

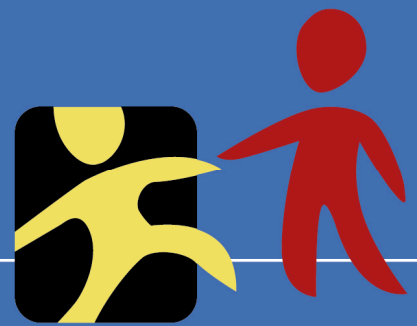
Committee of the Parties
to the Council of Europe Convention
on Action against Trafficking in Human Beings



CP(2015)17

**Report submitted by the Belgian authorities
on measures taken to comply with
Committee of the Parties Recommendation CP(2013)8
on the implementation
of the Council of Europe Convention
on Action against Trafficking in Human Beings**

Received on 7 Octobre 2015



GRETA will find enclosed Belgium's interim report on the application of the Council of Europe Anti-Trafficking Convention. This reply has been prepared by the Inter-departmental Co-ordination Unit for Action against Trafficking, with the participation, therefore, of the competent partners and departments, at both federal and federated entity levels.

- 1. GRETA considers that the Belgian authorities should continue to inform and raise awareness among the general public and the non-specialised departments involved in action against trafficking that may come into contact with trafficking victims as regards the scope of the definition of trafficking in human beings and in particular the difference and the links between trafficking and migrant smuggling.**

The authorities have continued to run training courses on a regular basis for the specialised and non-specialised departments.

By way of example, the training courses for social workers in asylum seeker centres have been re-run (23 October 2014) and, for the first time, training was dispensed to 70 or so legal guardians responsible for unaccompanied foreign minors on 26 March 2015.

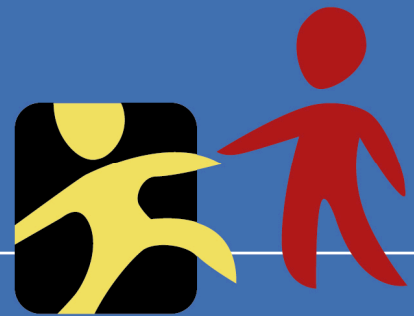
These courses generally involve reception centres, the competent authorities (particularly the Foreigners' Office) and specialised members of the judiciary.

Training was also organised for the social services by the Union of Towns and Municipalities of Wallonia on 4 April 2014.

The campaign aimed at the medical sector was re-run in 2014 and assessed, with the findings being communicated within the Inter-departmental Co-ordination Unit. The reception centres themselves are active at local level to raise awareness within this sector. The three specialised reception centres have each made very substantial efforts in this area.

The action plan 2015-2019¹ provides for other initiatives, as well as activities run in collaboration with or at the initiative of the federated entities (focusing on schools or law-courts for example).

¹ http://www.dsb-spc.be/doc/pdf/ACTIEPLAN_MH_2015_2019-FRpr%2013072015.pdf



2. In order to ensure that action against trafficking is comprehensive and coherent, GRETA considers that the Belgian authorities should:
- ensure that the new body taking over from the CECLR has, as far as anti-trafficking action is concerned, the necessary autonomy, mandate and resources to continue fulfilling the role of stimulating and assessing anti-trafficking policy within the meaning of Article 29, paragraph 4, of the Convention, as well as of co-ordinating the provision of assistance to victims of trafficking;
 - increase vertical and horizontal co-ordination between the different authorities involved in action against trafficking in human beings, including those responsible for the assistance and protection of victims of trafficking, particularly concerning children;
 - ensure that more attention is paid to the issue of trafficking of children.

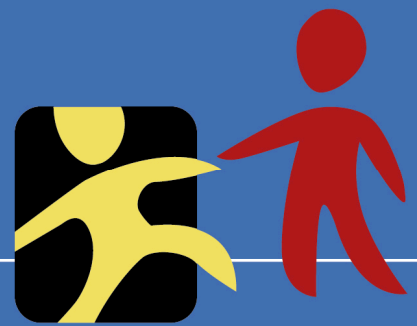
Under the law which set it up, the Federal Migration Centre, now called Myria, is an independent body. Its role of independent national rapporteur was confirmed by the royal decree of 21 July 2014 whose article 11 establishes the framework for a national rapporteur or equivalent mechanism. The Centre's funding is guaranteed by an organic royal decree and, in practice, half is sourced from the National Lottery and half from a budget controlled by the Secretary of State for equal opportunities.

The composition of the Inter-departmental Co-ordination Unit was reviewed by the royal decree of 21 July 2014 to include *inter alia* the specialised reception centres and regional and community governments. This should make it possible to extend dialogue and initiatives to sectors where awareness levels are still low. Furthermore, the Financial Information Processing Unit (*Cellule de traitement des informations financières* - CTIF), responsible for action against laundering, has also become a member of the Inter-departmental Co-ordination Unit, which will help to shed light on the finances of THB networks. To combat this phenomenon effectively, it is important to strike at the heart of the criminal system, and financial analyses of their cash-flows are necessary in this connection.

The circular issued by the Bench of Prosecutors General and the responsible Ministers (Col 01/2015) provides for the involvement of judges for young persons in the local co-ordination meetings planned by the circular.

New training courses have also been run, including for legal guardians responsible for unaccompanied foreign minors. The first such training course took place on 26 March 2015, with procedures being presented in the morning and workshop discussions being held in the afternoon. Practical tools were also provided to participants (datasheets, diagrams etc). The course is likely to be repeated in the coming years.





Finally, Belgium is a partner of the operational action plan on THB 2015 – 2016 (EMPACT), which promotes exchanges of good policing and operational practices, including with regard to the exploitation of minors.

- 3. GRETA considers that the Belgian authorities should pursue and further increase these efforts, in particular concerning the initial training of police officers who are not specialised in THB, including those who are responsible for receiving complaints, taking into account the turn-over of staff in administrations. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.**

The new directive on the detection and prosecution of acts of trafficking in human beings (Col 01/2015) includes an investigation flowchart providing a general base framework for use by police officers in cases of suspected trafficking in human beings.

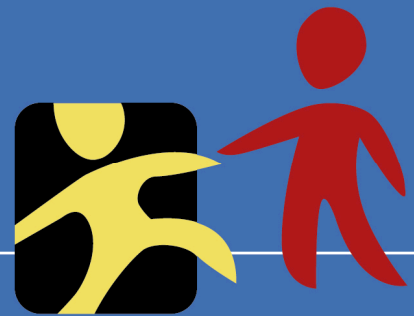
Local training courses were run by the federal police in the second half of 2015 to prepare for the entry into force of the new directive, with some 310 specialised or district police officers taking part.

The federal police authorities also publish various tools facilitating identification and referral of victims on the police intranet. A newsletter is also sent out on a regular basis.

In addition, trafficking in human beings now forms part of basic training in each police district.

Finally, the finishing touches are being put to a brochure setting out the new indicators laid down in Col 01/2015. The brochure and its contents will be for use by police officers, labour inspectors, judges and prosecutors.

- 4. GRETA considers that, for the purpose of devising, supervising and assessing anti-trafficking policies, the Belgian authorities should design and bring on stream a complete, coherent statistics system on trafficking in human beings, bringing together reliable statistical data sourced from all the key actors which can be broken down (by sex, age, type of exploitation, country of origin and/or destination, etc.). The introduction of this system should be accompanied by all necessary measures to ensure respect of the right of the persons concerned to personal data protection.**



An exercise is under way with regard to victim data to standardise the information required for replying to international questionnaires or produce basic analyses. The same will now be done for data relating to offences.

It must be stressed, however, that the data available from the different players already provides a fairly comprehensive overview. The question is above all how far certain analyses can be taken and how to fill in certain information that is sometimes lacking.

- 5. GRETA invites the Belgian authorities to carry out and support research work on THB-related issues, the findings of which can assist the public authorities in devising future anti-trafficking measures. The areas where more in-depth research is necessary include the situation of children victims of trafficking from European countries, in particular Roma, trafficking for the purpose of exploitation of begging and internal trafficking in Belgium.**

Belgium's reception centres sometimes initiate European projects. In such cases, the Government provides backing by participating in steering committees or supplying the necessary information and support (RAVOT project etc).

The Government also provides logistical support and discusses the outcomes of projects with a view to integrating them in Belgian policy (example: Combating Trafficking in Human Beings through the Medical Field – Payoke – final conference on the project at the Ministry of Justice).

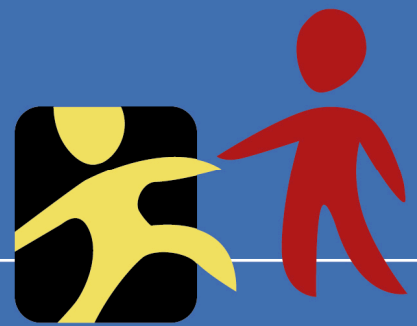
One project focusing on Roma victims of THB was submitted to the EU Commission by Payoke with the support of the Belgian State but was not selected by the competent European bodies.

Belgium has also provided various information for projects run by other member States or associations (such as Icarus - Improving Co-ordination in the prevention and protection of children vulnerable to trafficking in human beings in Europe).

The French Community launched an exploratory study of prostitution in the Wallonia-Brussels Federation in 2015, focusing on the question of exploitation and the link between prostitution and trafficking in human beings. The findings should be available in 2016.

The Brussels Observatory for Prevention and Security produced a study of prostitution in Brussels in 2014, which included a section on criminality and trafficking in human beings. This will be followed up by a day-long seminar organised by the Brussels Observatory for Prevention and Security on 30 October 2015, involving all those concerned by the phenomenon of prostitution.





6. GRETA encourages the Belgian authorities to continue to develop international co-operation in the area of prosecution and their initiatives to prevent trafficking and assist victims in the countries of origin.

The joint investigation machinery is used for cases involving major networks. It demands too much investment in terms of time and human resources to be used in all cases but, for major investigations, international resources are brought into play.

One example was the trafficking case involving eleven defendants judged by Ghent court of first instance on 21 August 2014. The case involved a substantial network exploiting prostitution in Belgium, with forty or so victims having been trafficked from Hungary.

The perpetrators had used the "classic" method of recruiting girls in Hungary to be exploited in Belgium. They had been fairly up-front about the fact that the girls would be working in bars but there had been no question of prostitution.

"Female chaperones" had also been hired to keep an eye on the victims, and violence and threats had been frequently used.

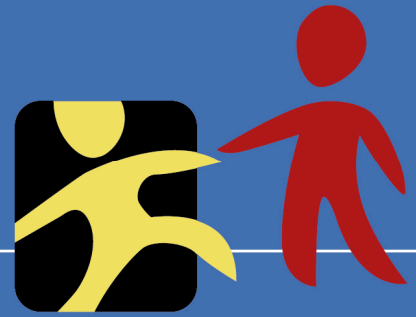
The investigation had involved Europol and the Hungarian authorities among others, as well as European countries since it had emerged that the network ultimately pursuing its activities in Belgium also operated via the Netherlands, Germany and Switzerland.

Obviously, the Social Inspectorate also collaborates with the police and the judicial authorities for investigations into economic exploitation.

Accordingly, the Social Inspectorate also took part in the EMPACT European project in 2015, alongside the Central Service for THB Affairs of the federal criminal investigative police (PJF), and collaborated in concrete initiatives in 2015 aimed at promoting international collaboration in cases relating to economic exploitation.

The following meetings were particularly significant:

- the meeting of social inspectorate services representatives organised on 28 and 29 April 2015 in Vienna by the ICMPD (International Centre for Migration Policy Development) (Meeting of Labour Inspectorates to Enhance International Collaboration to Reduce Labour Exploitation);



- the meeting of police and inspection services representatives on 7 and 8 July 2015 at the headquarters of Europol, in the Hague, at which it was decided, among other things to organise "joint action days" focusing on economic exploitation in 2016, with input from both the police and social inspection services;
- the meeting of social inspectorate services representatives on 14 and 15 September 2015 in Milan, which built on the undertakings made at the Vienna meeting on 28 and 29 April.

These three meetings examined the possibility of carrying out joint operational activities in cases of economic exploitation in countries of origin and destination as well as the possibility of national and transnational information exchanges and collaboration between police services and social inspection services. In this respect we refer to concrete initiatives such as the setting up of a European network of social inspectors (SPOC, an on-line platform for exchanges of good practice and collaboration, common training, study visits between partners).

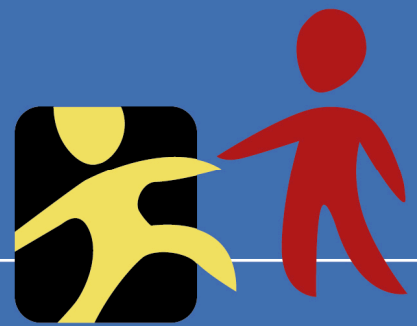
In 2015, contact was stepped up between the social inspection services and the Central Service for THB Affairs of the federal criminal investigative police (PJF).

The contacts developed with foreign authorities via the liaison officers must also be emphasised, with fruitful collaboration between the authorities of Belgium, Bulgaria, Romania and Serbia, and even Brazil.

- 7. GRETA considers that the Belgian authorities should build greater awareness among the general public of the different types of trafficking and victims. To do so, the authorities should organise targeted information and awareness-raising initiatives, involving civil society and making use of the findings of research and impact assessments.**

There has not been a major general campaign to raise public awareness in the strict sense of the term. While this is regarded as an important area, there is relatively little in the way of impact studies and, for the time being, the emphasis has been on limited but active awareness-raising efforts aimed at members of civil society to ensure better referral of victims.

That was why the campaign aimed at hospitals was repeated in 2014 and accompanied by an assessment of target audience perception. This work will be followed up by new initiatives. Among other things, the action plan proposes that nursing colleges also be targeted.



The specialised reception centres are also developing initiatives along these lines. Within the framework of provincial group activity, the Sürya centre is developing information campaigns aimed at hospitals and public welfare centres for example.

Even so, the action plan does include several proposals for broader public awareness-raising (in schools etc).

8. GRETA urges the Belgian authorities to increase their efforts to discourage demand for services provided by persons subjected to trafficking for the purpose of economic exploitation, including the purposes of domestic work, or sexual exploitation.

Steps have been taken in connection with the liability of order-givers. The legislation passed is not specific to trafficking in human beings but likely to have an impact on the functioning of subcontracting chains. We must hold our optimism in check, however, as there is still no evaluation available.

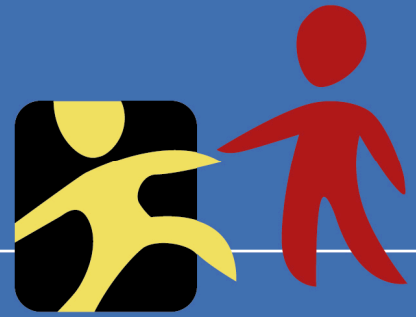
Firstly, the Programme law of 29 March 2012 amended by the Law of 11 February 2013 incorporated a mechanism of joint and several liability for wage payments in the Law of 12 April 1965 on protection of workers' remuneration.

Under the general regime (Chapter VI/1 – Section 1, of the Law of 12 April 1965), order-givers, entrepreneurs and subcontractors are now jointly and severally liable for the payment of workers' wages when the entrepreneurs or subcontractors filling that role show serious failings in honouring their obligation to pay the wages due to their workers within the relevant time-limits. The starting point for this joint and several liability is a written notification by social inspectors to order-givers and subcontractors.

A special regime was introduced to cover the employment of a third country national (ie a worker not having the nationality of an EU Member State and not enjoying the Community right of free movement) who is illegally present (ie does not fulfil or no longer fulfils the requirements for entry to or stay on the territory): art. 35/7 to 35/13 of the Law of 12 April 1965².

This legislation transposes directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.

² Chapter VI/1 - Section 2 of the Law of 12 April 1965 introduced by the Law of 11 February 2013 providing for sanctions and measures against employers of illegally present third-country nationals (Official gazette of 22 February 2013).



This regime entered into force on 4 March 2013.

The entrepreneur, or intermediate entrepreneur if there is a chain of subcontractors, is jointly and severally liable for the payment of wages remaining due from the direct subcontractor, unless they are in possession of a written declaration (eg clause in the company contract) in which the subcontractor states that they do not and will not employ any illegally present third-country nationals. Even so, as soon as the entrepreneur is aware that their direct subcontractor does actually employ such persons, they are jointly and severally liable.

Following the intervention of the Control of Social Legislation services to secure payment of the wages due under the joint and several liability regime described above, social inspection services of the Federal public service responsible for social security may take action to have the amounts of wages due declared to the social security services. These two authorities have been in contact with a view to establishing practical procedures in this area.

Concerning sexual exploitation, the new action plan proposes examining measures deployed in certain other countries with regard to clients. It also envisages doing more to raise public awareness of the issue.

9. GRETA welcomes the initiatives supported by Belgium in favour of vulnerable groups in the countries of origin and encourages the authorities to pursue those initiatives.

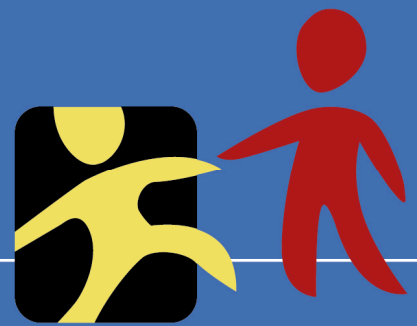
10. GRETA urges the Belgian authorities to take social, economic and other initiatives aimed at groups vulnerable to different types of trafficking, such as unlawfully present foreign minors, whether accompanied by their family or not.

The Law of 12 May 2014 amends Title XIII, Chapter VI of the Programme law of 24 December 2002 with regards to legal guardianship for unaccompanied foreign minors and now allows a legal guardian to be designated for European minors who are in a situation of vulnerability or potential THB victims.

To qualify for such guardianship, minors must:

- be under 18 years of age
- be a national of a member country of the European Economic Area or Switzerland
- not be accompanied by a person exercising parental authority or legal guardianship pursuant to the applicable law in accordance with article 35 of the Law of 16 July 2004 establishing the Code of private international law





- not be in possession of a legally certified document attesting that the person exercising parental authority or legal guardianship has given them permission to travel to and stay in Belgium
- not be recorded on the population register
- either have requested a temporary stay permit on grounds of trafficking in human beings and/or people smuggling (article 61/2§2, paragraph 2 of the Law of 15 December 1980 on entry to the territory, stay, settlement and removal of foreigners); or be in a situation of vulnerability.

11. GRETA considers that the Belgian authorities should increase the capacity of staff tasked with carrying out checks at borders, in ports and on motorways (particularly the customs and immigration control services) to detect and refer victims of trafficking.

The Foreigners' Office systematically organises an induction course for new staff, which always includes detailed information on THB.

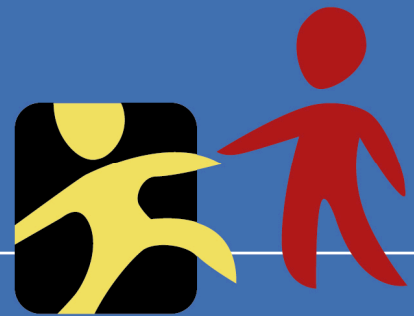
12. Further, GRETA encourages the Belgian authorities to continue to ensure that all information on conditions of entry to and stay on Belgian territory is available in a variety of languages so that it may be understood by those it is addressed to.

Where trafficking in human beings is concerned, there is a multilingual brochure explaining what exploitation means and how to obtain assistance. The brochure may be used by the law enforcement agencies or inspection services when they suspect that they are dealing with a potential THB victim.

A flyer is also supplied to certain diplomatic posts to inform work visa applicants about the minimum working standards in Belgium and what they need to find out before leaving.

The new action plan provides for an update of this flyer and an evaluation.

The general information on conditions of entry to and stay on Belgian territory is also available on the IBZ site (Foreigners' Office).



13. GRETA considers that the Belgian authorities should:

- **strengthen the detection and identification of victims of trafficking, by ensuring that the tools available are fully known to front-line actors and correctly used by all actors;**
- **develop basic and further training in the detection and identification of victims aimed at police officers, employees of labour inspection services, public prosecutors and judges, particularly with a view to avoiding confusion between victims of trafficking, including those from vulnerable groups, and petty offenders or illegal migrants;**
- **develop training in the detection and identification of victims aimed at all front-line actors such as immigration officers, medical staff, social workers, public social welfare centres (CPAS) staff, those involved in child protection and particularly legal guardians of unaccompanied children, and the staff of closed centres for irregular migrants and centres for asylum seekers.**

Training continues to be provided for specialised actors on a regular basis.

In 2015 basic training was given to members of the judiciary (whether trainees or not) for example, covering both people smuggling and trafficking in human beings (one day devoted to THB and a half-day to people smuggling).

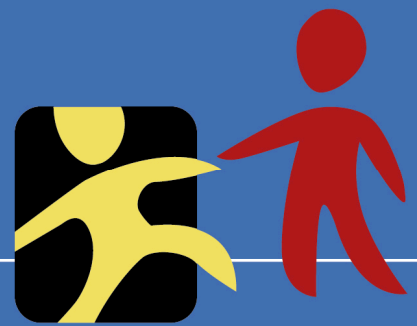
As already pointed out in Belgium's reply to GRETA's first evaluation, specialised training and basic training in this field is provided on an alternating basis.

Furthermore, while it is not training in the strict sense of the term, the network of expertise on trafficking in and smuggling of human beings holds an annual thematic meeting which provides a forum for debate on topical issues between specialised members of the judiciary and other invited participants.

Moreover, training for front-line actors from asylum seeker reception centres has continued each year. A new course has also been organised for legal guardians taking charge of unaccompanied foreign minors, as previously mentioned.

Other instruments have been developed with a view to enlarging the pool of individuals with a basic knowledge of the procedures to be followed. A factsheet has been drawn up for members of the judiciary on call to deal with urgent cases. It is still to be discussed within the network of expertise on trafficking in and smuggling of human beings, but it is intended to inform the target audience of the minimum action to be taken by them if they suspect THB, particularly where the victims are





concerned. One important step, among others, is that the judge or prosecutor on call must contact the judge or prosecutor specialising in THB affairs.

In addition, the Foreigners' Office Gemcom site, aimed at municipal administrations, contains a worksheet outlining the procedure for dealing with THB victims (issuing of documents).

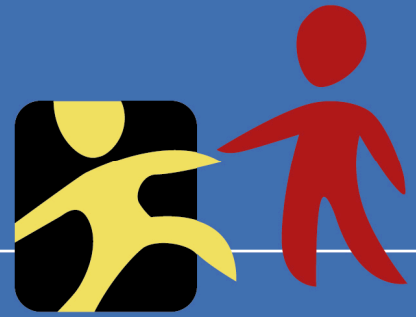
The Social Inspection services will develop a training programme pursuant to the new national action plan on action against trafficking in human beings. It will provide basic training for each new social inspector taking up a post and will also ensure that social inspectors working in the ECOSOC teams also receive regular training (these are the teams which carry out targeted checks for the illegal employment of foreign labour, with a special focus on economic exploitation). In this context, consultations will be held with the Central Service for THB Affairs of the federal criminal investigative police with a view to combining training efforts.

The specialised inspectors of the Social Inspection services will already be dispensing training in December 2015 within the framework of a Central Service for THB Affairs training programme for new federal criminal investigative police teams investigating THB cases. Above all, this training will place emphasis on collaboration between the police and the social inspection services.

A further example is the presentation given in June 2015 by a member of the Control of Social Legislation services responsible for THB affairs to the specialised inspectors of the social inspection services, which focused on the practical aspects of collaboration in the application of the joint and several liability regime (see question 8).

Where unaccompanied foreign minors are concerned, the new anti-trafficking action plan provides for continuing information sessions for legal guardians (action plan pp. 31-32 - http://www.dsb-spc.be/doc/pdf/ACTIEPLAN_MH_2015_2019-FRpr%2013072015.pdf).

Finally, the new action plan also provides for the stepping up of initiatives taken at the level of the federated entities, including with regard to schools or the youth outreach sector (pp. 40 ff of action plan).



14. GRETA urges the Belgian authorities to strengthen the detection and identification of child victims of trafficking, particularly for the purpose of forced begging and committing petty offences and crimes and, to that end, adapt the existing tools or introduce mechanisms and a procedure tailored to their specific situation.

Some aspects have already been mentioned but, generally speaking, the second action plan places emphasis on the question of identifying minors. Various initiatives have been taken to that end:

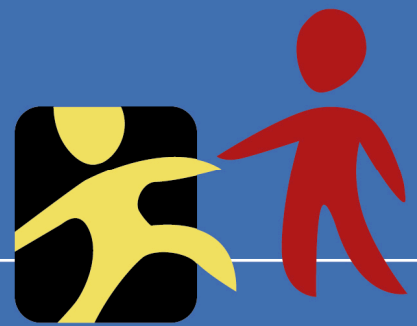
- a specific evaluation of the referral mechanism for minors who are potential THB victims has been carried out by the Inter-departmental Co-ordination Unit;
- the law on legal guardianship of unaccompanied foreign minors has been amended so that unaccompanied European minors in a situation of vulnerability may also benefit from legal guardianship;
- the new Col 01/2015 circular provides for the involvement of a judge for young persons in all the local co-ordination meetings organised by reference magistrates for THB questions;
- training for individuals in contact with minors who might have been exploited has been reinforced (legal guardianship, federal agency for the reception of asylum seekers - Fedasil etc).

A new crime policy directive on the question of exploitation of begging is being drafted and will highlight the special attention to be given to cases of begging involving minors.

The multidisciplinary circular of 2008 is being revised and will also incorporate some new pointers regarding minors.

15. Furthermore, GRETA considers that the Belgian authorities should focus greater attention on detection and identification of trafficking victims who are of Belgian nationality, EU nationals or legally resident on Belgian territory, including by raising awareness of trafficking issues among the front-line actors coming into contact with them and explaining to these actors how to proceed and to whom to refer the victim in suspected cases of trafficking.

Work to redraft the multidisciplinary circular organising the national referral mechanism is under way. The text should incorporate elements taking greater account of European and Belgian victims. In all events, this is one of the reasons why it was decided to revise the text.



It will also be geared to giving more detailed information on aspects relating to training and on-line information, particularly in relation to the anti-THB action plan.

16. GRETA urges the Belgian authorities to:

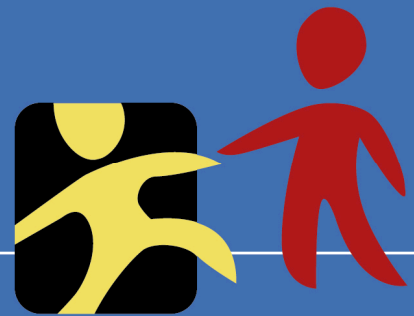
- ensure that the assistance offered to victims of trafficking is adapted to their needs, particularly when these victims are in need of immediate assistance. As this assistance is delegated to NGOs playing the role of service providers, the State is under obligation to allocate the necessary funding and guarantee the quality of the services provided by those NGOs;
- continue training and informing actors on the ground as regards the assistance available to victims of trafficking in human beings so that, as soon as a potential victim is detected, they refer that person to the competent services; and in this connection, to pursue efforts to inform those actors of the existence and content of the Circular on multidisciplinary co-operation where assistance is concerned;
- review the current system of assistance in order to adapt it wherever necessary to each victim's specific needs, paying particular attention to the special situation of child victims, victims who are EU nationals and those of Belgian nationality.

Funds are allocated to reception centres each year within the framework of the drawing up of the general budget of expenditure. At federal level, for 2015, the Law on the general budget of expenditure has provided for an allocation of 117,000 euros per reception centre. On top of this, each centre receives 144,000 euros from the national lottery. It is to be noted that, owing to budget cutbacks, these amounts are lower than those allocated in previous years. However, discussions on the budget are under way with a view to compensating for a budget tranche that was not paid at the end of the previous legislature and the talks will also focus on the possibility of re-evaluating this budget.

The reception centres are also allocated budget funds on the basis of regional and/or community finances.

A memorandum has been drafted by the Inter-departmental Co-ordination Unit on the issue, which has been reiterated in the new action plan. The ministerial cabinets have met in this connection and monitoring exists at inter-cabinet level.

The funding of the centres is one of the issues under discussion at budgetary level. As previously mentioned, the budget is established on an annual basis and centre funding is an aspect that must be taken into account in these discussions.



In Flanders and Brussels, the public social welfare centres organise reception and psycho-social support for victims of crimes and individuals with a precarious residency status, among others. In their work to assist victims, the welfare centres seek to establish the victims' needs so that they receive the kind of assistance required. The Asmodee division of the Antwerp welfare centre provides residential facilities providing assistance specifically geared to THB victims, with the Payoke non-profit association handling reception. The Flemish government subsidises the welfare centres. The subsidy for the Payoke non-profit association is currently under preparation.

Pag-asa and Sürya are the other two officially approved centres, the former operating chiefly in Brussels and the latter in Wallonia. They receive subsidies from the federated entities responsible for the territory on which their head office is located (Brussels and Wallonia respectively).

The three officially approved centres (Payoke, Sürya and Pag-asa) provide administrative, psycho-social and legal support for victims. They also provide them with accommodation.

17. GRETA urges the Belgian authorities to ensure that victims and possible victims of trafficking are systematically informed of the possibility of benefiting from a recovery and reflection period and are actually granted one.

On this point, please see our comments regarding training and information: 1, 7, 13 and 14.

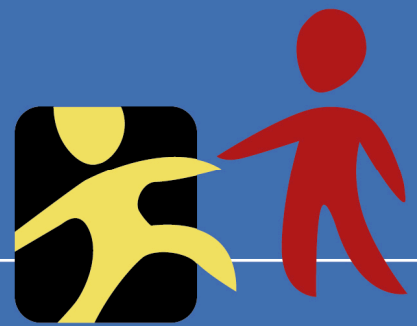
In brief:

- Training for staff of FEDASIL centres, training for legal guardians, training for the judiciary, training for the inspection services, awareness-raising in the medical sector etc
- Factsheet drawn up for members of the judiciary on call to deal with urgent cases under preparation;
- Inclusion of a judge for young persons in local co-ordination meetings;
- New Col 01/2015 circular including a more detailed section on consideration of victims' interests, aimed at both the judiciary and the police and inspection services;
- ...

A brochure setting out the indicators listed in Col 01/2015 is also being finalised. It will include instructions for immediate action regarding potential victims and will initially be aimed at inspection services, police services and the judiciary.

The action plan 2015-2019 stresses the need to organise training on a regular basis.





Finally, the federated entities now involved in interdepartmental efforts are also to make a contribution within the framework of training their own staff (see also the action plan).

18. Furthermore, GRETA considers that the Belgian authorities should revise the current form of the reflection period granted to adult trafficking victims entailing an order to leave the territory by a certain date and transform it into a temporary residence permit.

The new action plan provides for the replacement of the order to leave the territory with another document.

A very concrete proposal to replace the order to leave the territory with a stay permit, drawn up and backed by all the partners involved has been submitted to the policy-makers for decision. Once agreed and signed by the competent Ministers, this change will be incorporated in the Law of 15/12/1980.

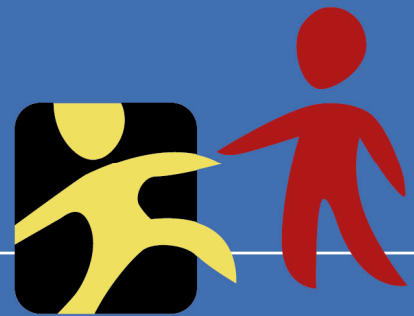
19. GRETA considers that the Belgian authorities should ensure that victims of trafficking can make full use of the possibility of obtaining a temporary stay permit in Belgium, in particular when they are not in a position to co-operate with the authorities.

The Belgian authorities point out that the system in place strikes a balance between the protection of victims and the smooth running of the investigation. Belgium grants a definitive residence permit to victims at the end of the procedure, allowing long-term reintegration.

In fact, the system is not very demanding: an official statement as such is not expected, and merely providing relevant information which assists the investigation may suffice. Obviously, it would be interesting to have a better insight into the factors making it easier, or making it more difficult, for victims to co-operate including action taken by traffickers.

20. GRETA also considers that the Belgian authorities should take additional steps to ensure that child victims of trafficking may be granted a residence permit on the basis of their best interest and not of their willingness or ability to co-operate with judicial bodies.

It must be emphasised in this connection that the directives in force reiterate that the best interests of the child dictate all decisions relating to minors. In this respect, the protection system is applied to them on a flexible basis, even though the conditions for benefiting from it are similar to those applicable to adults. If the trafficking victim procedure proves difficult to apply, other possibilities for protecting the minor will also be considered, while taking account of all the aspects of their situation, including the acts of which they may have been a victim.



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

- ensure that those victims of trafficking who leave Belgium may nevertheless obtain compensation, including via the Fund for financial aid for victims of intentional acts of violence;
- ensure that all victims of trafficking, including for the purpose of economic exploitation, have an effective access to this Aid Fund framework or to another system of compensation fund;
- enable victims to uphold their rights to compensation, by guaranteeing them effective access to legal assistance and reliable interpreting services.

22. In addition, GRETA invites the Belgian authorities to introduce a system for recording the applications lodged for compensation as well as the compensation awards obtained by victims of trafficking.

Since 2009, the Law on compensation for victims of intentional acts of violence enables anyone who has been a victim of such acts on Belgian territory to apply to this machinery under the conditions applicable to them (this had already been the case for victims of THB as of 2004).

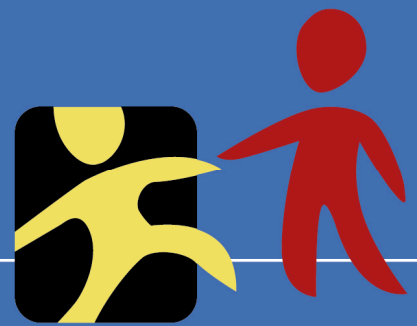
A victim may use this procedure even if they have left the country. Obviously, it is a subsidiary procedure and it is true that very few victims actually use it. In any case, the victim must remain in contact either with a reception centre or a lawyer in Belgium once they have returned to their country of origin. Where certain aspects of a case are not closed, the reception centres tries, as far as possible, to leave a point of contact open to the victim but few of them take the necessary steps once they have left.

The Law on protection of workers' remuneration and the new systems of joint and several liability are intended to make it easier to recover wages due but, at this stage, there is little information on their application.

Furthermore, the action plan 2015-2019 envisages two new lines of action:

- *When an employer is convicted but the victim has returned to their country, the Law of 12 April 1965 on protection of workers' remuneration makes it possible for the amounts recovered to be handed over to them, and if payment cannot be made to the worker directly*





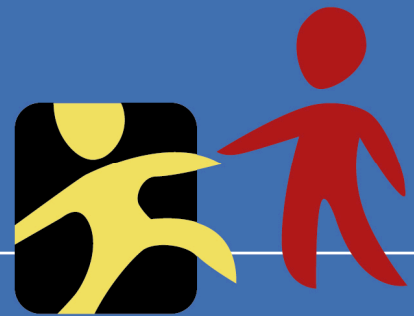
because they have not left a forwarding address, the amount due must be paid into the deposits and consignments fund. It is then for the victim to lodge their claim for the amount. An information brochure on the requirements and procedures to be followed by potential victims seeking to recover amounts due to them is to be prepared for 2017.

- *In its 2013 report, the Federal Centre for Migration suggested that where a bogus self-employment mechanism had been used and a person was recognised as a THB victim, it should be possible to notify the INASTI (national institute of social insurance for self-employed workers), which could then remove certain debts contracted.*

Consultations will be held with the INASTI within the framework of activities of the Bureau of the Inter-departmental Co-ordination Unit, particularly of the member representing the Federal public service responsible for social security, to explore this possibility. Consideration will then be given to introducing the necessary changes where required. The mechanism might be incorporated in the multidisciplinary circular of 2008 which organises protection for THB victims. Such a mechanism should be applicable only from when a victim has received an initial certificate of inscription in the foreigner's register, which would have a suspensive or even definitive effect in a situation where THB status victim was maintained up to the perpetrator's conviction. Scheduled for 2017

In the interests of facilitating compensation for victims, Col 01/2015 emphasises the importance of carrying out investigations of assets as systematically as possible and assessing the damage suffered as early as possible.

Information on the victims compensated via the aid fund is generally available upon request from the fund (but since, once again, the mechanism is a subsidiary one, a very limited number of victims apply to it – also because of certain procedural factors or psychological factors on the victim's side).



23. GRETA urges the Belgian authorities to:

- ensure that there are repatriation assistance arrangements suitable for all victims of trafficking, regardless of whether they are from EU Member States or not and irrespective of their status regarding residence permits for victims of trafficking, with due regard for the rights, safety and dignity of the person concerned and the state of judicial proceedings; this also implies protection against reprisals and against re-trafficking;
- carry out an assessment of the risks of re-victimisation specific to children, paying special attention to children who are EU nationals and have been victims of trafficking, and systematically taking due account of the best interests of the child;
- strengthen co-operation with the countries to which victims of trafficking return, with a view to improving their reintegration and rehabilitation.

There are repatriation assistance arrangements suited to all victims of trafficking for the different situations mentioned in point 23.

An initial assessment is carried out by the specialised centre for THB victims and a second by the IOM and CARITAS in the country of origin. The second assessment is performed at the request of the specialised centre.

Any decision concerning minors requires very detailed analysis of the centres providing assistance in the country of origin. Belgium's Foreigners' Office also closely examines the guarantees of reception.

In addition, there are specialised programmes of assistance and support for vulnerable groups.

The IOM has regional offices which also carry out assessments in the countries of origin (THB units).

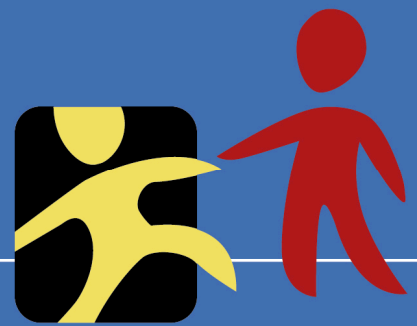
If the IOM is not in favour of repatriation, a solution is sought in Belgium.

Furthermore, initiatives are in progress to improve the return of victims or contact between national authorities within the framework of trafficking case management and protection of victims.

For example, the RAVOT project (funded by the EU) involves the Payoke non-profit association, the Hungarian authorities and the Netherlands. It is aimed at improving the sharing of knowledge on national referral mechanisms and information between all the participating States in relation to the victims identified. The project has been developed in the wake of cases involving the exploitation of prostitution via networks of Hungarian origin in Belgium.

In addition, the Benelux States are currently working on a brochure on national referral mechanisms and the bodies and authorities that can be contacted in the course of specific case management.





24. GRETA invites the Belgian authorities to consider the possibility of criminalising the use of services of a person in the knowledge that that person is a victim of trafficking in human beings, not only in cases of economic exploitation but also for the other purposes of exploitation covered by the Convention.

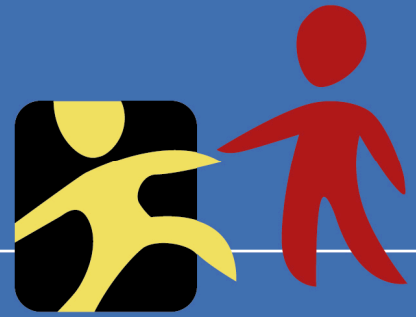
This question is raised in the action plan (3.4.). On the general issue of prevention of the use of services of trafficking victims, see our reply under point 8.

25. GRETA invites the Belgian authorities to ensure that acts of intentionally retaining, removing, damaging or destroying another person's travel or identity documents with the aim of permitting THB may be criminalised as such.

The Belgian authorities have stated that acts of intentionally retaining, removing, damaging or destroying another person's travel or identity documents with the aim of permitting THB do not in themselves constitute an offence but are one of the indicators of the existence of a trafficking offence as such. The confiscation or destruction of documents can therefore be taken into account by the judge when assessing aggravating circumstances in trafficking cases, such as taking advantage of the victim's state of vulnerability.

There are court decisions mentioning this aspect (Charleroi criminal court decision of 18 March 2011³).

³ <http://www.diversite.be/tribunal-correctionnel-de-charleroi-18-mars-2011> (the decisions are being transferred to the site www.myria.be)



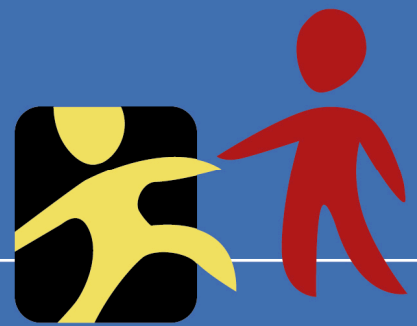
26. GRETA considers that the Belgian authorities should continue to take all appropriate steps to ensure that the possibility provided for in internal legislation not to impose sanctions on victims of trafficking for taking part in illegal activities when they have been constrained to do so is observed in accordance with Article 26 of the Convention. To that end, the Belgian authorities should in particular inform and make all judicial actors aware of this point and make an express reference to Article 26 of the Convention in the new version of Circular No. COL 1/2007 which is soon to be revised.

Col 01/2015 (May 2015) and the addendum thereto have replaced Col 01/2007. The new circular includes a specific chapter on consideration of victims' interests. This was already previously the case but Col 01/2015 tackles the subject in far greater detail and incorporates new elements:

- Firstly, it is pointed out that victims' interests must be taken into account throughout the investigation and the criminal proceedings. Suitable steps are therefore to be taken to avoid any re-victimisation as far as possible;
- The text is more explicit as regards the principle of non-punishment of THB victims while maintaining the norms governing prosecution policy, namely the principle of the expediency of prosecution. Close communication between members of the judiciary in the different sections of prosecutor's offices and labour law prosecution authorities is recommended to avoid prosecutions being brought that are incompatible with the status of THB victim.

These elements have already been integrated in the information passed on at the meeting of the network of expertise for specialised members of the judiciary in March 2015 for example or at the sessions run to inform police officers of this directive. This work will be continued.



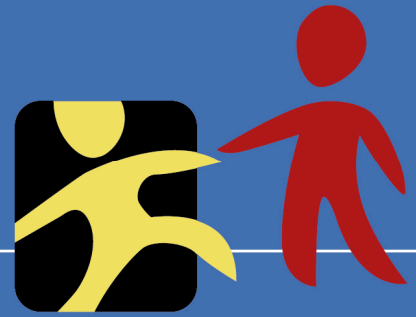


- 27. GRETA considers that the Belgian authorities should pursue their efforts to make trafficking in human beings a priority issue for the Federal Prosecutor's Office, given the important role it is required to play in national co-ordination and international co-operation in this area.**
- 28. GRETA considers that, following the recent amendments to Article 433quinquies of the Criminal Code relating to trafficking in human beings, the Belgian authorities should ensure that the judicial authorities are trained so that they are capable of determining which provisions should be applied in each case, in order to guarantee the effectiveness of Article 433quinquies of the Criminal Code and avoid confusion with other offences.**
- 29. GRETA considers that the Belgian authorities should increase training concerning trafficking in human beings for judges (both investigating judges and trial judges) required to examine trafficking cases with a view to achieving a more consistent application of the criminal provisions covering these offences, in particular by informing the actors concerned about the changes recently made to these provisions.**

Training courses for judges are regularly run with the Institute of judicial training. They involve either specialised or basic training. The last basic training course was organised on 30 April and 8 May 2015. Training emphasises the characteristics of the different forms of trafficking in human beings, involves judges or investigators specialising in this type of case and also develops the aspect of victim referral.

A second part of the training focuses on people smuggling with a view to making a clear distinction between the two notions.

Trial judges participate in training on a voluntary basis but it should be noted that the training is also aimed at trainee judges who may well become trial judges.



30. GRETA considers that the Belgian authorities should:

- **make full use of the existing procedural measures aimed at protecting victims and witnesses within the meaning of the Convention, to avoid them being subjected to intimidation and reprisals during and after the criminal procedure, paying special attention to children;**
- **ensure that victims are duly informed of existing protection measures, and that international co-operation tools are reinforced and effectively deployed when persons in danger live abroad.**

As stated in Belgium's initial reply, it is not always easy to use certain existing procedural measures, quite simply for practical reasons. In cases involving few victims, anonymity measures may have limited effectiveness in view of the facts to be aired during the trial.

In any case this is an aspect raised in discussion with the victim and the reception centres. It must also be remembered that the way in which the procedure is organised allows victims to maintain a certain distance from it if they wish (a witness statement is not required where protection measures are implemented, and the reception centres can represent the victim in proceedings, etc.).

It is planned to continue developing information tools to urge players on the ground to pass on the most accurate information possible to victims. A brochure currently under preparation will list the THB indicators and the recommended responses.

