

# TRAFFICKING IN CHILDREN



**G R E T A**  
Group of Experts  
on Action against  
Trafficking  
in Human Beings

Thematic Chapter of the 6th General Report  
on GRETA's Activities



COUNCIL OF EUROPE



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sur les activités du GRETA*

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# Trafficking in children

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## Executive summary

The Council of Europe Convention on Action against Trafficking in Human Beings adopts a child-sensitive approach, requiring State Parties to take specific measures to reduce children's vulnerability to human trafficking, notably by creating a protective environment for them. The stock-taking of the first evaluation round of the Council of Europe Convention on Action against Trafficking in Human Beings revealed important gaps in the identification of, and assistance to, child victims of trafficking. For the second evaluation round of the Convention, GRETA decided to pay particular attention to measures taken by State Parties to address the vulnerability of children to trafficking. Based on the findings from its second round country evaluation reports published by the end of 2016, GRETA dedicated a thematic section in its 6th General Report to the issue of trafficking in children<sup>1</sup>.

According to national statistical data reported to GRETA, 4361 children were identified as victims of human trafficking in 12 States Parties to the Convention between 2012 and 2015. On average, children represented a quarter of the identified victims of human trafficking, but there were important variations between countries. Data and research show that children are being trafficked transnationally, as well as internally, for different forms of exploitation (sexual exploitation, forced labour, domestic servitude, forced begging, forced criminal activities, forced marriage).

GRETA's monitoring of the implementation of the Convention has highlighted examples of awareness-raising activities targeting children and young people, organised by State Parties in partnership with civil society and international organisations. Training and guidance have been provided to a variety of professionals to alert them to the signs of trafficking and to enable them to detect children who are at risk of falling victim or are already in the process of being trafficked. However, not all relevant professional groups have been covered and GRETA has stressed the need to mainstream awareness of child trafficking and exploitation in schools, teacher training, and parental education, as well as social and child protection services.

GRETA has paid particular attention to the development of prevention measures targeting children in the most vulnerable situations, such as children whose births

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1. Sixth General Report on GRETA's Activities.

have not been not registered, children in street situations, children placed in institutions, children from disadvantaged communities, and unaccompanied or separated children.

The number of unaccompanied or separated children arriving in States Parties to the Convention has grown considerably in recent years. The lack of co-ordination between different national authorities, such as border officials, immigration officers, social services, law enforcement, and child protection services, as well as between the agencies of different countries, increases the risk of migrant and asylum-seeking children, particularly those who are unaccompanied, falling victim to trafficking. The identification of victims of trafficking among these children is challenging and the statistics available on identified victims do not reflect the actual scale of the phenomenon.

GRETA has stressed that the identification of child victims of trafficking requires setting up procedures which take into account the special circumstances and needs of child victims, involves child specialists, child protection services, specialised police, and prosecutors, and ensures that the best interests of the child are the primary consideration. In some States Parties, GRETA has noted improvements made since the first evaluation round, as regards the procedures for the identification of child victims of trafficking. Nevertheless, there continue to be important gaps, and GRETA has urged the national authorities of most States Parties to take additional action to adopt a proactive approach to the identification of child victims of trafficking, including by providing training and tools to relevant staff.

The timely appointment of a legal guardian, who can act independently with authority and uphold the child's best interests, is essential to ensure the protection and rehabilitation of unaccompanied children who are identified as victims of trafficking, to break the links with traffickers and to minimise the risk of children going missing. GRETA has noted that most countries' legislation provides for the appointment of legal guardians to child victims of trafficking, but the procedure is cumbersome, there are delays in the guardians' appointment, and the guardians often cannot be seen as being independent and acting in the best interest of the child.

In most countries, age-assessment procedures are based on medical examinations aiming solely at determining the person's biological age, without taking into account psychological, cognitive or behavioural factors. GRETA has recommended to the authorities of several States Parties to review the age-assessment procedures, taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child<sup>2</sup>.

GRETA has stressed that assistance to child victims of trafficking should be provided within the framework of a National Referral Mechanism (NRM) for trafficked children, which itself should be integrated into the general child protection system, bringing together social, health, and education services, in line with Council of Europe and other international standards and policies. To care for child victims, shelters specialised in receiving and assisting such victims should be set up, with a view to

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2. General Comment No. 6 Treatment of unaccompanied and separated children outside their country of origin, Committee on the Rights of the Child, Thirty-ninth session, 17 May - 3 June 2005.

addressing their needs and offering a protected environment. The absence of specialised shelters for child victims of trafficking is a common problem in most Parties to the Convention and GRETA has urged the authorities to provide appropriate accommodation for child victims.

Further, GRETA has expressed serious concerns about the problem of disappearances of unaccompanied children from reception facilities. While urging States Parties to minimise the number of children who disappear, by providing suitable safe accommodation and adequately trained supervisors or foster parents, GRETA has stressed the importance of ensuring compliance with international standards on the rights of the child, in particular as regards the deprivation of children's liberty, as a measure of last resort and for the shortest appropriate period of time.

In order to avoid the re-victimisation or re-trafficking of child victims of trafficking, proper risk assessment needs to be conducted before implementing any repatriation measures. GRETA's monitoring has brought to light a number of lacunae in this respect, both when it comes to procedures prior to repatriation and the follow-up given to the return of children to their countries of origin. Further, GRETA has noted that, despite the conclusion of bilateral agreements, the repatriation of child victims of trafficking does not always take into account the best interests of the child.

The protection of children before, during and after judicial proceedings requires legislative and practical measures for the protection of child witnesses and victims from potential retaliation and intimidation, and the conduct of interviews in an environment and manner sensitive to the special needs of children. In several countries, the legal provisions or regulations related to the protection of child victims and witnesses have been amended or further developed since the first evaluation round. GRETA has asked the national authorities of States Parties to ensure that full use is made of the existing measures to protect child victims of human trafficking.

Most countries evaluated by GRETA in the course of the second evaluation round have adopted specific legal measures reflecting Article 26 of the Convention,<sup>3</sup> which provides for the non-punishment of victims of trafficking who have been compelled to be involved in unlawful activities due to their trafficking situation. However, GRETA's country evaluation reports have referred to cases where the non-punishment provision was not applied to child victims of trafficking. GRETA has urged the authorities of the countries concerned to take additional measures to ensure compliance with Article 26 of the Convention, such as reviewing the legislation and/or developing guidance on the scope of the non-punishment provision.

Finally, GRETA has stressed that in addition to addressing child trafficking through specific anti-trafficking policies, the issues raised in its 6th General Report should be integrated in national strategies and action plans for combating violence against children, in line with the priorities of the Council of Europe Strategy for the Rights of the Child.<sup>4</sup>

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3. Council of Europe Convention on Action against Trafficking in Human Beings.

4. Council of Europe Strategy for the Rights of the Child (2016-2021).



## Introduction

GRETA's monitoring of States Parties to the Convention in the context of the first evaluation round revealed important gaps in the identification of, and assistance to, child victims of trafficking. In its 4th General Report, GRETA provided an overview of the implementation of the Convention along a list of 29 main issues ("indicators") reflecting obligations under the Convention. Child victim identification and assistance came up as the area where GRETA had urged most States Parties to take corrective action.<sup>5</sup> For the second evaluation round of the Convention launched on 15 May 2014, GRETA decided to pay particular attention to measures taken by States Parties to address the vulnerability of children to trafficking. The questionnaire for the second evaluation round<sup>6</sup> contains a number of questions related to the prevention of child trafficking and the protection of the rights of child victims of trafficking, linked to provisions of the Convention containing specific measures concerning children (Articles 5, 10, 11, 12, 14, 16, 28 and 30 of the Convention). By the end of 2016, GRETA has published 12 country reports under the second evaluation round of the Convention<sup>7</sup> and adopted five more final reports which will be published in early 2017.<sup>8</sup>

The new Council of Europe Strategy for the Rights of the Child (2016-2021), which was adopted in April 2016, identifies five priorities for the Council of Europe's member states to guarantee the rights of the child, all of which are of relevance to GRETA's mandate.<sup>9</sup> One of these priorities, in particular, concerning the protection of children from violence, is directly related to fulfilling obligations under the Convention on Action against Trafficking in Human Beings, which are monitored by GRETA.

On 2 March 2016, Council of Europe Secretary General Jagland sent a letter<sup>10</sup> to the Heads of Government of the 47 Council of Europe member States aimed at ensuring the safety and proper treatment of asylum-seeking and refugee children, together with a document proposing a set of priority measures entitled "Protecting children affected by the refugee crisis: A shared responsibility".<sup>11</sup> The first of the priority actions contained in this document is to prevent migrant and asylum-seeking children from falling victim to violence, abuse, exploitation and trafficking, including through ensuring the timely identification of victims of trafficking among such children, putting in place a procedure for rapidly appointing legal guardians for unaccompanied children, and providing suitable safe accommodation and adequately trained supervisors or foster parents. GRETA's 5th General Report, which was published on 16 March 2016, examined the challenges to the identification of victims of trafficking in human beings among migrants, asylum seekers and refugees, with a special focus on the risks of trafficking of unaccompanied and separated children.

5. See 4th General Report on GRETA's activities (April 2015), available at: <http://rm.coe.int/16805aa45f>

6. <http://rm.coe.int/16805ab825>

7. Concerning Albania, Austria, Bulgaria, Croatia, Cyprus, Denmark, Georgia, the Republic of Moldova, Montenegro, Romania, the Slovak Republic and the United Kingdom, available at: <http://www.coe.int/en/web/anti-human-trafficking/country-monitoring-work>.

8. Concerning Armenia, Latvia, Malta and Portugal, as well as an urgent procedure report on Italy.

9. <http://rm.coe.int/168066cff8>

10. <http://rm.coe.int/16805a5bf8>

11. <http://rm.coe.int/16805c5ee7>

In the light of the above, GRETA has decided to dedicate a thematic section in its 6th General report to the issue of child trafficking, based on the findings from its second round country evaluation reports published so far. In addition to analysing gaps in the implementation of the Convention, examples of promising practices referred to in these reports are highlighted in boxes throughout the section.

## Trends regarding child trafficking

The statistics of child victims of trafficking in GRETA’s country reports are based on data provided by the national authorities which, as noted in GRETA’s 4th General Report, presents a number of limitations (including lack of disaggregation by sex and/or type of exploitation, with rare exceptions).<sup>12</sup> There are considerable variations in the number and proportion of child victims of trafficking identified in different Parties to the Convention. According to national data reflected in the table below, in the period 2012 and 2015, children represented around half of the identified victims of human trafficking in Montenegro and Croatia, 43% in Albania, 36% in Romania, 29% in the United Kingdom, 13% in the Republic of Moldova, 10% in Bulgaria, 8% in the Slovak Republic, and between 5% and 3% in Denmark, Georgia, Austria and Cyprus. In absolute terms, the total number of child victims of trafficking identified in these 12 countries over the three-year period was 4361. The largest number of child victims of trafficking was identified in the United Kingdom (2476), followed by Romania (1276) and Bulgaria (196).

Country	Child victims of trafficking identified in 2012-2015	Proportion of child victims of trafficking (identified adult/child victims)		Notes
Albania	179	43%	(421/179)	
Austria	11	4%	(255/11)	2012-2014
Bulgaria	196 (153 girls and 43 boys)	10%	(1917/196)	2012-1 <sup>st</sup> half 2015
Croatia	38	51%	(74/38)	
Cyprus	5	3%	(151/5)	
Denmark	15	5%	(306/15)	
Georgia	4	5%	(79/4)	
Montenegro	8	53%	(15/8)	
Republic of Moldova	147	13%	(1126/147)	
Romania	1276	36%	(3574/1276)	
Slovak Republic	6	8%	(71/6)	
United Kingdom	2476	29%	(8538/2476)	Presumed victims
<b>TOTAL</b>	<b>4361</b>	26%	(16527/4361)	

12. GRETA’s 4th General Report, p.34.

Child trafficking takes different forms. According to national data referred to in GRETA reports, the majority of girls fall victim to trafficking for the purpose of sexual exploitation, including the production of child abuse material, but this form of trafficking affects boys as well. Children are also subjected to trafficking for the purposes of forced labour, forced begging, forced criminal activities and domestic servitude. Further, some countries report cases of trafficking of girls for the purpose of forced marriage (see paragraph 105).

Children are trafficked transnationally as well as internally; for example, in Romania the share of internal trafficking amongst children identified as victims amounted to 78%.<sup>13</sup> In Bulgaria, the share of internal trafficking is also considerable (around 45%).<sup>14</sup> The number of UK children trafficked internally for the purpose of sexual exploitation has been on the increase.<sup>15</sup> In Albania there is a surge in the number of child victims trafficked within the country for the purpose of sexual exploitation and/or begging during the tourist season.<sup>16</sup>

There has been an important increase in the number of unaccompanied and separated children arriving in Europe. As already noted in GRETA's 5th General Report,<sup>17</sup> the identification of victims of trafficking among these children is challenging and the statistics available on identified victims do not reflect the actual scale of the phenomenon. The fact that victims of trafficking arriving in Europe are increasingly young is particularly worrying and calls for urgent action at domestic and European level to ensure effective protection of the rights of migrant and asylum-seeking children and young people.

In recent years, there has been considerable research in the area of child trafficking, which sheds light on some of the problems and provides evidence for planning future measures. By way of example, GRETA's reports refer to research carried out by the Centre for the Study of Democracy in Bulgaria and the Ludwig Boltzmann Institute of Human Rights in Austria, together with research teams in several other countries, as part of EU-funded projects on assistance to trafficked children and child trafficking in Roma communities.<sup>18</sup> Further, the NGO Terre des Hommes carried out research on how child victims of trafficking are recruited in the Romanian cities of Brăila and Constanța.<sup>19</sup> Reports have been published on children living and working in the

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13. GRETA report on Romania, paragraph 13.

14. GRETA report on Bulgaria, paragraph 15.

15. GRETA report on the United Kingdom, paragraphs 17-18.

16. GRETA report on Albania, paragraph 14.

17. GRETA's 5th General Report, paragraphs 101-112.

18. Centre for the Study of Democracy, *Assisting and reintegrating child victims of trafficking: improving policy in practice in the EU member States*, Sofia, 2013; Kamelia Dimitrova, Yva Alexandrova, *Countering new forms of Roma child trafficking (CONFRONT)*, Centre for the Study of Democracy, Sofia, March 2015.

19. Olivier Peyroux and Raluca Icleanu, *Diagnosis of the minors originating from Brăila and Constanța who are victims of human trafficking*, February 2015. Available at [http://childhub.org//child-protection-online-library/diagnosis-minors-originating-braila-and-constanta-who-are-victims?listlang\[\]=\\*\\*\\*CURRENT\\_LANGUAGE\\*\\*\\*&language=](http://childhub.org//child-protection-online-library/diagnosis-minors-originating-braila-and-constanta-who-are-victims?listlang[]=***CURRENT_LANGUAGE***&language=)

street in Albania<sup>20</sup> and Georgia.<sup>21</sup> The Office of the Ombudsman of Montenegro has conducted three studies on the exploitation of children in Montenegro, addressing the issues of child begging, protection of children from sexual exploitation, and child abuse via the Internet.<sup>22</sup> Child begging was also analysed in a research project commissioned by the European Commission and carried out by the International Centre for Migration Policy Development (ICMPD) together with partners in different countries.<sup>23</sup> In the United Kingdom, there have been numerous research studies, such as by King's College London, on characteristics of trafficked adults and children with severe mental illness.<sup>24</sup> In Georgia and the Republic of Moldova, GRETA asked the authorities to carry out research, in order to shed more light on the extent of child trafficking.

## Prevention of child trafficking

“Each Party shall take specific measures to reduce children’s vulnerability to trafficking, notably by creating a protective environment for them” (Article 5, paragraph 5, of the Convention).

“To discourage demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking, each Party shall adopt [...] preventive measures, including educational programmes for boys and girls during their schooling, which stress the unacceptable nature of discrimination based on sex, and its disastrous consequences, the importance of gender equality and the dignity and integrity of every human being” (Article 6 of the Convention).

## Awareness raising, education and training

GRETA’s second round evaluation reports provide many examples of awareness-raising activities organised by States Parties, in partnership with civil society and international organisations, targeting children and young people. These activities have included national or local campaigns and events focusing on child trafficking (Croatia, Romania, UK), thematic meetings with pupils and their parents (Albania, Bulgaria, Republic of Moldova), discussion groups at schools and community centres (Albania), roving exhibitions visiting schools (Albania, Austria), film screenings (Bulgaria, Croatia, Montenegro), events promoting telephone helplines for children (Albania, Bulgaria, Republic of Moldova, Romania), competitions for pupils’ drawings (Albania), lectures and workshops (Slovak Republic), dedicated websites (Denmark, UK), and the distribution of various information materials.

20. National Study on Children in Street Situation, June 2014. Available at: [www.unicef.org/albania/NationalStudychildren\\_in\\_street\\_situation-June2014.pdf](http://www.unicef.org/albania/NationalStudychildren_in_street_situation-June2014.pdf)

21. World Vision Georgia, Assessment of child welfare reform and child care system, July 2014, available at: [http://www.wvi.org/sites/default/files/Annex%204\\_Report\\_Child\\_Welfare\\_Reform.pdf](http://www.wvi.org/sites/default/files/Annex%204_Report_Child_Welfare_Reform.pdf)

22. Available (in Montenegrin) at: <http://ombudsman.co.me/djeca/index.php>

23. European Commission, Report for the study on typology and policy responses to Child Begging in the EU, available at [https://ec.europa.eu/anti-trafficking/publications/report-study-typology-and-policy-responses-child-begging-eu-0\\_en](https://ec.europa.eu/anti-trafficking/publications/report-study-typology-and-policy-responses-child-begging-eu-0_en)

24. GRETA report on the United Kingdom, paragraph 76.

In 2013, the international campaign “Two Little Girls” was launched in **Croatia** by the Centre for Education, Counselling and Research, together with the Police Directorate, the UK Embassy, the Ombudsman for Gender Equality and the Government Office for Human Rights and Rights of National Minorities. This campaign is focused on raising awareness about the risks of trafficking, and on educating girls on how to recognise potentially dangerous situations.

In **Romania**, the campaign “Trafficking explained to children” was conducted by the National Agency against Trafficking in Persons (ANITP) in partnership with the Child Helpline Association from April to June 2012. It was aimed at children, parents and teachers in rural areas who were informed about the risks of trafficking and the possibility of requesting help through the national helpline for children.

GRETA stresses the importance of ensuring that awareness-raising does not focus only on certain forms of human trafficking, such as the grooming of girls for sexual exploitation, but also addresses the problem of child trafficking for the purposes of forced labour, slavery and domestic servitude, forced criminality (e.g. pickpocketing, theft, cannabis cultivation) and forced begging.

The general education system can play a major role in raising awareness of human trafficking and discouraging future demand. In some countries, the subject of human trafficking is part of school curricula (in primary and/or secondary schools, within civic education, human rights, philosophy or history lessons).<sup>25</sup> Tools for teachers have been developed to help them introduce the topic of human trafficking/modern slavery to pupils.

In **Bulgaria**, the National Commission for Combating Trafficking in Human Beings has issued a manual on preventing trafficking intended for pedagogical counsellors, teachers, social workers and other professionals working with children. The Ministry of Education and Science has conducted, jointly with the National Commission, training of pedagogical counsellors and philosophy teachers on the issue of trafficking (which is discussed as part of philosophy lessons in secondary schools).

In **Cyprus**, some 800 teachers have been trained to use the comic strip “Not for Sale” developed by the Council of Europe for children.

In **Northern Ireland**, an educational pack (“Visi’s World”) was developed by the NGO Invisible Trafficking to raise awareness of human trafficking amongst primary school children. Further, the authorities have launched an education resource on human trafficking for teachers of pupils aged 13 to 16 which has been made available to all post-primary schools in Northern Ireland.

Training and guidance have been provided to a variety of professionals to alert them to the signs of trafficking and enable them to detect children who are at risk of falling victim or are already in the process of being trafficked. The professional groups concerned include teachers and other education staff, social workers, health-care

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25. GRETA reports on Albania, paragraph 67; Bulgaria, paragraph 86; Croatia, paragraph 58; Cyprus, paragraph 53; Georgia, paragraph 60; the Republic of Moldova, paragraph 66; Montenegro, paragraph 58.

staff, law enforcement officers, municipal authorities, and asylum officials. However, GRETA's reports note with concern that in some countries, not all relevant professional groups are covered or the training provided is sporadic. The efforts to provide systematic training to a wide range of relevant professionals therefore need to continue. In countries of origin in particular, there is a need to mainstream awareness of child exploitation and trafficking in schools, teacher training, parental education, social and child protection services.

For the purpose of raising awareness of child trafficking and achieving better identification of child victims, the **Austrian** Task Force's working group on child trafficking, which is led by the Federal Ministry for Family and Youth, created an information brochure entitled "Child trafficking in Austria: background information and checklist to assist youth welfare authorities, police forces, aliens' authorities and embassies/consular offices in identifying victims of child trafficking".

In the United Kingdom, a joint Home Office/Department for Education practice guidance on "Safeguarding children who may have been trafficked" has been issued to help agencies safeguard and promote the welfare of children who may have been trafficked. In Scotland, guidance and tools on safeguarding children have been issued to agencies working with children and young people to enable staff to prevent trafficking and identify trafficked children.

The prevention of human trafficking is closely linked to the on-line security of children. Recruiting victims through the Internet, via websites advertising jobs, dating sites or social media is a growing trend. Several of GRETA's reports (on the Republic of Moldova, Montenegro, Romania and the United Kingdom) provide examples of preventive measures focused on the use of Internet. GRETA has stressed the need for all countries to take further steps to prevent online recruitment of children, including by co-operating with Internet service providers and raising the awareness of children, parents and education professionals of the risk of recruitment of children through the Internet.<sup>26</sup> Most countries have strategies or action plans for safeguarding children from abuse through the Internet and GRETA's recommendations should be integrated into these general documents.

From June to December 2013, the **Moldovan** authorities in partnership with UNODC and the NGO La Strada Moldova carried out a campaign on promoting safer Internet for children. In the framework of the campaign, La Strada Moldova launched an interactive portal which contains practical advice for children, parents and teachers and held numerous seminars on prevention of trafficking via the Internet at secondary education institutions and summer camps.

In the **UK**, the Child Exploitation and Online Protection Command (CEOP) of the National Crime Agency has developed a programme, "ThinkUknow", providing resources, training and support for professionals who work directly with children

26. See in this context the comparative study commissioned by the Council of Europe to the Swiss Institute of Comparative Law in respect of filtering, blocking and take-down of illegal content on the Internet in the 47 Council of Europe member States. Available at: <http://www.coe.int/en/web/freedom-expression/study-filtering-blocking-and-take-down-of-illegal-content-on-the-internet>

and young people. The materials are designed to help children keep themselves safe from sexual abuse and exploitation both online and offline by developing skills in identifying and avoiding risk, learning how best to protect themselves, and knowing how to get support and report abuse if they encounter difficulties. The CEOP's website proposes online training for different age groups.

## **Targeted prevention for children at risk through social, economic and other measures**

The Convention requires Parties to take specific preventive measures with regard to children, by creating a protective environment so as to make them less vulnerable to trafficking and enable them to grow up without harm and to lead decent lives. The Explanatory Report to the Convention refers to the eight components of a protective environment promoted by UNICEF, which include protecting children from adverse attitudes, traditions, customs, behaviours and practices, drawing up and enforcing protective legislation, and developing children's life skills, knowledge and participation.<sup>27</sup>

GRETA's monitoring of the Convention has paid particular attention to the development of prevention measures targeting children in the most vulnerable situations, such as children whose births have not been registered, children in street situations, children placed in institutions, children from disadvantaged communities, unaccompanied or separated children and irregular migrant children. The vulnerability of such children to trafficking highlights the close relationship between the problems of trafficking (prevention, identification and support) and social protection policies.

### ***Children not registered at birth***

Unregistered children are at higher risk of being trafficked. The questionnaire for the second evaluation round asks Parties to provide information on practical measures taken to ensure the registration of all children at birth, in particular from socially vulnerable groups. GRETA's reports note that the absence of registration at birth affects mainly children from the Roma communities in Bulgaria, Montenegro and Romania, children from disadvantaged social groups or ethnic minorities in Georgia, children born outside of a health facility in Albania, and occasionally Albanian and Bulgarian children born abroad. The problem of non-registration of Roma children at birth, rendering such children vulnerable to trafficking, is also highlighted in the report by the NGO Terre des Hommes regarding child victims of trafficking originating in the Romanian cities of Brăila and Constanța.<sup>28</sup>

To reduce the number of children not registered at birth, GRETA's reports provide examples of measures taken by different countries to facilitate the registration process.

27. Explanatory report on the Convention, paragraph 106.

28. Olivier Peyroux and Raluca Icleanu, Diagnosis of the minors originating from Brăila and Constanța who are victims of human trafficking, February 2015. Available at [http://childhub.org//child-protection-online-library/diagnosis-minors-originating-braila-and-constanta-who-are-victims?listlang\[\]=\\*\\*\\*CURRENT\\_LANGUAGE\\*\\*\\*&language=](http://childhub.org//child-protection-online-library/diagnosis-minors-originating-braila-and-constanta-who-are-victims?listlang[]=***CURRENT_LANGUAGE***&language=)

GRETA notes that measures to resolve problems of birth registration must be part and parcel of national social and health policies. For example, if there is no social service to support Roma parents to obtain personal identity documents, they cannot register with a general practitioner (GP) and subsequently the GP cannot assist them to register their newly-born baby. The implementation of projects aimed at the creation of innovative social services provides opportunities for the application in practice of legal measures aimed at improving birth registration and for bridging the gap between the spheres of public health and social work.

### ***Children in street situations***

Children living and working in the streets are particularly vulnerable to human trafficking. Several of GRETA's reports published in 2016 shed light on the scale of this problem and the steps taken by different countries to protect such children from falling victim to trafficking.

The **Albanian** Ministry of the Interior and the Ministry of Social Affairs and Youth signed an agreement in 2014 with a view to identifying and protecting children in street situations. A Task Force has been set up for this purpose in Tirana, combining the forces of these two ministries and other institutions such as Office of the National Anti-Trafficking Co-ordinator, the National Agency for the Protection of Children's Rights, the Tirana regional police directorate and the social services. Further, the mobile team run by the NGO Another Vision in Elbasan carries out outreach work among children in street situations in order to detect potential victims and liaises with the municipal child protection units and the police. In two years of operation, the mobile team has identified 33 potential child victims of trafficking aged between 3 and 17 years.

In **Georgia**, four multi-disciplinary mobile street teams have been set up to make contact with children living and working in streets, and there are three day-care centres, two 24-hour crisis intervention centres and two transitional centres to prepare children for long-term care. Since 2014, mobile teams have been in touch with 643 children living and working in the street. In 2016 legislative amendments were put forward to create a framework for providing children living and/or working in the streets with identification documents, improving their referral to assistance and strengthening the role of social workers.

In **Romania**, the need to address the vulnerable situation of children in street situations is reflected in the National Strategy for the Protection and Promotion of Child Rights 2014-2020. The Strategy aims at establishing the scale of this phenomenon and reducing it through strengthening social street services by mobile teams of the General Department of Social Assistance and Child Protection and developing shelters and urgent reception centres for children in street situations. The project entitled "Where begging starts, childhood ends" was implemented. In 2013, with funding from the Embassy of France, the project, in rural communities in five regions, covering 500 children (aged 8-14 years) and 120 police officers, mayors, counsellors, school inspectors and social workers.



In the reports on Albania, Georgia and Montenegro, GRETA urged the authorities to improve the identification of victims of trafficking among children in street situations. In the report on Georgia, in particular, GRETA considered that the efforts to issue documents to children in street situations should be enhanced so that they can access assistance and protection measures (40% of these children are not in possession of documents and it takes three to six months to obtain them if their parents are not registered).<sup>29</sup>

### ***Children placed in institutions***

Children placed in residential or closed-type institutions (e.g. orphans, neglected or abused children, children in conflict with the law) are a group particularly vulnerable to human trafficking during and after their placement. This vulnerability persists also when young people leave such institutions after coming of age. GRETA's reports on Albania, Bulgaria, Croatia, Romania and the United Kingdom paid particular attention to the risks of trafficking that such children run and the existence of measures to prevent these risks.

In Albania, children must to leave institutions at the age of 15 and are left with no support from the State, living in poverty, marginalised and vulnerable to abuse and exploitation.<sup>30</sup> The Albanian authorities have taken steps towards the de-institutionalisation of children and, to this effect, in 2015, 103 children left institutions and returned to their families and 67 adoptions were carried out. Special attention is paid to monitoring of applications for foster care by the local authorities, where 153 children are currently placed in foster families.<sup>31</sup>

In its report on Bulgaria, GRETA referred to the report by the Council of Europe Commissioner for Human Rights following his visit to Bulgaria from 9 to 11 February 2015, which contains recommendations to prevent the institutionalisation of children through the development of a fully-fledged system of family- and community-based services, to reform the juvenile justice system with no further delay and in particular repeal the obsolete Law on Measures against Delinquency of Minors and Juvenile, and to move away from the current repressive approach towards a protective one.<sup>32</sup>

In Croatia, there were 834 instances of children having absconded from institutions in 2014. GRETA was informed of cases of traffickers preying on girls from such institutions to lure them into prostitution. Awareness-raising initiatives on trafficking have been led by civil society in such institutions, but it is broadly agreed that further efforts are needed. There is an on-going process of deinstitutionalisation and children are being placed with foster parents. While welcoming this process, GRETA drew attention to the need to ensure that foster parents are also sensitised to the risks of trafficking.<sup>33</sup>

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29. GRETA report on Georgia, paragraphs 61-62 and 68.

30. Committee on the Rights of the Child, Concluding observations the combined second to fourth periodic reports of Albania, adopted by the Committee at its sixty-first session (17 September–5 October 2012), CRC/C/ALB/CO/2-4.

31. GRETA report on Albania, paragraph 63.

32. Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Bulgaria from 9 to 11 February 2015, CommDH(2015)12, Strasbourg, 22 June 2015.

33. GRETA report on Croatia, paragraph 60.

## ***Children from disadvantaged communities***

GRETA's 3rd General report contained a section on prevention of trafficking among minorities at risk, with a special focus on Roma communities.<sup>34</sup> Although the lack of official disaggregated data according to ethnicity precludes a reliable assessment of the occurrence of human trafficking in the Roma communities, there is evidence that Roma, in particular Roma women and children, are highly vulnerable to trafficking due to structural forms of ethnic and gender discrimination, poverty and social exclusion, which result in low educational achievement, high levels of unemployment, domestic violence and difficult living conditions that affect predominantly women and children.<sup>35</sup>

In Bulgaria, according to expert assessments, child victims of trafficking of Roma origin account for between 50 and 80% of trafficked children.<sup>36</sup>

Several of GRETA's reports published in 2016 refer to cases of trafficking for the purpose of forced begging of Roma children (Albania, Bulgaria, Croatia) and for the purpose of early/forced marriage of Roma girls (Croatia, Montenegro). In Montenegro, the Anti-trafficking Co-ordination Body considered four cases of Roma girls identified by social workers, in co-operation with the police, as victims of trafficking for the purpose of forced marriage between the end of 2014 and April 2015. In one of the cases, a medical doctor reported the girl as a victim of violence, whereupon she was identified as a potential victim of human trafficking by a social worker. All of the girls were accommodated and received assistance in the shelter for victims of human trafficking in Podgorica. One victim was returned to Kosovo\*, in co-operation with the Kosovo\* police. The other three girls were placed with relatives because their parents had been involved in concluding the forced marriages. The families where they were placed were under intensified supervision by the relevant centres for social work which also developed individual plans for the girls' rehabilitation and social integration. However, according to the Montenegrin authorities, these cases were not qualified as human trafficking by the Prosecutor's Office.

School drop-out affects disproportionately children from Roma communities and children living in rural areas. GRETA's reports noted that school drop-out had increased in Croatia and Romania.<sup>37</sup> In the Republic of Moldova, only 54% of Roma children aged 6-15 are enrolled in school compared with 90% of the population as a whole.<sup>38</sup> In Montenegro, reports suggest that the enrolment of Roma, Ashkali and Egyptians children in education has improved, but access to health-care services remains problematic, informal employment prevails and children are particularly exposed to child labour.<sup>39</sup>

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34. GRETA's 3rd General report, paragraphs 65-74, <http://rm.coe.int/16805aa45d>

35. European Roma Rights Centre (ERRC) and People in Need, *Breaking the Silence: Trafficking in Romani Communities*, Budapest, March 2011.

36. Kamelia Dimitrova, Yva Alexandrova, *Countering new forms of Roma child trafficking (CONFRONT)*, Centre for the Study of Democracy, Sofia, March 2015.

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

37. GRETA report on Croatia, paragraph 63; Romania, paragraph 67.

38. GRETA report on the Republic of Moldova, paragraph 68.

39. Concluding Observations of the UN Human Rights Committee, quoted in the GRETA report on Montenegro, paragraph 69.

In several country reports, GRETA has referred to measures aimed at preventing trafficking through improving access to health care and social services and increasing the number of Roma children enrolled at school.<sup>40</sup>

In **Bulgaria**, the National Network of Health Mediators plays an important role in preventing trafficking in Roma communities. The health mediators, often of Roma origin themselves, are active in 85 municipalities. Their objective is to facilitate access to health and social services for vulnerable communities. They are trained in dealing with risk situations and inform relevant institutions when they discover situations of trafficking or risk situations that might lead to trafficking. Further, the NGO Association “Thirst for Life” in Sliven ran a project with funding from the EEA/Norway Grants, involving the forming of support and self-support groups of young people from the Roma community with a view to developing skills for preventing and combating domestic violence and human trafficking.

In **Montenegro**, a preventive programme entitled “Take care of yourself!” addressing reproductive health risks related to child, early and forced marriages has targeted Roma girls and their mothers. Another project entitled “Take care of women” has addressed domestic violence, early marriages and human trafficking in the Roma community. Workshops and film showings were organised in the Konik camps to discuss Roma customary law and arranged child marriages.

In the reports on Albania, Bulgaria, Croatia, Montenegro, the Republic of Moldova, Romania and the Slovak Republic, GRETA has recommended that the authorities intensify their efforts to prevent trafficking in children, including by paying special attention to Roma children, their inclusion in education and the prevention of child, early and forced marriages.

### ***Unaccompanied or separated children and irregular migrant children***

GRETA’s 5th General Report paid particular attention to the risks of trafficking of unaccompanied and separated children.<sup>41</sup> The number of unaccompanied and separated children arriving in States Parties to the Convention has grown considerably in recent years. The lack of co-ordination between different national authorities, such as border officials, immigration officers, social services, law enforcement and child protection services, as well as between the agencies of different countries, increases the risk of migrant and asylum-seeking children, particularly those who are unaccompanied, falling victim to trafficking. However, in the countries evaluated by GRETA in 2016, there was little or no information on the identification of trafficked persons among unaccompanied and separated children.

For example, in Bulgaria the number of unaccompanied children has grown considerably in recent years. Unaccompanied children are placed in a variety of institutions, including temporary detention centres for foreigners and reception centres for asylum seekers. After being accommodated in reception centres, the

40. GRETA reports on Albania, paragraph 62; Bulgaria, paragraph 87; Croatia, paragraph 63; the Republic of Moldova, paragraph 68; Montenegro, paragraph 69; Romania, paragraph 66.

41. GRETA’s 5th General Report, paragraphs 101-112.

majority of them reportedly disappear within a few days. There is no information regarding any victims of trafficking being identified among unaccompanied foreign children. An agreement was signed in November 2013 between the State Agency for Child Protection and the State Agency for Refugees on exchange of information, co-operation and co-ordination of actions as regards unaccompanied children. A register on unaccompanied children is kept by the State Agency for Child Protection, which also supervises their inclusion in schools. A new training module was prepared in 2014 for foster families providing care of unaccompanied children.<sup>42</sup>

In Denmark, efforts to achieve early identification are mainly focused on children who seek asylum or irregular migrant children. A broad range of actors, including the Danish Centre against Human Trafficking (CMM), the Danish Immigration Service, the National Police, the Ministry of Children, Education and Gender Equality and the municipalities are involved in these efforts, as are staff of refugee centres, reception centres and detention centres for irregular migrants. Unaccompanied children who seek asylum are considered a particularly vulnerable group under the Aliens Act. Such children are accommodated in specialised asylum centres with specially trained staff and their applications for asylum are handled in a fast-track procedure. All unaccompanied children are appointed a personal representative whose responsibility it is to have the child's best interests as a primary consideration and to consult and advise the child in relation to all decisions taken that may affect them. The CMM has carried out training on the risks of human trafficking at reception centres for unaccompanied asylum-seeking children.<sup>43</sup>

In the UK, when children are undocumented, they are placed in community care but are not registered. It is estimated that 60% of unaccompanied children placed in local authority care go missing, most within 48 hours of being placed into care. This is due to the lack of accommodation and the lack of commonly agreed safety and protection standards. A recurrent pattern is for unaccompanied minors to be left by traffickers in transit at the airport, before picking them up from where they have been accommodated by the local authorities.<sup>44</sup> Children that go missing in one part of the UK can end up exploited in another part, without any connection being made. There does not appear to be a system whereby child victims at risk of disappearing can be accommodated in another local authority area than the one where they have been found.<sup>45</sup> GRETA urged the British authorities to address the problem of children going missing from local authority care and to improve the exchange of information on missing unaccompanied children between police forces and local authorities.<sup>46</sup>

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42. GRETA report on Bulgaria, paragraph 150.

43. GRETA report on Denmark, paragraphs 102-103.

44. Anti-Trafficking Monitoring Group (ATMG), *Hidden in plain sight*, 2013, p. 51.

45. Refugee Council and The Children's Society, *Still at risk – A review of support for trafficked children*, 2013.

46. GRETA report on the United Kingdom, paragraphs 198-200 and 210.

GRETA has noted some positive local initiatives in the **United Kingdom**. For instance, in England, the Hillingdon Local Safeguarding Children Board, which is responsible for child victims detected at Heathrow Airport, adopted in 2014 a “Joint protocol on children and young people who run away or go missing from care or home” and have set up a team specialising in referrals of unaccompanied minors or safeguarding issues for foreign children. Protection and security measures (such as closer supervision of the children) are reinforced during the first few days, which is known to be the time where the risk of children disappearing is the highest. Children are placed in residential care homes and arrangements for foster care are made. This approach has led to reducing the number of potentially trafficked children going missing in this local authority area. In Scotland, GRETA was informed that the number of unaccompanied children who go missing was low (e.g. only one case in 2015). The Campus Project, run by the Mungo Foundation, is a residential project offering temporary accommodation and support for up to 20 separated children seeking asylum, aged 16-18 years. It provides a place of safety, with 24-hour supervision and a high staff ratio, to prevent children from disappearing.

In the report on the UK, GRETA referred to the judgment of the Upper Tribunal in *R (on the application of ZAT and Others) v Secretary of State for the Home Department* and the order to facilitate admission of the four applicant children to the UK, given the well-documented risks of exploitation, including trafficking, of unaccompanied minors living in the Calais camp.<sup>47</sup> GRETA stresses the importance of international co-operation and effective measures to prevent trafficking of children, including through facilitating lawful migration and family reunification.

### **Border measures**

The prevention of transnational trafficking through measures to detect possible victims at the border is envisaged in Article 7 of the Convention. Such measures should be without prejudice to international commitments in relation to freedom of movement.

In its report on Albania, GRETA observed that Albanian children from Roma communities continued to travel, unaccompanied or in the company of adults, to Kosovo\*, where they were exploited for begging. There are a number of documents required for a child to cross the border unaccompanied by his/her parents, including a valid passport, a voluntary return declaration signed by the child and his/her guardian, and a statement from the child’s parents certified by a notary. In cases where there are reasonable grounds to believe that a child is a victim, the child is separated from the adult with whom he/she is travelling and is interviewed in the presence of a social worker. Special interview rooms have been set up at the Murriqan and Durrës border crossings. GRETA urged the Albanian authorities to step up their efforts to prevent and detect cases of trafficking in human beings during border controls, paying particular attention to unaccompanied children.

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47. IJR [2016] UKUT 61 (IAC). See GRETA report on the UK, paragraph 116.

The **UK** Border Force has put in place Safeguarding and Trafficking Teams at all major ports and airports comprising over 600 Safeguarding and Trafficking officers across the UK. All frontline staff are required to complete the new modern slavery e-learning course and are trained in keeping children safe. The mission of the Safeguarding and Trafficking Teams is to maximise the opportunity to detect possible victims of trafficking and to prevent their movement across the border, as well as identify and safeguard children at risk of harm travelling to and from the UK. Staff are trained to spot at-risk passengers, including on the basis of their appearance and body language, and are encouraged to look out for signs of people being trafficked, including at e-gates where CCTV allows staff to monitor people.

In Bulgaria, pursuant to Article 76a of the Law on the Bulgarian Identity Documents, persons younger than 18 are prohibited to leave the country for a period of up to two years if they have been subjected to neglect or sexual exploitation or involved in begging or committing petty crimes, because these might be signs of a particular risk of being trafficked. This measure was requested in respect of 112 children in 2013 and 30 children in 2014. According to the Bulgarian authorities, this measure has proven to be effective over the years. When the exploitation of children takes place with the consent or involvement of the family, returning children to their families is considered not to be in the child's best interests and the children are placed in foster care or specialised institutions. The Directorate General Border Police has developed risk profiles of victims and traffickers which are included in the annual training curricula, paying particular attention to trafficking of children for the purpose of sexual and labour exploitation, begging, pickpocketing and sale of new-born babies.<sup>48</sup>

In Romania, pursuant to Law No. 248/2005 on the Freedom of Movement of Romanian Citizens, in order for a child to travel outside Romania without both its parents, it is necessary to produce an "affidavit" prepared by a notary, explaining the purpose of the travel and certifying with whom the child is allowed to travel. According to a report by the NGO Terre des Hommes, there is little evidence that this system helps to prevent trafficking in children as it lacks important elements such as information about the expected date of return of the child, the child's photograph and information in languages other than Romanian.<sup>49</sup>

## Measures to protect and promote the rights of child victims

### Identification

"Each Party shall provide its competent authorities with persons who are trained and qualified in [...] identifying and helping victims, including children, and shall ensure that the different authorities collaborate with each other as well as with relevant support organisations, so that victims can be identified in a procedure duly taking into account the special situation of women and child victims [...]" (Article 10(1) of the Convention.

48. GRETA report on Bulgaria, paragraph 90.

49. GRETA report on Bulgaria, paragraph 63.

The identification of child victims of trafficking requires setting up procedures which take into account the special circumstances and needs of child victims, involves child specialists, child protection services, and specialised police and prosecutors, and ensures that the best interests of the child are the primary consideration. As noted by GRETA in its 5th General Report, identification of child victims of trafficking requires specialised training to ensure that where a child is unable to explicitly articulate a concrete fear of persecution, including trafficking, such risks are recognised, and protection provided without delay. Identification of child victims is also essential to the prevention of re-trafficking.<sup>50</sup>

In some countries, GRETA noted improvements made since the first evaluation round when it comes to the procedures for the identification of child victims of trafficking.

In Albania, the Standard Operating Procedures provide for a differentiated procedure for identifying children, taking account of their specific situation. Tailored identification criteria have been established, taking into account the possible involvement of the children's families in the trafficking and exploitation. The format of interviews carried out for the purpose of formal identification and arrangements for referral to reception facilities were also adjusted accordingly. Following the setting up of a Task Force for children in street situations in Tirana, the partners involved, notably municipal child protection units, identified 15 child victims of trafficking for the purposes of forced begging and forced labour in 2015. There are plans to set up similar task forces in two other towns.<sup>51</sup>

In **Denmark**, the Centre against Human Trafficking (CMM) has implemented the project "Outreach work by municipalities targeting child victims of human trafficking". A toolkit on child trafficking, with indicators and available services, was developed in 2012 for the purpose of general awareness-raising and training of relevant actors in the field of child trafficking.

In Georgia, the Anti-Trafficking Law was amended on 10 April 2012 and a new chapter on child victims was added. Pursuant to Article 21<sup>2</sup> of the Anti-Trafficking Law, the responsible authorities must take all necessary measures to identify child victims of trafficking and establish their nationality and identity and the whereabouts of their parents. The State Fund should notify and involve the Social Services Agency which is responsible for the protection of, and assistance to, children. However, GRETA noted that the identification of child victims of trafficking might be hampered by the fact that the special mobile groups of the State Fund do not include child specialists, even though their members receive training on children's rights. There were plans to amend the referral mechanism for child victims of violence and a new mechanism was in the process of preparation.<sup>52</sup>

In the Republic of Moldova, guidelines on inter-institutional co-operation were adopted in 2014 covering the identification, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking.

50. GRETA's 5th General Report, paragraph 102.

51. GRETA report on Albania, paragraphs 117 and 119.

52. GRETA report on Georgia, paragraphs 119 and 126.

In 2014 a uniform notification form was approved by a Joint Inter-ministerial Order in by the Ministry of Labour, Social Protection and Family, the Ministry of Health, the Ministry of Education and the Ministry of Internal Affairs. The form is used by all public bodies involved in the identification process, as well as by the child helpline.

In Romania, the National Referral Mechanism specifies the competent institutions, the process of child identification and referral, and the principle of the best interests of the child. Other relevant provisions are contained in Government Decision No. 1443/2004 on the repatriation of unaccompanied children and/or victims of trafficking, Government Decision No. 49/2011 for the approval of the framework methodology for prevention and multi-disciplinary team intervention in cases of violence against children and domestic violence, and the Methodology for multi-disciplinary and inter-institutional intervention in cases of children exploited or at risk of exploitation through labour, child victims of trafficking and Romanian migrant children who are victims of other forms of violence in other countries.

Despite the above-mentioned positive developments, GRETA's second round reports reveal that there continue to be important gaps in the identification of child victims of trafficking. The authorities of all of the 12 countries evaluated so far in the context of the second round were urged by GRETA to ensure that relevant actors take a proactive approach and increase their outreach work to identify child victims of trafficking. In countries which do not have a formal National Referral Mechanism, such as Austria and Cyprus, GRETA has urged the authorities to adopt as a matter of urgency such a mechanism. GRETA has also recommended the provision of further training to stakeholders (police, service providers, NGOs, child protection authorities, social workers) as well as guidance for the identification of child victims of trafficking for different forms of exploitation.

Further, in most country reports, GRETA has called on the authorities to improve the identification of victims of trafficking amongst unaccompanied foreign children by introducing a procedure for this purpose and providing training and tools to relevant staff.<sup>53</sup>

In Croatia, during the asylum procedure, if there is any doubt that a child is a victim of trafficking, the anti-trafficking co-ordinator of the ministry is notified. There have been no recorded cases of victims of trafficking amongst asylum seekers, including unaccompanied children. In 2014, 75 unaccompanied foreign children were registered in the reception centres for asylum seekers. They reportedly disappeared within a few days.<sup>54</sup>

In the UK, the Statutory Guidance on the Care of Unaccompanied and Trafficked Children, which is designed for local authorities in England, was published in in 2014.<sup>55</sup> The Guidance recognises the need for everyone involved in the care of unaccompanied and trafficked children to be trained to recognise and understand the particular

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53. GRETA reports on Albania, paragraph 127; Bulgaria, paragraph 152; Croatia, paragraph 115; Denmark, paragraph 107; Georgia, paragraph 131; Montenegro, paragraph 116; and Romania, paragraph 128. See also GRETA's 5th General Report, paragraphs 101-112.

54. GRETA report on Croatia, paragraph 108.

55. Available at: <https://www.gov.uk/government/publications/scare-of-unaccompanied-and-trafficked-children>



issues likely to be faced by these children, including recognising the indicators of trafficking. There is also a requirement for independent reviewing officers to be aware of local authority duties to take account of the child's needs as an unaccompanied or trafficked child, when planning and providing for care and for the suspected risk of trafficking to be recorded in the child's care plan. Placement decisions should also consider protecting the child from any continued risk from traffickers, and from a heightened risk of going missing. However, the Statutory Guidance does not provide detailed guidance on steps the local authorities should take to identify and protect trafficked children. Similar guidance has been issued in Northern Ireland, Scotland and Wales. Further, guidance for Child First Responders was published in 2013 by the Home Office, with information on the National Referral Mechanism and the role of First Responders, and updated in March 2016.<sup>56</sup> However, according to the recent review of the NRM, there appears to be low awareness of the NRM and trafficking indicators for child victims amongst local authorities and First Responders (i.e. persons and entities entitled to identify possible victims). Further, the existing mandatory e-learning training does not specifically deal with child trafficking.<sup>57</sup>

### **Guardianship**

"As soon as an unaccompanied child is identified as a victim, each Party shall:

- a) provide for representation of the child by a legal guardian, organisation or authority which shall act in the best interests of that child;
- b) take the necessary steps to establish his/her identity and nationality;
- c) make every effort to locate his/her family when this is in the best interest of the child" (Article 10(4) of the Convention).

The timely appointment of a legal guardian who can act independently with authority and uphold the child's best interests is essential to ensure the protection and rehabilitation of unaccompanied children who are identified as victims of trafficking, break the links with traffickers and minimise the risk of children going missing. In this respect, GRETA recalls the UNHCR Guidelines on Determining the Best Interests of the Child<sup>58</sup> and the Committee on the Rights of the Child General Comment No. 6 on the treatment of unaccompanied and separated children outside their country of origin.<sup>59</sup> GRETA also refers to on-going work under the Council of Europe Ad hoc Committee for the Rights of the Child (CAHENF) on developing European standards on safeguards to refugees and asylum-seeking children in the areas of guardianship and age determination procedures.<sup>60</sup>

56. Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/244697/NRM\\_First\\_Responder\\_Guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/244697/NRM_First_Responder_Guidance.pdf)

57. GRETA report on the UK, paragraph 192.

58. Available at: <http://www.unhcr.org/4566b16b2.pdf>

59. Committee on the Rights of the Child, General Comment No. 6 Treatment of unaccompanied and separated children outside their country of origin, Thirty-ninth session, 17 May-3 June 2005, available at: <http://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf>

60. Ad hoc Committee for the Rights of the Child (CAHENF), First meeting report (28-29 September 2016), available at: <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806be3f2>.

In countries of origin, the appointment of legal guardians to child victims of trafficking who cannot be returned to their families because the families were involved in the trafficking is an important factor for minimising the risk of re-trafficking and supporting the child's reintegration.

GRETA's second round reports published so far reveal a number of failings when it comes to the appointment of legal guardians. Most countries' legislation provides for the appointment of legal guardians to child victims of trafficking, but the procedure is cumbersome, there are delays in the guardians' appointment and the guardians often cannot be seen as being independent and acting in the best interest of the child. Thus in the report on Cyprus, GRETA noted that Social Welfare Service staff - who perform the function of legal guardians to unaccompanied minor asylum seekers - cannot provide legal advice and protect the rights of such children because of the nature of their responsibilities and/or due to the fact that they do not have legal training.<sup>61</sup>

In Albania, Bulgaria and Romania, GRETA urged the authorities to review the application of the guardianship system and pay increased attention to children who are trafficked by their parents or family members.<sup>62</sup> GRETA also urged the authorities of Cyprus, Denmark, the Slovak Republic and the United Kingdom to ensure that child victims of trafficking are assigned legal guardians without delay.<sup>63</sup> Further, GRETA noted that people who are likely to be appointed as legal guardians should attend training on the assistance and protection of child victims of trafficking.<sup>64</sup>

In the report on the United Kingdom, GRETA welcomed the steps taken in **Scotland** to establish a legal guardianship system. The Scottish Guardianship Service, which is delivered in partnership by the Scottish Refugee Council and Aberlour Child Care Fund, has developed a joint working protocol with local authorities and immigration staff. According to an independent evaluation published in 2013, one third of the children who benefited from the guardianship service between 2010 and 2012 had displayed signs of having been trafficked for the purpose of domestic servitude, sexual exploitation or cannabis cultivation. The Human Trafficking and Exploitation (Scotland) Act 2015 provides for the introduction of a statutory guardianship service for unaccompanied children.

### **Age assessment**

"When the age of the victim is uncertain and there are reasons to believe that the victim is a child, he/she shall be presumed to be a child and accorder special protection measures pending verification of the age" (Article 10(3) of the Convention).

61. GRETA report on Cyprus, paragraph 95.

62. GRETA reports on Albania, paragraph 127; Bulgaria, paragraph 152.

63. GRETA reports on Cyprus, paragraph 97; Denmark, paragraph 107; the Slovak Republic, paragraph 119; the United Kingdom, paragraph 210.

64. GRETA reports on Denmark, paragraph 107; the Slovak Republic, paragraph 119.



As stressed in GRETA's 5th General Report, age assessment must be part of a comprehensive assessment that takes into account both the physical appearance and the psychological maturity of the individual.<sup>65</sup> Such assessments must be conducted in a safe, child- and gender-sensitive manner, with due respect for human dignity. The benefit of the doubt should be applied in such a manner that, in case of uncertainty, the individual will be considered a child. Given that the consequences of an erroneous assessment may lead to children being placed in accommodation with adults with potentially heightened risks of trafficking or re-trafficking, age assessment is critical to effective protection.

In the majority of Parties to the Convention, when the age of a victim of trafficking is uncertain and there are reasons to believe that the victim is a child, he/she is presumed to be a child and is accorded special protection measures pending age verification. Among the countries evaluated in 2016, GRETA found that in the Slovak Republic the legislation was not in compliance with Article 10(3) of the Convention. The Slovak Act on the Residence of Foreigners provides that persons who refuse to undergo a medical examination necessary for age assessment are considered to be adults and those who agree to undergo the examination are considered to be adults until the results of the examination prove the contrary. GRETA urged the Slovak authorities to review their legislation concerning the presumption of age with a view to bringing it in conformity with the Convention.<sup>66</sup>

In the United Kingdom, GRETA noted persisting concerns among civil society that frontline staff from local authorities may be inclined to determine that the child is older than he/she appears because of the costs incurred by the local authorities if they are assessed to be under 18.<sup>67</sup> An incorrect age assessment results in child victims

65. UNHCR Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum, February 1997, paragraph 5.11, as quoted in GRETA's 5th General Report, paragraph 105.

66. GRETA report on the Slovak Republic, paragraphs 116 and 119.

67. GRETA report on the United Kingdom, paragraph 207.

not having access to education, being housed in shared accommodation with adults, or being placed in an adult prison or immigration detention. GRETA was informed of several cases where Vietnamese nationals were held at a Dover Immigration Removal Centre on the basis of allegedly incorrect age assessments by the immigration authorities and despite showing clear signs of having been trafficked. GRETA urged the UK authorities to ensure full compliance with Article 10(3) of the Convention concerning age assessment and the provision of special protection measures.<sup>68</sup>

GRETA observed that in most countries, age assessment procedures are based on medical examinations aiming solely at determining the person's biological age, usually on the basis of an X-ray of the wrist and of the teeth, without taking into account psychological, cognitive or behavioural factors. GRETA has recommended to the authorities of Bulgaria, Croatia, Montenegro, the Republic of Moldova, Romania and the Slovak Republic to review the age assessment procedures, taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child.<sup>69</sup>

### **Protection of the private life and identity of child victims**

“Each Party shall adopt measures to ensure, in particular, that the identity or details allowing the identification of a child victim of trafficking are not made publicly known, through the media or by any other means, except, in exceptional circumstances, in order to facilitate the tracing of family members or otherwise secure the well-being and protection of the child” (Article 11(2) of the Convention).

In most countries evaluated so far under the second evaluation round, GRETA did not have particular concerns about the protection of the private life and identity of child victims of trafficking. For example, in Georgia, the Anti-Trafficking Law protects the identity and other personal data of child victims and allows access to such data only in cases provided by law, when this is necessary to identify the child's parents and family whereabouts and disclosure of the information does not endanger the safety of the child.<sup>70</sup>

However, in Romania, GRETA was concerned that while trafficking cases in which children are involved are not dealt with in public court hearings, in cases where both adults and children are involved, the case is heard in open court sessions. GRETA has urged the Romanian authorities to abandon the practice of making the names and addresses of victims of trafficking publicly available.<sup>71</sup>

### **Assistance**

GRETA recalls the comprehensive nature of the Convention's obligation to provide assistance to child victims of trafficking. Such assistance should be provided within the framework of a National Referral Mechanism (NRM) for trafficked children,

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68. GRETA report on the United Kingdom, paragraph 210.

69. General Comment No. 6 Treatment of unaccompanied and separated children outside their country of origin, (United Nations, Committee on the Rights of the Child, Thirty-ninth session, 17 May - 3 June 2005). Available at: <http://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf>

70. GRETA report on Georgia, paragraph 133.

71. GRETA report on Romania, paragraph 129.

which itself should be integrated into the general child protection system, bringing together social, health and education services, in line with Council of Europe and other international standards and policies.

To take care of child victims, shelters specialised in receiving and assisting such victims should be set up with a view to addressing their needs and offering a protected environment. The absence of specialised shelters for child victims of trafficking is a common problem in most Parties to the Convention and GRETA has urged the authorities to provide appropriate accommodation for child victims.<sup>72</sup>

Further, in several reports, GRETA has expressed serious concerns about the problem of disappearance of unaccompanied children from reception facilities and has asked the authorities to address this problem by providing suitable safe accommodation and sufficient numbers of adequately trained supervisors. Another common problem is the absence of interpreters.

In Bulgaria, child victims of trafficking can be accommodated in several types of facilities: crisis centres for child victims of violence, centres for temporary placement of homeless children (which are run by the police) or juvenile delinquency institutions. GRETA was concerned that some of these facilities are of the closed type and different categories of children with different needs are mixed in them.<sup>73</sup>

In Georgia, child victims of trafficking continue sharing accommodation with adults in the two State Fund shelters. According to a report of the Public Defender's Office, there were no specialised social workers and child specialists in the shelters. On 7 August 2015 the State Fund amended the internal regulations of the two shelters and introduced the service of child carer for child victims of human trafficking and children accompanying adult victims. Further, on 10 August 2015, the Director of the State Fund approved the procedure for drawing up individual rehabilitation plans for child victims of trafficking and children accompanying their parents accommodated in the shelter. Any institution where a child is accommodated, including shelters of the State Fund, must inform the Social Service Agency about this within 24 hours of the child's arrival. Social workers of the Agency have to examine each case, draw up an individual rehabilitation plan and monitor its implementation.<sup>74</sup>

In **Albania**, children under the age of 16 are assisted by the NGO Another Vision, which runs the only shelter specialised in the reception of child victims, in Elbasan. The shelter can accommodate 34 children, divided between two residences. Assistance is provided by a multidisciplinary team and children are enrolled in the local school as quickly as possible, even for short periods of time, and receive tailored support from teachers. Vocational training is organised for older children in conjunction with the authorities. The municipal child protection units are also involved in the reintegration process.

In **Croatia**, the State-funded shelter for child victims of trafficking is run by the NGO Organisation for Integrity and Prosperity. It has a capacity of six places and

72. GRETA reports on Albania (for children above 16 years of age), paragraph 127; Austria, paragraph 152; Cyprus, paragraph 97; Georgia, paragraph 131; the Republic of Moldova, paragraph 125; Montenegro, paragraph 116; Romania, paragraph 128; UK, paragraph 210.

73. GRETA report on Bulgaria, paragraph 145.

74. GRETA report on Georgia, paragraphs 128-129.

is located at a secret address. An NGO staff member is present round the clock when victims are accommodated. Children may leave the shelter accompanied by a staff member. The shelter works closely with the regional co-ordinator, who is a psychologist, and has contracts with a general practitioner, a psychiatrist, a paediatrician and a gynaecologist. Children may stay at the shelter in principle for six months, but an extension is possible where necessary.

In Romania, there are no shelters specialised in the assistance of child victims of trafficking and the shelters which can accommodate child victims, together with adult victims, have limited capacity. Child victims of trafficking are usually placed in emergency reception centres for unaccompanied, abused or neglected children, which are not specialised for victims of trafficking and cater for various categories of children in need of protection and/or care.<sup>75</sup>

In Austria, the Drehscheibe Centre, a socio-pedagogic institution established in 2001 by the City of Vienna, is specialised in providing accommodation to unaccompanied foreign minors and child victims of trafficking. Children are often brought to the shelter after having been apprehended by the police while committing petty crime or begging in the streets. The Drehscheibe Centre works with translators and employs native speakers. The shelter has 12 places and employs four staff during the day and two staff at night. Children may attend schools in the community. However, the centre has limited means and capacity to deal with the growing number of unaccompanied foreign minors. Moreover, the centre is located at a publicly known address, traffickers often find ways to get in contact with them and in most cases children do not stay long at the centre.<sup>76</sup>

In Denmark, GRETA was informed at the Gribskov Reception Centre for unaccompanied children that it is fairly common for children to leave the centre and many of them do not return. GRETA notes that the Council of Europe Commissioner for Human Rights, in his report on Denmark, urged the Danish authorities to carry out an effective investigation into the fate of unaccompanied child migrants who have disappeared from reception centres.<sup>77</sup>

In the UK, accommodation provision for children includes residential care homes, shared flats and houses, bedsits, bed and breakfast emergency housing and foster care. The preferred option is placement in foster care, especially for children aged below 16. Older children are usually placed in semi-independent accommodation. However, there is a continuing lack of safe accommodation for children who are suspected or known to have been trafficked. There are no agreed standards for accommodating child victims of trafficking, who are often provided with general assistance that does not cater for their special needs. As noted in paragraph 112, the issue of children going missing remains of great concern. The UK authorities have made a commitment to review local authority support for non-European Economic Area migrant children who have been trafficked to help improve understanding of current specialist local authority provisions and to provide training for foster carers and support workers in how to support trafficked children.<sup>78</sup>

75. GRETA report on Romania, paragraph 124.

76. GRETA report on Austria, paragraph 120.

77. Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Denmark from 19 to 21 November 2013, CommDH(2014)4, Strasbourg, 24 March 2014, page 11.

78. GRETA report on the United Kingdom, paragraph 194.

In **Northern Ireland**, GRETA visited a children's home for separated/unaccompanied children/young people of secondary school age upwards (i.e. above 11) who may be victims of human trafficking. It was opened in 2014 and is commissioned by the Health and Social Care Board and delivered by a civil society organisation. With a capacity for eight children, at the time of the visit, the home was accommodating six children, both girls and boys, aged from 13 to 18. No child placed there has gone missing. The staff is composed of six social workers, three care workers working in shifts at night and two support workers at weekends. A range of protection measures are implemented, determined by an individualised risk assessment. Security and protection measures include CCTV in the reception area and in the hall. Access to computers is in a communal area and supervised. A range of activities are organised and access to education is ensured, with specialist support provided. Additional support is in place for young people transitioning out of the home, and continuing support is being provided.

While urging State Parties to minimise the number of children who disappear by providing suitable safe accommodation and adequately trained supervisors or foster parents, GRETA also stresses the importance of ensuring compliance with international standards on the rights of the child, in particular as regards the deprivation of children's liberty as a measure of last resort and for the shortest appropriate period of time. Thus in its first report on Norway, GRETA asked the Norwegian authorities to keep under review the new measures introduced in the Child Welfare Act 2012, which allow placement of children of 12 years or above who are suspected of being victims of trafficking in institutions with severe restrictions on the freedom of movement and communications as a means for improving their protection while the police is investigating the case.<sup>79</sup> This issue is further examined in GRETA's second report on Norway, which will be published in the course of 2017. GRETA joins the Committee on the Rights of the Child's call on States to "expeditiously and completely cease the detention of children on the basis of their immigration status".<sup>80</sup>

In some countries, GRETA has urged the authorities to provide access to education and vocational training to child victims of trafficking.<sup>81</sup>

For example, the Bulgarian State Agency for Child Protection (SACP) has inspected all crisis centres for child victims of violence in the country which can accommodate, *inter alia*, child victims of trafficking. The conclusion of the inspections was that there was a shortage of activities, absence of specialised programmes, the right to education was sometimes violated, and occasionally the length of stay of the children exceeded the legal maximum of six months. Following inspections, the SACP recommended that a profiling of the crisis centres be introduced, that flexible forms of education be introduced, and that the placement of children be limited to once within a calendar year.<sup>82</sup>

79. First GRETA report on Norway, paragraph 175.

80. Committee on the Rights of the Child, Report on the 2012 Day of General Discussion "The Rights of All Children in the Context of International Migration", paragraphs 78, available at: [http://www2.ohchr.org/english/bodies/crc/docs/discussion2012/2012CRC\\_DGD-Childrens\\_Rights\\_InternationalMigration.pdf](http://www2.ohchr.org/english/bodies/crc/docs/discussion2012/2012CRC_DGD-Childrens_Rights_InternationalMigration.pdf)

81. GRETA reports on Austria, paragraph 152; Bulgaria, paragraph 152; Georgia, paragraph 131; Montenegro, paragraph 116; Romania, paragraph 128.

82. GRETA report on Bulgaria, paragraph 140.



Another area of concern for GRETA is the absence of long-term support to ensure the reintegration of child victims of trafficking. Thus in the report on Bulgaria, GRETA noted that the lack of effective monitoring of the children's re-integration decreases the chances of prevention of re-trafficking. The most acute weaknesses are observed at the stage of looking for long-term durable solutions and re-integration of child victims, especially those of Roma origin.<sup>83</sup> Boys trafficked for the purpose of sexual exploitation are reportedly not referred to assistance by the authorities and service providers. The trafficking of children for the purpose of pickpocketing and/or begging is most often done with the active collusion of the child's parents or relatives, but risk assessments are rarely conducted and no steps are taken to establish the complicity of the parents or caregivers in the trafficking of the children. The deprivation of parental rights is an extreme measure, rarely applied.<sup>84</sup>

GRETA has also urged the Romanian authorities to ensure long-term monitoring of the reintegration of child victims of trafficking, If the reintegration of a child victim in its natural family is not possible or is not in his/her best interests, the child may be placed in the care of a member of the extended family or a professional child carer or placed in a residential institution. The appointment of legal guardians for child victims who for one reason or another cannot be returned to their families is performed by a court in the territorial jurisdiction where the child resides or was found. For a placement of a child in a residential institution or foster family, a court decision is also required. As reported by the Council of Europe Commissioner for Human Rights in his 2014 country report on Romania, many children go missing from residential institutions, including as a result of mistreatment by peers or staff.<sup>85</sup>

## **Recovery and reflection period**

According to Article 13 of the Convention, a recovery and reflection period of at least 30 days must be granted when there are reasonable grounds to believe that a person (be it an adult or a child) is a victim of trafficking. This period is meant to leave sufficient time for the person to recover and escape the influence of the traffickers and/or to take an informed decision on whether to co-operate with the competent authorities. During the recovery and reflection period, the persons concerned must be entitled to the assistance measures contained in Article 12, paragraphs 1 and 2, of the Convention.

Many countries provide for a longer recovery and reflection period for children than the one envisaged for adults (two months in Bulgaria and Cyprus; 90 days in Croatia). Other countries envisage a recovery and reflection period which is of the same length for adult and child victims of trafficking, but is considerably longer than the minimum of 30 days envisaged in the Convention (e.g. 90 days in Romania).

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83. Kamelia Dimitrova, Yva Alexandrova, *Countering New Forms of Roma Child Trafficking (CONFRONT)*, Centre for the Study of Democracy, Sofia, March 2015.

84. Bulgarian Helsinki Committee, *The Bulgarian Guardianship System for Child Victims of Trafficking*, Sofia, 2014.

85. Report available at: <http://wcd.coe.int/ViewDoc.jsp?id=2208933&Site=COE>, see page 24.



In the **Slovak Republic**, “tolerated residence” (which, according to the Slovak authorities, is equivalent to a recovery and reflection period) is granted without any further conditions to a third-country child found on the territory of Slovakia. The length of the period is 90 days, extendable by a further 30 days.

In most countries, there is no data on the number of child victims of trafficking who have benefitted from a recovery and reflection period.

In the UK, civil society stakeholders reported that children often do not benefit from a recovery and reflection period as the Home Office makes decisions within the NRM and on immigration status concurrently and requires that children apply for asylum before the recovery and reflection period has started or has been completed.<sup>86</sup> Other views are that regardless of the recovery and reflection period, local authorities have a duty to look after vulnerable children without time limit.<sup>87</sup> GRETA has urged the UK authorities to ensure that all possible victims of trafficking, including children, are offered all the measures of protection and assistance stated in Article 12, paragraphs 1 and 2, of the Convention during the recovery and reflection period.<sup>88</sup>

### **Residence permits**

“The residence permit for child victims, when legally necessary, shall be issued in accordance with the best interests of the child and, where appropriate, renewed under the same conditions” (Article 14).

There is, in general, a lack of data of the number of child victims of trafficking who were issued with residence permits, the data provided by the authorities not being broken down by age and/or by type of residence permit. It is therefore difficult for GRETA to assess to what extent the existing legal provisions are implemented in practice.

In Croatia, recent legislative amendments have made it possible for victims of trafficking who have accepted to benefit from the assistance and protection programme to be granted temporary residence permits on humanitarian grounds, child victims included. In case of a decision to withdraw the residence permit of children, the opinion of the competent social welfare body will be obtained before the decision is made.<sup>89</sup>

In Cyprus, victims of trafficking can be granted a temporary residence permit on the grounds of their co-operation in the investigation or for humanitarian reasons. According to the authorities, residence permits are granted to children as rapidly as possible.<sup>90</sup>

In Georgia, the Guidelines for Law Enforcement Authorities on the Investigation and Prosecution of Trafficking Cases and Treatment with Victims instruct law enforcement officials to ensure the granting of temporary residence permits for victims of trafficking, including children.<sup>91</sup>

86. Anti-Trafficking Monitoring Group, Proposal for a revised NRM for children, 2014.

87. Home Office, Review of the National Referral Mechanism for victims of human trafficking, 2014, p. 62.

88. GRETA report on the United Kingdom, paragraph 222.

89. GRETA report on Croatia, paragraph 126.

90. GRETA report on Cyprus, paragraph 106.

91. GRETA report on Georgia, paragraph 143.

In Montenegro, the Law on Foreigners provides for temporary residence permits on humanitarian grounds for child victims of trafficking who have been abandoned or are victims of organised crimes or are unaccompanied or without parents.<sup>92</sup>

Under Danish law a residence permit will not be granted solely on the grounds of the applicant being a child victim of trafficking. If an unaccompanied child is not deemed mature enough to go through a normal asylum procedure, a special residence permit may be granted under section 9c (3) of the Aliens Act. Pursuant to this provision, a residence permit can also be granted to an unaccompanied minor whose application for a residence permit under section 7 has been refused if there is reason to assume that the he/she will be without any family network or without any possibility of staying in a reception and care centre and will be placed in an emergency situation upon return to his/her country of origin or former country of residence. The Danish Immigration Service decides *ex officio* whether the conditions for this residence permit are met. The residence permit cannot be renewed beyond the person's 18th birthday. GRETA asked the Danish authorities to review the application of the system for granting residence permits to victims of trafficking with a view to ensuring that the victim-centred approach which underpins the Convention is fully applied and in order to prevent re-trafficking.<sup>93</sup>

In the United Kingdom, child victims of trafficking are usually granted temporary Unaccompanied Asylum-Seeking Children leave until they are 17½ years old, in the same way as other separated, looked-after children, rather than residence permits as victims of trafficking. GRETA considered that the UK authorities should ensure that all child victims are issued such residence permits, in accordance with the best interests of the child, pursuant to Article 14(2) of the Convention.<sup>94</sup>

## Compensation and legal redress

In response to GRETA's first round recommendations, some countries have made changes to their legislation in the areas of legal assistance and compensation to victims of trafficking. Thus in Croatia, Georgia and the Republic of Moldova, the legal framework was amended or new legislation was introduced in order to guarantee the provision of legal assistance to children who have been victims of trafficking.<sup>95</sup>

GRETA has made recommendations to several countries to make the provision of free legal assistance effective in practice.<sup>96</sup> In Romania legal assistance is offered to child victims by the NGO Generatie Tanara in Timisoara, but GRETA observed that no budget has been provided to this NGO for the assistance provided.<sup>97</sup>

None of the countries evaluated so far under the second round have provided data on the number of child victims of trafficking who have received compensation, either from the perpetrator or from the State. It is clear from the information available on

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92. GRETA report on Montenegro, paragraph 124.

93. GRETA report on Denmark, paragraphs 122-124.

94. GRETA report on the United Kingdom, paragraphs 226 and 229.

95. GRETA reports on Croatia, paragraph 129; Georgia, paragraphs 119-120; and the Republic of Moldova, paragraphs 115-116.

96. GRETA reports on Austria, paragraphs 123-124; Croatia, paragraph 116; and Cyprus, paragraphs 95, 97.

97. GRETA report on Romania, paragraph 109.

the total number of compensations (without an indication of whether the victims were adult or children), that compensation from the perpetrator is extremely rare (Bulgaria, Republic of Moldova) or entirely absent (Albania, Georgia). Some countries (Republic of Moldova, Montenegro) still have no provision for State compensation.

In order to improve compliance with Article 15 of the Convention, GRETA has urged the authorities of Albania, Bulgaria, Croatia, Cyprus, Georgia, Montenegro, the Republic of Moldova, Romania, the Slovak Republic and the UK to ensure, *inter alia*, that victims of trafficking are enabled to exercise their right to compensation by guaranteeing them effective access to legal assistance, and to encourage prosecutors and judicial authorities to make full use of the legislation on the seizure and confiscation of offenders' assets to secure compensation for victims of trafficking. GRETA has also asked the authorities on Austria and Denmark to make additional efforts to guarantee effective access to compensation for victims of trafficking, including children, through the systematic provision of legal advice and information.

## Repatriation and return

“Each Party shall adopt such legislative or other measures as may be necessary to establish repatriation programmes, involving relevant national or international institutions and non-governmental organisations. [...] With regard to children, these programmes should include enjoyment of the right to education and measures to secure adequate care or receipt by the family or appropriate care structures” (Article 16(5) of the Convention).

“Child victims shall not be returned to a State, if there is indication, following a risk and security assessment, that such return would not be in the best interests of the child” (Article 16(7) of the Convention).

When the authorities take a decision regarding the repatriation of a child victim, the best interest of the child must be the primary consideration. In order to avoid the re-victimisation or re-trafficking of child victims of trafficking, proper risk assessment needs to be conducted before implementing any repatriation measure. In this respect, GRETA recalls the UNHCR Guidelines on Determining the Best Interests of the Child (2008) and the Guidelines on International Protection No. 8 for Child Asylum Claims (2009).

GRETA's observations from the second evaluation round point to a number of lacunae in the implementation of Article 16 of the Convention in respect of children, both when it comes to procedures prior to repatriation and the follow-up given to the return of a child to his/her country of origin. The repatriation and return of victims of trafficking require international co-operation and GRETA is concerned that, despite the conclusion of bilateral agreements, the repatriation of child victims of trafficking does not always take into account the best interests of the child.

Albania concluded bilateral agreements with Greece in 2009 and with Kosovo\* in 2012 concerning the protection of child victims of trafficking and signed a Memorandum of Understanding with the United Kingdom in December 2014, with a view to improving the identification, referral and assisted return of victims and potential victims of trafficking. However, GRETA was informed that the Kosovo\* authorities contacted Albanian NGOs directly, asking them to come and pick up groups of Albanian children brought back to the border, without the Albanian authorities being involved.

GRETA observed that trafficked children repatriated to Bulgaria were handed over to their families, even when it was known that they were trafficked with active collusion from family members or relatives.<sup>98</sup> GRETA made similar observations in Romania and recommended that both countries conduct risk assessments prior to handing over the children to their families and ensure long-term monitoring of the integration of the children.<sup>99</sup>

The Romanian authorities have commended the co-operation with the Drehscheibe Centre in Vienna as a good model for the return of child victims of trafficking to Romania. A similar system of co-operation had been established by the Drehscheibe Centre with Bulgaria, including monitoring of individual cases for a six-month period after their return, which enables verification and provision of further support and assistance. However, questions about sustainability have been raised as some of the co-operating institutions in Romania have been closed down in the meantime.

In the period from 2011 to 2015, 201 children were repatriated to the Republic of Moldova, mainly from the Russian Federation and Ukraine. Negotiations on an agreement with Ukraine on co-operating in the return of victims of trafficking, unaccompanied children and migrants in difficulty were reported to be advanced, but had yet to be concluded. Negotiations with the Russian Federation on a similar agreement had been ongoing since 2009. After repatriation the children are accommodated and supported in one of the following ways: reintegration into the biological or extended family, foster care, placement in a family-type children's home service, temporary placement in shelters or placement in a maternity centre.<sup>100</sup>

In Denmark, child victims of trafficking deemed ineligible for a residence permit are returned to their countries of origin. According to the Aliens Act, unaccompanied children who apply for asylum but whose applications are rejected can be granted a residence permit until they reach the age of 18, should they find themselves in a situation of emergency if they were to be returned to their country of origin. A situation of emergency is defined by the absence of family ties or relatives to take care of the child in the home country or lack of access to a public care centre.<sup>101</sup> According to the Council of Europe Commissioner for Human Rights, the perspective of inevitable return limits children's willingness and capacity to get involved in education and integrate in society, and increases their vulnerability to being trafficked.<sup>102</sup>

In the United Kingdom, the NGO Children and Families across Borders used to carry out risk assessments of unaccompanied children before their return and assessed reception conditions post return. However, the delegation of return services to NGOs was discontinued in 2015, which raises concerns about risk assessments and victims' reintegration support. The UK authorities fund the IOM-operated voluntary Albania Reintegration Project specifically for Albanian victims (Albanian child victims

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98. GRETA report on Bulgaria, paragraphs 147 and 152.

99. GRETA report on Romania, paragraphs 126 and 128.

100. GRETA report on the Republic of Moldova, paragraph 144.

101. GRETA report on Denmark, paragraph 182.

102. Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Denmark from 19 to 21 November 2013, CommDH(2014)4, Strasbourg, 24 March 2014, page 10.

represented the second biggest group of child referrals in 2015, with 206 referrals). GRETA has urged the UK authorities to ensure that the best interests of the child are effectively respected, protected and fulfilled, including through pre-removal risk and security assessments, in particular for unaccompanied children, by specialised bodies working with relevant partners in countries of return; such assessments should also ensure effective enjoyment of the child's right to education and measures to secure adequate care or receipt by the family or appropriate care structures in countries of return.<sup>103</sup>

## Protection of child victims and witnesses before, during and after judicial proceedings

"A child victim shall be afforded special protection measures taking into account the best interests of the child" (Article 28(3) of the Convention).

"Each Party shall adopt legislative or other measures as may be necessary to ensure in the course of judicial proceedings: a) the protection of the victim's private life and, where appropriate, identify: b) victims' safety and protection from intimidation, in accordance with the conditions under its internal law and, in the case of child victims, by taking special care of children's needs and ensuring their right to special protection measures" (Article 30 of the Convention).

The protection of children before, during and after judicial proceedings requires legislative and practical measures for the protection of child witnesses and victims from potential retaliation and intimidation, and the conduct of interviews in an environment and manner sensitive to the special needs of children. The application of such measures is also important for preventing secondary victimization. The Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice provide are particularly relevant in this respect.<sup>104</sup>

In Denmark, Georgia, the Slovak Republic and the United Kingdom, the legal provisions or regulations related to the protection of child victims and witnesses have been amended or further developed since the first evaluation round.<sup>105</sup>

For example, in Georgia, the Juvenile Justice Code, adopted on 12 June 2015, provides that a legal representative, a counsel and a psychologist should be present when child victims and witnesses are interviewed. The judge may decide to examine a child witness with the use of a video recorded interview or in a closed court hearing, or remove the accused from the courtroom when the child is examined. In the UK, pursuant to the Trafficking People for Exploitation Regulations 2013, police interviews with child victims are to be carried out by or through professionals trained for the purpose, in premises designed or adapted for the purpose, the number of interviews must be as limited as possible and only where strictly necessary for the purposes of the investigation, and the victim may be accompanied by an adult of their choice.

103. GRETA report on the United Kingdom, paragraphs 249-255.

104. Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies. <http://rm.coe.int/16804b2cf3>

105. GRETA reports on Denmark, paragraph 179; Georgia, paragraph 190; the Slovak Republic, paragraph 168; and the United Kingdom, paragraph 313.

Similar measures for child victims and witnesses are envisaged in other Parties to the Convention. However, GRETA observed that their use is limited, or there is no information about the frequency of their use. For example, In the Slovak Republic, according to a survey conducted by an NGO, the use of audio-video equipment was reported only in one out of 100 hearings of child victims of crime and most of them took place at police stations which did not offer a child-friendly setting.<sup>106</sup> According to a report by La Strada Moldova, the protection of victims and witnesses of trafficking is often insufficient, mainly due to the lack of funds for such measures, and in order to obtain protection for a witness in criminal proceedings, it is necessary to prove that there is a real threat to their life and health.<sup>107</sup>

In Bulgaria, the Republic of Moldova and Romania, specially-equipped facilities for interviewing children involved in criminal proceedings have been set up, where child victims of trafficking can be questioned in a child-friendly manner. However, in Bulgaria, GRETA was informed that there was reluctance among prosecutors and judges to use these rooms. GRETA considered that the child-friendly rooms should be used systematically to interview children and other vulnerable victims of trafficking, and to use the testimony given in such rooms in court, thus avoiding repeated questioning of victims.<sup>108</sup>

GRETA has asked the national authorities of all States Parties evaluated so far under the second evaluation round to ensure that full use is made of the existing measures to protect child victims of human trafficking before, during and after criminal proceedings.

## Non-punishment provision

Most countries evaluated by GRETA in the course of the second evaluation round have adopted specific legal measures reflecting Article 26 of the Convention, which provides for the non-punishment of victims of trafficking who have been compelled to be involved in unlawful activities due to their trafficking situation (with the exception of Austria, Croatia, Montenegro and Denmark).

Some GRETA reports published as part of the second evaluation round provide examples of situations in which the non-punishment provision was applied to child victims of trafficking. In the Republic of Moldova, in 2015, it was applied in a case where a child victim of sexual exploitation had stolen money from her trafficker in order to be able to escape. The criminal proceedings against the girl were discontinued.<sup>109</sup> In Romania, a 17-year old victim of trafficking who had been forced to steal was not punished by decision of the High Court No. 2248 of 26 June 2012.<sup>110</sup>

However, GRETA reports also provide examples of cases where the non-punishment provision was not applied to child victims of trafficking.

106. GRETA report on the Slovak Republic, paragraph 169.

107. La Strada Moldova, The impact of the Republic of Moldova's anti-trafficking policy on the trafficked persons' rights, 2013, p. 61, available at: <http://antitrafic.gov.md/lib.php?l=en&idc=31>.

108. GRETA report on Bulgaria, paragraph 208.

109. GRETA report on the Republic of Moldova, paragraph 161.

110. GRETA report on Romania, paragraph 176.

In Austria, GRETA received reports about the case of a 17-year old girl from Bosnia and Herzegovina who was sentenced by a court in Vienna to 18 months' imprisonment for theft, despite indications that she had been pressured to commit the offences by traffickers. According to information provided by the Austrian authorities, although a certain family-related pressure was acknowledged by the court as a mitigating circumstance in the case in question, there was not sufficient evidence to say that the girl was a victim of trafficking. GRETA has urged the Austrian authorities to take additional measures to ensure compliance with Article 26 of the Convention, including the adoption of a specific legal measure and/or the development of guidance for police officers and prosecutors on the scope of the non-punishment provision, including with regard to administrative/civil law sanctions.<sup>111</sup>

In the UK, GRETA was informed of a number of cases where child victims had been convicted of drug related offences in cannabis-growing cases and incarcerated. This hinges on the fact that they were not identified as possible victims by the relevant professionals with whom they were in contact. It appears, for instance, that duty solicitors often advise children involved in cannabis cultivation to plead guilty as a way of getting less time in detention. Children are remanded in custody pending trial and by the time the trial has taken place and they are convicted, they have already served their time in detention and are released. In 2013, the Court of Appeal quashed the convictions of three Vietnamese children who had been trafficked to grow cannabis in the UK, holding that it would be an abuse of process to prosecute a child victim of trafficking for actions which were consequent on or integral to the exploitation he or she had suffered. The victims had been subjected to secondary victimisation because they had to serve a term of imprisonment and one of them was reportedly subsequently re-trafficked.<sup>112</sup>

The UK's Modern Slavery Act 2015 contains a statutory defence regarding offences the alleged perpetrator was forced to commit. However, there is a list of more than 100 offences of various degrees of seriousness where the statutory defence is excluded. In the case of children, it has to be established that their action was a direct consequence of their exploitation and that a reasonable person in the same circumstances and with the same characteristics would do this act. In GRETA's view, this "reasonable person" test indirectly introduces an element of compulsion that should not have to be proven in children's cases. GRETA has asked the British authorities to remove the requirement to apply the "reasonable person" test in the framework of the statutory defence of child victims pursuant to section 45 of the Modern Slavery Act 2015, as well as ensuring that the non-punishment provision is applicable to all offences that victims of trafficking were compelled to commit.<sup>113</sup>

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111. GRETA report on Austria, paragraphs 174 - 175.

112. *L, HVN, THN and T v R* [2013] EWCA Crim 991.

113. GRETA report on the United Kingdom, paragraphs 288 and 291.

## Concluding remarks

The analysis of the first 12 GRETA reports published as part of the second round of evaluation of the Convention reveal continuing gaps in the prevention of child trafficking and the identification and protection of the rights of child victims. The stock-taking of the first evaluation round of the Convention noted that almost all States Parties were not doing enough to fulfill their obligations arising from the Convention in the areas of child victim identification and protection. GRETA is concerned by the insufficient progress in this area. In addition to addressing child trafficking through specific anti-trafficking policies, GRETA considers that the issues raised in the section should be integrated in national strategies and action plans for combating violence against children, in line with the priorities of the Council of Europe Strategy for the Rights of the Child.

GRETA stresses the importance of implementing the recommendations made in its reports with a view to achieving the Sustainable Development Goals, in particular targets 5.2 (Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation), 8.7 (Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms) and 16.2 (End abuse, exploitation, trafficking and all forms of violence against and torture of children).

The New York Declaration for Refugees and Migrants<sup>114</sup> includes several political commitments of relevance to GRETA's work and it would be important to ensure that GRETA's monitoring findings are taken into account when discussing the new global compact for safe, orderly and regular migration. GRETA's monitoring work will contribute to the Council of Europe efforts to protect the rights of children in the context of migration and asylum-seeking, and in particular the future Action Plan on unaccompanied and other children affected by the migrant and refugee crisis which is being prepared by the Special Representative of the Secretary General on Migration and Refugees. GRETA stands ready to continue providing assistance in achieving the purposes of the Convention.

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114. In particular paragraphs 36 and 60. Available at: [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/71/L.1](http://www.un.org/ga/search/view_doc.asp?symbol=A/71/L.1)





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