

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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

CP(2014)4

**Report submitted by the Danish authorities  
on measures taken to comply with  
Committee of the Parties Recommendation CP(2012)4  
on the implementation  
of the Council of Europe Convention  
on Action against Trafficking in Human Beings**

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JUSTITISMINISTERIET

Ministry of Justice

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Date: 4 February 2014  
Office: Politikontoret  
Contact: Jenny Lyngsø Østergaard  
Our ref.: 2013-19203-0283  
Doc.: 1018483

Dear Ms Nestorova,

I hereby enclose the report from the Government of Denmark on the measures taken by Denmark to comply with the recommendation CP(2012)4 of the Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings on the implementation of the Convention by Denmark, as requested by the Committee of the Parties in paragraph 2 of the said recommendation.

Yours sincerely,

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**Report submitted by the Danish authorities on measures taken to comply with Committee of the Parties Recommendation CP(2012)4 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings**

**Core concepts and definitions**

1. GRETA considers that the Danish authorities should ensure that the principle according to which the consent of the victim is irrelevant when one of the means listed in the Convention has been used applies in all dimensions of the identification, protection and assistance of victims of trafficking as well as in the context of criminal proceedings.

As mentioned in Denmark's reply to the questionnaire regarding the first evaluation round, a person (adult or child) cannot give a consent to being a victim of trafficking in violation of section 262 a of the Criminal Code.

Furthermore, victims of trafficking who are staying illegally in Denmark are given specific protection and assistance pursuant to the Danish Aliens Act. According to Section 33 (14) of said act victims of trafficking are given a reflection period of at least 30 days which may be prolonged up to a maximum of 120 days if necessary. The victims are also offered psychological and economic support and a prepared return to their country of origin.

The decision whether an alien staying illegally in Denmark is a victim of trafficking is made by the Danish Immigration Service (hereafter DIS). The decision is based on an assessment of all the relevant information regarding the victim, and takes several indicators into consideration for example whether a trafficker has recruited, transported, transferred, har-

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boured or received the victim, has paid for and organized the trip, or if the alien has been forced to travel to Denmark or has been subject to violence, threats or exploitation. If one of the means of force listed in the Convention has been used, a consent from the potential victim of trafficking will be considered irrelevant in regards to determining whether that person is in fact a victim of trafficking. The decision is based on information from the Danish Centre against Human Trafficking (hereafter CMM) and the police. Reference is made to the remarks to proposal 19.

CMM has the authority to grant the status of a victim of human trafficking for persons staying legally in Denmark. The consent of the victim is always irrelevant for this decision. As support and assistance to victims of trafficking staying legally in Denmark is based on this decision, the principle also applies in this dimension.

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

*2. GRETA considers that the Danish authorities should step up their efforts to detect potential child victims and victims of trafficking for the purpose of labour exploitation.*

According to the present National Action Plan (NAP) CMM has entered with partners from the labour market – both authorities such as and the Tax Authorities (hereafter SKAT), the Danish Working Environment Authority (hereafter WEA), the Danish Agency for Labour Retention and International Recruitment, Danish National Police and DIS and unions. The purpose is to exchange knowledge on vulnerable sectors with regard to trafficking in human beings and on indicators on human trafficking as well as agreeing on procedures for cooperation. Furthermore relevant actors have been trained (reference is made to the remarks to proposal 4 below).

As part of an EU funded project on facilitating CSR in the field of human trafficking, CMM has identified risks factors in relation to human trafficking in the hotel sector and is in the process of developing guidelines for the sector, in order to assist employers securing human rights and prevent THB for labour exploitation. CMM intends to develop guidelines for other branches vulnerable to human trafficking on the basis of output from this project.

Regarding child victims of human trafficking CMM intensified the efforts in this area amongst others by implementing the project “outreach in municipalities targeted minor potential victims of human trafficking”. The

goal was to identify minor victims of trafficking and in this way to secure their protection and access to services. Furthermore relevant actors have been trained (reference is made to the answer to proposal 4 below). A toolkit on child trafficking, indicators and services has been developed for this purpose.

**3.1** *GRETA invites the Danish authorities to involve representatives of NGOs in the meetings of the Inter-Ministerial Working Group on Human Trafficking and associate NGOs in policy development;*

NGOs are already associated in the policy development in this area e.g. through close involvement in external evaluations of the National Action Plans and furthermore by providing input during the development of National Action Plans.

NGOs are also represented in the local and national coordination and referral groups that reports to the inter-ministerial working group (the national referral mechanism system) and NGOs can be invited on an ad hoc basis to inter-ministerial working group meetings but are not be members of the group.

**3.2** *GRETA invites the Danish authorities to further improve the co-operation and co-ordination between governmental departments, the CMM, the Police, NGOs and other members of civil society active in the field of action against THB and the protection of victims.*

The importance of coordination and cooperation between all actors in this field is highly acknowledged by the Danish authorities. This is also why CMM was established already in 2007. The external evaluation of the second NAP concluded with regards to the coordination and cooperation between the different actors the following (from the English summary):

“An important result has been the establishment of the Centre against Human Trafficking (CMM). The Evaluation Team considers that the Centre should take a large part of the credit for the improvements in Denmark's response to trafficking and it is difficult to see how the protection activities undertaken would have achieved the same level of success without CMM's contribution.

Likewise, the inter-ministerial working group and the regional reference groups contribute to effective coordination, knowledge dissemination, and empowerment of contributing organisations. Overall, the Evalua-

tion assesses that the implementation of the Action Plan has been characterised by a common, coordinated, and dedicated input from many actors, including social organisations and the police, where it has been important that the different actors are familiar with each others roles and responsibilities”.

On this basis the role of and resources to CMM have been affirmed with the third NAP (2011-2014).

### **Training of relevant professionals**

*4. GRETA considers that the Danish authorities should ensure that all relevant professionals are trained periodically, throughout their careers, in the identification of victims of trafficking, including with a view to improving the identification of victims of trafficking for labour exploitation. Such training should be designed taking full account of gender and child specific aspects and be provided to law enforcement officers, border guards, immigration officials, staff working in refugee reception centres and detention centres for irregular migrants, staff working in establishments for juveniles and minors run by the social services, diplomatic and consular staff, social welfare officers and labour inspectors.*

CMM has trained staff at relevant hospitals and health care units focusing on indicators on human trafficking and promoted a film aimed at training health care personnel at educational level.

CMM has trained relevant municipalities on child trafficking, indicators and how to take action and has developed a toolkit for front personnel on these matters.

Furthermore CMM has carried out training at relevant asylum detention centers regarding minors at risk of being victims of trafficking.

CMM and the Danish National Police planned and participated in a training seminar for diplomatic and consular staff working in countries of origin on the issue of human trafficking – this will be followed by material on THB developed by CMM for this target group (reference is made to the remarks to proposal 13).

Finally as a continuous effort, CMM hosted a training session in December 2013 targeting social workers from organizations working on a contractual basis under the present NAP. The seminar focused primarily on trafficking for forced labour.



The Danish National Police is educating police officers at the Police Academy on indicators of THB, so that police officers are able to spot THB victims and immediately contact the CMM and DIS with regards to identification of the victims.

Furthermore, updated guidelines and action cards regarding THB including the indicators of trafficking are about to be introduced. This ensures that information on THB indicators and administrative procedures is easily accessible.

Each police district has one or several police officers with special knowledge in the field of human trafficking. These police officers receive special training and are key figures for their colleagues in combating THB.

As part of strengthening the collaboration with actors in the labour market (see the remarks to proposal 2 above) SKAT and WEA have carried out training of their inspectors on THB.

In the early summer of 2012 SKAT issued the Pamphlet “Menneskehandel og DIG” (Trafficking and YOU), which has been distributed among all employees in SKAT – approximately 7.000 people. The Pamphlet describes the indicators of trafficking in human beings.

In the autumn of 2012, a targeted instruction/training was carried out for approximately 1.000 employees in SKAT. These employees were chosen because of their tasks in the field or because of their frequent contact with citizens coming to the offices of SKAT. They have been introduced and trained to detect/see indicators on trafficking.

All labour inspectors are offered ongoing training in order to be able to identify victims of trafficking whilst on inspections. Furthermore, WEA has trained a number of expert inspectors in order to enable them to train all other inspectors.

*5. Further, GRETA invites the Danish authorities to step up the training provided to legal and judicial staff on the issue of THB and the applicable legislation and case-law, including the need to apply a human rights-based approach to action against THB on the basis of the Council of Europe Anti-Trafficking Convention and the case-law of the European Court on Human Rights.*

Cases of THB are dealt with in specialized units of the prosecution service within the police districts which contributes to secure a high degree of knowledge and experience in these matters. In order to ensure that the prosecution service is continuously aware of the challenges that cases of THB hold and of new patterns of trafficking, such as labour trafficking, the Director of Public Prosecutions on a regular basis addresses relevant THB issues at committee meetings where representatives of all police districts and of the regional prosecutors are present. These meetings also provide the members with an opportunity to address relevant issues and share experiences.

In addition, the Director of Public Prosecutions has made all relevant case law on THB available online, just as a prosecutor when dealing with a specific THB case may consult with the Director of Public Prosecutions. Prosecutors use this option not only to discuss the handling of cases against traffickers but also the handling of cases where the alleged victim of trafficking has been involved in unlawful activities.

In the opinion of the Director of Public Prosecutions these measures and procedures ensure that THB cases are handled correctly and uniformly across the country.

### **Data collection and research**

*6. GRETA considers that, for the purpose of preparing, monitoring and evaluating antitrafficking policies, the Danish authorities should develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical information from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination, etc.). This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection.*

CMM continues to collect, compile and present data on the total number of identified victims of human trafficking, disaggregated into sex, age, country of origin, type of exploitation. Data are presented on a semi-annual basis on [www.centermødmenneskehandel.dk](http://www.centermødmenneskehandel.dk).

In 2014 CMM will implement a new more comprehensive data collection system.

The Danish National Police monitors and collects information about cases regarding human trafficking. In connection with the monitoring of THB the Danish National Police collects statistical data on the number of THB cases, victims, charged and convicted persons.

The Director of Public Prosecutions and the Danish National Police are able to extract data on THB cases from the Danish police computer system, POLSAS.

Moreover, the Director of Public Prosecutions has summarized court cases involving THB. This summary of case law is updated on a regular basis and is available on the intranet and on the website of the prosecution service (AnklagerNet and [www.anklagemyndigheden.dk](http://www.anklagemyndigheden.dk)) where – for educational purposes – there is also access to certain cases in full. From the case law the Director of Public Prosecutions is able to extract certain information that cannot be extracted from the statistical data collected by means of POLSAS, i.e. sex, age, country of origin, compensation, confiscation of proceeds of THB and the length of imprisonment.

*7. In addition, GRETA invites the Danish authorities to continue conducting and supporting research on THB-related issues, in particular in areas which have received little attention in the past, such as trafficking in children, and trafficking for the purpose of labour exploitation. Such research is an important source of information for future policy measures in the field of action against THB.*

During the present NAP CMM has conducted research into the au-pair sector, the cleaning sector and the green sector. In 2012 CMM presented a brief summary report of the most important findings and conclusions of the three reports including an interdisciplinary analysis of the topic of human trafficking for forced labour in Denmark.

In addition, CMM is currently considering studies focusing on other sectors vulnerable to trafficking, such as the restaurant sector and on the production of cannabis/skunk carried out primarily by illegal migrants from Vietnam as some of these workers have been identified as victims of trafficking for labour exploitation.

### **International co-operation**

*8. GRETA considers that the Danish authorities should explore further possibilities for international co-operation with governmental and non-*

*governmental actors in the fields of protecting and assisting victims of trafficking, including in preparation of their return and reintegration in their countries of origin.*

CMM has strengthened collaboration with countries of origin, and thus countries of return (Nigeria, Romania, Italy and Spain) on study tours in 2011 focusing on building partnerships, getting an insight into services available for returning victims. Afterwards CMM has continued close collaboration with an NGO in Nigeria.

Denmark also has a well functioning cooperation with the International Organization for Migration (IOM) in the field of protecting and assisting victims of trafficking. This includes a program for (voluntary) prepared return of vulnerable migrants (including victims of trafficking). The voluntary returns are planned, prepared and processed in close collaboration between IOM in Denmark as well as IOM offices in countries of return, CMM and the DIS. IOM is responsible for the follow-up on cases upon return and communicates to the DIS and CMM on these matters. The project specifically focuses on e.g. reception assistance in the countries of origin (by either IOM or another organization or agency), individualized reintegration assistance (provided by IOM or other organizations or state agencies) prior to the return as well as upon return, and monitoring of the reintegration process by the IOM mission in the country of origin.

In 2013 the program for prepared return of vulnerable migrants was extended until 31 December 2014.

**9.** *Further, GRETA invites the Danish authorities to continue developing the aspect of international co-operation with a view to preventing and combating THB.*

THB is of global proportion and trafficking in itself is a serious crime and a grave violation of human rights, which leads to further violations of fundamental rights. Denmark continuously strives to reinforce the comprehensive approach in the fight against all forms of THB. The reasons for human trafficking are complex. Cooperation between origin, transit and destination countries is essential for comprehensive responses to THB, as is regional and international collaboration and inclusion of private stakeholders. Denmark has contributed financially and is actively engaged in international fora, such as the UN, the OSCE, the EU and NATO on the issue of THB. Furthermore, Denmark contributes to the implementation of

a project aiming to inform and educate relevant stakeholders in combatting human trafficking for forced labor under the CBSS Task Force for Combating Human Trafficking, and supports UNODC with approximately DKK 5 million annually as core funding.

Denmark also places a high emphasis on working closely with bilateral partner countries; including active Danish efforts in development assistance to ensure respect for human rights and support for democratization, which contributes to combating human trafficking. Denmark's strategy for development cooperation, "[The Right to a Better Life](#)", creates the foundation for an effective Danish development cooperation, which aims to combatting poverty and promoting human rights. Economic growth is central to the strategy and should promote social progress in order for it to contribute to improving the lives of poor people and their ability to create a better life for themselves. Denmark remains highly committed to the fight against trafficking, which requires a long-term effort, not least to reduce the underlying causes, such as poverty, conflicts, inequitable social distribution and marginalization.

In 2014, the Danish Interdepartmental Workgroup, consisting of the Ministry for Gender Equality and Ecclesiastical Affairs, the Ministry of Social Affairs, Children and Integration, the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Taxation, the Ministry of Employment, as well as the Ministry of Health, will be drafting the new Danish Action Plan to Combat Human Trafficking for 2015-2018 (NAP), which will entail the considering of exploring possible further possibilities for international cooperation.

CMM participates in the informal network for National Rapporteurs and Equivalent Mechanisms (NREM) with a representative from the Danish National Police and in meetings and conferences arranged under the auspices of the EU Anti-trafficking Coordinator, EU Home Affairs.

In 2013 CMM initiated a Nordic Network against Child Trafficking with members from Sweden, Norway, Finland and Denmark, and hosted the first meeting in 2013. Meetings will be held on a yearly basis.

CMM continuously participates in meetings and seminars with different international bodies such as (council of the Baltic Sea States Task Force for Combating Human Trafficking) CBSS taskforce, OSCE, UNODC, IOM, Eurostat, Trafstat etc. – and within the last month has been invited

to seminars in Oslo and in Stockholm, to present papers on the emerging collaboration with the private sector to promote CSR and prevent human trafficking, and on the Danish model for social outreach work.

CMM participates in an EU funded project on facilitating CSR in the field of human trafficking with 6 other EU countries, exchanging knowledge and best practices.

The international co-operation of the Danish National Police is mainly embedded in the EU framework including Europol, Frontex, Cefpol and Schengen. Furthermore the Danish National Police takes part in the Interpol co-operation, the Baltic Sea Task Force and the Nordic Police Co-operation in the fight against THB.

Furthermore the Danish National Police has carried out a joint investigation (JIT) with the police of Estonia in 2013 in an investigation concerning possible THB for the purpose of prostitution.

### **Prevention of trafficking in human beings**

**10.** *GRETA considers that the Danish authorities should adopt measures to raise awareness of THB for the purpose of labour exploitation and discourage demand for the services of trafficked persons, in particular in the agriculture, construction and cleaning sectors.*

In 2011 a prevention and awareness raising campaign was launched, targeting primarily young people. The campaign focused on trafficking for sexual exploitation with the aim of informing buyers of sexual services of the risk of THB.

CMM is currently working on a new prevention and awareness raising campaign, targeting civil society in general and sex buyers and employers in particular. The campaign focuses on forced labour as well as prostitution and aims at disseminating knowledge of THB in order to discourage demand for services from trafficked persons. The campaign will run during 2014.

**11.** *In addition, GRETA considers that the Danish authorities should take steps to provide information to foreign nationals planning to travel to Denmark to alert them about the risks of THB for sexual and labour exploitation, as well as inform them of their rights.*

Information on the webpage [www.workindenmark.dk](http://www.workindenmark.dk) includes a range of important information for job seekers and employers relating to the recruitment and hiring process and residence in Denmark. An applicant may for example find information on working in Denmark (job seeking, working culture in Denmark, terms of employment, employment contract, working hours, unemployment insurance, trade unions, holiday and pension). Furthermore, an applicant can find information on rules for residence and work, tax rules and life in Denmark (registration, housing, health service, language courses, child care, schools, networks in Denmark, insurance etc.). Also the Workindenmark centers have distributed a pamphlet on rights and obligations when working in Denmark.

**12. Further, GRETA invites the Danish authorities to:**

- *explore the possibility of participating in awareness-raising activities in countries of origin of victims of trafficking, such as Nigeria, Thailand and Romania, where the majority of the women trafficked for sexual exploitation in Denmark originate from;*
- *plan future information and awareness-raising campaigns to prevent THB with the involvement of civil society, on the basis of previous research and impact assessment.*

The Danish Ministry of Foreign Affairs has supported national governments, civil society and international organizations to respond to the challenges of human trafficking since 2006.

The Danish Programme against Human Trafficking in Eastern and South Eastern Europe is now in its consolidation phase and has the objective to strengthen the sustainability of the counter trafficking systems in Belarus, Moldova and Ukraine. Its methodological basis is provided by the OSCE's guidelines relating to National Referral Mechanisms for Victims of Human Trafficking (NRMs) (2004) as well as international commitments relating to human rights. In the area of prevention, the Programme has supported awareness raising, hotlines, trainings and counselling in all three countries. The main implementing partners for these aspects have been NGOs and IOM. The programme has, furthermore, pursued a gender-balanced approach reflecting the significant number of men, who are currently being trafficked (mainly for labor exploitation).

The partnership between the United Nations Population Fund (UNFPA) and the Government of Denmark on “Strengthening National Capacity to curb Trafficking in Persons in Nigeria” has achieved results, especially in the area of awareness raising on gender based violence and the rights of women. It has also made commendable strides in areas of product development aimed at influencing qualitative gender programming and capacity building among critical stakeholders.

In 2014, the Danish Interdepartmental Workgroup, consisting of the Ministry for Gender Equality and Ecclesiastical Affairs, the Ministry of Social Affairs, Children and Integration, the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Taxation, the Ministry of Employment, as well as the Ministry of Health, will be drafting the new Danish Action Plan to Combat Human Trafficking 2015-2018, which will entail the considering of exploring possible further possibilities for international cooperation.

**13.** *Further, GRETA encourages the Danish authorities to disseminate widely the ‘Handbook for diplomatic and consular personnel on how to assist and protect victims of human trafficking’ in order to identify and address potential THB-related risks during the visa application system.*

Employees of the Ministry of Foreign Affairs Consular Service Department and other relevant personal attend mandatory training on how to handle consular cases, which includes handling of THB – both concrete cases and during the visa application process. The Danish Ministry of Foreign Affairs regularly updates its consular handbook and conducts regional courses for posted personal.

Furthermore, as part of the Danish Action Plan to Combat Human Trafficking 2011-2014, the CMM and the Danish National Police has in May 2012 disseminated knowledge during a pre-posting seminar for Danish diplomats and consular staff in order to identify and address potential THB-related risks during the visa application system. In this context, the CMM is in the process of developing material for seminar participants and local staff in Danish Embassies, which will include the CBSS’ (Council of the Baltic Sea States) “Handbook for diplomatic and consular personnel on how to assist and protect victims of human trafficking”.

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



**14.** *GRETA urges the Danish authorities to review the identification procedure of victims of trafficking with a view to ensuring that potential victims are treated in the first place as persons who have been exposed to human rights violations rather than as offenders.*

As a part of the Government's agreement with the party Enhedslisten on the financial bill 2013 it was agreed to strengthen The Danish Centre against Human Trafficking concerning a confidence-building effort at the early stage if the possible victim of trafficking is held in police custody. To create the necessary confidence the person shall be offered a daily visit and a longer preliminary conversation than the one that was offered earlier.

In this regard CMM has strengthened the confidence building efforts towards especially foreign women who are held in police custody and have worked in the prostitution industry and thus are at risk of being victims of trafficking in order to detect potential signs of trafficking. To fulfill this obligation CMM has expanded the capacity of the outreach service team, developed written material about trafficking and the assistance available to victims of trafficking, and taken initiatives in order to strengthen the cooperation with prison staff.

**15.1** *GRETA considers that the Danish authorities should take into account the special needs and circumstances to be addressed in the identification of child victims of trafficking, including the setting up of a special referral mechanism for unaccompanied children*

The normal referral system involving the CMM includes both adult and minor victims of trafficking.

As part of the training of relevant actors on the issue of under aged potential victims of trafficking CMM has strengthened partnerships and will function as a coordinator in cases of under aged potential victims of trafficking, bringing together the Red Cross, municipalities and other relevant actors, ensuring that the special needs of the child are covered as well as the child's access to services.

If a potential victim seeks asylum or stays illegally in Denmark, the DIS assesses whether he/she presumably is a victim of trafficking. This applies to adults as well as (unaccompanied) minors.

As far as unaccompanied minors are concerned, information regarding potential trafficking may come to DIS' knowledge from a variety of sources besides CMM, e.g. the minor's personal representative (guardian), the asylum center staff, social workers, the police or the minor him/herself.

DIS has a team of lawyers and academics, who have been trained in particular to handle asylum applications from unaccompanied minors, including unaccompanied minors who (might) have been victims of trafficking. The special needs and circumstances to be addressed in the identification of child victims are thus handled by staff specialized in processing asylum applications from unaccompanied minors. Information available to DIS – at any stage of the case processing – indicating that an unaccompanied minor may be a victim of trafficking will be considered by DIS and a decision in this regard will be taken. If there are reasonable grounds to believe that a person, including an unaccompanied minor, may be a victim of trafficking, DIS will determine the person as a victim.

**15.2** *GRETA considers that the Danish authorities should envisage a longer time-frame for the identification of victims of trafficking taking into account the traumatic experience they may have suffered and the need for sufficient time to gather all the necessary information and decide on the status of victims of trafficking*

The Ministry of Justice notes that there is no legal requirement stating that DIS must perform the identification of a potential victim within a certain time limit. However, if a potential victim stays illegally in Denmark and therefore has to leave within a certain dead line, the identification must be carried out as soon as possible.

Under the Danish Aliens Act aliens must have a legal basis for staying in Denmark or leave the country in accordance with the immigrations authorities' decisions. Consequently aliens who do not have permission to stay in Denmark, e.g. if they do not apply for residence permit or do not fulfill the conditions for such, must leave the country in accordance with the dead line set by the authorities. If the alien does not leave voluntarily, the police will ensure his or her departure. In order to enable the above mentioned departure, the police may decide to detain the alien administratively for a period of maximum 72 hours, if detention is deemed necessary and proportional.

If a potential victim stays illegally in Denmark – and DIS therefore must decide whether he/she should be expelled administratively with an entry ban or granted a prolonged dead line for leaving the country (a reflection period) of minimum 30 days and not be expelled – the assessment regarding trafficking/identification will as a general rule be made within 72 hours. As DIS' decision regarding trafficking is based on information from and assessments made by the CMM and the police, CMM's and the police's assessments will in most cases be forwarded to DIS as soon as possible ensuring that the decision can be made within the 72 hour period. In special cases, where the CMM needs more time to interview a potential victim in order to make an assessment, the police can ask the court to extend the detention, in order to ensure CMM the necessary time to examine the case. DIS will not make a decision to expel a potential victim before CMM has interviewed him/her and made an assessment regardless of the 72 hour period. Therefore the person does not risk deportation at this time.

**15.3** *GRETA considers that the Danish authorities should ensure that the restrictive interpretation of “trafficked to Denmark” is no longer applied.*

As far as decisions regarding victims of trafficking under the Danish Aliens Act are concerned, a victim is defined as a person of whom there are reasonable grounds to believe is a victim of trafficking.

The term “trafficked to Denmark” does not imply that only persons trafficked directly to Denmark from their country of origin may be regarded or identified as victims of trafficking. It is not a prerequisite that the person is trafficked directly from his/her country of origin. The interpretation of the term implies that the person in question is staying in Denmark as a direct result of being a victim of trafficking. Hence, aliens who are trafficked to Denmark from a country other than their country of origin may be identified as victims of trafficking. Likewise, aliens trafficked internally in Denmark may also be identified as victims.

**15.4** *GRETA considers that the Danish authorities should review the practice of holding potential victims of trafficking in custodial settings while their identification is pending and provide appropriate alternatives for both men and women victims of trafficking;*

Normally the police will detain an alien without legal stay in Denmark until the DIS has determined whether the alien in question is a victim of trafficking (reference is made to the remarks to proposal 15.2). This practice is

carried out because the aliens in question are without legal stay in Denmark and the DIS must assess whether the aliens are to be sent out of the country. According to police experience the aliens in question will often disappear immediately if they are not detained, which prevents the DIS from making an assessment of the alien's status and the police from ensuring the alien's departure if they are in fact not victims of trafficking.

In some cases however, the police have found it to be more appropriate (and proportional) to place persons who are part of the groups most at risk of being victims of trafficking and who have illegal stay in Denmark at a crisis center in accordance with Section 34 of the Danish Aliens Act instead of remanding them in custody in accordance with Section 36 of the Danish Alien Act. To a certain extent, this has meant that e.g. women identified as victims of trafficking have cooperated more extensively with the police, including providing the police with relevant information about the traffickers. Based on this experience the guidelines of the National Police have been changed with respect to ensuring awareness of this possibility provided by the Aliens Act.

In addition and as mentioned under proposal 14, the CMM has further strengthened the outreach work in prisons, to get in contact with persons who are part of the groups most at risk of being victims of trafficking.

If and when an alien is identified as a victim of trafficking, the person is released from detention unless the person is suspected of a serious criminal offence – typically to a women's shelter – and the person will be granted a reflection period and offered a prepared return to the person's home country. The above mentioned guidelines also underline that an alien identified as a victim of trafficking is to be released from detention typically to a women's shelter as mentioned above.

In cases concerning a person with legal residence in Denmark (including foreign nationals) the Danish Centre against Human Trafficking assesses whether the person in question has been the victim of human trafficking.

In these cases CMM will see to that the victims are placed in "safe houses", crisis centers etc.

If the CMM identifies a person with legal residence in Denmark as a victim of trafficking the person will not be detained by the police unless the person is suspected of a serious criminal offence.

Female victims are typically placed in “safe houses” whereas there is no accommodation aimed specifically at male victims as there has not been many cases involving male victims. Male victims have thus been placed in different places such as crisis centers and apartments.

**15.5.** *GRETA considers that the Danish authorities should adopt a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation, for example by organising regular visits of labour inspectors to working sites in the sectors most at risk, such as agriculture, construction, cleaning, restaurants and hotels.*

As mentioned in the remarks to proposal 2 CMM has entered with partners from the labour market – both authorities such as SKAT, the Danish WEA, the Danish Agency for Labour Retention and International Recruitment, Danish National Police and the DIS and unions. The purpose is to exchange knowledge on vulnerable sectors with regard to trafficking in human beings and on indicators on human trafficking as well as agreeing on procedures for cooperation.

WEA already inspects all work places, where there is a suspicion about social dumping, human trafficking or forced labour. To the extent WEA’s inspectors become aware of or get knowledge about situations indicating forced labour or trafficking, the WEA will therefore pass on the information to the other relevant authorities. If necessary, WEA also informs other authorities about conditions, where there is a suspicion of offenses within their area of authority.

As part of the cooperation the Danish National Police has entered into an agreement with the CMM and SKAT about fighting THB with purpose of forced labour. The agreement ensures that the authorities have the necessary knowledge about THB enabling them to identify potential victims.

The Danish National Police expects an increase in cases about trafficking for the purpose of labour exploitation as the Danish National Police and the collaborators as mentioned above have strengthened focus and cooperation on THB for the purpose of forced labour.

Furthermore SKAT has, in cooperation with the National Police, focus on the economical aspect of THB: Follow the money and establish the profit for the organizer.

By November 14<sup>th</sup> 2013, SKAT had received 94 tips in the launched letterbox for employees in SKAT. The project (the tips) has in four cases since the January 1 2013 lead to a possible identification of at least 6 victims of trafficking to forced labor. All cases are in other sectors than the sex industry.

**15.6** *GRETA considers that the Danish authorities should give the CMM an enhanced role in the identification of victims who are illegally present in Denmark, in particular with a view to ensuring that potential victims of trafficking are not charged by courts without being identified.*

The existing procedures aiming at identifying victims of trafficking widely involve social workers from CMM. If a potential victim seeks asylum or stays illegally in Denmark, DIS assesses whether he/she is presumably a victim of trafficking. Thus, DIS pays attention to whether indicators for human trafficking is present during the asylum process, e.g. during asylum interviews, and when assessing whether an alien staying illegally in Denmark should be expelled administratively with an entry ban. In the last mentioned situation a victim of trafficking will be granted a prolonged dead line for leaving the country (a reflection period) of minimum 30 days and will not be expelled. In this situation the alien will as a general rule be interviewed by the police and a social worker from CMM before the case is presented to DIS. DIS' decision is thus based on information from and assessments made by CMM and the police. Accordingly, both law enforcement officers and social workers play a central role in the identification process.

With regards to a potential criminal case against a victim of trafficking, CMM provides prosecutors and defence lawyers with information on human trafficking, guidelines from the Director of Public Prosecutions concerning withdrawal of charges of victims of trafficking, identification of victims etc. (reference is made to proposal 26 below) and other relevant material.

**16.** *Further, GRETA invites the Danish authorities to ensure that the guidelines, indicators and other tools used for the identification of victims of trafficking by law enforcement agencies, Government departments and service providers cover all types of THB, and are harmonised and that there is a regular exchange of information between the relevant actors who perform the identification of victims.*

Ensuring that procedures for identification are harmonized is an ongoing task carried out by CMM and as noted above CMM promotes indicators on human trafficking in training seminars for relevant actors. Due to obligations under the present NAP CMM has expanded the identification form used by social workers in the identification process with indicators on THB for forced labour.

CMM's system of national and regional referral groups ensures a continuous exchange of information between relevant actors who perform the identification of victims. A similar exchange of information takes place in the Danish National Police's reference group on THB, where knowledge is shared, the latest trends and newest initiatives are discussed. The referral groups and the reference group consist of representatives from governmental and non-governmental organizations.

The Director of Public Prosecutions is represented in CMM's national referral group and the Danish National Police's reference group on THB and uses these forums to share information from the prosecution service, including on cases of THB and new patterns in this area.

In May 2012 the Director of Public Prosecutions issued guidelines to police officers and prosecutors on identification of victims of trafficking. In order to ensure that these actors receive all information relevant to identifying victims the guidelines encourage them to seek additional information about indicators, etc. at the website of the CMM and by contacting the Danish National Police.

Currently the Danish National Police is updating the guidelines and action cards regarding THB so that the latest amendment regarding Section 262 a in the Danish Criminal Code (reference is made to proposal 26 below) is covered and thus all types of THB according to national law will be described in the guidelines and action cards.

SKAT has developed internal guidelines on THB. The guidelines are focused on all lines of trade, including prostitution/sex industry. The guidelines include description of indicators on human trafficking in all lines of trade and describes the procedure concerning information to other authorities, especially the police and CMM. The guidelines are a dynamic tool which is updated along with new knowledge in this field.

As a part of SKAT's focus on combating THB, SKAT has developed an interview form which can be used by employees, when meeting a person, whom they suspect might be subject to trafficking.

### **Assistance to victims**

*17. GRETA urges the Danish authorities to ensure that all victims of trafficking are provided with adequate support and assistance, including access to education, vocational training and the labour market, during their stay in Denmark and in preparation for their reintegration and rehabilitation upon return to the country of origin.*

All victims are provided with support and assistance following their individual needs. It is an ongoing task to improve the assistance offered to victims of trafficking based on their feed back. During their stay in Denmark victims of trafficking have access to various qualifying courses and vocational training.

During the stay in Denmark, asylum seeking victims and victims without permission to stay in Denmark are supported by DIS. The support includes accommodation taking into account the individual needs and requests of the victim either in asylum centres, e.g. special centres for women, children or vulnerable persons, or in safe shelters or other relevant protected housing. The support also includes medical and psychological assistance and relevant social arrangements. Besides the offers available to all asylumseekers and illegal immigrants, victims of trafficking have access to further assistance, depending on their individual needs and requests.

As far as educational activities are concerned, such are included in the general services provided by DIS. Minor aliens of school age are subject to compulsory school attendance like other minors in Denmark, and asylumseekers over the age of 18 are offered educational and other activities during the asylum process.

As far as access to the labour market is concerned, it appears from the Danish Aliens Act that an alien must hold a residence and work permit in order to reside and work in Denmark. Though, asylum seekers over the age of 18 may – if certain conditions are met – apply to DIS to approve an offer of employment until he/she is granted a residence permit in Denmark, leaves Denmark or is deported from Denmark.



As victims of trafficking are regarded as vulnerable under Danish law, the special offers of aid and assistance targeting them also include an offer of a “prepared return”, if they have to leave Denmark. This offer is thus given to victims, who have to leave, when the reflection period expires, provided they do not apply for residence permit or do not fulfill the conditions for such.

The prepared return is in practice an individually planned repatriation and reintegration program, which involves activities in Denmark, e.g. education or vocational training, and 6 month upon return, e.g. reception, housing, help regarding small business start-up. The offer aims at providing victims, who must return to their country of origin, with a new start in order to minimize the risk of re-trafficking.

*18.1 Further, GRETA considers that the Danish authorities should improve the provision of information to victims of trafficking on their legal rights and obligations, the services and assistance measures available and how to access them, such as legal assistance, access to legal aid and right to compensation. In this context, written information materials on the rights of potential and identified victims should be drawn up in an appropriate range of languages;*

Information produced by CMM in flyers and brochures about services and assistance is available to potential victims of trafficking in a number of relevant languages. Written information on legal requirements for residency is in progress. Potential victims of trafficking have access to legal advice and assistance in drop-in centres and during the reflection period.

As noted above CMM is processing new written material targeted at imprisoned groups most at risk of being victims of trafficking focusing on the assistance they are offered.

Information material for potential victims of trafficking for forced labour is also being processed.

As a standard procedure, DIS informs CMM, when a victim of trafficking is identified. Thus, adult victims identified by DIS are appointed a contact person, who is a social worker appointed by CMM. During the stay in Denmark, the contact person provides counselling and assistance to the victim in accordance with the National Action Plan to Combat Human

Trafficking (2011-2014). The counseling includes information regarding rights and obligations and services available.

As far as unaccompanied minor victims are concerned, it appears from the Danish Aliens Act that all unaccompanied minor aliens are appointed a personal representative to care for their interest. In case of trafficking, a representative with experience in this field, e.g. a social worker or an employee at the Danish Red Cross will be appointed.

As victims of trafficking are regarded as vulnerable, various efforts are made to provide targeted support, including ensuring sufficient information regarding their legal rights and offers of assistance.

**18.2** *Further, GRETA considers that the Danish authorities should assess the needs of adult and child victims of trafficking and review accordingly the protection and assistance measures and services offered to them, including the provision of safe and suitable accommodation.*

Reference is made to the remarks above regarding proposal 17.

In addition, as far as unaccompanied minor victims of trafficking are concerned, special asylum centers for unaccompanied minors can accommodate them. The municipalities may have a role in deciding where to accommodate him/her provided the minor has special needs that cannot be met in the asylum centre.

Unaccompanied minors under the provision of DIS have access to the same level of health care as Danish nationals. Adult victims under the provision of DIS have access to a wider range of health care services than asylum seekers and illegal immigrants in general.

### **Recovery and reflection period**

**19.** *GRETA urges the Danish authorities to review the legislation in order to ensure that victims of trafficking are provided with an adequate recovery and reflection period, in line with Article 13 of the Convention, rather than a time-limit to prepare their departure from the country as illegal aliens.*

According to article 13 in the Council of Europe Convention on Action against Trafficking in Human Beings a recovery and reflection period of at

least 30 days must be granted when there are reasonable grounds to believe that a person is a victim of trafficking.

This article was implemented directly in the Danish Aliens Act in 2007 by Act no. 504 of 6 June 2007, which went into force on 1 August 2007. Thus, according to section 33 (14) in the Danish Aliens Act such a recovery and reflection period of 30 days is granted to presumed victims of trafficking, who do not have permission to stay in Denmark.

If a presumed victim seeks asylum, he/she can stay in Denmark during the asylum process. A reflection period under the Aliens Act will only be relevant, if the application is rejected and a deadline for leaving the country should then be fixed.

Under the Aliens Act, the reflection period can be prolonged up to a total of 120 days if special reasons make it appropriate or if the foreigner accepts an offer of a prepared return, cfr. the remarks above regarding proposal 17, and cooperates in the efforts of planning this. "Special reasons" imply medical reasons or that the foreigner's assistance is needed for a shorter period of time regarding criminal investigations or proceedings.

During the 30 or 120 days reflection period presumed victims of trafficking are offered aid and assistance aiming at helping them recover and escape the influence of the traffickers, cfr. the remarks above regarding proposal 17.

### **Residence permits**

**20.** *GRETA urges the Danish authorities to review 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.*

Human trafficking is regarded as a cruel and serious crime by the Danish government and a number of steps and initiatives have been taken during recent years aimed at combating human trafficking in a more effective manner. Important initiatives include implementing measures to identify presumed victims of trafficking. Furthermore, an important part of the efforts is to provide aid and assistance to victims in order to help them recover and escape the influence of the traffickers. Ideally, the Government wants to ensure that victims are able to start a life free of trafficking and less vulnerable to re-trafficking.

The victim-centered approach to combating human trafficking is reflected in the Danish immigration legislation. Accordingly, aid and assistance and e.g. reflection period provided pursuant to the Aliens Act is unconditional of whether the person in question cooperates with the Danish authorities regarding criminal investigations or proceedings.

Under Danish law a residence permit will not be granted solely on grounds of the applicant being a victim of trafficking. However, victims of trafficking may apply for asylum or residence permit on other grounds. Whether the conditions for granting a residence permit are fulfilled, is assessed by the immigration authorities. Circumstances relating to the fact that a person is a victim of trafficking may be of relevance in this regard.

Asylum will be granted if the alien falls within the provisions of the Convention relating to the Status of Refugees (28 July 1951), or if the alien risks death penalty or being subjected to torture or inhuman or degrading treatment or punishment in case of return to his/her country of origin. Based on a concrete and individual assessment, this might be the case, e.g. if a victim of trafficking has been highly profiled in medias due to cooperation with law enforcement authorities, which leads to prosecution of the perpetrators

Furthermore e.g. residence permit on humanitarian grounds can be granted, if significant humanitarian considerations warrant it, for example if the said person suffers from a serious physical or psychological illness.

Besides this, temporary residence permits may be granted to aliens, including victims of trafficking, whose stay in Denmark is necessary regarding criminal investigations or proceedings, cfr. the remarks below regarding proposal 21.2.

The examples mentioned above apply to all aliens including victims of trafficking.

### **Compensation and legal redress**

**21.1** *GRETA invites the Danish authorities to continue their efforts to provide information and legal assistance to victims of trafficking in order to enable them to exercise their right to compensation from the traffickers and/or the State, and ensure that victims have effective access to free legal aid in this respect;*

According to the Act on State Compensation to Victims of Crime the State awards compensation and damages for personal injury inflicted by violation of the Criminal Code. Applications are handled by the Criminal Injuries Compensation Board.

The police continues to provide guidance to victims on access to compensation to victims and they are given an application form when they are interviewed by the police. Guidelines, application form and text of the Act on State Compensation to Victims of Crime are also available in English at the website of the Criminal Injuries Compensation Board.

As described in paras. 167-168 of the first report concerning Denmark's implementation of the COE Convention on Action against Trafficking in Human Beings, support attorneys are assigned to victims of trafficking by the court during criminal proceedings, cf. section 741(a) of the Administration of Justice Act. Their tasks include explaining the procedures, informing victims about access to psychological and social support and the right to compensation, assisting them in court, handling the compensation claim and providing assistance if the victim applies for asylum or residence. Support attorneys are assigned free of charge for the victims.

**21.2** *GRETA invites the Danish authorities to consider granting residence permits to victims of trafficking for the duration of the legal proceedings, with a view to enabling them to benefit from compensation and redress;*

By an amendment to the Danish Aliens Act which came into force on 3 May 2013, an independent provision was introduced regarding temporary residence permit for the purpose of assisting in criminal investigations or proceedings. Formerly, such a temporary residence permit was granted according to a general provision in the Aliens Act, according to which residence permit can be granted if special reasons make it appropriate. This general provision covers several different situations.

The purpose of introducing of a new and independent provision was to clarify the rule and make it more visible. The provision applies to all aliens, whose assistance is needed by law enforcement authorities, including victims of trafficking.

**21.3** *GRETA invites the Danish authorities to improve the registration of compensation claims by victims of trafficking regarding both compensation from the State and the offender.*

The Director of Public Prosecutions has access to data on all criminal judgements regarding offences of trafficking. It appears from this information that in the period 2011-2013 the courts have passed six criminal judgements in which the defendants were convicted of trafficking.

By three of these judgements, victims of trafficking were awarded compensation by the offenders for “injuries to feelings”. In one case three victims were awarded 30,000 DKK each and in another case, the victim was awarded 20,000 DKK. In the third case one victim was awarded 25,000 DKK, whereas the court rejected to award compensation to another victim.

As for the remaining three judgements, the victims did not claim compensation in two of these cases and in the third case the court rejected the claim for compensation on the grounds that the offender was only partially found guilty as charged.

According to the Act on State Compensation to Victims of Crime the State awards compensation and damages for personal injury inflicted by violation of the Criminal Code. Applications are handled by the Criminal Injuries Compensation Board. Reference is made to proposal 21.1 above.

Since 2011 the Criminal Injuries Compensation Board has registered the applications from victims of human trafficking separately, and will continue to do so in the future.

### **Repatriation and return of victims**

**22.** *GRETA considers that the Danish authorities should review the current institutional and procedural framework for the return and repatriation of victims of trafficking, having regard to their safety, protection and dignity and in order to avoid their re-victimisation. In the case of children, a specific risk-assessment and process to determine the best interest of the child should be carried out.*

As far as the first part of the recommendation is concerned, reference is made to the comments to proposal 20 above. Regarding the second part of the proposal, it must be stressed that looking after the best interest of the

child is an integrated part of all decisions (under the Aliens Act) regarding children.

Furthermore it should be noted that unaccompanied minor asylum seekers have their asylum cases thoroughly examined by DIS and – if rejected by DIS – by the Refugee Appeals Board. If the conditions for asylum are not fulfilled, the minor may be granted a special residence permit as an “unaccompanied minor”, if he/she has no family, access to public care or similar or the possibility of staying in a reception and care center and consequently would be left to fend for him/herself. These special provisions underline how special considerations and care are paid to children.

*23. Further, GRETA invites the Danish authorities to continue their cooperation efforts with the national authorities and relevant NGOs in the countries of return of victims of trafficking in order to improve their reintegration and rehabilitation.*

Denmark has a well functioning cooperation with the International Organization for Migration (IOM). Since 2010 the second phase of the project “Information, Assisted Voluntary Return and Reintegration Assistance for Vulnerable Migrants from Denmark”, which is carried out largely by IOM, has been implemented. The program includes victims of trafficking and unaccompanied minors.

In October 2012, the Danish Ministry of Justice published a report, compiled by the consulting firm Rambøll, which evaluated the program for prepared return of vulnerable migrants. In order to increase the uptake of the program the report a.o. recommended extending the support to the migrant’s immediate family and recommended prolonging the reintegration process.

When forming the financial bill for 2013, the Danish government focused on ensuring the best possible conditions and terms for victims of trafficking returning to their respective countries of origin. Thus it was decided to give the victims increased financial support for reintegration in the countries of origin. In this regard, the reintegration period was extended from 3 to 6 months. Furthermore, the individual support was made more flexible, to allow for more individualized reintegration efforts, such as tuition fees and child care. 1,2 million DKK was set aside on the financial bill specifically for this purpose.

The Danish program for prepared return has recently been extended until 31 December 2014 with changes to the program in force from 1 January 2013 to 31 December 2014. The program has been altered in accordance with some of the recommendations in the evaluation from 2012. The alterations a.o. include prolonging the reintegration period from 3 to 6 months, raising the monthly support from 150 USD to 200 USD and doubling the amount for migrants who support minors.

### **Substantive criminal law**

**24.** *GRETA urges the Danish authorities to review the legislation in order to fully reflect the substantive provisions of the Convention regarding the criminalisation of acts relating to travel or identity documents (Article 20) and aggravating circumstances (Article 24).*

#### Article 20

Forgery is a criminal offence pursuant to section 171 of the Criminal Code. According to this section the intentional use of a false document to deceive in legal matters is punishable. A document is false when it does not originate from the issuer named in the document, or content given to it does not originate from the issuer.

Pursuant to the general provisions in sections 21 and 23 of the Criminal Code it is also punishable to attempt to commit forgery or to participate as an accomplice in forgery by e.g. forging a travel or identity document or by procuring or providing a false document to another person.

Acts whereby a person intentionally retains, removes, conceals, damages or destroys a travel or identity document of another person are punishable pursuant to section 276 (theft) or section 291 (destruction of property) of the Criminal Code.

Furthermore, according to section 5(1) and section 5(2)(3) of the Danish Passport Act, the distortion or removal of parts of a passport or another travel document or notations therein for illegal purposes is a criminal offence.

If the above mentioned acts are committed for the purpose to commit trafficking in human beings it is punishable as participation as an accomplice in trafficking in human beings, cf. section 262 a, cf. section 23 of the Criminal Code.



## Article 24

Chapter 10 of the Criminal Code (sections 80-89 a) sets out general principles for determination of penalty for violations of the Criminal Code, e.g. trafficking in human beings.

It follows from section 80(1) that when determining a sentence, consideration must be given e.g. to the gravity of the offence, while ensuring consistency in the application of the law. In assessing the gravity of the offence, the harm, danger and infringement pertaining to the offence and what the offender realised or should have realized in this regard must be taken into account, cf. section 80(2) of the Criminal Code.

Section 81 of the Criminal Code contains a non-exhaustive list of circumstances which as a general rule are to be considered as aggravating circumstances when determining the sentence. Thus, the courts can without a specific statutory basis also take other aggravating circumstances into consideration when determining the penalty. According to section 81 it must inter alia be considered an aggravating circumstance, if the act was committed jointly with others, if the act had been carefully planned or was a constituent element of extensive crime, if the act was committed in the exercise of a public function or office or by abuse of a position or of trust and confidence, or if the offender exploited the victim's defenceless position. The reference to the victim's defenceless position aims inter alia at child victims.

It is furthermore established in the preparatory works of section 262 a of the Criminal Code that it should be considered an aggravating circumstance when determining the penalty for offences of trafficking e.g. if the victim was under the age of 15 and the purpose of the offence was exploitation through indecent sexual activity or if the life of the victim is endangered deliberately or by gross negligence.

**25.** *GRETA also invites the Danish authorities to consider the criminalisation of the known use of services of trafficked persons for all types of exploitation.*

The question of the criminalisation of paying for sexual services supplied by a trafficked person was one of many issues considered in the report by the Criminal Law Committee (CLC) regarding a general review of Chapter 24 of the Criminal Code on sexual offences. In accordance with the recommendation in the report from the CLC, Denmark has not adopted a spe-

cific provision criminalizing paying for sexual services supplied by a trafficked person. The considerations are described in more detail below in the remarks concerning para. 192 of the first report concerning Denmark's implementation of the COE Convention on Action against Trafficking in Human Beings. The Danish Government has not at present undertaken further considerations as to the issue of criminalisation of the known use of services of trafficked persons.

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

**26.** *GRETA urges the Danish authorities to adopt a victim-centred approach and to take steps to achieve an effective implementation of Article 26 of the Convention, by:*

- *providing for the possibility of not imposing penalties on victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so;*
- *ensuring that while the identification procedure is ongoing, potential victims of trafficking are not punished for their illegal entry or residency in Denmark.*

In May 2012 the Director of Public Prosecutions issued guidelines concerning the possibility of not imposing penalties on victims of trafficking for their involvement in unlawful activities, including their illegal entry and/or residency in Denmark.

According to the guidelines withdrawal of charges shall, as a main rule, be given if the suspect has been victim of trafficking, provided that the alleged offence relates to the trafficking and cannot be characterized as a serious crime.

Consequently, in a number of court decisions the sentence was set aside with reference to these guidelines on the grounds that the convicted person was subsequently identified as a victim of human trafficking.

Furthermore, as the wording of section 262 a of the Criminal Code was amended by Act no. 633 of 12 June 2013, it was stated in the preparatory works that a person exploited for prostitution should not be punished for participating as an accomplice in trafficking with regard to the persons assistance in the operation of a prostitution business by e.g. answering calls, acting as a receptionist, making purchases, cooking or cleaning. Criminal liability for participating as an accomplice should be considered only when the person has had a more direct role in connection with the recruitment,

transport, transfer, housing or receiving of another person in circumstances covered by the provision.

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

*27.1 GRETA considers that the Danish authorities should continue proactive investigations to detect cases of THB for sexual exploitation;*

The Danish Police focuses on proactive investigation to detect cases of THB including for sexual exploitation.

The Danish Police's reference group on THB has in 2012 changed focus from trafficking in human beings for the purpose of "sexual exploitation" only to a wider focus including trafficking in human being for the purpose of "labour exploitation".

*27.2 GRETA considers that the Danish authorities should step up the proactive investigation of potential cases of THB for the purpose of labour exploitation, e.g. in sectors such as agriculture, construction, cleaning work, restaurants and amongst au pairs, including through co-operation between the police and other relevant actors;*

Reference is made to the reply to proposal 15.5.

*27.3 GRETA considers that the Danish authorities should ensure that victims of trafficking are adequately informed, protected and assisted during court proceedings, including measures to protect their private life and safety;*

When a victim reports a trafficking case, the police informs the victim of his or her rights and the services at his or her disposal, e.g. the right to free legal counsel and the right to compensation. The legal counsel's tasks are i.a. to assist the victim during trial and present the claim for compensation against the offender.

The victim will be given the name and telephone number of a contact person from the police service whom the victim can contact and discuss the case with.

During the court proceedings the victim or his or her representative can ask the court to decide that the proceedings will not be open to the public if the victim is in danger. Moreover, the victim or its representative can ask the court to decide that the victim's identity may not be made public.

Furthermore, the court can decide that the offender has to leave the courtroom while the victim gives testimony, if there is reason to believe that the victim will not be able to give an unreserved testimony with the offender present.

Reference is made to the remarks to proposal 21.1.

**27.4** *GRETA considers that the Danish authorities should facilitate the legal stay in Denmark of victims of trafficking so that they can testify and exercise their rights to compensation and redress.*

Reference is made to the remarks to proposal 21.2 above.

**Para. 78.** *Further, the CMM is currently carrying out research on THB for the purpose of labour exploitation in the agriculture and cleaning sectors in Denmark. GRETA would like to receive information on the outcome of this research, expected to be published in September 2011.*

CMM has published reports of surveys on critical working conditions for foreign workers in the cleaning sector (2011), the agricultural sector (2011) and au pair work (2010) as well as a summary report (2012) on the most important results and conclusions. The summary reports are available in English and can be downloaded on:

<http://shop.socialstyrelsen.dk/collections/nyheder/products/human-trafficking-for-forced-labour-in-denmark>

The reports on the green sector and the cleaning sector are only available in Danish and can be downloaded on:

<http://shop.socialstyrelsen.dk/collections/udsatte/menneskehandel>

The summary report stresses that all three sectors employ thousands of people who enjoy good, decent working conditions but all face challenges and problems to overcome. It concludes that there are no incidents of actual human trafficking among the interviewees in the cleaning sector or amongst the au pairs. In the report on the green sector, a single case of human trafficking-like conditions was identified.

In contrast there are many examples of exploitation of labour, and in some cases there are indicators of human trafficking for forced labour. A number

of respondents have been subject to systematic exploitation to varying degrees, underpayment, misinformation, poor quality and expensive accommodation, and long working hours and very few days off.

The summary report also stresses that it is important not to rule out the risk of human trafficking in these sectors taking place, despite the fact, that no actual cases of trafficking were found during the surveys.

**Para. 100.** *GRETA welcomes the efforts of the Danish authorities to raise awareness in countries of origin, in order to prevent THB for the purpose of sexual exploitation. GRETA would like to receive information on the assessment of the impact of the measures taken.*

With regards to the Danish Programme against Human Trafficking in Eastern and South Eastern Europe, mentioned above in response to proposal 12, data prepared by partners indicate the following results in 2013:

#### *Belarus*

- Over 4,100 persons (43% men and 57% women) directly benefited from trafficking prevention and safe migration advice provided by the 113 Counter-Trafficking Hotline co-funded by the Danish Programme. This includes advice relating to prevention of sexual exploitation.
- Programme partners estimate that over 245,000 persons have been reached by the Safe Migration campaign carried out in 2012-2013. Following the campaign, the number of hotline calls grew in 2013 by 60% compared to 2012, the number of people accessing the campaign website to seek safe migration advice increased by 40%, and the number of requested and provided email consultations increased by over 100%. The number of victims of trafficking, who turned for assistance to local NGOs, social services and law enforcement agencies in 2012 increased by 96% in 2013 compared to 2012.
- Programme partners record that 8,500 persons were directly reached by awareness raising efforts of the civil society National Trainers' Network, which is supported by the Danish Programme. 95% participants reported an improvement in their attitude towards victims of trafficking and victims of domestic violence, and 80% reported using in practice the information that they obtained during awareness raising sessions.

### *Moldova*

- The Danish Programme has supported two safe migration and counter-trafficking hotlines (one for Moldova and one for the region of Transnistria) and two domestic violence (DV) prevention trustlines (also one for Moldova and one for Transnistria). As part of the prevention of Domestic Violence as a root cause of trafficking in Moldova, over 8,000 young people (50% female and 50% male) were covered with awareness raising activities on domestic violence, as a root cause of trafficking and commercial sexual exploitation of children.
- In Moldova, programme partners report that over 5,000 calls benefited from the services of the National Counter-Trafficking and Safe Migration Hotline in Chisinau. 78% of calls were from potential migrants and 11% from presumed victims of trafficking, who were referred for assistance to relevant services.
- Over 1,700 callers were assisted by the National DV Trustline (reflecting 677 DV cases among which 216 have been referred for assistance to other service providers).
- The special pages of the trustline created in 2013 on the most popular social networks in Moldova (Facebook and Odnoklassniki) have been viewed by over 15,000 readers and led to over 1,500 postings. Six cases of trafficking were subsequently identified and received counselling.
- In Transnistria, over 2,400 calls were assisted by the Transnistria Hotline resulting in the opening by local services of 41 direct assistance cases (victims of trafficking, potential victims of trafficking, stranded migrants, victims of DV).
- Over 3,100 calls were assisted by the Transnistria Trustline for victims of DV resulting in the opening by local services of 293 new direct assistance cases.

### *Ukraine*

- In Ukraine, targeted NRM awareness raising campaigns in 11 regions contributed to an 83% increase in the number of vulnerable persons (i.e. potential victims of trafficking), who turned to social services for assistance over the baseline year of 2011. The number of victims of trafficking, who turned for assistance and received official victims of trafficking status increased by over 160% in 2013 compared to 2012. Of these, 50% are women and 38% of the total are victims of sexual exploitation.

- Programme partners report that over 18,500 persons (34% men and 66% women) directly benefited from trafficking prevention, gender violence and safe migration advice provided by the Counter-Trafficking Hotline co-funded by the Danish Programme.
- It is also assessed that over 202,000 persons (60% women and 40% men) were directly reached by awareness raising efforts of the National Trainers' Network co-supported by the Danish Programme. 76% of participants represented at-risk groups, mainly students. Reports indicate that 685 callers to the National Toll-Free Hotline accessed the service as a result of their participation in awareness-raising events.
- Indirect evidence of the impact of the Danish Programme (along with other interventions) is provided by the population survey commissioned by the IOM Mission in Ukraine.

In relation to trafficking awareness, the 2013 survey showed that:

- 33% of potential migrants would not agree to illegal employment abroad in any sphere (compared to 23% in 2011)
- 59% consider themselves at risk of trafficking (70% in 2011), which could signify better understanding of the phenomenon
- 63% think that legal migration is a way to prevent trafficking (55% in 2011) and working abroad only with a legal contract is considered a trafficking prevention measure by 46% (41% in 2011)
- 17% know that they can turn for assistance to the specialized hotlines (13% in 2011), 14% to international organizations (10% in 2011), and 10% to NGOs (7% in 2011)
- 86% of respondents reported having received information on human trafficking within the past two years.

With regards to the partnership between the United Nations Population Fund (UNFPA) and the Government of Denmark on “Strengthening National Capacity to curb Trafficking in Persons in Nigeria”, mentioned above in response to Question 12, activities implemented in 2012 included three training workshops convened regionally for a total of ninety personnel/actors working in the area of combating trafficking in persons at zonal levels of the south-south, south east and north central Nigeria. The training was organized at two levels. The first focused on improving capacity of personnel and actors working in the area of trafficking in persons on management and handling of rescued victims to reflect the principles of human rights, gender equality and non-discrimination. It also focused on improving the capacity of such actors to investigate and follow up with prosecu-

tion of perpetrators. The second dealt with provision of psycho-counseling for rescued trafficked persons.

At a preliminary stage in June 2013, the project had successfully enhanced the capacity of 60 personnel of the National Agency for the Prohibition of Trafficking in Persons. In addition, the project enhanced knowledge and skills of 30 psycho social counselors to understand the gendered dynamics and the human rights principles related to counseling of -victims.

The programme was finalized in December, 2013. Further information from UNFPA on the assessment of the impact is expected by mid-2014. The Danish Ministry of Foreign Affairs has, however, received the following preliminary report - and more detailed information - upon request in preparation for the Danish response to the GRETA-proposals:

#### 1. Sensitization and awareness creation

The project supported sensitization and awareness creation for 600 participants comprising traditional leaders, women's groups, religious leaders, adolescent girls in Cross River State, South of Nigeria on the impact of trafficking in persons on women and girls. The objective of the activity was to build community awareness and forge partnerships to utilize indigenous channels to combat the growing incidence of trafficking in this area. The project also supported sensitization and awareness creation activities within during the day of the girl child celebration in Calabar to reach over 200 young girls and boys and adults on the messages around the impact of trafficking on the girl child especially with regards to her reproductive health and rights.

#### 2. Development of Tools and Framework

The project supported the development and pilot testing of a draft manual for young men on reduction of sexual and gender based violence including trafficking in persons. The objective of the initiative was to incorporate the involvement of young men in the campaign against trafficking in persons. The manual is set to be published and utilized in the year 2014. The project also supported the development of a monitoring and evaluation framework for measuring impact of the Strategic Implementation Framework of the National Policy on Protection and Assistance of Trafficked persons in Nigeria. The monitoring and evaluation framework proposes a human rights and gender responsive approach to measurement of impact of interventions. Also a peer review to validate the monitoring and evaluation tool was also conducted with 33 participants drawn from the National



Agency for the Prohibition of Trafficking in Persons, civil society organizations, government and development partners. This tool will be used by National Agency for the Prohibition of Trafficking in Persons and her agencies.

### 3. Capacity Development

a. Young men's capacity building; The project also supported the training for 26 members of the Young Men's network in Benin and Benue to undertake community sensitization to men in the rural communities of the states to reduce trafficking in persons. The states were chosen because there are sites for trafficking in the south and north central regions of Nigeria. A 3-day workshop was designed to inform and educate selected participants on the background of trafficking in Persons, project planning, community mobilizing and advocacy amongst others. Prior to the training, a rapid assessment was conducted in the sites to identify the pattern, attitudes and perception that fuel trafficking in persons. Beneficiaries of the training will be mobilized to conduct the sensitization in the first quarter of 2014 among rural communities in the sites identified.

b. Training for Immigration personnel; A total of 135 immigration officers were trained on management and handling of recused trafficked victims. The training was organized to draw participants from the North West and south west commands for immigration. Efforts were made to identify officers, who work in the reception centres around borders and documentation officers. The training was designed to elucidate gender and human rights dimensions for the management of trafficking in persons rescued victims especially with regards to utilizing appropriate the already existing protocols and manuals. Participants developed action plans to enable monitoring of utilization of knowledge garnered.

c. Training on Care Giving and Assistance to Victims; The project also supported training for 50 law enforcement and care givers and law enforcement officers on protection and assistance to victims (including witnessing and age and gender responsive appropriate interview skills). Participants were drawn from 6 geopolitical zones of the country and comprised of personnel from law enforcement agencies, Legal Aid Council of Nigeria and non-governmental organizations.

d. Dissemination of the Strategic Implementation Framework; The project further supported the Dissemination of the Strategic framework of the National Policy on Protection and Assistance to Trafficked persons. The ac-

tivity was implemented in the southern and the northern regions with 114 participants drawn from civil society organisations, government agencies, National Agency for the Prohibition of Trafficking in Persons, Nigerian Immigration Services, etc.

Select Plans of 2014 and beyond:

- Monitoring of beneficiaries to ensure that knowledge applied in utilized through the individual action plans
- Printing of the monitoring and evaluation framework, dissemination and monitoring of utilization
- Development of a standardized training manual for National Agency for the Prohibition of Trafficking in Persons on trafficking in persons
- Support to the equipping of a National Agency for the Prohibition of Trafficking in Persons resource centre
- Capacity building for prosecutors on investigative and prosecution skills
- Capacity building for young men on how to utilize manual on sexual and gender based violence (including trafficking in persons)
- Community sensitization by young men against trafficking in persons in rural communities/sites
- Victims support with life skills and social reintegration skills
- Rapid assessments and survey on trafficking in persons
- Policy and legislative advocacy on policies and laws related to trafficking in persons

**Para. 186.** *GRETA would like to be kept informed of future amendments to the CC concerning the offence of THB*

The Criminal Code was amended by Act no. 275 of 27 March 2012 in order to bring Danish legislation in line with EU directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. By this act the maximum penalty for trafficking in violation of section 262(a) of the Criminal Code was raised from 8 years of imprisonment to 10 years of imprisonment. Furthermore, in section 262(a)(1) and (2) the purpose of exploitation was extended to include exploitation for criminal activities.

The act also included an amendment of section 7(1)(2)(a) of the Criminal Code regarding criminal jurisdiction for acts of trafficking committed outside the territory of Denmark. This amendment implies that Danish nation-

als and persons who have permanent residence in Denmark can be punished for acts of trafficking committed outside the territory of Denmark, if they had the same attachment to Denmark when the offence was committed. It is not a requirement that the act is also a criminal offence under the law of the country in which the act was committed.

Furthermore, section 262(a) of the Criminal Code was amended by Act no. 633 of 12 June 2013. By this act the reference to “indecent sexual activity” was amended to “prostitution, the making of pornographic photographs or movies, pornographic performances” in order modernize the wording of the provision.

**Para. 192.** *GRETA would like to receive further information on the CLC process, including a copy of the report*

In the autumn of 2012 the Criminal Law Committee (CLC) presented a comprehensive report regarding a general review of Chapter 24 of the Criminal Code on sexual offences. The report is enclosed in Danish.

One of many issues considered in the CLC report was the question of the criminalisation of paying for sexual services supplied by a trafficked person.

The CLC stated in this regard that if a person paying for sexual services knows or believes on the balance of probabilities that someone is forcing the prostitute to engage in prostitution and to engage in sexual activities with the person paying for sexual services, that person would, depending on the nature of the coercing, be guilty of rape or other illegal coercion pursuant to sections 216 and 217 of the Criminal Code. (Subsequent changes have merged sections 216 and 217 so that forcing a person to engage in sexual activities is now, regardless of the nature of the coercing, rape pursuant to section 216 of the Criminal Code). Serious cases of sexual activities with a prostitute who is being exploited are therefore already covered by current legislation regarding serious or very serious criminal offences.

In the opinion of CLC in practice it will *either* exceptionally be possible to prove that a person paying for sexual services possesses such knowledge so as to be convicted of rape (section 216) or other illegal coercion (section 217) (after the changes mentioned above: rape pursuant to section

216) *or* it will not be possible to prove intent to commit one of those crimes or to engage in sexual activities with a victim of trafficking.

In practice a new provision criminalizing sexual activities with a prostitute who is a victim of human trafficking could therefore be expected not to be applied in practice given that in practice the person paying for sexual services would either be convicted of a more serious crime (rape) or be acquitted due to lack of proof of intent.

Therefore the CLC did not find grounds for recommending the introduction of a separate criminalisation of sexual activities against payment with a person who is a victim of trafficking.

Based on the report from the CLC, Chapter 24 of the Criminal Code was amended by Act no. 633 of 12 June 2013. In accordance with the recommendation from the CLC, the Act did not introduce a specific provision criminalizing paying for sexual services supplied by a trafficked person. However, the Act introduced a new subparagraph 216(4) of the Criminal Code stipulating that when penalty is imposed for the crime of rape it shall in general be considered an aggravating circumstance that the victim is also a victim of trafficking.