from the Office of the Children's Commissioner. The work is expected to be delivered by the end of this financial year and will be made publicly available. As well as identifying issues of concern, the review will also seek to identify good practice that can be shared amongst agencies.

13. *Paragraph 107 (proposal 5)*

The GLA are members of the Home Office NGO Engagement Forum on Working with the Private Sector. We did consult with the former Anti-Trafficking Coordinator for Wales however a replacement is yet to be appointed. However, once this appointment is made, we will engage further.

Government Ministers and officials meet regularly with the Children's Commissioners to discuss matters of mutual interest or concern, including in relation to safeguarding.

The Scottish Government already work with a wide range of delivery partners in this context and will continue to do so. The Summit which the Scottish Government will hold on 18 October, to coincide with European Anti-Slavery Day, will include relevant delivery partners and will discuss future trafficking policy.

In Wales the Anti-Human Trafficking Coordinator (AHTC) has informed key agencies of the scale, types and location of human trafficking in Wales and has improved the sharing of intelligence and recording of incidents. The coordinator has also looked at best practice across the UK and secured agreement for Wales to lead on Police Specialist and senior investigator training with the support of UK agencies.

In the future the AHTC will continue to improve the sharing of intelligence and recording of incidents in Wales across all sectors and raise the profile of human trafficking, standardising policy on education and information. They will work with the other UK Governments and NGOs to prevent human trafficking and build co-operation internationally.

14. *Paragraph 108 (proposal 6)*

The IDMG, in its capacity as the UK's National Rapporteur on human trafficking, will publish its first annual report in October 2012. It will assess and evaluate the UK's progress in combating human trafficking. The IDMG has diverse representation across Government and includes the devolved administrations. As such, we do not believe an independent mid-term review of the strategy is necessary at this time.

15. *Paragraph 109 (proposal 7), first bullet*

The UK Government continues work to improve prevention and detection of all victims of trafficking, including UK nationals within the UK, as part of its overall strategy.

The UK's missions, with staff from departments across Whitehall including SOCA, DfID and UKBA, implement the Government's Human Trafficking Strategy overseas. They work with foreign governments in source and transit countries to build their capacity to disrupt human trafficking, for example by working with investigators and prosecutors to increase prosecutions for human trafficking offences. They contribute to the UK's and international efforts to combat trafficking by ensuring that UK interests are effectively represented bilaterally and in multilateral fora including the EU and the UN. This helps to protect British nationals abroad as well as the victims from source countries. Our missions also address the root causes of human trafficking through DfID's work to alleviate poverty overseas.

16. *Paragraph 109, second bullet*

The UK Government notes this proposal. It is the unique features of the workers that the GLA regulates, in the sectors it covers, that mean we do not support any extension of the GLA's scope or remit. Nevertheless, we continue work looking into other ways of improving our efforts against labour trafficking.

17. *Paragraph 109, third bullet*

We are keen to ensure we prevent children becoming victims in the first place. Through the human trafficking strategy we look to raise awareness in source countries of the risk of child trafficking. Through the use of the International Child Protection Network (ICPN), CEOP has distributed a purpose-made video, 'Mai and Tam', aimed at South East Asian countries, that delivers a prevention message to families and children. CEOP has also trained educators, NGOs and police in those countries to be able to deliver this as part of an education programme.

The Home Office also recently supported the launch of a short DVD by CTAC to raise awareness of child trafficking and highlighting the fact that child trafficking is child abuse, that it happens to boys and girls from all parts of the world, and how there are different ways children can be exploited through trafficking. NSPCC are seeking to use the film in source countries, particularly Vietnam, Nigeria and Romania to raise awareness amongst frontline professionals.

Through the Child Victim NGO Group, contact has been facilitated between CEOP's International Child Protection Networks abroad and more NGOs to ensure linkage to work streams and activities abroad.

DFID are also supporting a new regional anti-trafficking project in South Asia, focusing especially on labour migration of women and girls into the garment and domestic work sectors in India, Bangladesh and Nepal. In its first year of operation (2011-12), this project has achieved some encouraging results:

- A number of leading apparel companies have agreed in principle to a code of practice on recruitment of migrant workers in ways which will help to prevent trafficking in the apparel sector.

- New technology is being used to improve the flow of information, both to and from, women and girls, at risk of trafficking into the domestic work and garment sectors. Women and girls are provided with information about employment opportunities (including information about risks and dangers from traffickers) via mobile phones and the internet, as well as via Community Knowledge Workers for those with no access to technology.
- The project is also working with trafficked women to ensure their voice feeds into policy making. An example of this work is feedback from trafficked women on the effectiveness of pre-departure briefing about the dangers of human trafficking.

DFID is reviewing the progress of these pilot projects and will scale up support for the most promising initiatives for the 'full implementation' phase from 2012-2015. The Home Office as well as other Government Departments are key stakeholders in this review.

DFID also supports other projects which are targeting human trafficking, including:

- The Malawi Anti-Child Trafficking project, run by the Salvation Army. This project aims to improve knowledge of and access to rights for children in Malawi who have been trafficked or are vulnerable to being trafficked. In the past year, this project has contributed to a new law on child protection and has identified and reported 850 cases of child trafficking in the three project districts.
- The project 'Challenging Descent Based Slavery in West Africa' run by Anti-Slavery International. This project has helped to strengthen the legislative framework against slavery and trafficking in three West African countries. This has resulted in a law criminalising slavery in Mauritania, a decree against trafficking in Niger and commitments and steps towards passing laws against both slavery and trafficking in Mali.
- The project 'Slavery and Child Labour: Governance and Social Responsibility', also run by Anti-Slavery International. Amongst other activities, this project has brought together over 10,000 anti-trafficking campaigners in the Philippines in a bid to persuade the Government to ratify ILO Convention 189 on Domestic Workers. The campaign drew support from a wide range of sectors including government, NGOs, business groups, academia, religious groups and communities. The Convention has been signed by the President and is currently being considered by the Philippine Senate.

In addition the protection of victims is equally important. The Human Trafficking Strategy highlights the acute differences between adult and child victims. In our policy delivery and approach we always ensure the vulnerability of children in this context is considered.

Within the strategy we have committed to work with the police and the criminal justice system to ensure that trafficked children found to be involved in criminal activity are dealt with from a child safeguarding perspective and not unnecessarily criminalised. In gathering intelligence on trafficking we will work to ensure the acute vulnerabilities of children are always taken into account. Where children are involved, de-briefing will be delivered in a multi-agency framework with support and guidance from CEOP and the NSPCC's Child Trafficking Advice and Information Line where necessary. we will continue to work with police and criminal justice agencies to ensure trafficked children are protected

18. *Paragraph 109, fourth bullet*

The Government recognises the importance of supporting those who wish to return and will be looking to ensure its policies on human trafficking and Assisted Voluntary Returns for non-EU nationals are closely aligned.

19. *Paragraph 110 (proposal 8)*

The Government is committed to monitoring the effect of its policies and to undertake this in an appropriate way. The changes to the overseas domestic worker (ODW) routes of entry are not in themselves measures intended to prevent trafficking and monitoring may not provide an assessment of the causes of trafficking for domestic servitude.

In addition, the Government believes that removal of the right to change employer does not affect the UK's ability to continue to take positive steps to prevent and combat human trafficking, such as those set out in the Government's strategy in July 2011. ODWs who are abused will still be able to leave an abusive relationship and go to the police, if they believe they are a victim of crime. Those who are victims of trafficking will also continue to be able to seek referral to the National Referral Mechanism. An ODW who has valid leave to enter will not be in the UK illegally, if they leave their employer.

Alternative protections are also being put in place that will reduce the risk of abusive relationships being brought to the UK hence deterring any trafficking at source as well as providing access to suitable protections in the UK and a route home for those ODWs who need it.

20. *Paragraph 126 (proposal 9)*

The Government will be continuing with its commitment to deliver training to UK Border Agency staff, including immigration officials and those working in immigration removal centres, to help them identify those who might have been trafficked and understand the steps that should be taken to safeguard victims of trafficking.

Law enforcement, academia and NGOs realise the importance of working together and researching the extent and nature of HT in the UK. Many police forces and partner agencies have tried applying for funding for projects and research such as those mentioned by GRETA. One main funding stream is the European Commission's 'Prevention of and Fight Against Crime' action grants, in which trafficking in human beings (THB) is a priority area. The application process is difficult and very few UK applications are successful. A new ruling is that only framework partners (only five in UK - SOCA, Metropolitan Police Service, Home Office, University of Edinburgh and Ministry of Justice) can apply, which limits our ability to receive funding to carry out such work. **A suggestion is that European funding options are advertised better, made easier to apply for and more support is provided in the application phase so that more joint projects to research, prevent and tackle HT can be conducted.** This also applies to proposals 11, 12, 14, 21 and 34 below.

The Scottish Government agree that awareness and training is necessary in the fight to combat this crime. Training is a matter for the organisations/agencies that are familiar with their own role in tackling the crime and or supporting victims. They are best placed to identify and respond quickly to revise individual training and guidance materials to reflect changing circumstances. As partnership working is the key to successfully tackling trafficking, the role for the Scottish Government is to continue encouraging and supporting these bodies to look at their individual guidance and training in conjunction with each others to ensure that there is effective co-ordination in combating the crime and supporting its victims.

For example in June 2012 ACPO(S) carried out an awareness and training event for front line police officers. COPFS has delivered training to members of the social work department on human trafficking legislation and the relevant indicators to assist them with the identification of potential victims of human trafficking.

The Welsh Anti-Human Trafficking co-ordinator (AHTC) explored the availability of training for senior investigating officers (SIOs) dealing with human trafficking enforcement, or specialist departments dealing with victims, and found no training of the kind in the UK outside 'on the job' experience offered in London. Following negotiations with the UK organisations an agreement has now been reached to provide services at no additional cost. South Wales Police Regional Investigative Training Unit is due to begin this training in 2012.

21. *Paragraph 127 (proposal 10)*

Paragraph 348 of the report addresses this proposal and the steps the Government has already put in place to take this forward.

Training and guidance is available for prosecutors in Scotland and this will be updated as required to reflect any changes in prosecution policy.

The Judicial Studies Committee considers that trafficking in human beings could be considered as a topic in its next course programme and will explore options for delivering training and or guidance.

22. *Paragraph 131*

The official statistics relating to crime and policing are maintained by the Home Office and the official statistics relating to sentencing, criminal court proceedings, offenders brought to justice, the courts and the judiciary are maintained by the Ministry of Justice.

The CPS collects data to assist in the effective management of its prosecution functions. The CPS does not collect data which constitutes official statistics as defined in the Statistics and Registration Service Act 2007. The CPS can provide data relating only to the number of charged offences that reached a first hearing at court, offences data is not held by defendant or outcome. There is no indication of the final outcome or if the charged offence was the substantive charge at finalisation. Furthermore, figures on specific human trafficking convictions would not tell the whole story. Traffickers who are brought before the courts are often prosecuted for a range of other offences.

23. *Paragraph 143 (proposal 11)*

The baseline assessment recently published by SOCA/UKHTC, commissioned through the Threat Reduction Board, is a first step in improving the collection, analysis and dissemination of information and intelligence in respect of the picture of trafficking in the UK. Going forward the NCA will have a key role to play by enhancing intelligence capabilities and coordination and tasking functions. Please also see comments above on paragraph 126 (proposal 9).

The Scottish Government notes this proposal and will continue working with the UK Government and others to realise meaningful statistics for each constituent country of the UK. The creation of a single Scottish Police Service (scheduled for 1 April 2013) will provide an opportunity to build on the current work on trafficking in human beings. One aspect of the new Police Service of Scotland is the proposal for the establishment of a Specialist Crime Division, which is intended to centralise data collection and provide a single point of contact for many national law enforcement agencies across the UK, Europe and further afield, thus enhancing the exchange of information and intelligence.

It is anticipated that the intelligence unit of the Specialist Crime Division will be located at the new Scottish Crime Campus, which will see the co-location of other key national law enforcement organisations. The Scottish Crime Campus will also act as the key liaison and exchange hub for Scotland with the National Crime Agency and Organised Crime Coordination Centre.

24. *Paragraph 144 (proposal 12)*

Please also see comments above on paragraph 126 (proposal 9).

The Home Office NGO Engagement Forum on Tackling Demand will continue to develop and take forward actions in this regard. We have also made plans to engage further with the private sector on the issue of labour exploitation.

The Scottish Government notes this proposal and will continue working with the UK Government and others to address these points.

In Wales, the Anti-Human Trafficking Coordinator (AHTC) has worked closely with the UK human trafficking agencies to establish a comprehensive picture of the scale of the problem in Wales and the UK and identify what is needed to address it. Cross-sector intelligence sharing hubs have been developed in Gwent, Cardiff, Pembroke and Wrexham. Powys and Anglesey are about to replicate this approach.

Additionally, over 70 awareness raising sessions have been delivered to key stakeholders right across Wales including Local Authorities, Local Health Boards, the Police and Criminal Justice Partners along with a wealth of charities and NGOs. This means that around 2,500 professionals are now aware of how to identify potential victims of trafficking and how best to respond.

We are committed to bringing as many victims as possible into the NRM. The reasons why potential victims of trafficking refuse to enter the NRM vary but include cases where the potential victim does not want or need the services available within the NRM, is concerned that making themselves known to the authorities may result in their removal from the UK, because they fear reprisals, or because frontline organisations are not fully aware of trafficking and the NRM, and do not identify potential victims as such. Entry to the National Referral Mechanism (NRM) is voluntary for adults so we cannot force those we suspect of being victims to participate against their will.

25. *Paragraph 157 (proposal 13)*

We are committed to further develop our international co-operation to prevent trafficking in human beings and assist victims of trafficking. We already work closely with government and non government bodies to achieve this aim and we are continuously exploring further avenues for development with them.

For instance, ACPO(S) continues to work closely with Europol, Eurojust and other European partner law enforcement agencies to prosecute offenders outside of the UK.

26. *Pararagraph 161 (request for information)*

Although funding has been received to prepare this study, it has not been completed or published yet. It is currently unclear when this report may become available, but we will forward a copy to GRETA once it is.

27. *Paragraph 166 (request for information)*

The leaflets are in the process of being finalised and copies of them will be forwarded to GRETA once they are.

28. *Paragraph 174 (proposal 14)*

Planning has already commenced on future awareness-raising opportunities, including a comprehensive and varied programme of events and activities on and around European Anti-Slavery Day on 18 October. This includes national and local events involving the majority of IDMG members and key delivery partners across the UK. We are happy to share details with GRETA closer to the time, once these have been finalised.

Please also see comments above on paragraph 126 (proposal 9).

The UK Government agrees that awareness of trafficking in human beings for the purposes of all forms of exploitation is necessary in the fight to tackle this crime.

The Scottish Government has been involved, both as participant and adviser, with awareness raising campaigns carried out by the Scottish Crime and Drug Enforcement Agency and NGOs and it is anticipated that these will continue in the future. In June 2012 the Scottish Government issued guidance to raise awareness amongst healthcare staff in detecting and responding to victims of trafficking.

With regards to children who may have been trafficked, this is embedded into National Guidance for Child Protection 2010. This guidance is currently in the process of being refreshed. The Scottish Government will explore with delivery partners how the sections on child trafficking can be strengthened in particular to include internal trafficking. We will also expand and strengthen those areas connected to Child Sexual Exploitation.

29. *Paragraph 175 (proposal 15)*

The UK Government notes the proposal made by GRETA and will continue to support awareness raising campaigns where applicable.

30. *Paragraph 182 (proposal 16)*

The UK Government has already begun looking into ways in which this can be achieved in the absence of extending the scope of the GLA, for instance by engaging further with agencies responsible for regulating employment and health and safety, and raising awareness amongst the private sector in those sectors not covered by the GLA.

The Scottish Government notes the proposal made by GRETA and will continue working with the UK Government and others to address these points.

The Welsh Anti-Human Trafficking co-ordinator is now a standing member of the Welsh Border Management Group. This has enabled best practice to be shared concerning human trafficking, including the setting up of a multi-agency ports operation. It has also led to the coordinator seeking and agreeing ownership of intelligence opportunities, which have subsequently led to investigation. Following clear evidence and intelligence illuminating human trafficking between Ireland and North & South West Wales ports, the co-ordinator has encouraged applications to obtain European monies via Euro-Just funding streams.

31. *Paragraph 189 (proposal 17)*

The UK Government notes this proposal. The DfE is currently providing grant funding to a children's charity, Barnardo's, to provide specialist training and foster placements for children at risk of sexual exploitation by relocating and fostering them away from areas of risk.

Please also see comments above on paragraph 126 (proposal 9) regarding securing funding.

32. *Paragraph 200 (proposal 18)*

The UK Government supports the recommendation of stepping up efforts to detect potential victims at the border, which is in line with one of the themes of our 2011 strategy. We are working to build a rich understanding of the routes and methods used by traffickers, and we are using this information to prevent traffickers and migrants who are particularly vulnerable to trafficking from coming to the UK. Border Force staff continue to provide an important line of defence, and we are working to ensure they have access to the right training, information and intelligence to identify and scrutinise those most at risk. This is now, to a large degree, in place with the latest progress in the form of risk profiles for the most common nationality types of victims being circulated to all UK border staff with instruction in July 2012.

The UK Government is also currently considering the information that is already available to prospective migrants to ensure there are sufficient early warnings available to high risk groups.

33. *Paragraph 213*

All trafficking decisions are made by specially trained Competent Authority decision makers. Many of the trafficking decisions are not made by the asylum caseowner on the case and, where this does happen, a second more senior case worker will review the decision and, if they agree with it, sign off the NRM decision. That senior case worker will not be directly involved in the case's asylum decision and is outside the asylum case working management chain which provides a separation safeguard for those cases.

34. *Paragraph 218*

The UK Government does not believe the reported criticism is an accurate reflection of UK Border Agency decision-making or the organisation. The Agency operates in localities across the UK including the following areas; London and South East, Scotland and Northern Ireland, Wales and South West, North East, Yorkshire and Humber, the Midlands and East, and the North West. It has constructive relationships with external partners in all of those localities and UKBA representatives also attend and engage with partners at the NRM oversight group which provides transparency regarding decision making processes.

35. *Paragraph 219*

The UK Government does not believe that the first sentence of this paragraph accurately reflects the current position. Competent Authorities (CA) are instructed to engage with the First Responder throughout the decision making process to ensure quality decisions for example the published guidance instructs that before a negative decision is reached the CA should contact the First Responder/support provider to discuss and ensure all information has been gathered.

The UK Government does not consider the information reported regarding rarely interviewing potential victims accurately reflects current processes where most decisions take into account interviews that have taken place either by the Competent Authority or a First Responder. Where information is missing or needs clarifying Competent Authorities are instructed in the published guidance to conduct an interview, unless all of the relevant questions have been asked as part of another process, or they have commissioned another frontline agency or the support provider to ask the questions on their behalf.

The UK Government also wishes to clarify the position of UK Border Agency as both designated First Responder and Competent Authority. On a few rare occasions an asylum case owner who is trained as a Competent Authority may, as part of their wider asylum duties, identify a trafficking concern not previously referred into the NRM and decide that their knowledge of the case means they are best placed to assess the case under the Trafficking Convention. A support provider (or the Local Authority in the case of children) will still be engaged in the process. In all cases a second more senior case worker also reviews and, when content, signs off the NRM decision. Please also refer to our response to paragraph 213 above.

Paragraph 222

The UK Government wishes to point out that the “historic claims” policy is not non-EU/EEA national specific as it applies to all nationalities. All cases are carefully considered by a trained specialist, regardless of when the claimed exploitation took place. In some cases it may be concluded that on the facts of the case that the person is no longer in need of the protection or assistance offered under the Convention because the individual’s circumstances have changed so much since the trafficking occurred. A negative decision in such cases would not be denying that someone may have been a victim of trafficking in the past, simply that at the time of assessment they did not meet the Convention criteria or need the protection or assistance that it can afford. This position has been upheld in the UK High Court case R v “Y” (case number CO/9946/2009).

36. *Paragraph 223*

The Government shares GRETA’s concerns regarding these reported cases of overlooking deception and abuse and wishes to point out that this is clearly not in line with the Government’s published policy. **The UK encourages GRETA to provide case details so the decisions can be reconsidered and lessons learnt.** In advance of receiving these details we have alerted all Competent Authorities to the correct approach in the guidance.

37. *Paragraph 225*

The Department of Justice is aware that there is confusion as to which First Responders in Northern Ireland can act and make referrals into the NRM and it will make arrangements to clarify this with all relevant statutory and non-statutory agencies and groups.

38. *Paragraph 228*

The UK Government recognises a small number of victims may be detained for a short period of time in connection with a suspected immigration or other criminal offence before their trafficking experience is identified. Unless public protection issues prevent the UK from doing so, following identification they will always be released in to appropriate care.

In cases where a suspect has already pleaded guilty or been found guilty by a court, the Government cannot and does not have the power to overturn the judicial sentence imposed. If further information comes to light that they may have been trafficked, it is open to their legal representative to ask the court to vacate the plea in order that the prosecution can re-review the decision to prosecute. In cases where a suspect has already been sentenced, their legal representative can seek leave to appeal conviction and sentence.

39. *Paragraph 232 (proposal 19)*

The Government will continue to keep the NRM under review through the multi-agency NRM Oversight Group in order to identify issues and look for improvements. However, it does not believe an independent review will provide added value to this process or to the review already held after 12 months operation of the NRM, which engaged over 40 external and internal partners including NGOs, Scottish Government officials and ACPO(S).

40. *Paragraph 233 (proposal 20), first bullet*

The UK Government is committed to making the NRM as accessible as possible to victims and is pleased to report that the NGO, Unseen UK, has recently been added to the list of designated First Responders. The NRM has numerous First Responders including nine NGOs that represent a wide range of victims and more civil society generally.

The multi-agency NRM oversight group remains open to considering further applications from those that have direct contact with victims who wish to become NRM First Responders provided they have the commitment, procedures and resources to ensure their staff are sufficiently trained for this purpose, and the organisation does not duplicate existing First Responders in this role.

41. *Paragraph 233, second bullet*

The Competent Authority status was allocated to the UK Border Agency and UK Human Trafficking Centre after an extensive process of consideration and testing in advance of the creation of the UK's National Referral Mechanism.

Where a victim is subject to immigration control and has no legal basis for being in the UK, a recovery and reflection period is granted by way of temporary admission. Under UK legislation only officials acting on behalf of the Home Secretary are able to grant this or immigration leave, or irrespective of this, have the necessary experience to do so. Accordingly the UK Border Agency Competent Authority will need to retain ultimate responsibility for deciding whether a non-EEA national is a victim in need of Council of Europe Convention protection.

We are, however, conscious of the need for impartiality in determining whether an individual is a victim of trafficking where a related asylum claim is also being considered. For that reason we have already put in place a safeguard to ensure this separation of decisions is maintained and we are committed to ensuring all relevant parties working under the NRM framework participate in the decision making process. We will be looking to strengthen our guidance for Competent Authorities to reinforce the position that their identification decisions are only taken after multi-agency consultation and engagement with relevant NRM parties including the First Responder. The functioning of the NRM will continue to be overseen by the multi-agency official oversight group chaired by the Home Office, which includes NGO representatives with a direct involvement in the NRM and victim support (Migrant Helpline, TARA, The Salvation Army, NSPCC and Barnardo's).

42. *Paragraph 233, third bullet*

Whilst the Home Office will continue to contribute to and advise on guidance and toolkits developed by other frontline organisations, such tools will be most effective when they are tailored and relevant to an organisation's particular business setup.

43. *Paragraph 233, fourth bullet*

The UK Government would welcome clarification on the point raised regarding “reconsidering identification decisions when new information is available.” There is already a functioning process that enables first responders to provide additional information at a later stage if the competent authority is initially unable to make a positive identification. This can trigger a reconsideration of the decision. We have not received any feedback from First Responders to suggest this process is not working effectively.

44. *Paragraph 233, fifth bullet*

The UK Government would like to clarify that access to specialist NGOs and legal assistance to detained migrants is already happening. Any reasonable requests from specialist NGOs to visit immigration detention centres are facilitated and the NGO, Poppy Project, regularly visits these centres. In addition, regular legal advice surgeries are held, usually at least twice weekly, in all UK immigration detention centres to provide free initial advice to detainees and, if necessary, to signpost them to the further legal assistance available to them, subject to their eligibility for legal aid funding.

Paragraph 233, sixth bullet

Please refer to our response to 182 above.

45. *Paragraph 233, seventh bullet*

The UK Government agrees that following a positive reasonable grounds decision potential victims are speedily removed from detention and offered protection. This is clearly outlined in published guidance and the Government will remind Competent Authorities to ensure the policy is followed.

46. *Paragraph 234 (proposal 21)*

The Government will continue with its commitment to deliver multiagency training to Competent Authorities. We are also happy to consider viable opportunities for further multi-agency training for frontline staff building on existing training in place for First Responders such as police, UK Border Agency and local authorities.

Please also see comments above on paragraph 126 (proposal 9).

The Scottish Government notes this proposal and will continue working with the UK Government and others to address these points. For example the ACPO(S) Strategic and Tactical Leads Group includes representation from UKBA and UKHTC and will continue to develop and share future training practices.

47. *Paragraph 244*

In the absence of specific supporting examples, the UK Border Agency is not in a position to comment on the statement that 'the benefit of the doubt is not always given and that pressure may be put on frontline staff to determine that the child is older than they are'. The Agency's policy is clear that careful consideration must be given to assessing whether an applicant is 'significantly over 18' as they would, if assessed as such, be considered under adult processes and could be liable for detention. Some young people may have no identifying information on them, their documents may be false or they may have been told to lie about their age to evade attention from the authorities. Some individuals may not know their age or claim to be children when they are in fact over 18 years of age or claim to be adults when they are in fact children.

Where it is not clear whether a young person is a child (i.e. under 18 years of age) then, in accordance with the United Nations Convention of the Rights of the Child, the young person should be treated as a child.

The UK Border Agency's policy is that, where there is little or no evidence to support an individual's claimed age and their claim to be a child is doubted, they should be treated as an adult, if their physical appearance/demeanour **very strongly** suggests that they are **significantly** over the age of 18, and if this assessment is independently verified by a senior officer. In all other cases they will be afforded the benefit of the doubt and treated as a child until a careful assessment of their age has been completed by the relevant local authority.

In cases where the benefit of the doubt is given and the young person is referred to the relevant Local Authority for an age assessment, the Agency will record the estimated date of birth on the Case Information Database as an age dispute case and on the Application Registration Card, along with the word 'disputed'. Once the Local Authority has conducted an age assessment, both the Case Information Database and the Application Registration Card should be amended, replacing the estimated date of birth with the assessed date of birth.

48. *Paragraph 247 (proposal 22), first bullet*

The proposal that Local Safeguarding Children Boards (LSCBs) could act as Competent Authorities appears to be based on a misunderstanding of these Boards and is not appropriate. LSCBs are not in general operational bodies or ones which deliver services to children or families. Instead, their role is to co-ordinate the actions of the bodies represented on the Board and ensure their effectiveness in safeguarding children and promoting their welfare.

Nevertheless, the UK Government will explore with the relevant agencies whether it would be practical or appropriate for the Local Children Safeguarding Boards to have a greater role in the assessment of NRM children cases. However there would be a statutory issue with LSCBs taking the final decision. Where a potential victim is subject to immigration control and has no legal basis for being in the UK, a recovery and reflection period is granted by way of temporary admission. Under UK legislation only officials acting on behalf of the Home Secretary are able to grant this or immigration leave. Accordingly the UKBA Competent Authority will need to retain ultimate responsibility for deciding whether a non-EEA national is a victim in need of Council of Europe Convention protection. We are, however, committed to exploiting opportunities for closer engagement with local authorities as part of the decision making process.

In Wales, the All Wales Child Protection Procedures Review Group was commissioned to develop an all Wales protocol which was published in September 2011. The protocol provides practice guidance to professionals and volunteers from all agencies to enable them to effectively safeguard children who are suspected of being trafficked. This protocol forms part of the national child protection procedures which ensures that all Local Safeguarding Children Boards (LSCBs) are signed up to its principles and practices. To help implementation of the protocol and further raise awareness of trafficking, the Welsh Government is currently considering funding a Wales-wide training programme.

49. *Paragraph 247, second bullet*

Unaccompanied asylum seeking children and those suspected of being victims of trafficking will be routinely referred to the local authority. A 'full assessment' may however not be appropriate in all cases, for example where the parents are contactable by phone and agree that the child can return on a flight the same day.

Where a decision is taken to return any child, due regard is always given to the UK Border Agency's legal duty under Section 55. This means that officers will not compromise the child's welfare and where directions are appropriately made for the child's removal, that proper reception arrangements are in place for the child's return.

When any child arrives in the UK unaccompanied, or with a person other than their parent, the Border Force officer will make enquires to ensure they are satisfied that suitable arrangements have been made for the child's reception and welfare in the UK, before allowing them to leave the primary checkpoint.

As part of their enquiries, Border Force officers will conduct checks to ensure that an arriving child's welfare and safety is no way compromised. Where a Border Force officer has specific concerns over a child and is still not satisfied following checks, referral will be made to the appropriate Police and/or Children's Services. It is routine for Border Force to make referrals to Children's Services where child protection issues are identified and in such cases Children's Service assume responsibility for the welfare of the child. Any unaccompanied child in such a circumstance will only be released to their sponsor, if Children's Services consent to this.

Any unaccompanied child who is refused and is to be removed, without the care of a suitable adult in the UK, will be placed in the care of Children's Services until their return flight.

50. *Paragraph 247, third bullet*

Interviews with child victims of trafficking should be held in a safe environment. Interviewers should attempt to determine where child witnesses would prefer to be interviewed, ensuring that where possible, surroundings are child-friendly.

51. *Paragraph 247, fourth bullet*

We are keen to ensure that frontline practitioners are equipped with the knowledge to identify and safeguarding child trafficking victims.

Statutory guidance under section 11 of the Children Act 2004 makes clear that local authority staff who work, or are in contact, with children have a responsibility to safeguard and promote their welfare. Local authorities should ensure that all such staff participate regularly in relevant training tailored towards their individual roles. In addition, LSCBs should ensure that local training programmes for practitioners and other professionals cover trafficking issues as appropriate.

52. *Paragraph 247, fifth bullet*

The Government maintains its position on legal guardians. Unaccompanied migrant children become looked after children and as such are entitled to the same support and services as all looked after children. Local authorities must allocate each child a social worker who will assess his or her needs and draw up a care plan which sets out how the authority intends to respond to the full range of the child's needs. This includes ensuring they have all the necessary legal and other support they need. The addition of a separate legal guardian would add an unnecessary and unhelpful level of complexity to the system.

Please also refer to our comments on paragraph 105 above.

The Scottish Government actively promotes a child-centred approach through the principles of Getting It Right For Every Child. This should ensure that all children's needs are met and responded to appropriately regardless of their circumstances. Children newly arrived in Scotland are referred to the Scottish Guardianship Service, a non-statutory provision, and allocated an guardian who sees them as regularly as necessary and acts as a link between all services and professionals that are involved in their case. The service also assists the children in understanding the complex immigration and welfare processes, advocating on their behalf and helping them to make informed decisions. The project is awaiting evaluation following the completion of its second year.

53. *Paragraph 248 (proposal 23)*

In addition to our work on missing children, the Government also announced in July 2012 that it is taking the following immediate action in partnership with others:

- Making sure there is a clearer picture of how many children go missing from care, and of where they are, by improving the quality and transparency of data;
- Considering if changes should be made to care planning regulations to ensure there is better planning of risks before a child is placed in a home or with a foster carer, including whether they might go missing;
- Supporting children to be located nearer to their local area by establishing a 'task and finish group' to make recommendations by September on strengthening the regulatory framework on out-of-area placements (a key reason why children have said they go missing from care);
- Establishing a further expert working group to look at the quality of children's homes. This will review all aspects of the quality of provision in children's homes, including the management of behaviour and managing the risk of children going missing from the home.

In addition to the action in the human trafficking strategy on this issue, the Government published a new cross Government strategy on missing children and adults on 5 December 2011. This strategy, which includes a specific focus on children's issues, outlines three strategic objectives to which all partners should work to protect missing children and adults and their families. Through the focus on prevention (reducing the number of people who go missing), protection (finding missing children and adults quickly) and providing support to missing people and their families, the strategy will drive better outcomes for all missing children and adults (including missing trafficked children).

In Scotland, the Care Inspectorate currently collects some information in relation to the number of children who have absconded from care. The Scottish Government will explore with the Care Inspectorate in the course of 2012 what action can be taken to improve the collation of this information and consider what action is needed in Scotland to address this.

54. *Paragraph 249 (proposal 24)*

The UK Government set out its plans for ending the detention of children for immigration purposes in December 2010. A new family returns process has been developed to achieve this and was rolled out nationally in March 2011.

The Scottish Government notes the proposal made by GRETA.

55. *Paragraph 250 (proposal 25)*

The UK Border Agency is committed to improving the age assessment process and is currently considering a range of methods, one of which is the use of dental x-rays.

The local authority, in whose area the victim has been rescued, will have responsibility for the care of the child as required by the Children Act 1989. The court should consider any evidence of age that is available, which may include documentary evidence such as a passport, school records or a Police National Computer (PNC) printout verified by fingerprints as well as oral evidence from people who know the child.

For further reference on age assessment, refer to R (on the application of A) v London Borough of Croydon (2009); R (M) v London Borough of Lambeth (2009). In this case, the Supreme Court held that the local authority must make a decision as to the child's age in the first instance, and that if there is a dispute thereafter, it is for the court to decide whether the young person is a child.

The Scottish Government is supportive of a consistent and fair approach to age assessment for unaccompanied asylum seeking and/or trafficked children across Scotland and supports the achievement of best practice in this area. Local authorities do have the discretion to presume age and would require to exercise that discretion reasonably in determining whether they have obligations towards that person, as a child, under the Children (Scotland) Act 1995 Act or otherwise. We have been closely involved in the development of the age assessment tool by the Scottish Refugee Council together with COSLA, UKBA and other delivery partners and we have provided funding for training events on the tool.

The Wales Strategic Migration Partnership and the All Wales Child Protection Procedures Review Group published the All Wales Practice Guidance on Safeguarding and Promoting the Welfare of Unaccompanied Asylum Seeking Children and Young People. It makes clear that 'it must be remembered that, despite doubts over a person's age, they should be treated as a child until proven otherwise'.

56. *Paragraph 264*

The Salvation Army is contracted to provide adult victims of human trafficking with a range of support services according to their individual needs for a minimum of 45 days. This period can be extended, if there is evidence of ongoing acute support needs related to their trafficking experience. During the 45 day reflection period, the needs of the victims are under continuous review. If there is evidence that victims need further support after the 45 days, and this is consistent with their entitlements under ECAT, they are not moved on until appropriate accommodation and ongoing support can be arranged. Victims are not abandoned. They are always informed of the options available to them and are supported, as far as practicable, in the choices they make.

57. *Paragraph 278 (proposal 26), first bullet*

The UK Government agree with this proposal. Common working practices and service expectations are discussed and agreed at quarterly contractor meetings with the sub-contracted service providers. Adherence is monitored through periodic contract review meetings. Qualitative outcomes are being developed and, subject to approval, will be monitored and measured whilst the victim is in the service and also at some point after exit for those who consent to this. The Salvation Army is also currently working with the Human Trafficking Foundation to develop core minimum standards across the sector; the aim is to incorporate these within a quality management system.

Support to victims is a prominent element also in the Scottish Government's approach. They already fund two agencies to support potential and confirmed victims of trafficking. The arrangements for supporting adult victims have grown over time and are still evolving and research to help inform consideration of future care standards has been commissioned. They will also review their approach to commissioning adult support services.

In Wales, intelligence is now beginning to be shared across agencies to ensure a more informed and joined up approach is being taken to prevention, intervention and victim support. Websites and reports have been researched to establish existing good practice. All UK investigative agencies and public sector providers were consulted and a route map prepared for agencies to respond to victims and perpetrators where human trafficking is apparent. The compilation of the map identified a number of existing gaps in process and procedure that have been highlighted and flagged up to the relevant agency.

58. *Paragraph 278, second bullet*

Local authorities in England have a statutory duty to ensure that they safeguard and promote the welfare of all children under Section 11 of the Children Act 2004, regardless of their immigration status or nationality. Those that become looked after are assessed and will have access to education and accommodation as well as support for psychological and other health needs.

Access to education for children is an entitlement under the European Convention.

Child victims of trafficking have the same entitlement to education as all other children of compulsory school age. This duty applies irrespective of a child's immigration status or rights of residence. The relevant provision is section 7 of the Education Act 1996.

Local authorities have a general duty under the Children (Scotland) Act 1995 (the CSA Act) to safeguard and promote the welfare of children and young people in need in their area. Under section 22 of the CSA Act, local authorities have a duty to safeguard and promote the welfare of children in their area who are in need, regardless of their immigration status.

Existing operational approaches also reinforce the terms of this section. The 'National Guidance for Child Protection and the Safeguarding Children in Scotland who may have been Trafficked' promotes a child-centred approach and highlights the roles and functions of relevant agencies; and the procedures to follow to ensure the safety of children suspected of being trafficked.

59. *Paragraph 278, third bullet*

A victim's support plan is tailored to their specific needs. If these include access to the labour market etc, the victim will be supported to engage with Jobcentre Plus. This will enable the victim to access all services available to job seekers, including the tracing or allocation of a National Insurance Number, access to training, job search facilities and other welfare to work initiatives. Support providers can provide access to English for Speakers of Other Languages (ESOL) classes, assistance with preparation of CVs and completion of any application forms and processes involved in obtaining ID documents. Victims are also made aware of any suitable training courses being provided within the sector that may be of interest to them.

60. *Paragraph 278, fourth bullet*

This is an entitlement under the European Convention and provision is made via telephone or face to face. Costs are met under the contract with The Salvation Army.

61. *Paragraph 278, fifth bullet*

This is an entitlement under the European Convention and all contractors have been consulted and supported to ensure victims have access to qualified legal advice locally and in a language they understand. In addition to arrangements made by individual contractors, the Salvation Army has secured the services of an international law firm (London office) who offer pro bono advice to victims where needed. The firm will also assist victims who wish to claim compensation.

Contractors have been provided with an overview of the Criminal Injuries Compensation Scheme and how to make an application. They have also received training on how the immigration and asylum processes operate. The aim of these sessions was to improve contractors' understanding of these areas and, consequently, the quality of support offered to victims.

Whilst contractors are obliged to ensure victims are made aware of their legal rights, the decision regarding eligibility rests with the Criminal Injuries Compensation Authority.

62. *Paragraph 283 (proposal 27)*

The UK Government is committed to ensuring the recovery and reflection period continues to be respected, but does not agree that enshrining it specifically in UK law is necessary. The UK has adopted the Convention and therefore the right therein to a recovery period of a minimum of 30 days is respected as if enshrined in English Law. Reduced regulation guidance discourages the duplication of such laws within UK legislation. Moreover the UK minimum of 45 days is set out in publicly available published guidance and there is no evidence that this is not being observed by the Competent Authorities to the detriment of victims.

The Scottish Government support the view that it is not necessary to enshrine in law the right to a period of recovery and reflection. This is evidenced by the current administrative practice.

63. *Paragraph 286*

The UK Government wishes to clarify that personal circumstances are carefully considered under the 1951 United Nations Convention relating to the Status of Refugees and the European Convention on Human Rights (ECHR) and an examination of the assessment for the country to which a person is to be returned undertaken. The types of personal circumstances that may be considered are provided in published guidance on discretionary leave on the UK Border Agency website www.ukba.homeoffice.gov.uk/policyandlaw/.

64. *Paragraph 289 (proposal 28)*

The UK Government notes this proposal. In Scotland the Police and Crown Office and Procurator Fiscal Service (COPFS) are aware of this possibility, as are First Responders and NGOs who are in direct contact with potential victims. COPFS will update its guidance to underline that this provision exists and outline the role of the prosecution service in the process.

65. *Paragraph 292*

Because compensation claims can be pursued in different courts and through different routes, it is not possible to have a single mechanism to record and aggregate all claims for compensation.

The 2 routes for claiming compensation where prosecutors are responsible for requesting a compensation order are under:

- Sections 130 -132 Powers of the Criminal Courts (Sentencing) Act 2000, which allow a sentencing court to order a defendant to pay compensation in respect of *personal injury, or pecuniary loss or damage to property caused as a direct result of the offence of which the defendant is convicted*. In considering whether to make such an order the court must have regard to the means of the defendant. A compensation order should not be made if its effect would be to subject the offender on his release to a financial burden which he would not be able to meet and might encourage him to commit further crime to meet the requirements of a compensation order. In cases of trafficking, only if the convicted trafficker was arrested with assets would the court be able to make such an order.
- Section 13(2) Proceeds of Crime Act 2002 (POCA), by virtue of which the court must determine any application for confiscation before considering a compensation order. However, the court has discretion to make both a compensation order and a confiscation order against the same person in the same proceedings if it believes that the defendant will have sufficient means to satisfy both orders in full. Alternatively, the court may order that all or part of the compensation order be paid out of the confiscation order. Whilst confiscation orders are often made for defendants under the Proceeds of Crime Act, there are difficulties in realising property from confiscation and it is not always possible to force the defendants to return assets which are often sent out of the jurisdiction.

66. *Paragraph 294 (request for information)*

On 2 July 2012 the Government published its response to the consultation 'Getting it right for Victims and Witnesses' which began on 30 January and ended on 22 April. The response set out the final set of proposals to the reform of the Criminal Injuries Compensation Scheme. As a result, Parliament is considering changes to the Criminal Injuries Compensation Scheme. Under the proposed new scheme, victims of human trafficking will continue to be eligible to submit an application for criminal injuries compensation. Dependent on Parliamentary approval, the revised Scheme will come into force on 30 September. Further detail on the new scheme can be found at: <https://consult.justice.gov.uk/digital-communications/victims-witnesses>.

67. *Paragraph 298 (proposal 29), first bullet*

All victims of trafficking are made aware of their rights for legal redress in a language that they can understand. Victims of trafficking have the right to seek legal advice and assistance. The provision of compensation at the conclusion of criminal proceedings is a matter for the presiding Sheriff or Judge. Prosecutors can, however, raise the matter of compensation within the court setting and invite the court to consider imposing an order for compensation. The Scottish Government's Victim and Witnesses Bill, which is planned for introduction during the current Parliament, will strengthen the role of the victim in the criminal justice system and will require judges to consider whether a compensation order is necessary. Victims can also seek damages through the civil courts.

68. *Paragraph 298, second and third bullet*

All contracted service providers have been consulted and supported to ensure victims have access to qualified legal advice locally, where relevant, their entitlement to legal aid and in a language they understand. Please also refer to our reply to paragraph 278, fifth bullet point, for more information.

69. *Paragraph 298, fourth bullet*

CPS guidance advises prosecutors to make applications for compensation in all cases of human trafficking. However, only if the convicted trafficker was arrested with assets would the court be able to make such an order. A compensation order should not be made if its effect would be to subject the offender on his release to a financial burden which he would not be able to meet and might encourage him to commit further crime to meet the requirements of a compensation order.

70. *Paragraph 298, fifth bullet*

Victims of trafficking, once they have left the UK and wish to do so, are already able to submit an application for an award under the Criminal Injuries Compensation Scheme and, in a number of cases, pursue a claim for damages in the civil courts. In the case of Criminal Injuries Compensation, the applicant must have been referred to a competent authority as a potential victim of trafficking at the date of their application, and as result of the referral they must be conclusively identified by a competent authority as a victim of trafficking.

71. *Paragraph 299 (proposal 30)*

The Government is considering this matter. In the meantime, The Salvation Army has liaised with a London law firm about setting up such a system for victims supported under the victim care contract. They will hold a central record so that victims can have a point of contact even after leaving the service.

72. *Paragraph 305*

The Government wishes to point out that Refugee Action have been supporting vulnerable migrants, including potential victims of trafficking, through their One Stop Shop advice service since 2000 and through their Choices pre-departure advice service for over 11 years.

Depending on where the victim wants to return to, Refugee Action will either liaise with their partner organisation in the country of return or look to secure the assistance of another organisation operating there.

73. *Paragraph 307*

The average length of time between application and departure is currently 7 weeks. The time taken to arrange a person's departure depends on their situation, risks on return, country of return and availability of travel documents. It is important that pre-departure processes are thorough to ensure that the return is safe and sustainable.

74. *Paragraph 308*

Refugee Action will carry out a risk assessment looking at a range of factors including family situation, whether children are involved, where the person will be living post-return, risk from traffickers, involvement of law enforcement, support options post-return and income generation options post-return. They then develop an action plan to ensure that these risks are reduced by working with the individual throughout their journey (for example this may involve booking an escort, carrying out detailed reintegration planning around business set up pre-return, police protection at airport and meet and greet services).

75. *Paragraph 310*

The UK Government wishes to point out that assessing risk on return is central to the asylum process. This is dealt with in general terms in the Considering the Asylum Claim and Assessing Credibility Asylum Instruction:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/consideringanddecidingtheclaim/guidance/considering-protection-.pdf?view=Binary>

Country specific guidance contains more detailed information, for example Operational Guidance Notes for Vietnam and Nigeria – both of which have specific sections on the issue of trafficking: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecificasylumpolicyops/nigeriaogn?view=Binary>

Any potential victim of trafficking who makes a claim for asylum/humanitarian protection will have their claim considered (including the assessment of risk on return) in accordance with this guidance.

76. *Paragraph 312 (proposal 31), first bullet*

As noted in our response to paragraph 308, Refugee Action already carry out risk assessments that look at a range of factors including family situation, whether children are involved, where the person will be living post-return, risk from traffickers, involvement of law enforcement, support options post-return and income generation options post-return. They then develop an action plan to try to ensure that these risks are reduced by working with the individual throughout their journey (for example this may involve booking an escort, carrying out detailed reintegration planning around business set up pre-return, police protection at airport and meet and greet services).

77. *Paragraph 312, second bullet*

The UK welcomes this recommendation and is considering ways of strengthening the link between providers of assisted voluntary returns and support for victims.

78. *Paragraph 312, third bullet*

As noted in our response to paragraph 305, Refugee Action have already established a number of important links with organisations in the country of return and we will be continuing to encourage them to develop links further.

79. *Paragraph 333*

In some instances victims of trafficking will only come to the attention of the authorities during their time in custody or serving sentences. Individuals can find it very hard to disclose their trafficking experiences, making their identification as victims very difficult, even with the level of training given to all front line law enforcement officers. In such cases the individual will often have pleaded guilty from the outset on their legal representative's advice and there was no information from any sources to suggest that they might have been trafficked. The Government will continue to look at ways to enhance its ability to identify victims early.

80. *Paragraph 334*

In the case of R v N and Le, the positive identification decision that the suspects were victims of trafficking was not challenged by the prosecutor. A reasonable grounds decision for the purposes of the Convention is through a civil process, and is carried out by designated Competent Authorities. The 'reasonable grounds' test has a low threshold and is lower than the threshold required for prima facie evidence (which is legally sufficient evidence, that if uncontested, would establish a fact or raise a presumption of a fact) required for criminal proceedings. The reasonable grounds decision on whether someone is a victim of trafficking is solely for the purpose of enabling them to access provisions under the Convention, to be granted a recovery and reflection period. It is not an authoritative decision on their status. The fact that someone is able to access that support does not override the decision to continue with a criminal prosecution.

In all cases where there is information that the suspect might be a trafficked victim, prosecutors must consider whether the public interest is best served in continuing the prosecution in respect of the offence. Where there is clear evidence that the suspect has a credible defence of duress, the case should be discontinued on evidential grounds. However, if a victim was involved in unlawful activity but not compelled to do so by circumstances related to their trafficking, then Article 26 does not afford them protection from the imposition of penalties. In the case of R v N and Le, prosecutors carried out the relevant reviews in accordance with CPS policy; they did not challenge the competent authority decision but considered that the offending was not as a direct consequence of their trafficking situation.

81. *Paragraph 336 (proposal 32)*

Guidance to prosecutors advises taking a human rights approach in these cases. However, where there is no information or disclosure from the suspect that they are trafficked, and they plead guilty from the outset on legal advice, then prosecutors can only take a public interest decision on whether to continue with a prosecution on the evidence that is available to them.

In Scotland, COPFS has specific policy guidance relating to credible victims of human trafficking who commit offences as a direct result of their trafficked situation which reflects the serious nature of the trafficking of human beings. All reports of human trafficking offending are routed through a dedicated member of Crown Counsel, within the National Sexual Crimes Unit (NSCU). This assists in applying a consistent approach to such offences and in particular to identifying credible victims of human trafficking offences. ACPO(S) continues to promote early consultation with the Procurator Fiscal Service on discovery of potential victims of trafficking committing crime.

82. *Paragraph 353*

The Public Prosecution Service (PPS) draft policy on prosecuting cases of human trafficking is out for consultation. This closes on 3 September 2012. The PPS hopes to issue the guidance this year.

83. *Paragraph 357 (proposal 34), first bullet*

As awareness increases through work currently ongoing within Local Education Authorities for frontline staff, proactive investigations will naturally increase as the intelligence flow increases. The skills required are already in place in the normal setup of police forces to detect and investigate such crimes and the aim should be for all investigators to identify and deal with an incident of trafficking in human beings as a matter of everyday business. This means knowledge will not be specialised and limited to a few people. The aim is for skills to be force-wide using already established multi-agency links. Please also see comments above on paragraph 126 (proposal 9).

ACPO(S) continues to progress the training of front line officers in recognising the indicators of human trafficking. At the Scottish Intelligence Coordination Unit police officers work along partners such as the UKBA, SOCA, HMRC and Scottish Prison Service and through a coordinated approach actively target identified serious and organised crime.

84. *Paragraph 357 (proposal 34), second bullet*

Please refer to our response to paragraph 233, sixth bullet point above. The Scottish Government notes the proposal made by GRETA.

85. *Paragraph 357 (proposal 34), third bullet*

This is dependant on more successful investigations by law enforcement agencies.

In Scotland a member of Crown Counsel, within the National Sexual Crimes Unit (NSCU) has been appointed as the national lead for the prosecution of all human trafficking offences. COPFS Serious and Organised Crime Division, National High Court Unit and area specialist teams provide specialist advice and operational expertise relating to serious organised crime.

86. *Paragraph 367 (proposal 35)*

Employment Tribunals are not subject to the same court orders as criminal courts; they are independent judicial bodies who determine disputes between employers and employees over employment rights and would not be covered by the Youth Justice and Criminal Evidence Act. This only applies to adult witnesses in criminal proceedings, the quality of whose evidence or whose co-operation, is likely to be diminished if their identity is made public.

In Scotland, all victims of human trafficking will be referred to the Victims Information and Advice service which is part of COPFS. They will:-

- provide information about how the criminal justice system works
- keep victims up-to-date on progress and key developments in their case
- direct victims to organisations that can offer practical and emotional support.
- discuss what support may be available to help victims to give evidence or attend court if the case goes to trial.

ACPO(S) guidelines exist regarding the protection of vulnerable witnesses and the risk assessment process involved. The SCDEA operate the Scottish Witness Liaison Unit on behalf of all Scottish Police Forces and can be involved where a serious threat exists.

The Scottish Government's Victim and Witnesses Bill, which is planned for introduction during the current Parliament, will strengthen the role of the victim in the criminal justice system and will provide additional support measures for those who need it – particularly vulnerable victims and witnesses.

87. *Paragraph 371*

The UK Government confirms that UK Border Agency deals with representations that are submitted after removal directions are set. By their nature they are last minute and after a migrant has had previous opportunities to raise human trafficking whilst in the UK, but in any event an individual will have at least 72 hours notice prior to their removal and any claims will still be considered by a trained Competent Authority decision maker. If there are reasonable grounds to believe the claim is true, removal will be postponed and the person given a minimum 45 days for recovery and reflection.

If a competent authority does not find reasonable grounds to believe the person is a victim of trafficking the removal will proceed. To defer every imminent removal where a negative identification decision is made would potentially serve to encourage individuals to make unmeritorious claims solely to frustrate their legitimate removal whilst having regard to the UK's international obligations.