



# **GRETA**

Group of Experts on Action  
against Trafficking in Human Beings

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## **Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Georgia**

First evaluation round

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on Action against Trafficking in Human Beings  
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## Preamble

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Executive summary

The Georgian authorities have taken a number of important legal and institutional measures to combat trafficking in human beings (THB). A specific law to combat THB entered into force in 2006, leading to the setting up of an Interagency Co-ordination Council against THB and a State Fund for the protection and assistance of victims of trafficking. Bi-annual national action plans to combat THB in Georgia have been adopted since 2005, the latest covering the period 2011-2012. The Georgian authorities have increased the financial resources allocated to the protection and assistance of victims of trafficking and have shown continued political will to keep anti-trafficking actions as a priority for the country. This has included the criminalisation of the known use of services of victims of trafficking and the introduction of criminal liability of legal persons for THB.

As far as prevention of THB is concerned, GRETA welcomes the efforts of the Georgian authorities to strengthen awareness raising and education measures. That said, GRETA stresses the importance of stepping up action to address the socio-economic vulnerability of internally-displaced persons, potential migrants and children. Further, GRETA considers that the Georgian authorities should continue developing awareness raising and information campaigns to prevent THB for the purpose of labour exploitation, both within Georgia and abroad.

The proper identification of victims is of paramount importance in order to protect and assist them. GRETA considers that the Georgian authorities should step up their efforts to improve the proactive detection and identification of victims of trafficking, including through more advanced training of relevant professionals. In addition, increased attention should be paid to the trafficking of foreign nationals to or through Georgia, as well as to detecting trafficking taking place within Georgia, in particular for the purpose of labour exploitation.

Victims and potential victims of trafficking need to be adequately protected, informed and assisted. In this context, GRETA considers that the Georgian authorities should ensure that victims of trafficking are systematically informed of the possibility to use a reflection period and are effectively granted such a period. Further, victims of trafficking should be provided with information regarding compensation and with effective access to legal aid in order to exercise their right to compensation from the State Fund and/or from the traffickers.

GRETA stresses the need to take measures to protect and safeguard the best interest of child victims of trafficking, including through legal guardianship, appropriate accommodation, education and support programmes tailored to the needs of the child. In this sense, GRETA notes with interest the planned submission to Parliament in 2012 of draft amendments to Georgia's anti-trafficking law regarding the protection and assistance of child victims of trafficking.

GRETA further notes that a new protection programme for those participating in criminal cases, such as witnesses and victims of trafficking, is scheduled for adoption, and considers that the Georgian authorities should continue to ensure that the life and safety of victims of trafficking and of those assisting them are adequately protected during court proceedings.

GRETA welcomes the application of provisions under Georgian law exempting victims of trafficking from criminal and administrative responsibility for the unlawful acts that they committed as victims of trafficking. However, GRETA notes the significant reduction in the number of prosecutions and convictions of traffickers since 2010, and calls on the Georgian authorities to address this issue.

Finally, GRETA stresses the importance of good partnerships and their crucial role to make progress in combating THB at the national and international level. In this context, GRETA considers that the Georgian authorities should continue improving co-ordination, co-operation and partnerships among governmental departments, law enforcement agencies, NGOs and other members of civil society in Georgia.

## I. Introduction

1. Georgia deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) on 14 March 2007<sup>1</sup>. The Convention as such entered into force on 1 February 2008, following its 10th ratification.

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

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by Georgia to implement the provisions set out in the Convention. The “Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties – first evaluation round” was sent to Georgia on 10 February 2010. The deadline for replying to the questionnaire was 1 September 2010. Georgia submitted its reply on 10 September 2010<sup>2</sup>.

4. In preparation of the present report, GRETA used the reply to the questionnaire by Georgia, other information collected by GRETA and information received from civil society. In addition, a country visit to Georgia took place from 11 to 14 April 2011. It was carried out by a delegation composed of:

- Mr Davor Derencinovic, Second Vice-President of GRETA
- Ms Louise Calleja, member of GRETA
- Ms Carolina Lasén Diaz, Administrator at the Secretariat of the Convention.

5. During the country visit, the GRETA delegation held meetings with representatives of relevant Ministries and public agencies, the Public Defender, Members of Parliament, judges and prosecutors (see Appendix II). These meetings took place in a spirit of close co-operation.

6. The GRETA delegation held separate meetings with representatives of non-governmental organisations (NGOs) and other members of civil society, as well as with relevant international organisations present in Georgia. GRETA is grateful for the information that they provided.

7. Further, in the context of the country visit to Georgia, the GRETA delegation visited a State-run shelter for victims of trafficking in human beings in Tbilisi.

8. GRETA wishes to place on record the valuable assistance provided by the contact person appointed by the Georgian authorities, Ms Ketevan Khutsishvili, Chair of the International Law Institute at Tbilisi State University and member of the Interagency Co-ordination Council for Carrying out Measures against THB, fulfilling the tasks of Secretary of the Co-ordination Council.

9. The draft version of the present report was adopted by GRETA at its 11th meeting (20-23 September 2011) and was submitted to the Georgian authorities for comments. The comments were received in several parts between 22 November and 2 December 2011, and taken into account by GRETA when establishing its final report, which was adopted at GRETA’s 12th meeting (6-9 December 2011).

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<sup>1</sup> At the time of ratification of the Council of Europe Anti-Trafficking Convention, the Georgian authorities declared that “until the restoration of the territorial integrity of Georgia, the Convention shall apply on the part of the territory of Georgia where Georgia exercises its full jurisdiction”.

<sup>2</sup> The reply has been made public at the request of the Georgian authorities, see [http://www.coe.int/t/dghl/monitoring/trafficking/Source/GRETA\\_2011\\_6\\_R\\_Q\\_GEO\\_en.pdf](http://www.coe.int/t/dghl/monitoring/trafficking/Source/GRETA_2011_6_R_Q_GEO_en.pdf)



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

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

10. Georgia is primarily a country of origin for trafficked persons, the vast majority of victims of trafficking in human beings (THB) identified in 2008-2010 (83 out of a total 88) being Georgian nationals. To a lesser extent, Georgia has also been used as a country of transit for foreign victims of trafficking in the direction of Turkey and Western Europe. The majority of the victims of trafficking identified by the Georgian authorities have been women subjected to sexual exploitation. That said, in the last three years, trafficking of women and men for the purpose of labour exploitation has been on the rise, with 33 such victims identified in 2009 (out of a total of 48 identified victims) and 12 in 2010 (out of a total of 19 victims). The main destination countries for Georgian victims of trafficking are Turkey, the United Arab Emirates, Egypt and Greece. Official data show low numbers of victims of national trafficking (i.e. within Georgia): four in 2008, five in 2009. The number of children identified as victims of THB has also been low (one in 2008, two in 2009, two in 2010).

11. The vulnerability to trafficking of many Georgian citizens is increased by the country's socio-economic situation, with disadvantaged rural areas, a high unemployment rate and an estimated number of 250 000 internally-displaced persons (IDPs) from the regions of Abkhazia and Tskhinvali (South Ossetia).

12. Due to the conflicts which occurred in the 1990s and 2008, Georgia does not exercise its full jurisdiction over the regions of Abkhazia and Tskhinvali (South Ossetia), which prevents GRETA from covering the situation concerning human trafficking in these parts of Georgia's territory. GRETA finds that it has a duty to express its concern regarding the consequences of the conflicts in the areas affected by them, as regards prevention of THB, protection of victims and prosecution of traffickers. GRETA encourages the Georgian authorities and all the parties concerned to look for pragmatic solutions in the interest of combating trafficking in human beings.

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

#### **a. Legal framework**

13. At the international level, in addition to the Council of Europe Anti-Trafficking Convention, Georgia is Party to the United Nations (UN) Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (both of which it ratified in September 2006). Georgia is also Party to other UN treaties relevant to action against THB, in particular the UN Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, and the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol. Further, Georgia is Party to a number of Council of Europe Conventions which have relevance to action against human trafficking.<sup>3</sup>

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<sup>3</sup> Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse; Convention on Cybercrime; European Convention on Mutual Assistance in Criminal Matters and its Additional Protocol; European Convention on the International Validity of Criminal Judgments; European Agreement on the Transmission of Applications for Legal Aid; Convention on the Transfer of Sentenced Persons and its Additional Protocol; Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime; European Convention on Extradition and its Additional Protocol and Second Additional Protocol; Criminal Law Convention on Corruption; Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data.

14. The Georgian national legal framework in the field of action against trafficking in human beings has evolved in the light of the country's international commitments. In 2003, provisions criminalising trafficking in human beings were introduced in the Criminal Code (CC), namely Articles 143(1) and 143(2) criminalising the trafficking of adults and children, respectively. The anti-trafficking provisions of the CC were amended and supplemented in 2006 and 2007, leading to significantly increased sanctions for the crime of THB, the introduction of the criminal liability of legal persons and Article 143(3) on the criminalisation of the use of services of victims of THB

15. The Law on Combating Trafficking in Human Beings (hereinafter "the Anti-Trafficking Law") entered into force on 28 May 2006. It defines the competences of the different state agencies involved in preventing and combating THB and protecting, assisting and rehabilitating victims. It also establishes the basis for Georgia's international co-operation to combat THB, including with other countries and international governmental and non-governmental organisations. The law provides for the setting up of an Interagency Co-ordination Council for Carrying out Measures against Trafficking in Human Beings to implement anti-trafficking measures (see paragraph 26), as well as of a State Fund for the protection and assistance of victims of THB (see paragraph 32). Further, the Anti-Trafficking Law includes a variety of measures to protect and assist victims, including setting up of shelters providing temporary housing, granting the status of victim of trafficking, and safe repatriation of victims.

16. Pursuant to the new Code of Criminal Procedure (CCP), in force since 1 October 2010, victims of trafficking who testify in court have the right to request the application of special protection measures (Article 49(1)(f)), as well as the right not to be interrogated as witnesses during the reflection period (Article 50(1)(j)). The special protection measures are detailed in Articles 67 to 71 of the CCP.

17. The Georgian authorities have indicated that draft amendments to Anti-Trafficking Law will be submitted to Parliament in the spring of 2012, with the aim of adding a new chapter on child victims of trafficking in human beings, including individual risk assessment on the basis of the child's best interests, appointment of a guardian and prohibition to keep children in detention. **GRETA would like to be informed of the amendments to the Anti-Trafficking Law concerning children, once they have been adopted.**

b. National Action Plans

18. Biannual national action plans (NAP) to combat THB have been developed by the Georgian Government since 2005. The current NAP for 2011-2012 was adopted in December 2010 by a Decree of the President of Georgia (No. N11/03/01). Three workshops bringing together State bodies and NGOs were held in 2010 to contribute to the development of this NAP, which includes activities aimed at prevention of THB, protection of victims, effective prosecution of traffickers, and co-operation and co-ordination of activities at national and international level.

19. The State agencies represented in the Interagency Co-ordination Council for Carrying out Measures against Trafficking in Human Beings (see paragraph 26) are responsible for the implementation of the NAP. They submit quarterly and annual reports to the Co-ordination Council regarding the implementation of the activities envisaged in the NAP. There has been no assessment of the implementation of previous NAPs in Georgia carried out by the Georgian authorities. However, the NAP for 2011-2012 includes the planning of activities based on the results of the monitoring of the implementation of the NAP by the relevant State bodies on a quarterly basis. Further, the next NAP will be prepared on the basis of a co-ordinated analysis of future needs.

20. In 2009-2010, the International Centre for Migration Policy development (ICMPD) carried out a project aimed at enhancing the effectiveness of national action plans to combat THB in Armenia, Azerbaijan and Georgia, by supporting the governments of these three countries to amend and update their anti-trafficking strategies and action plans, as well as carrying out relevant capacity building measures. In the case of Georgia, the ICMPD carried out an assessment of the first year of implementation of the NAP for 2009-2010 and made recommendations for the future<sup>4</sup>. Some of these recommendations have been taken on board in the NAP 2011-2012, such as introducing deadlines for the implementation of activities and providing for a “special analysis” by the Co-ordination Council in the first half of 2012 in order to identify future needs and strategic plans for the drafting of the next NAP.

c. National Victim Referral and Assistance Mechanism (NRM)

21. The NRM was developed by the Co-ordination Council and covers the procedures from the moment a potential victim is identified as a victim of THB, to the moment a victim is safely returned to his/her country or city of origin. It also determines the procedures for providing the victim assistance measures which are contained in the Anti-Trafficking Law (see paragraph 142).

22. The NRM offers protection and assistance to victims of THB regardless of whether they cooperate or not with law enforcement bodies. It provides for granting the legal status of victim of THB through the Permanent Group established by the Co-ordination Council or by law enforcement bodies (see paragraph 31). The persons granted the status of victim of THB benefit from a protection mechanism which includes shelter accommodation and assistance (e.g. victim assistance allowance, medical treatment, legal support, etc.).

23. In November 2006, the Co-ordination Council developed operational instructions for the protection of victims of THB in the framework of the NRM. These instructions are included in the new “Standards and Operational Procedures for the Identification, Protection, Assistance, Rehabilitation and Reintegration of Victims of Human Trafficking”, adopted in October 2011 (see paragraph 129).

d. Strategy for the Rehabilitation and Social Reintegration of Victims of Trafficking in Human Beings

24. In July 2007, the Co-ordination Council adopted a Strategy for the Rehabilitation and Social Reintegration of Victims of Trafficking in Human Beings, which determines the main directions of State policy in these areas. The aim of this strategy is to promote the rehabilitation and social reintegration of victims of THB, following a needs-based approach. Rehabilitation activities are carried out on the basis of individual plans drawn up by social workers with the participation of victims of trafficking (see paragraph 160).

25. According to the Georgian authorities, the Strategy for Rehabilitation and Reintegration of victims of THB is the natural extension of the NRM. Both instruments provide detailed guidelines for the effective co-operation of State agencies, NGOs and international organisations in the identification of victims and the implementation of assistance.

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<sup>4</sup> “Assessment of the 2009-2010 National Action Plan on the Fight against Trafficking in Human Beings in Georgia”, prepared by ICMPD with the support of Diana Zhgenti, Project Co-ordinator at the Georgian Young Lawyers Association. ICMPD, December 2010.

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

- a. Interagency Co-ordination Council for Carrying out Measures against Trafficking in Human Beings

26. The Anti-Trafficking Law provides for the establishment of the Interagency Co-ordination Council for Carrying out Measures against Trafficking in Human Beings (the “Co-ordination Council”), which was set up by Presidential Decree No. 534 in September 2006. It is chaired by the Minister of Justice, with Deputy Ministers from the following ministries being full members:

- Ministry of Justice
- Ministry of Labour, Health, and Social Protection
- Ministry of Internal Affairs
- Ministry of Education and Science
- Ministry of Foreign Affairs
- Ministry of Internally-Displaced Persons from the Occupied Territories, Accommodation and Refugees

27. In addition, a number of other bodies participate in the meetings of the Co-ordination Council as invited members, including the Deputy Chair of the Parliament of Georgia, the Public Defender of Georgia, international organisations such as the International Centre for Migration Policy Development (ICMPD), the International Labour Organisation (ILO), the International Organisation for Migration (IOM), the Organisation for Security and Co-operation in Europe (OSCE), the United Nations Children's Fund (UNICEF), and the NGOs Georgian Young Lawyers Association (GYLA), “Tanadgoma” and “Women for Future”. Other invited members of the Co-ordination Council are the United States Embassy in Georgia, the United States Agency for International Development (USAID), journalists, experts and scientists.

28. According to the Georgian authorities, invited members have the same participatory capacity in the meetings and the decision making process as full members. The difference between full and invited members is that the former are obliged to act on the basis of decisions taken, while the latter are not obliged to do so.

29. The Co-ordination Council is responsible for co-ordinating all national actors, preparing the NAPs and monitoring actions against THB. It also co-ordinates the collection of information from relevant sources, including international organisations and local NGOs working on anti-trafficking issues. The Co-ordination Council acts as an advisory body to the President of Georgia on anti-trafficking matters.

30. As a rule, the Co-ordination Council should meet every three months, but its Chair can call for additional meetings when necessary. The Council does not have a separate budget and the State agencies represented in it contribute with human and financial resources from their own budgets. The Co-ordination Council receives quarterly reports by the State bodies concerning the implementation of actions envisaged in the NAP and prepares an activity report every six months.

31. A Permanent Group was set up by the Co-ordination Council to carry out the identification of victims of human trafficking who apply themselves for the status of victim of trafficking, but do not want to co-operate with the law enforcement agencies (see paragraph 130). The Permanent Group is composed of five full members who are entitled to take decisions and three alternate members. The current full members of the Permanent Group are a project manager from the United Nations Office on Drugs and Crime, an independent lawyer, a psychologist from the NGO Anti-Violence Network, a district judge and a senior IOM official. The Permanent Group is based in Tbilisi, but it has set up two Mobile Groups, covering East and West Georgia, respectively. These Mobile Groups are composed of two additional professionals with legal and psychological expertise who travel to meet potential victims of trafficking anywhere in Georgia. The Permanent Group grants the legal status of victim of trafficking on the basis of interviews with potential victims and a questionnaire adopted by the Co-ordination Council.

b. State Fund for the Protection of and Assistance to Victims of THB

32. The State Fund was established in 2006 in accordance with Article 9 of the Anti-Trafficking Law and is under the control of the Ministry of Labour, Health and Social Protection. The purpose of the State Fund is the effective protection, assistance and rehabilitation of victims of THB, including through the provision of a one-off compensation payment (see paragraph 182). The Fund is governed by a Director, appointed by the President of Georgia, and its activities are co-ordinated by a Supervisory Council which includes State agencies, NGO representatives, relevant international organisations, experts and scientists.

33. The State Fund's budget has increased more than two-fold in the last five years: from 300 000 GEL in 2007, to 773 000 GEL in 2011 (i.e. some 320 000 Euros). The State Fund was initially funded jointly by the State budget, international organisations and other donors, but in 2011 all the funding came from the State budget.

34. The State Fund is responsible for implementing the Rehabilitation and Reintegration Strategy (see paragraph 24) and overseeing the provision of assistance to victims of trafficking. Further, the State Fund operates the two shelters for victims of trafficking (in Batumi and Tbilisi).

c. Special Operations Department at the Ministry of Internal Affairs

35. The Ministry of Internal Affairs' Special Operations Department (SOD) is the lead law enforcement agency against human trafficking in Georgia. Set up in 2005, it has two sub-units, one dedicated to combating human trafficking and another one specialised in combating irregular migration. The SOD employs 30 specially trained staff based in Tbilisi and six regional units. Suspected traffickers or potential victims of trafficking are referred to the SOD by other law enforcement agencies for investigation. Once a case is built, the SOD provides the Office of the Chief Prosecutor with the evidence needed to prosecute the case.

d. NGOs

36. Over the years, NGOs have worked in close co-operation with the Georgian authorities to develop the legal and policy framework to combat THB and have played an important role in its implementation, including through the provision of assistance to victims. By way of example, GYLA carried out the project "No' to Trafficking in Persons and Domestic Violence" in order to assist the Government of Georgia to implement anti-trafficking programmes. The project ran from 2005 to 2009 and was funded by USAID/Georgia. GYLA also participated in the development of the NRM, the setting up of shelters and the elaboration of procedures for victim identification, rehabilitation and reintegration.

37. As noted in paragraph 27, three NGOs are invited members of the Co-ordination Council and thus participate in the development and implementation of anti-trafficking policy. The Georgian authorities have stressed the close co-operation with NGOs in every sphere of anti-trafficking activity, including public outreach, prevention, victim assistance and repatriation. In particular, the NGO “Women for Future” provides social assistance to victims of THB since 2006. GYLA offers free legal assistance and legal representation to victims of THB. The Anti-Violence Network of Georgia, which has a focus on domestic violence, also works to prevent THB and protect the victims of trafficking.

38. The Co-ordination Council and the State Fund maintain good working relationships with many NGOs and have carried out joint activities with them, such as public awareness campaigns and legal assistance with GYLA, and activities addressing violence toward women, with “Women for Future”, “Tanadgoma” and the Anti-Violence Network of Georgia.

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

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

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

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

40. THB constitutes an offence to the dignity and fundamental freedoms of the human being and is thus a grave violation of human rights. GRETA emphasises the obligations of States to respect, fulfil and protect human rights, including by ensuring compliance by non-State actors, in accordance with the duty of due diligence. The human rights-based approach entails that a State that fails to fulfil these obligations may, for instance, be held accountable for violations of the European Convention on Human Rights. This has been confirmed by the ECHR in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the European Convention on Human Rights<sup>6</sup> (which prohibits slavery, servitude and forced or compulsory labour). The Court further concluded that Article 4 entails a positive obligation to protect victims or potential victims, as well as a procedural obligation to investigate trafficking.

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

42. GRETA wishes to stress the need for States to also address THB as a form of violence against women and to take account of gender-specific types of exploitation, as well as the particular situation of child victims of THB, in line with the relevant international legal instruments<sup>7</sup>.

<sup>5</sup> Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add.1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

<sup>6</sup> *Rantsev v. Cyprus and Russia*, no. 25965/04, paragraph 282, ECHR 2010.

<sup>7</sup> Such as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence; the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse; the United Nations Convention on the Rights of the Child and the Optional Protocol thereto on the Sale of Children, Child Prostitution and Child Pornography; and the United Nations Convention on the Elimination of All Forms of Discrimination against Women.

43. As far as the situation in Georgia is concerned, Pursuant to Article 4 of the Anti-Trafficking Law, the protection of human rights must be a key component of the State policy to prevent and combat THB and to protect, assist and rehabilitate victims of trafficking. In accordance with that Law, the Georgian authorities must promote the prevention of THB and the protection of the human rights of victims of trafficking, guided by the Constitution of Georgia, international treaties combating transnational organised crime, corruption and the protection of human rights, the Anti-Trafficking Law and other relevant legislation. It is noteworthy that Presidential Decree No. 11/03/01 approving the NAP for 2011-2012 stresses the will of the Georgian authorities to establish a sustainable and continuously developing anti-trafficking system based on a human rights approach.

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

b. Definitions of “trafficking in human beings” and “victim of THB” in Georgian law

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

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

46. Article 3 of the Georgian Anti-Trafficking Law, on the definitions of key terms, does not include a definition of THB but refers to the definition of the crime of trafficking in human beings under Articles 143(1) and 143(2) of the CC. Under Article 143(1), THB is defined as the “buying or selling of a person or subjecting him/her to other illegal deals, as well as enticing, conveying, hiding, recruiting, transporting, handing over, harbouring or receiving a person by means of threat, violence, or other forms of coercion, abduction, blackmail, fraud, deception, using vulnerable position of a person or by abusing power, granting or receiving remuneration or other benefits, to obtain the consent of a person capable to influence another, for the purpose of exploitation”. Further, Article 143(2) of the CC defines trafficking in children as “buying or selling a minor or subjecting him/her to other forms of illegal deals, as well as enticing, conveying, hiding, hiring, transporting, handing over, harbouring or receiving a minor for the purpose of exploitation”.

47. In order to clarify the meaning of the definition of THB, the Anti-Trafficking Law contains definitions of “exploitation”, “sexual exploitation” and “putting a person in modern conditions of slavery” as follows:

- Article 3(d): “Exploitation - use of a person for forced labour or service, involvement of a person in criminal or other anti-societal behaviour or prostitution, putting a person in slavery-like conditions or conditions of modern slavery, sexual exploitation or coercion to provide other type of services, as well as use of a person for transplantation of his/her organ, part of organ or tissue, or use of a person for other purposes”.

- Article 3(f): “Sexual exploitation – involvement of a person in prostitution, other sexual services or production of pornographic material by use of threat, violence, coercion or blackmail against him/her or by use of his/her vulnerable situation, by abuse of power, or by provision of false information on the nature and conditions of work”.



- Article 3(h): "Putting a person in modern conditions of slavery – deprivation of a person of his/her identity documents, restriction to the person of his/her right to free movement, prohibition to the person of communication with his family, including written correspondence and telephone communication, cultural isolation of a person, coercion of a person to work in degrading conditions and/or without any compensation or with inadequate compensation".

48. The definition of THB under Georgian law includes the three constituent elements of THB referred to in paragraph 45, in line with Article 4(a) of the Convention. As regards children, the definition of trafficking contains only two of the elements, i.e. the action and the purpose of exploitation, irrespective of the means used. This is also in line with the definition in the Convention.

49. Article 3(a) of the Anti-Trafficking Law establishes that "the consent of the victim of THB to his/her deliberate exploitation shall have no importance". In addition, Article 143(1) of the CC states that "the consent of a person on hi/her intentional exploitation shall not be taken into consideration". The Georgian legislation on this issue is in line with Article 4(b) of the Convention.

50. GRETA concludes that the definition of THB in Georgian law covers the concepts in Article 4 of the Convention in a manner consistent with the principles and spirit of the Convention.

*ii. Definition of "victim of THB"*

51. The Convention defines "victim of THB" as "any natural person who is subjected to THB as defined in Article 4 of the Convention". Recognition of victims of trafficking as such is essential as it gives rise to their entitlement to the broad range of protection and assistance measures set out in the Convention.

52. Georgia's Anti-Trafficking Law contains two definitions of "victim of THB":

- Article 3(j): "Victim of THB - a natural person who suffered moral, physical or material damage as a result of the commission of the crime of trafficking in persons and who has been, in accordance with the Georgian legislation, recognised as victim of trafficking in human beings by the Permanent Group at the Interagency Co-ordination Council for Carrying out Measures against Trafficking in human beings";

- Article 3(o): "Statutory Victim - a person recognised as such in pursuance of the Criminal Procedure Code of Georgia, as a result of the commission of crimes envisaged by Articles 143(1) and 143(2) of the Criminal Code of Georgia".

53. This dual approach to the definition of victim of THB is linked to the process of identification. There are two words for "victim" in the Georgian language: "*dazaralebuli*" is the term used to designate a victim of crime and refers to a person who has been granted the status of victim by the police, in the context of criminal proceedings, while "*msxverpli*" designates a person who has been identified as a victim of trafficking by the Permanent Group. The Georgian authorities have explained that both types of victims have the same rights to assistance and protection.

54. The Georgian authorities have explained that the requirement of damage resulting from the commission of the crime of THB is part of the definition of victim as otherwise there would be no crime. GRETA recalls that the definition of "victim of THB" in the Convention requires neither damage nor even actual exploitation. It is sufficient for a person to have been subject to any of the actions and means specified in the Convention, with the purpose of exploitation, to be considered a victim of THB. GRETA considers that even if the identification of victims is not based on the definition contained in Article 3(j) of the Anti-Trafficking Law (see paragraph 133), the above-mentioned discrepancy between Georgian law and the Convention should be addressed in order to provide legal certainty and clarity to victims of trafficking.

55. **GRETA considers that the Georgian authorities must ensure that no additional conditions of damage or loss and in particular no evidence of such damage or loss are required from a person who has been subjected to THB in order to qualify as a victim of trafficking under the Anti-Trafficking Law and to benefit from the protection measures provided for in this law.**

56. The question of the definition of victim of THB will be further discussed in the sections of this report dealing with the identification of victims and the assistance measures provided to them, along with the related proposals made by GRETA.

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

- i. *Comprehensive approach and co-ordination*

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

58. The legal and policy framework in the field of action against THB in Georgia which has been outlined above is intended to cover all victims of THB subjected to different types of exploitation, both transnationally and nationally. The composition of the Interagency Co-ordination Council is multidisciplinary in nature (see paragraphs 26 and 27). Further, all relevant actors are involved in the implementation of the biannual national action plans involve. The NAP for 2011-2012 includes activities in the following areas:

- (i) Prevention of THB: making information on the crime of human trafficking and methods to combat it widely available, as well as informing children;
- (ii) Protection of victims: aimed at the efficient functioning of the shelters for victims of THB, and voluntary and safe return of victims to their countries of origin;
- (iii) Effective prosecution: adoption of the latest methodologies for combating THB and upgrading the investigative techniques related to this crime;
- (iv) Co-operation: aimed at co-coordinating and planning activities on the basis of the results of the monitoring of the implementation of the NAP, including the drafting of the next NAP.

Each of the above-mentioned areas includes specific activities to foster international co-operation with countries of origin and destination of victims of trafficking.

59. As regards children, Article 18(6) of the Anti-Trafficking Law contains a general provision establishing that child victims of THB are subject to the protection afforded under the 1989 UN Convention on the Rights of the Child, the Council of Europe Anti-Trafficking Convention and the guidelines adopted by international organisations in the field of protection of child victims of trafficking. Further, this law provides that shelters for victims of THB (see paragraph 148) must take into consideration the special needs of children regarding appropriate housing, education and care. However, no specific measures have been taken to ensure that the identification, protection, assistance and rehabilitation of child victims of trafficking are carried out by respecting the best interest of the child. Draft amendments to the Anti-Trafficking Law concerning children will be submitted to Parliament in 2012 (see paragraph 17). GRETA stresses that more attention should be paid to orphans, children working and living in the street and internally displaced children, who are particularly vulnerable to trafficking. The Georgian authorities have indicated that a new Special Steering Group, set up in November 2011 under the Ministry of Labour, Health and Labour Protection, will address the protection of street children, including their vulnerability to THB.

60. Another aspect that needs to receive due attention in the national policy against THB is trafficking taking place within Georgia, i.e. national trafficking. As noted above (see paragraph 10), the number of identified victims of national trafficking has been low. However, a recent study by the IOM<sup>8</sup> reported that 22% of the criminal investigations for trafficking recorded by the Office of the Chief Prosecutor over the period from 2003 to 2009 concerned cases of national trafficking. The Georgian authorities have informed GRETA that there are cases of national trafficking which are investigated and prosecuted. Further, according to the authorities, the strict criminal law policy, fight against corruption and strengthened border control have resulted in a decreased use of Georgia as a transit country. That said, GRETA considers that the use of Georgia as a country of transit and destination for victims of THB should be subject to further research.<sup>9</sup>

61. NGOs and trade unions have pointed out to a low level of awareness of THB for the purpose of labour exploitation; the majority of such cases prosecuted in Georgia have concerned domestic servitude (taking place on farms in isolated rural areas). Further, there have been cases of THB involving foreign nationals exploited in sectors such as agriculture, heavy industry<sup>10</sup>, construction and domestic services<sup>11</sup>. The Georgian authorities have informed GRETA that there had been public awareness campaigns targeting THB for the purpose of labour exploitation and involving trade unions and NGOs. In addition, new information campaigns reportedly target drivers of transnational buses and trucks transiting Georgia. In 2006, the Labour Inspectorate was abolished and the police is since responsible for monitoring the implementation of labour legislation, including child labour. The minimum legal age to work is 15 years, but the Labour Code allows children between 14 and 16 years to perform "light work", while there is no definition of "light work" activities permitted nor of the number of hours and other conditions with which such work should comply. This increases the vulnerability of children to trafficking, which is compounded by lack of information on child labour in Georgia. In this context, the ILO has requested the Georgian Government to provide information on the employment of children working in the streets and in the agricultural sector, as well as the types of violations detected by the authorities with regard to child labour<sup>12</sup>.

62. Due to Georgia' socio-economic situation and high unemployment rate, many Georgian nationals travel abroad in search for employment through regular and irregular channels, mostly to countries such as Turkey, the United Arab Emirates and Greece. The lack of opportunities for legal migration contributes to the vulnerability of migrant workers to THB, along with the lack of access to reliable information about working conditions abroad. Of special vulnerability in this context are IDPs<sup>13</sup>. The Georgian authorities have reported that a State Migration Commission has been set up and that it is working to address the lack of opportunities for legal migration, including the negotiation of an agreement for Circular Migration with France.

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<sup>8</sup> "Analysis of the profiles of traffickers and victims of trafficking in persons in Georgia", IOM Mission to Georgia, May 2011.

<sup>9</sup> The website of the Office of the Chief Prosecutor states that "Georgia is a country of origin, transit and destination for victims of trafficking in persons, as well as place of their exploitation"  
[http://www.justice.gov.ge/index.php?sec\\_id=173&lang\\_id=ENG](http://www.justice.gov.ge/index.php?sec_id=173&lang_id=ENG)

<sup>10</sup> In September 2011, the Georgian Trade Union Confederation (GTUC) reported appalling working and living conditions of 120 Indian workers, whose passports were retained and who were not paid a great part of their salaries, at the Hercules steel plant in Kutaisi. The GTUC requested the Prosecutor General to investigate possible signs of THB in this case. An investigation was started by the West Georgia Regional Prosecutor's Office and is under way.

<sup>11</sup> See footnote 7.

<sup>12</sup> "Report of the Committee of Experts on the Application of Conventions and Recommendations", Report III (Part 1A), General Report and observations concerning particular countries, International Labour Conference, 100<sup>th</sup> session, ILC.100/III/1A, pp. 331-333, ILO, June 2011.

<sup>13</sup> According to the Law on Forcefully Displaced Persons, the Ministry for IDPs issues a decision for granting the status of IDP to applicants. The Human Rights Centre of Georgia has reported that despite this clause, a significant number of IDPs remain without such status. Official data refer to 251000 IDPs at the end of 2010.

63. Some NGOs have stressed the need for prevention and protection efforts against THB throughout the territory of Georgia and not only in the capital and larger towns. More work should be carried out in the regions in order to raise awareness about THB, detect potential victims and provide them with protection and assistance for their rehabilitation and reintegration. The Georgian authorities have informed GRETA that public awareness campaigns on THB have been carried out in remote villages in the regions of Kvemo Kartli, Samtskhe-Javakheti, Ajara, Imereti, Kakheti and Shida Kartli, where the majority of victims of trafficking come from. In addition, concerns have also been expressed by both public officials and NGO representatives about the need to pay attention to Abkhazia and Tskhinvali (South Ossetia), and the need to co-operate with the NGOs present there.

64. Gender issues and gender mainstreaming also need to be addressed in Georgia's anti-trafficking policy. Women and girls who are IDPs or live in disadvantaged rural areas are in a particularly vulnerable situation due to their low economic status and lack of access to information on their rights. A Gender Equality Law was adopted in March 2010 and an Advisory Council on Gender Equality was set up. The latest recommendations addressed to Georgia by the United Nations Committee on the Elimination of Discrimination against Women (CEDAW)<sup>14</sup> called on the Georgian authorities to ensure the protection of human rights of trafficked women and girls, as well as to address the root causes of trafficking by increasing efforts to improve the economic situation of women in order to reduce their vulnerability to trafficking. In this context, the Georgian authorities have stressed that protection of the human rights of all victims of trafficking, including special support to women and girls, is a cross-cutting issue in Georgia's anti-trafficking law and policy since 2006. It is noteworthy that the Chairwoman of the Gender Equality Council (who is also the Deputy Chair of the Parliament of Georgia) is an invited member of the Co-ordination Council (see paragraph 27).

65. As regards the implementation of the biannual national action plans, it has not been subject to evaluation, except for the ICMPD assessment mentioned above (see paragraph 20). The 2011-2012 NAP contains plans for a "special analysis" to be carried by the Co-ordination Council in the first half of 2012. Building on the assessment of the 2009-2010 NAP undertaken by ICMPD, the possibility of commissioning and independent evaluation of the 2011-2012 NAP should be considered as it could assist the authorities in assessing the impact of the activities and help them plan future policies and measures to combat THB. The Georgian authorities have informed GRETA that the commissioning of an independent evaluation of the 2011-2012 NAP has already been planned. **GRETA would like to be informed of the results of this independent evaluation once it is carried out.**

66. The Co-ordination Council provides overall policy co-ordination and monitoring of action against THB. Co-operation between all competent agencies is part of the goals of the NAP for 2011-2012. In addition, the NAP provides for co-ordination and further enhancement of co-operation within the National Referral Mechanism. The Georgian authorities have highlighted the importance of working in close co-operation with NGOs in every sphere of anti-trafficking policy<sup>15</sup>. However, while NGOs generally share the opinion that co-operation and co-ordination among NGOs is good, their views differ as regards the level of co-operation with State bodies.

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<sup>14</sup> "Concluding comments of the Committee on the Elimination of Discrimination against Women: Georgia", CEDAW/C/GEO/CO/3, of 25 August 2006.

<sup>15</sup> Including close co-operation in the areas of prevention of THB and assistance to victims with Women for Future, Anti Violence Network, International and European Human Rights Law Institute, NGO Centre for Innovations and Tanadgoma (as well as previous co-operation with World Vision and GYLA).

67. **GRETA urges the Georgian authorities to step up their efforts aimed at ensuring that national action to combat THB is comprehensive, in particular by:**

- **paying increased attention to prevention and protection measures among vulnerable groups, such as IDPs;**
- **paying increased attention to prevention and protection measures addressing the particular vulnerability to trafficking of children, in particular those without parents and IDPs;**
- **increasing efforts to prevent and detect THB taking place within Georgia;**
- **stepping up action to combat THB for the purpose of labour exploitation;**
- **ensuring that gender issues are addressed in a gender-sensitive way, and that gender mainstreaming is reflected in all elements of Georgia's anti-trafficking policy.**

68. **Further, GRETA considers that the Georgian authorities should step up their efforts to ensure that national action to combat THB is comprehensive, in particular by:**

- **taking measures to detect and address the trafficking of foreign nationals to or through Georgia;**
- **ensuring that anti-trafficking measures extend beyond big towns.**

*ii. Training of relevant professionals*

69. Pursuant to Article 5(2)(g) of the Anti-Trafficking Law, special training courses or seminars must be arranged and conducted for public officials responsible for the implementation of measures to prevent and combat THB. Article 7(3) of this law requires State agencies responsible for combating THB to train their employees in the identification and treatment of victims of trafficking and relevant procedures, by means of special training courses or seminars.

70. Under the 2009-2010 NAP, training was provided to judges, prosecutors, border officials, social workers, police officers and staff of special education facilities for children, including orphanages. In 2009, the Co-ordination Council and the State Fund, in co-operation with the IOM, provided training to police officers working at the borders, the mobile teams of the Co-ordination Council and consular officials, in order to improve the identification of victims of trafficking.

71. The 2011-2012 NAP contains plans to provide specialised training and organise study visits for the following target groups: health professionals, staff of the Ministry of Internal Affairs, prosecutors, media professionals, teachers, diplomatic staff and judges. The IOM continues to play a very important role in providing THB-related training.

72. The Georgian authorities have reported that all Georgian police officers are trained on THB issues, including on how to identify victims of trafficking and how to address suspected THB activity. As part of the basic curriculum for border guards, patrol policemen and precinct policemen, the Police Academy provides four hours of training on trafficking issues, including practical training. All new police officers are required to complete this basic training, which addresses the difference between THB and smuggling of migrants and covers the Anti-Trafficking Law, trafficking-related offences, types of exploitation and guidelines concerning child victims of trafficking. More advanced, specialised anti-THB training is mandatory for the border police and SOD members.

73. Since 2006, training on THB issues is mandatory for all prosecutors, and prosecutors working on this type of crime are offered specialised training. THB-related training is provided in co-operation with the IOM Mission to Georgia, covers the whole country and in some cases is carried out jointly for prosecutors and police officers<sup>16</sup>, with the involvement of NGOs and other international organisations.

74. GRETA welcomes the efforts of the Georgian authorities to ensure that all relevant professionals are trained on THB-related issues. **That said, GRETA considers that the Georgian authorities should improve the system of proactive identification of victims through more advanced training of relevant professionals. Further, GRETA invites the Georgian authorities to take full account of gender and child-specific aspects when designing future trainings on THB.**

*iii. Data collection and research*

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

76. Article 5(4)(c) of the Anti-Trafficking Law provides for the need to conduct research and collect data on the forms and scale of THB in Georgia, in order to develop effective prevention measures. Further, Article 8 of the Anti-Trafficking Law provides for the setting up of a unified information database within the Ministry of Internal Affairs, for the purpose of identifying and systematising existing information on traffickers. The database is to include information obtained through criminal intelligence measures, pre-trial investigations and court hearings and/or information received from Interpol and other relevant organisations. The law also provides that the information kept in the database is confidential and may only be accessed and released in accordance with the established legal procedures on confidential information.

77. The NAP for 2011-2012 provides for the analysis of trafficking cases, including data on statutory victims of trafficking, while protecting their anonymity. Such analysis is to focus on the place or origin of victims of trafficking, the reasons that led them to becoming victims of trafficking, and information on the investigations and criminal prosecution of traffickers. Pursuant to Article 14(8) of the Anti-Trafficking Law, the identity, address and other personal data of victims and witnesses of trafficking are confidential and their disclosure is prohibited except in cases envisaged by law.

78. The ILO and the ICMPD are developing databases on traffickers and on victims of trafficking, in co-operation with the Prosecutor's Office and the State Fund, respectively. These databases are expected to be finalised in 2011. As part of these projects, a manual on data collection and a model Memorandum of Understanding have been prepared in order to encourage State bodies to share data and produce reports, taking account of the applicable confidentiality rules. The Georgian authorities have indicated that these two databases will supplement databases already compiled by the State Fund, the police and the Prosecutor's Office, which include information on victims of trafficking and the crime of trafficking, respectively.

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<sup>16</sup> "Manual on Investigating and Prosecuting Trafficking in Persons for Law Enforcement Structures in Georgia", developed with the Ministry of Internal Affairs and the Prosecution Service of Georgia and published in 2008 by the IOM.

79. As far as research is concerned, the Ministry of IDPs from the Occupied Territories, Accommodation and Refugees carries out research on the socio-economic conditions of IDPs in order to identify priorities and options to resettle them, but this research is not focused on THB-related issues. Research on the vulnerability of IDPs to THB could be carried out as part of general research<sup>17</sup> on vulnerable groups to trafficking.

80. GRETA welcomes the efforts made by the Georgian authorities to develop data collection on THB. **GRETA invites the Georgian authorities to make operational the databases under construction as a matter of priority. GRETA considers that, for the purpose of preparing, monitoring and evaluating its anti-trafficking policies, the Georgian 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.**

81. **Further, GRETA invites the Georgian authorities to conduct and support research on THB-related issues, in particular in areas which have received little attention, such as trafficking among IDPs, national trafficking, and trafficking for the purpose of labour exploitation. More attention should also be paid to research on trafficking routes in and out of Georgia by sea, given that the scope of this phenomenon is still little known. The results of the research should be used as a source of information for future policy measures in the field of action against THB.**

*iv. International co-operation*

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

83. Pursuant to Article 22 of the Anti-Trafficking Law, international co-operation between Georgian State agencies and the relevant authorities of foreign countries to prevent and combat THB, as well as to protect, assist and rehabilitate victims of trafficking, is based on the provisions of the UN Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish THB, the Council of Europe Anti-Trafficking Convention and Georgia’s international treaties on mutual legal assistance. The Anti-Trafficking Law also establishes that all State agencies responsible for the protection, assistance, rehabilitation and reintegration of the victims of trafficking must co-operate with international organisations, non-profit legal entities operating in Georgia and other civil society institutions, in order to ensure legal protection and assistance of victims of trafficking, full secrecy of their personal data, protection of the privacy and personal security of victims, and their safe repatriation and psychological rehabilitation (Article 17(2)).

84. Georgia is a party to the 1993 Minsk Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters and to the European Convention on Mutual Assistance in Criminal Matters and uses these agreements to request and submit information on THB-related investigations. Further, the Criminal Procedure Code of Georgia contains provisions on international judicial co-operation in criminal matters. A new law on mutual legal assistance and international co-operation entered into force in October 2010 (see paragraph 203).

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<sup>17</sup> Possible funding sources of research on THB in Georgia are the Ministry of Education and Science, which has a budget of about 2 million GEL (840 000 Euros) for scientific-research activities, and the Shota Rustaveli National Scientific Foundation, which has an annual call for applications of research projects and a budget of GEL 17 840 000 (approx. 7.5 million Euros)

85. In 2002, Azerbaijan, Georgia and Turkey signed an agreement on co-operation in the fight against terrorism, organised crime and other serious crimes. Given that most Georgian victims of trafficking are subject to exploitation in Turkey, in 2005 Georgia signed a bilateral protocol with Turkey on the implementation of Article 9 of this agreement (regarding THB), covering issues such as exchange of information, police co-operation and the involvement of NGOs. The Georgian authorities have informed GRETA that in November 2011, the Georgian Ministry of Internal Affairs proposed a draft Memorandum of Understanding to its Turkish counterpart regarding co-operation to combat organised crime (including THB), covering exchange of information, measures to detain suspected persons, and expert meetings. The Georgian authorities have also reported that co-operation continues concerning the identification of victims of trafficking and their safe repatriation.

86. In addition, Georgia has signed a number of bilateral agreements on legal assistance in criminal matters and co-operation in the fight against crime, including with Armenia, Azerbaijan, Bulgaria, Egypt, France, Greece, Italy, Kazakhstan, Latvia, Malta, Poland, Romania, Turkey, Turkmenistan, Ukraine, UK and Uzbekistan. Further, the Georgian Ministry of Internal Affairs has signed bilateral co-operation agreements with the ministries of the interior of Armenia, Austria, Azerbaijan, Estonia, the Republic of Moldova, the Russian Federation, Ukraine and Uzbekistan. In October 2011, the Ministry of Internal Affairs signed bilateral agreements with law enforcement agencies of Armenia, Azerbaijan, the Republic of Moldova and Ukraine regarding co-operation on operative and investigation activities, including THB. The Ministry plans to sign such co-operation agreements with its counterparts in all European countries.

87. Georgia participates in the framework of the Black Sea Economic Co-operation (BSEC) and has signed the Agreement on Co-operation in Combating Crime, in Particular in its Organised Forms, and its Additional Protocol. The 2009-2011 Plan of Action of the BSEC Working Group on Co-operation in Combating Crime, in particular in its organised forms, co-ordinates the efforts of BSEC Member States<sup>18</sup> to monitor the implementation of the Regional BSEC Action Plan for strengthening the criminal justice response to trafficking in persons in the Black Sea region.

88. International parliamentary co-operation and exchange of information with other countries, such as Turkey, takes place through the Parliamentary Assembly of the Black Sea Economic Co-operation (PABSEC). In June 1999, PABSEC adopted Recommendation 35/1999 on the Legal Framework for Combating Illicit Trafficking in People, which called on member countries to use existing multilateral instruments to combat THB and in particular trafficking in women. Further parliamentary co-operation on THB issues takes place in the context of the Interparliamentary Assembly on Orthodoxy (IAO), which is an important forum for Georgia as Greece is a country of destination for Georgian victims of trafficking.

89. Georgia also uses channels of international police co-operation on THB matters, including through the National Central Bureau of Interpol, GUAM (the Organisation for Democracy and Economic Development set up by Georgia, Azerbaijan, the Republic of Moldova and Ukraine) and Europol. The 2002 agreement among GUAM member countries to combat terrorism, organised crime and other dangerous types of crimes provided for national law enforcement centres to be equipped with the necessary technical means for rapid exchange of information and direct communications during joint operations. Action against THB and the smuggling of people is a priority for GUAM member countries and a special working sub-group on trafficking and illegal migration operates since 2005, with joint operations carried out every year. The Georgian authorities consider that co-operation with police *attachés* from other countries has proved to be very effective. Since February 2010, a Georgian liaison police officer is posted in Austria to enhance co-operation and exchange of information with EU member States. Further, in 2010 the Georgian authorities signed a Strategic Partnership Agreement with Europol in order to improve the fight against transnational organised crime, including THB. A recent co-operation agreement signed between the Academy of the Ministry of Internal Affairs and the European Police College (CEPOL) aims to facilitate the sharing of experience and best practices, as well as building the capacity of police officers.

<sup>18</sup> Albania, Armenia, Azerbaijan, Bulgaria, Georgia, Greece, the Republic of Moldova, Romania, the Russian Federation, Serbia, Turkey and Ukraine.



90. In addition, the Georgian Trade Union Confederation co-operates with trade unions abroad and has signed Memoranda of Understanding with trade unions in Azerbaijan, Latvia, Lithuania and Poland in order to help migrant workers from Georgia and alert them of the risk of THB.

91. **While welcoming the efforts made by the Georgian authorities in the area of international co-operation against THB, GRETA considers that these efforts should be intensified outside the criminal field. GRETA invites the Georgian authorities to pursue and strengthen co-operation with Turkey and other countries of destination, as well as continue exploring possibilities for international co-operation with a view to preventing and combating THB and assisting the victims of trafficking.**

## **2. Implementation by Georgia of measures aimed to prevent trafficking in human beings**

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

93. Pursuant to Article 5(1) of the Anti-Trafficking Law, tools aimed to reduce, prevent and eliminate THB include organisational, legal, research, educational, informational and socio-economic measures.

### **a. Awareness-raising measures and education**

94. As Georgia is predominantly a country of origin, raising awareness about THB has been a key element of the action taken by the Georgian authorities in partnership with NGOs, foreign governments and international organisations. A great number of campaigns and projects have taken place over the years. By way of example, the following activities could be mentioned:

- The Georgian Public Broadcaster, in co-operation with the Chief Prosecutor's Office and the State Fund, produced a public service announcement with the slogan "Let's Fight Trafficking in Persons Together!". This initiative aimed to inform the public about the crime of THB and called on society at large to get involved against THB, inviting anyone with information on cases of THB to call the hotline numbers of the State Fund, the Chief Prosecutor's Office and SOD.
- The Co-ordination Council and the Georgian Public Broadcaster issued a short video-clip showing in plain terms the threat and nature of THB and aimed at all age groups. Further, they produced five TV programmes and news reports on the threat of THB and the need for prevention.
- The Ministry of Education and Science produced the video-clip "Don't trade freedom for slavery", which is regularly aired on Georgian TV. In addition, an educational film on THB was produced as part of the education programme for 10th grade students.
- In 2009, the Civil Registry Agency of the Ministry of Justice distributed 20 000 information pamphlets on THB prepared by the Ministry of Foreign Affairs.
- The State Fund published the information brochure "Let us fight trafficking in human beings together" and is preparing an information brochure on "What should we know about trafficking in persons".
- Billboards have been used in areas with high turn-over of population, proving to be one of the best ways of dissemination of anti-THB information in Georgia. A least 30 billboards were produced and installed in different regions, cities and roads of Georgia between 2006 and 2010.

95. In 2007-2010, the Georgian Government undertook a wide-scale campaign to raise awareness on THB by distributing leaflets and brochures with each new Georgian passport in order to inform the general public about the risks of THB, the services provided by the Government and how to seek assistance.

96. In 2010, the State Fund and the Co-ordination Council developed materials to carry out training for the members of the Permanent and Mobile Groups in order to help them work with child victims of trafficking. Special materials were also developed for information meetings in orphanages and targeting other risk groups of children. One such meeting was held in the Tbilisi Centre for Social Adaptation, targeting young girls and women on probation (with support from the Ministry of Corrections and Legal Assistance).

97. While the Georgian authorities initially focused on public awareness campaigns primarily targeted at potential victims of trafficking, efforts are now being made, through public service announcements and TV programmes, to target potential users of the services of trafficked persons for the purpose of sexual and labour exploitation. The fact that the known use of services of trafficked persons is criminalised is underlined in public outreach campaigns.

98. According to the Georgian authorities, as a result of the above-mentioned information and awareness-raising campaigns, the population at large has a good knowledge of the risks related to THB and how to avoid them, as well as how to contact relevant governmental or non-governmental organisations.

99. The 2011-2012 NAP envisages the organisation of new information campaigns on THB, including on services available to victims of trafficking and on mechanisms of legal stay and employment in other countries (the latter one targeting IDPs in particular). These campaigns are to be ran at the national and regional levels, including in minority languages, and will involve the production of public service announcements, radio and TV programmes and printed materials distributed through the territorial services of the Civil Registry Agency, diplomatic representations of Georgia, tourist and employment agencies, border crossing points and other places of potential risk. 150 000 GEL per year have been budgeted to run these campaigns.

100. The Ministry of Education and Science, in co-operation with the IOM, runs the programme "The Georgian school system at the service of prevention of THB", aimed to include the topic in the national educational plan for schools. A course on THB was developed for 9th graders and another one for 10th and 11th graders. Two representatives of the Ministry of Internal Affairs, as well as representatives of the State Fund, the Co-ordination Council, GYLA and "Women for Future", participate in the programme activities.

101. Pursuant to Article 5(2)(f) of the Anti-Trafficking Law, THB-related topics are to be included in the curricula of secondary schools and higher education institutions. The 2011-2012 NAP envisages the organisation of public discussions on THB at universities, as well as teaching of THB-related issues in schools. In addition, educational activities to raise awareness about THB are planned to be carried out in special institutions for children (e.g. orphanages, shelters). The Georgian authorities have indicated that all children in the country benefit from the same awareness-raising activities, covering information on all types of THB.

102. GRETA welcomes the efforts of the Georgian authorities to strengthen the prevention of THB through information and education measures. That said, **GRETA considers that future actions in this area should be designed in the light of the assessment of previous measures and be focused on the needs identified.**

103. **Further, GRETA considers that the Georgian authorities should continue developing awareness raising and information campaigns to prevent THB for the purpose of labour exploitation, both within Georgia and abroad, targeting the most vulnerable groups (IDPs, children, potential migrants).**

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

104. Pursuant to Article 5(2)(a) and (b) of the Anti-Trafficking Law, prevention measures against THB must include the drawing up and implementation of short and long-term programmes aimed at reducing poverty, under-development, unemployment and unequal access to opportunities in the country, as well as eliminating all forms of discrimination. These prevention measures should contain an analysis and assessment of the causes of THB.

105. The 2011-2012 NAP does not contain any specific socio-economic empowerment activities for groups vulnerable to trafficking. That said, a number of general measures have been taken by the Georgian authorities to address unemployment and reduce poverty. By way of example:

- A Strategy on Vocational Training was prepared by the Ministry of Education, in co-operation with the European Commission. The strategy has been approved, but the related financing policies envisaged by it are still under preparation. In addition, there are a number of programmes on vocational training (including a programme run by Tbilisi municipality providing training in English language and computer skills, which is available free of charge).
- Under the State programme “Vocational Training and Retraining”, job seekers were provided with targeted training in order to enhance their professional skills and help them meet the requirements of the labour market. More than 113 800 unemployed persons and 1 400 enterprises participated in this programme between December 2007 and April 2008.
- Another relevant initiative is the State programme “Cheap Credit”, launched in 2008 - 2009 and aimed at stimulating job creation in the regions of Georgia. Private sector enterprises receive low interest credits under this programme, which has a budget of about GEL 65 million. Over 130 projects have already been financed and the number of new jobs and beneficiaries of approved projects reportedly exceeds 35 000 persons.
- In addition, there have been legislative initiatives to promote micro businesses in order to increase the possibilities for employment of disadvantaged groups.

106. According to the Georgian authorities, progress has been made in the field of health care and social protection, including through the introduction in 2006 of a means-tested targeted assistance system for families below the poverty line, which are registered in a special data-base (including 160 000 families, i.e. over 10% of the Georgian population). Nowadays an additional 460 000 people receiving means-tested targeted assistance (i.e. 21% of the total population). In addition, the Georgian Government has developed a State-funded health insurance package for those below the poverty line, IDPs from the 2008 conflict and children lacking parental care. Further, the Georgian Government developed in 2009 a targeted programme for assistance in the coverage of the population by the voluntary health insurance (the so-called “Cheap Insurance”), which increases the accessibility of the Georgian population to basic health services.

107. A National Strategy on IDPs was adopted in February 2007, aimed at securing their economic, social, legal and political integration and creating the necessary conditions for sustainable solutions to their displacement. As already noted in paragraph 26, the Deputy Minister of IDPs from the Occupied Territories, Accommodation and Refugees is a full member of the Co-ordination Council, and there is recognition that IDPs and refugees are a high risk group for THB.<sup>19</sup> Nevertheless, there is no specific reference to THB in the National Strategy on IDPs. The report on Georgia by the European Commission against Racism and Intolerance (ECRI), published in June 2010, recommended that the Georgian authorities continue and intensify their efforts towards the integration of IDPs, placing special emphasis on tackling unemployment through the development of job-creation schemes and income-generating activities. According to the Georgian authorities, training has been provided in seven IDP settlements, covering the dangers of illegal migration and trafficking for the purpose of labour exploitation, and offering them vocational education. The 2011-2012 NAP includes an information campaign on legal migration and employment in other countries, which is targeted at IDPs and is planned to be carried out in the second half of 2011 and in 2012.

**108. GRETA welcomes the above-mentioned initiatives taken by the Georgian authorities and urges them to step up their efforts to address the socio-economic vulnerability of IDPs, potential migrants and children (including those in special schools and institutions for persons with disabilities). In this context, GRETA invites the Georgian authorities to consider including specific references to the prevention of THB in the National Strategy for IDPs.**

c. Measures to discourage demand

109. In accordance with the Convention, measures to discourage demand for the services of victims of trafficking, especially women and children, should be understood as a positive obligation on Parties to adopt and reinforce such measures as regards THB for the purpose of any form of exploitation (see paragraph 108 of the Explanatory Report on the Convention). As it is stated in the Recommended Principles and Guidelines on Human Rights and Human Trafficking, strategies aimed at preventing THB shall address demand as a root cause of trafficking<sup>20</sup>.

110. As stated in paragraph 14, Georgia's Criminal Code was amended in 2007 to criminalise the use of services of victims of trafficking. Following this amendment, information about the new legal provision was included in public awareness campaigns through video-clips, public meetings, and TV and radio shows. The Co-ordination Council and the State Fund have stressed the need to reduce the demand for sexual services leading to the exploitation of women.

111. As already mentioned in paragraph 97, there has been a shift in the focus of information campaigns on THB, which now target also potential clients and users of services provided by victims of trafficking for the purpose of sexual and labour exploitation. According to the Georgian authorities, prevention campaigns stress that traffickers are prosecuted harshly and that those who use the services of victims of trafficking will also be punished. Both labour and sexual exploitation are targeted through these campaigns.

112. GRETA welcomes the measures taken by the Georgian authorities to criminalise the known use of the services of victims of trafficking and to inform the population about it.

**113. GRETA considers that the Georgian authorities should continue their efforts to discourage demand for services from trafficked persons, paying particular attention to the sectors with a higher risk of THB.**

<sup>19</sup> The persistence of critical socio-economic conditions represent a common danger facing IDP communities worldwide. Appropriate policy solutions and targeted awareness of human trafficking must be undertaken in order to address these underlying vulnerabilities. Otherwise, displaced persons such as those uprooted by conflicts in Georgia could become victims of human trafficking. Willingham, K. *"The Dangers of Displacement: Vulnerabilities to Trafficking within Georgian IDP Populations"*, in *New Voices in Public Policy*, Vol. IV, School of Public Policy, George Mason University, Fall 2009.

<sup>20</sup> Addendum to the Report of the United National High Commissioner for Human Rights (E/2002/68Add.1).

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

114. Article 5(4) of the Convention requires Parties to take appropriate measures to enable migration to take place legally, in particular through dissemination of accurate information on the conditions enabling the legal entry and stay in its territory. Further, pursuant to Article 7 of the Convention Parties must strengthen border controls in order to prevent and detect THB, without prejudice to international commitments in relation to the free movement of persons.

115. Article 5(2)(d) of the Anti-Trafficking Law establishes that preventive measures should include the comprehensive legal regulation of migration and the implementation of measures facilitating legal labour migration. According to this provision, the risk of illegal labour migration and THB should be reduced through informational and educational measures (including 'hotlines'), educational programmes and the distribution of information materials on legal labour and the prevention of trafficking of Georgian nationals abroad. That said, no measures are envisaged in the 2011-2012 NAP regarding private employment agencies, which are considered to be one of the main elements involved in trafficking for the purpose of labour exploitation.

116. On 1 August 2006, the Minister of Foreign Affairs adopted an order listing the Georgian diplomats posted abroad who are responsible for THB issues. This order determines their responsibilities for the dissemination of public information regarding THB and their role in anti-trafficking measures. The diplomats concerned receive electronic updates of relevant legislation, instructions and other relevant anti-trafficking information. The Diplomatic Training Centre, set up in 2006, has provided training courses on THB issues, developed by the Co-ordination Council, the State Fund and IOM<sup>21</sup>, to 20 consular officers and other diplomatic staff stationed in Turkey (in Trabzon and Istanbul) and Greece (in Thessaloniki and Athens).

117. In 2008-2010, the Ministry of Justice prepared information booklets on how to find employment abroad and avoid becoming a victim of trafficking. These booklets, which were distributed to Georgian nationals at the time of their being issued with new passports, include the addresses and phone numbers of Georgian embassies and consulates. The Ministry of Internal Affairs has also distributed these brochures at the border check points of Vale, Sarpi and Tbilisi Airport. In addition, the Ministry of Internal Affairs has prepared a brochure with information on the fight against THB. Relevant information concerning legal migration and the risk of THB is also available on the website of the Ministry of Foreign Affairs of Georgia, which is updated regularly.

118. As mentioned above (see paragraph 99), the 2011-2012 NAP envisages an information campaign on the modalities of legal stay and employment in other countries, to be developed by the Ministry of Foreign Affairs and the Ministry of IDPs and implemented via the Information-Consultation Centres of the Ministry of IDPs. The information campaign is co-ordinated by the State Migration Commission. The Civil Registry Agency provides the secretariat of the State Migration Commission and is currently co-ordinating the launch of the campaign, in co-operation with relevant ministries and NGOs. The Information-Consultation Centres of the Ministry of IDPs will provide information and advice considering labour migration, including legal information and procedures for labour migration, as well as possibilities to find better job opportunities in Georgia.

119. To support the prevention of THB for the purpose of labour exploitation, the ILO, the OSCE and the ICMPD are carrying out an EU-funded project<sup>22</sup> aimed at informing potential migrants and developing viable alternatives to irregular migration, as well as promoting the dialogue between government agencies, workers' and employers' organisations, and NGOs. Five seminars on THB and forced labour, addressed to trade union members, were planned for 2011.

<sup>21</sup> A "Manual for Consular Officials on Contributing to the Combat of Trafficking in Persons" was published by the IOM in 2008, (2nd edition issued in 2010). This manual was especially designed for the Ministry of Foreign Affairs of Georgia.

<sup>22</sup> "Strengthening of comprehensive anti-trafficking responses in Armenia, Azerbaijan and Georgia" (2009-2011). For further information see <http://www.ilo.org/public/english/region/eurpro/moscow/projects/antittraffic.htm>

120. Regarding border measures to prevent and detect THB, in many cases visas are issued at the border. In case of suspicion of THB, the border police is authorised to stop a person until the situation is clarified, triggering the involvement of a specially-trained social worker and a lawyer provided by the State. In addition, and pursuant to the Law on the Legal Status of Aliens, THB is included in the list of international crimes for which entry in Georgia may be denied. In 2010, the IOM carried out a four-month screening of deportees at the Sarpi crossing point between Georgia and Turkey, aimed at identifying the incidence of THB among migrants deported from Turkey. This screening process was conducted through targeted interviews with migrants deported from Turkey to Georgia and demonstrated that a proactive screening and profiling at border crossing points can greatly contribute to identifying possible victims of trafficking<sup>23</sup> and facilitating their entry into the country's referral mechanism. The IOM research also concluded that more efforts need to be made to raise the awareness of migrant workers as to how they can access mechanisms for their personal safety and for lodging complaints against the traffickers<sup>24</sup>. According to the Georgian authorities, proactive screening takes place at the borders to detect cases of THB. The authorities have referred to a project with the NGO Tanadgoma, at the Sarpi crossing point, which complemented the usual screening for several months and led to the detection of four potential cases of THB. Nevertheless, detection of THB cases at the border is rare.

121. Whilst welcoming the measures already taken by the Georgian authorities, **GRETA considers that further efforts should be made to:**

- **detect cases of THB through proactive screening during border controls;**
- **address the role and involvement of private employment agencies in cases of THB for the purpose of labour exploitation;**
- **introduce a checklist to identify potential THB-related risks during the visa application system.**

122. **Further, GRETA invites the Georgian authorities to consider carrying out information campaigns to alert potential foreign victims of trafficking of THB-related risks and on how to get help, in co-operation with countries of origin.**

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

123. Pursuant to Article 8 of the Convention, Parties must adopt measures to ensure that travel or identity documents are of such quality that they cannot be easily misused, falsified or unlawfully altered, replicated or issued. In addition, Parties must ensure the integrity and security of travel or identity documents they issue, and prevent their unlawful creation and issuance.

124. The Civil Registry Agency under the Ministry of Justice has worked on improving the registration system and the security of identity documents. According to the Georgian authorities, there used to be cases of nationals from Central Asian States trafficked through Georgia to Turkey or the United Arab Emirates, as the old Georgian passports were reportedly easy to forge. However, following the introduction of the new registration system and upgraded secure identity documents, the Georgian authorities have not observed cases of fraudulent Georgian passports, which may have contributed to reducing the use of Georgia as a transit country for THB. According to the Georgian authorities, no falsifications of Georgian passports have been recorded in the last two years.

<sup>23</sup> The IOM interviewees referred six deportees to specialised law enforcement bodies or victim assistance structures, as they claimed that they had been trafficked. During follow-up by IOM, it was established that only two persons among them were officially identified as victims of trafficking (439 respondents participated in the screening interviews during the four-month project).

<sup>24</sup> "Screening of deportees at the border between Georgia and Turkey – 2010", IOM Mission to Georgia, May 2011.

125. Second generation biometric passports are being issued to Georgian citizens since April 2010. These passports have an extended access control system, which is the most modern and secure mechanism for accessing the biometric data stored in the passport. Further, the Civil Registry has carried out a tender procedure to select the company that will provide the infrastructure to produce electronic identity cards for Georgian citizens, complementing the existing secure travel documents with modern and high secure identity documents.

126. GRETA welcomes the measures taken by the Georgian authorities to improve the quality, security and integrity of Georgian travel and identity documents. **GRETA invites the Georgian authorities to monitor and evaluate the effectiveness of the new travel and identity documents in the prevention and detection of cases of THB.**

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

#### a. Identification of victims of trafficking in human beings

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

128. The Georgian authorities have set up a dual system to grant the status of victim of trafficking, depending on whether the victim wishes to co-operate with law enforcement agencies or not. In the first case, the Special Operations Department (SOD), under the Ministry of Internal Affairs, which investigates THB-related crimes (see paragraph 35), is in charge of granting the status of “statutory victim of THB”. Prosecutors can also issue a ruling granting the status of “statutory victim of THB” to persons who have incurred physical, material or moral damage as a result of THB. If the potential victim of trafficking does not wish to co-operate with the authorities, the Permanent Group set up by the Co-ordination Council grants the status of “victim of THB”.

129. New “Standards and Operational Procedures for the Identification, Protection, Assistance, Rehabilitation and Reintegration of Victims of Human Trafficking” have been adopted by the Co-ordination Council in October 2011, bringing together all existing procedures and standards applied since 2006. The dual approach to the identification of victims of trafficking, as well as the categories of “victim of trafficking” and “statutory victim of trafficking”, have been maintained. Regardless of whether a person is granted the status of “statutory victim” or “victim” of THB, they have access to the same support and assistance from the State Fund.

130. Article 11 of the Anti-Trafficking Law establishes that the Permanent Group set up by the Co-ordination Council decides on whether to grant the status of victim of trafficking to persons who claim to have been victims of trafficking. In this case, the Permanent Group applies the procedures included in the Standards and Operational Procedures, and takes a decision within 48 hours, in accordance with the Anti-Trafficking Law.

131. The Permanent Group - or the Mobile Groups if the potential victim is outside Tbilisi - carries out an interview and completes a "Questionnaire for the identification of victims of THB". If the Permanent Group decides to grant the status of victim of trafficking, it issues a document confirming the individual case, with one copy given to the victim, another copy sent to the State Fund and a third copy kept by the Permanent Group. Identified victims of trafficking are given information on the assistance and services available, including shelter accommodation, medical assistance, legal assistance, right to compensation, etc. If the status of victim of trafficking is not granted, the Permanent Group also informs the State Fund.

132. According to the Georgian authorities, out of the 21 victims of THB identified in 2008, 15 were "statutory victims of THB" and 6 were "victims of THB"; in 2009, there were 18 "statutory victims of THB" and 30 "victims of THB". In 2010, all 19 victims of trafficking identified were "statutory victims of THB".

133. As explained in paragraph 54, Article 3(j) of the Anti-Trafficking Law creates a link between the identification procedure, the definition of victim of trafficking ("*msxverpli*") and the damage suffered by the victim from the crime of THB. An immediate question raised by this link is whether the identification procedure needs to ascertain the existence and level of moral, physical or material damage suffered by victims. GRETA was informed that the Permanent Group does not need evidence of moral, physical or material damage in order to grant the status of a victim of trafficking. The Questionnaire for the identification of victims of trafficking does not include elements to that effect, but must contain general information on the physical and psychological status of the potential victim. Nevertheless, GRETA remains concerned about the possible implications of the link made in the Anti-Trafficking Law between the definition of victim of trafficking and the identification procedure and refers in this context to the action proposed in paragraph 55.

134. In some cases, potential victims of trafficking are detected by border guards, police officers, NGO representatives or medical staff, who refer them to the Permanent Group for a decision on their status as victims of trafficking. The NRM provides guidelines for co-operation between State agencies, NGOs and international organisations in the identification of victims of trafficking and the provision of assistance to them. That said, during the country visit to Georgia, the GRETA delegation was informed that most victims of trafficking self-report themselves. As already stated in paragraph 120, detection of victims of trafficking at the borders is rare. In addition, increased efforts are necessary to improve detection of THB taking place within Georgia (see paragraph 60), in particular concerning THB for the purpose of labour exploitation.

135. Regarding child victims of trafficking, there was one identified in 2008, two in 2009 and two in 2010. Georgia has introduced a new mandatory referral mechanism aimed to identify and report cases of violence against children. This new mechanism applies to members of the police, educators and social workers, requiring them to report cases of violence against children to social workers for follow up and assistance. This mandatory referral mechanism could play a role in detecting cases of trafficking in children. Nevertheless, it does not replace the need to provide special training and consideration for the identification of child victims of trafficking. The Georgian authorities have informed GRETA that the Social Services Agency is responsible for appointing a legal guardian to child victims of trafficking. This is notified to the State Fund, which starts an individual plan for the provision of assistance and services to the child.

136. Victims of trafficking identified in other countries are not given automatically the status of victim of trafficking in Georgia, but need to apply for this status and their case is treated by the Permanent Group. The Standards and Operational Procedures stipulate as a condition for granting the status of victim of trafficking that the illegal acts against the victim, i.e. the crime of THB, started, continued or was finalised in Georgia.



137. The Georgian authorities work closely with the IOM, in co-operation with the Co-ordination Council and the State Fund, to provide relevant training for the identification of victims of trafficking, including enhancing the capacity of police officers working at the borders, members of the Permanent Group and consular officials to identify victims of trafficking in a proactive manner. Such training uses the IOM's training module on "Victim Identification and Interview Techniques". As mentioned earlier (see paragraph 72), all Georgian police officers are trained to detect potential victims of trafficking and address suspected THB activity. Further, Border Police and consular officers receive specialised training regarding THB identification, including interview techniques.

138. GRETA acknowledges the efforts made by the Georgian authorities to ensure an effective identification of victims of trafficking through the setting up of a NRM, the adoption of Standards and Operational Procedures for the identification of victims of trafficking, and the provision of training for relevant officials and professionals.

**139. That said, GRETA considers that the Georgian authorities should step up their efforts to improve the proactive detection and identification of victims of trafficking.**

**140. Further, GRETA invites the Georgian authorities to evaluate the implementation of the mandatory referral mechanism for cases of violence against children and to explore the possibility of expanding it to THB, as an additional tool to improve the identification of child victims of trafficking.**

b. Assistance to victims

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

142. Pursuant to Article 17 of the Anti-Trafficking Law, the protection, assistance, rehabilitation and reintegration of victims of trafficking involve a combination of legal, social and organisational measures aimed at promoting their full rehabilitation and integration into family and society, compensation for damages suffered as a result of the crime of THB, and prosecution of traffickers. A key component of the protection and assistance measures is the provision of full information to victims of trafficking on their rights and the legal remedies available to them. In this context, victims of trafficking are given a leaflet with information about the services to which they are entitled.

143. All recognised victims of trafficking, Georgian and foreign nationals alike, are offered the protection mechanism set up by the Georgian authorities and covered by the State Fund (see paragraph 32). Victims of trafficking can benefit from the assistance measures regardless of whether they co-operate with the authorities or whether they stay in a shelter. Men victims of trafficking are entitled to the same assistance and protection facilities as women, based on an individual needs assessment. The Anti-Trafficking Law does not include specific assistance measures for child victims of trafficking, but an amendment to the law concerning children is underway (see paragraph 17). The Social Services Agency is responsible for appointing a legal guardian for child victims of trafficking, which is notified to the State Fund.

144. Initially, the provision of assistance to victims of trafficking was managed jointly by the Georgian Government and NGOs. The Georgian authorities gradually took over the funding, but there are still NGOs involved in assisting victims of trafficking. The State Fund can provide funding to NGOs on a case-by-case basis for the implementation of individual rehabilitation and reintegration programmes.

145. According to information provided by the Georgian authorities, 15 victims of trafficking received assistance in 2008, 20 in 2009 and 12 in 2010. As regards victims of trafficking who refused the assistance offered to them, there were six in 2008, 28 in 2009 and seven in 2010.

146. In accordance with Article 19 of the Anti-Trafficking Law, shelters for victims of trafficking have been created to ensure the protection of victims' rights and interests, as well as to provide them with assistance and rehabilitation. In addition to State-run shelters, the Anti-Trafficking Law provides for the possibility of individuals of NGOs to establish shelters, subject to the prior approval of the State Fund. All shelters need to meet the standards and requirements set by Georgian legislation and the Co-ordination Council.

147. Article 18 of the Anti-Trafficking Law explicitly prohibits to keep victims of trafficking in places of detention, such as pre-trial detention facilities and prisons, except in exceptional circumstances and subject to being accommodated separately. All victims of trafficking can be placed in a shelter, regardless of their willingness to co-operate with the law enforcement authorities. The Georgian authorities have informed GRETA that, while identification is pending, potential victims of trafficking are placed in NGO-run shelters or alternative accommodation in hotels. GRETA stresses the importance of providing appropriate assistance and accommodation to such victims, while meeting the necessary security standards.

148. Article 18(5) of the Anti-Trafficking Law establishes that all shelters must take into consideration the age, sex and special needs of the victim and particularly the special needs of children regarding appropriate housing, education and care. GRETA notes with concern that there are no special accommodation facilities for child victims of trafficking in Georgia, and that the child victims of trafficking identified in recent years have had to share accommodation facilities with adult victims of trafficking.

149. According to the Georgian authorities, the shelters provide victims of trafficking with a secure place, food, clothing, medical aid, psychological counselling, legal assistance and representation in court, including information in a language they understand. All victims undergo a compulsory medical examination when they enter the shelter and can participate in rehabilitation and re-integration programmes during their stay. The period of stay in the shelter is three months, but this term may be extended up to six months and even further in special circumstances. Victims of trafficking may leave the shelter voluntarily at any time.

150. The Georgian Government has provided the buildings for the two existing shelters. The first one, which is located in Batumi, has been in continuous operation since 2006. The second shelter for victims of trafficking was opened in Tbilisi in September 2007. Each shelter is designed to accommodate up to 10 persons. The two shelters are entirely funded by the Georgian Government and have been operated by the State Fund since 2008. According to research, there is a geographical limitation in terms of shelter availability as there is no shelter in Kutaisi, Georgia's second largest city<sup>25</sup>. The Georgian authorities have informed GRETA that, given that Kutaisi is approximately 2.5 hours by car from Tbilisi and Batumi, no need for an additional shelter in Kutaisi has not been identified by either the authorities or NGOs.

151. The two shelters can accommodate women and men victims of trafficking, as well as child victims and the children of victims of trafficking, who can be housed with their parents. According to information provided by the Georgian authorities, 10 victims of THB were accommodated in the shelters in 2008, 14 in 2009, and 12 in 2010. Child victims of trafficking were also accommodated in there (one in 2008 and two in 2009). In 2010, two children were accommodated in a shelter as their mothers were victims of trafficking, but the children themselves had not been subject to THB.

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<sup>25</sup> "Addressing Trafficking in Persons and Domestic Violence in Georgia: An Assessment Study", Women's Political Resource Center, International Foundation, School of International and Public Affairs, Columbia University, May 2010.

152. The GRETA delegation visited the shelter in Tbilisi and found the facilities adequate, except for the fact that there were no separate facilities for unaccompanied children. The security of the shelters includes keeping their location secret and providing round-the-clock surveillance. In case of need, police officers may accompany victims out of the shelter.

153. Rehabilitation and reintegration measures may include finding alternative accommodation for victims of trafficking who no longer need shelter accommodation, as part of an individual reintegration and rehabilitation plan developed in co-operation with the victim (see paragraph 160).

154. Victims of trafficking are entitled to free medical assistance from the Ministry of Labour, Health and Social Protection through existing medical and social programmes. Victims are notified of these programmes when they are granted the status of victim of trafficking, by either the Permanent Group or law enforcement agencies. The State Fund covers the necessary medical assistance of both victims of trafficking and their children, if they are accommodated together in the shelters.

155. Pursuant to Article 18(4) of the Anti-Trafficking Law, the Ministry of Education and Science is charged with ensuring that victims of trafficking participate in professional training and other educational programmes developed jointly with the Ministry of Labour, Health and Social Protection, subject to the victim's consent. The Standards and Operational procedures include the provision of information to victims of trafficking on available vocational training and education programmes. According to the Georgian authorities, there is a well-developed system of State-provided vocational education, accessible to victims of trafficking.

156. The Georgian authorities have informed GRETA that specific assistance and educational measures for child victims of trafficking are part of the individual plans developed in the framework of rehabilitation and reintegration measures, including appropriate schools, secure commuting to schools and tailor-made educational programmes, with the support of social workers.

157. A strategy to rehabilitate and reintegrate victims of trafficking into society was approved by the Co-ordination Council in 2007 (see paragraph 26), aimed at promoting the rehabilitation and social reintegration of victims of trafficking in relation to their individual needs and available resources. Rehabilitation and reintegration measures are available to victims of THB whether or not they stay in a shelter and regardless of their willingness to co-operate with the law enforcement authorities.

158. As provided for in the 2007 Strategy, individual rehabilitation and reintegration plan can be developed by the State Fund, social workers, local NGOs and international organisations, in co-operation with the victim of trafficking. GRETA was informed that the Government of Georgia allocates approximately 1 100 Euros for individual reintegration activities in respect of each victim of trafficking.

159. The Strategy defines "rehabilitation" as the recovery of the physical and mental health of the victim of trafficking, to be achieved through the provision of free medical and psychological assistance. "Reintegration" is defined as the dignified return of a victim of trafficking to his/her family and/or social life, which is helped through the provision of assistance to raise the level of his/her skills and social functioning. The Strategy establishes that the rehabilitation process for victims of trafficking starts from the moment they are granted such status and it is carried out by the competent authorities on the basis of the informed written consent of the victim and with the close co-operation and involvement of NGOs and international organisations operating in Georgia.

160. The drafting of individual plans of social reintegration is conducted in two stages and requires the active participation of social workers and victims of trafficking. An initial plan of social reintegration is developed by a social worker and the victim. On the basis of that document and in agreement with the Fund, the social worker seeks the necessary resources and prepares the final individual plan of social rehabilitation together with the victim. The individual plan is then submitted to the Fund for approval, which designs its implementation bearing in mind the available resources. During the implementation, the individual plan may change in relation to the victim's needs or the services needed. The Georgian authorities have informed GRETA that eight individual reintegration plans were approved and implemented in 2008, nine in 2009 and 11 in 2010. A social worker is responsible for the implementation of each individual plan, which is assessed in the year following its completion and can be extended if the victim so wishes. GRETA notes that the proportion of victims of trafficking who have agreed to benefit from an individual rehabilitation and reintegration plan is rather low.

161. GRETA welcomes the availability of an assistance package for victims of trafficking. That said, there is need to address gaps in the provision of assistance to child victims of trafficking, the reintegration of victims through vocational training and access to the labour market, and the availability of assistance to victims throughout the country.

162. Access to reintegration and rehabilitation services outside major cities is reportedly limited. Another shortcoming is the shortage of social workers available and trained to meet the rehabilitation and reintegration needs of victims of trafficking. The 2011-2012 NAP includes measures for the renewal and further advancement of Assistance and Reintegration Programmes for victims of THB, to be carried out by the State Fund and the Ministry of Finance, in partnership with NGOs and international organisations. The Georgian authorities have explained that the State Fund uses all available social workers working for it, as well as NGOs with regional offices throughout Georgia (such as the Anti-Violence Network Georgia and Women for Future) and international organisations to cover the entire territory of the country in order to assist and reintegrate victims of trafficking.

**163. GRETA considers that the Georgian authorities should address the low number of victims of trafficking who agree to take part in individual rehabilitation and reintegration plans.**

**164. Further, GRETA considers that the Georgian authorities should step up their efforts to protect and safeguard the best interest of child victims of trafficking, including legal guardianship, appropriate accommodation, education and support programmes tailored to the needs of the child.**

**165. GRETA invites the Georgian authorities to:**

- **continue offering vocational training to victims of trafficking and providing them with access to the labour market in order to facilitate the reintegration of victims of trafficking into society and to avoid re-trafficking;**
- **consider developing further the system of shelters for victims of trafficking, in particular by providing appropriate accommodation for children;**
- **address the need for sufficient and well-trained social workers so that victims of trafficking can receive appropriate assistance.**

c. Recovery and reflection period

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

167. Pursuant to Article 12 of the Anti-Trafficking Law, victims of trafficking are entitled to a 30-day reflection period to decide whether they wish to co-operate with law enforcement bodies in the criminal proceedings. The reflection period is calculated from the date when a potential victim of THB contacts a shelter or a law enforcement body.

168. The 2006 Operational Instruction for the Protection of Victims of THB did not provide guidelines or information on the application of the reflection period. However, the Standards and Operational Procedures adopted in October 2011 foresee that a foreign national victim of trafficking enjoying the right to a reflection period will be issued with a temporary residence card (see paragraph 175). At the expiry of the reflection period or after the completion of criminal proceedings, the authorities should take steps to safely return the victim of trafficking to his/her country of origin. In addition, the Anti-Trafficking Law establishes that during the reflection period, victims of THB are not subject to criminal liability envisaged by Article 371 of the CC (on refusal to provide evidence).

169. GRETA notes that Georgian legislation defines the reflection period exclusively for the purpose of deciding whether to co-operate with the law enforcement bodies during the criminal proceedings, and not with a view to allowing victims of trafficking to recover from the trafficking experience. Moreover, given that the procedure to be identified as a victims of trafficking is different according to whether there is willingness to co-operate with law enforcement officials or not, the right to a reflection period becomes redundant in practical terms. If victims wish to co-operate, law enforcement bodies grant them the status of statutory victim of trafficking. If not, the Permanent Group takes a decision on whether or not to grant the status of victim of trafficking, within 48 hours. In both cases, the period during which a person is considered as a potential victim of trafficking in need of recovery and reflection is indeed very short.

170. Further, the reflection period should not be regarded only as relevant to foreign victims of trafficking who can get a residence permit during the reflection period (see paragraph 175) as, according to the Convention, victims of trafficking should be able to benefit from such a period in order to recover and escape the influence of traffickers, even if the victim has decided to co-operate with the authorities. In this sense, both victims of trafficking and statutory victims of trafficking should benefit from a period to recover from the trafficking experience, a possibility which is not envisaged in Georgia's anti-trafficking legislation.

171. The Georgian authorities have indicated that no victims of trafficking were granted a reflection period in 2008, 2009 and 2010, which can be explained by the reasons noted in paragraph 169.

**172. GRETA urges the Georgian authorities to ensure that trafficked persons are systematically informed of the possibility to use a reflection period and are effectively granted such a period if they so wish.**

**173. GRETA also considers that the Georgian authorities should expand the aims of the 30-day reflection period to include the recovery of victims of trafficking from the trafficking experience, in line with the Convention.**

d. Residence permits

174. Article 14(1) of the Convention provides for two possibilities when it comes to the issuing of renewable residence permits to victims of trafficking: on the basis of their personal situation and/or their co-operation with the competent authorities in the investigation or criminal proceedings.

175. Article 19(1)(g) of the Law on the Legal Status of Aliens provides that in case of reasonable doubt that a person may be a victim of trafficking, he/she must be issued with a temporary residence permit. A similar provision is found in Article 20 the Anti-Trafficking Law: "If there is reasonable doubt that a person may be a victim of trafficking, he/she cannot be expelled from the country and will be issued with a residence permit if he/she decides to co-operate with the law enforcement bodies. The resident card will be valid until the completion of the relevant criminal and/or civil proceedings and during such period the victim of trafficking will have the right to work in Georgia and enjoy the rights and guarantees established in the Labour Code". Further, the Anti-Trafficking Law establishes that foreign victims of trafficking are to be issued with a residence card by the Ministry of Justice during the reflection period, on the basis of a motion by the shelter or the body in charge of the proceedings.

176. In addition, pursuant to Article 20(7) of the Anti-Trafficking Law, foreign "statutory victims" of trafficking may apply for asylum upon completion of the criminal proceedings. Asylum may be granted if there are reasonable grounds to believe that the life, health or personal liberty of the victim will be under threat if he/she is returned to his/her country of origin.

177. GRETA is concerned about the information received from the Georgian authorities according to which no residence permits were granted to victims of trafficking in 2008, 2009 and 2010. According to the Georgian authorities, foreign victims of trafficking prefer to be repatriated.

178. GRETA notes that the number of foreign national victims of trafficking in Georgia has been low (only five in the period from 2008 to 2010). However, GRETA is of the view that the lack of application of the reflection period, as explained in the previous section, triggers the non-application of the legal provisions regarding residence permits to victims of trafficking.

**179. GRETA considers that the Georgian authorities should take steps to ensure that foreign victims of trafficking can take full advantage of the right to be granted a temporary residence permit by systematically providing them with information concerning their right to apply for such a permit, the procedure to be followed and the conditions to be met.**

**180. GRETA also invites the Georgian authorities to consider granting temporary residence permits to victims of trafficking on the basis of their personal situation and not only to those victims who agree to co-operate with the law enforcement authorities.**

e. Compensation and legal redress

181. Article 15 of the Convention establishes the obligation for Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. Parties must also provide for the right of victims of trafficking to compensation from the perpetrators as well as adopt legislative or other measures to guarantee compensation for victims from the State. Further, Article 15(1) of the Convention establishes that victims of trafficking must have access to information on relevant judicial and administrative proceedings in a language which they can understand.

182. In accordance with Article 16 of the Anti-Trafficking Law, victims of trafficking have the right to claim compensation in a civil court for moral, physical or material damages suffered. In addition, victims have the right to request compensation from the State Fund, pursuant to the Operational Instructions for the Protection of Victims of THB and the “Rules and amounts for compensating victims of THB”, adopted by the Co-ordination Council on 26 November 2006. According to these provisions, if it is impossible to get compensation from traffickers, victims of trafficking receive a one-off compensation payment of 1 000 GEL from the State Fund. In order to receive this payment, victims need to submit a document confirming their status. There is a link between compensation from the trafficker and State compensation: if three months after initiating the investigation of a case for THB, it is impossible to identify and arrest the suspected trafficker, or if after six months of delivering a guilty verdict it is impossible to get compensation from the offender, the agency which granted the status of victim of trafficking issues a document indicating that the person concerned can get compensation from the State Fund. If a victim of trafficking is granted such compensation and the trafficker is later convicted, the allowance received does not prevent the victim from demanding reparation of material, moral and property damages from the trafficker.

183. According to the Georgian authorities, five victims of trafficking received compensation from the State Fund in 2008, none in 2009 and two in 2010. The Georgian authorities have informed GRETA that compensation from the State Fund is granted on an application basis and that all victims of trafficking who applied for it got the compensation.

184. Article 14 of the Anti-Trafficking Law guarantees the legal protection of victims of trafficking, including access to justice and the provision of information on their rights, applicable legislation and legal status in the language of the victim or in a language that he/she can understand. Further, the Anti-Trafficking Law provides for access to a lawyer and a interpreter, as well as to documents and materials related to the proceedings.

185. As mentioned above, the State Fund provides free legal assistance to victims of trafficking, including court representation in civil cases to sue traffickers for financial compensation. In addition, free legal aid is in principle available to victims of trafficking through the Free Legal Aid Service established in 2007, although this facility has not yet been used by victims of trafficking. Further, the State Fund provides free legal aid to victims of trafficking, both for criminal and civil proceedings. The State Fund can hire lawyers, but it also uses the *pro bono* services of law firms.

**186. GRETA urges the Georgian authorities to provide information to all victims of trafficking concerning possibilities to obtain compensation and to ensure that they have effective access to legal aid in order to enable them to exercise their right to compensation from the State Fund and/or from the traffickers.**

**187. In order to facilitate access to compensation by victims of trafficking, GRETA urges the Georgian authorities to ensure that they have an effective possibility of claiming compensation from traffickers, in either civil or criminal proceedings.**

f. Repatriation and return of victims

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

189. Pursuant to Article 17(2) of the Anti-Trafficking Law, the State agencies responsible for the protection, assistance, rehabilitation and reintegration of victims of trafficking must co-operate with international organisations and NGOs in order to ensure the safe and voluntary return of victims of trafficking. Further, Article 20 of the Anti-Trafficking Law establishes that upon expiration of the reflection period or completion of the criminal proceedings, the State will take the necessary measures to safely return foreign victims of trafficking to their country of origin.

190. According to Article 21 of the Anti-Trafficking Law, Georgian consular services and diplomatic representations abroad shall co-operate with the Ministry of Justice in order to issue identification documents or one-time travel documents allowing Georgian nationals or residents who have become victims of trafficking to return to Georgia. In 2009, Georgian consulates abroad facilitated the return of five victims of trafficking, through the provision of travel documents, co-ordination with local NGOs, and contacting the State Fund to provide victims of trafficking with assistance upon their return to Georgia.

191. According to information provided by the Georgian authorities, seven victims of trafficking were repatriated to Georgia each year, in 2008 and 2009. In 2010, six Georgian victims of trafficking were repatriated from Egypt and two from Turkey. Further, a Turkish victim of trafficking was repatriated from Georgia in 2010.

192. **GRETA invites the Georgian authorities to consider conducting a review of the institutional and procedural framework for the return of victims of trafficking to ensure that due regard is taken to their safety, dignity and protection and 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.**

193. **Further, GRETA invites the Georgian authorities to continue their co-operation with the national authorities, NGOs and international organisations in countries from which Georgian victims of THB are repatriated, as well as in countries of return of victims of trafficking identified in Georgia.**

#### **4. Implementation by Georgia of measures concerning substantive criminal law, investigation, prosecution and procedural law**

##### **a. Substantive criminal law**

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



195. Trafficking in human beings is subject to a single criminal offence in Georgia. By virtue of Article 143(1) of the CC, the offence of THB is punished by deprivation of liberty from seven to 12 years, with deprivation of the right to occupy a certain position or practice a profession for one year<sup>26</sup>. Committing THB against a pregnant woman, a person in a helpless state or a person materially or otherwise dependent upon the offender or through the abuse of power is punishable by deprivation of liberty from nine to 14 years, and deprivation of the right to occupy a certain position or practice a profession for two years (Article 143(1)(2) of the CC). Other aggravating circumstances include committing the crime of THB repeatedly, in respect of two or more persons, by taking the victim abroad or by using life- or health-threatening violence or threat of such violence, with the punishment envisaged ranging from 12 to 15 years, and deprivation of the right to occupy a certain position or practice a profession for three years (Article 143(1)(3) of the CC). Further, if the crime of THB is committed by an organised group or results in the death of a victim or other grave consequences, it is punished with imprisonment from 15 to 20 years and deprivation of the right to occupy a certain position or practice a profession for three years (Article 143(1)(4) of the CC). GRETA considers that the criminal sanctions for THB provided for in Georgian law, as well as their application in adjudication, are in line with the requirements of effectiveness and dissuasiveness of criminal sanctions set in the Convention.

196. Trafficking in children is punished by imprisonment from eight to 12 years, with deprivation of the right to occupy certain position or practice a profession for one year (Article 143(2) of the CC). Similarly to the above-mentioned aggravating circumstances for the crime of THB of adults, trafficking in children committed through abuse of power or knowingly against a person in a helpless state or a person materially or otherwise dependent upon the offender, is punished with imprisonment from 11 to 15 years and deprivation of the right to occupy a certain position or practice a profession for two years (Article 143(2)(2) of the CC). Other aggravating circumstances include committing the crime repeatedly, through coercion, blackmail or deception, against two or more minors, by taking the victim abroad, by using life- or health-threatening violence or threat of such violence, with the punishment provided ranging from 14 to 17 years and deprivation of the right to occupy a certain position or practice a profession for three years (Article 143(2)(3) of the CC). In case of trafficking in children committed by an organised group or causing the death of a child or other grave consequences, the punishment is imprisonment from 17 to 20 years, or life imprisonment, and deprivation of the right to occupy a certain position or practice a profession for three years

197. Concerning the aggravating circumstances provided for in the Convention, one appears to be omitted, namely when the offence is committed by a public official in the performance of his/her duties. The Georgian authorities have explained that the definition of THB in the CC includes the abuse of power as one of the means and that this corresponds to a crime committed by a public official in the performance of his/her duties. In addition, they have argued that Article 143(2)(2)(a) of the CC includes as an aggravating circumstance for child trafficking the fact that the offence was committed through abuse of power. GRETA takes note of this information. However, it must stress that the term included in the Convention is more specific than abuse of power and recalls that the Convention requires a heavier penalty for the crime of THB when committed by a public official in the performance of his/her duties. In addition, GRETA notes that abuse of power is already included in the definition of THB, as one of its components, and that other provisions of the CC relate to offences committed by public officers (e.g. Article 332 on the abuse of official authority). GRETA stresses the importance of complying with Article 24 of the Convention regarding aggravating circumstances.

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<sup>26</sup> This means that the convicted person cannot be assigned to a position in the civil service or local administration and self-administration bodies or pursue a professional or other activity (Article 43(1) of the CC).

198. The known use of services of trafficked persons, which was criminalised by an amendment of the CC in June 2007, is punished with either restriction of liberty<sup>27</sup> for up to four years or imprisonment from three to five years (Article 143(3)(3)(1) of the CC). In addition, by virtue of the aggravating circumstances that can be applied for this crime, the imprisonment could be increased to seven to 12 years. Further, if the crime was committed by an organised group, the penalty ranges from 12 to 15 years of imprisonment and deprivation of the right to occupy a certain position or practice a profession for three years. However, there have been no convictions for the use of the services of a trafficked person since this provision was introduced in the CC.

199. As regards the criminalisation of acts relating to travel or identity documents, the Georgian authorities have reported that there is no specific provision in relation to THB and that the general rules of the CC apply. Article 362(1) of the CC provides that the preparation, use, procuring, providing or selling of a forged identification card or another official document, seal or stamp or blank is punished with a fine or imprisonment for up to six months. If this crime is committed repeatedly, the penalty is increased to restriction of freedom for up to three years or imprisonment for up to two years (Article 362(2) of the CC). Further, Article 363 of the CC criminalises the misappropriation, concealment, destruction or damaging of a document, seal, stamp or blank, “perpetrated for mercenary purposes or by any other personal motive”, which is punished with either a fine or restriction of freedom for up to two years. In addition, stealing an identification card or any other important personal document is punished with either a fine or imprisonment for up to one year.

200. The criminal liability of legal persons for THB was introduced in the CC in 2006. Article 13(4) of the Anti-Trafficking Law establishes that “legal entities perpetrating the crime of trafficking in human beings are subject to criminal liability in accordance with the Georgian legislation”. The Georgian authorities have indicated that all types of legal persons can be held liable for criminal offences related to THB. That said, there have been no cases of involvement or complicity of legal persons in cases of THB.

201. As regards the confiscation of assets, Article 13(5) of the Anti-Trafficking Law establishes that traffickers may be deprived of criminal proceeds in accordance with the legislation of Georgia. Further, following the adoption in December 2005 of legislation against racketeer-influenced and corrupt organisations, which includes the crime of THB, the CC and the Code of Civil Procedure were amended in order to allow forfeiture of illegal property of criminals. The freezing of assets is based on a motion from the prosecutor during criminal proceedings. Within six months of the conviction, a civil case can be initiated by the prosecutor to confiscate the trafficker’s assets. Such a lawsuit can be filed by a prosecutor not only against the convicted trafficker, but also against his/her family members, close relatives or associated persons (Article 356(2) of the Code of Civil Procedure).

202. According to the Georgian authorities, THB is not part of organised crime in Georgia and the convicted traffickers are mostly relatives or friends of the victims they recruit. There have been no confiscations of assets so far. GRETA recalls that confiscation may be a penalty or a measure of justice which should be applied even in low-profile cases of THB. Further, the confiscation of criminal assets, which requires as a prerequisite to detect, identify and seize the illegal assets at the time of the criminal investigations and to have adequate procedures to do so, is crucial as a way of reinforcing the effect of the penalty, as well as ensuring the payment of compensation to the victim. **GRETA urges the Georgian authorities to explore the reasons for the non-application of this measure in practice.**

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<sup>27</sup> This means placing the convicted person in a special institution or corrective centre under supervision, without isolating him/her from society (Article 47(1) of the CC).

203. The Georgian authorities have indicated that previous sentences issued by other countries convicting persons for the crime of THB can be taken into consideration by Georgian courts when determining the penalty for a new crime committed by the person concerned. The Convention on Mutual Assistance on Criminal Matters and the Georgian Law No. 3541 on International Co-operation in the Field of Criminal Law, in force since October 2010, facilitates information on previous convictions as well as extraditions and other forms of international co-operation on criminal law, including to gather evidence and identify traffickers. According to the Georgian authorities, there have been no cases of persons convicted in Georgia for THB offences who had previously been sentenced abroad. That said, the penalties have ranged from 12 to 30 years of deprivation of liberty.

**204. GRETA urges the Georgian authorities to review the legislation in order to fully reflect the aggravating circumstances included in the Convention, in particular when the crime of THB is committed by a public official in the performance of his/her duties.**

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

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

206. Pursuant to Article 15 of the Anti-Trafficking Law, victims of trafficking are exempted from criminal liability for the acts envisaged in Articles 344 and 362 of the CC and Article 172(3) and 185 of the Code of Administrative Violations. Further, the CCP establishes that criminal prosecution will not be conducted or, if already initiated, shall be terminated regarding the offences envisaged in Article 322(1) of the CC (entering the occupied territories of Georgia), Article 344 of the CC (illegal crossing of the State border) and Article 362 of the CC (production, purchase or use of a forged document, seal or form) when committed by victims of trafficking. Victims of trafficking are also exempted from administrative responsibility in case of prostitution, if they were compelled to do so (Article 172(3) of the Code of Administrative Violations). Further, victims of trafficking are exempted from administrative responsibility for the violation of the rules of registration of Georgian citizens and foreign nationals residing in Georgia, if they were compelled to do so (Article 185 of the Code of Administrative Violations).

207. The Anti-Trafficking Law establishes that victims of trafficking will not be held liable for their participation in the above-mentioned unlawful acts if they were compelled to do so given their condition of victims of trafficking and regarding legal violations committed before they were granted the status of victim or statutory victim of THB.

208. In addition, victims of trafficking are exempted from criminal liability if they refuse to testify as a witness or victim during the reflection period of 30 days (Article 371 of the CC). It would be a matter of concern to GRETA if this exemption were to apply only during the 30-day reflection period. A similar exemption from criminal liability was introduced at the end of 2006 in respect of persons in charge of a shelter for victims for trafficking who conceal information related to the commission of the crime of THB (Art. 375 of the CC).

209. GRETA welcomes the provisions under Georgian law exempting victims of trafficking from criminal and administrative responsibility for unlawful acts that they committed as victims of trafficking and while the identification was pending. The Georgian authorities have informed GRETA that these provisions have been applied to cases of victims of trafficking from Uzbekistan, Kyrgyzstan and Georgia who had crossed the border with forged Georgian passports.

c. Investigation, prosecution and procedural law

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

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

212. In the *Rantsev v. Cyprus and Russia* case, the ECHR stated that Article 4 of the European Convention on Human Rights entails a procedural obligation to investigate situations of potential THB, as once the matter has come to the attention of the authorities they must act of their own motion. Such investigations must be capable of leading to the identification and punishment of the individuals responsible. Further, the ECHR stressed that THB is a problem often not confined to the domestic arena, and therefore the obligation to conduct a domestic investigation is supplemented with a duty to co-operate effectively with the relevant authorities of other States concerned in the investigation of events which occurred outside their territories.

213. As mentioned in paragraph 35, the Special Operations Department (SOD), under the Ministry of Internal Affairs, is the lead investigative law enforcement agency for THB in Georgia. All SOD officers are specially trained and have the necessary equipment to carry out their work, in co-operation with relevant organisations and NGOs. However, the Georgian authorities have stressed the difficulties to conduct investigations in the regions of Abkhazia and Tskhinvali (South Ossetia)

214. The 2011-2012 NAP provides for further upgrading the investigative techniques regarding the crime of THB, to react to current criminal trends, by means of analysing cases of THB in Georgia and co-operating in criminal proceedings with the law enforcement authorities of other countries. GRETA was informed that there are no particular barriers to the investigation of cases of THB and that the SOD has all the necessary equipment and enjoys good co-operation with other organisations and NGOs. Further, judges may issue warrants allowing phone tapping, video or audio recordings during the investigation of a trafficking case. The Georgian authorities have explained that the investigative techniques available in relation to cases of THB are established in the Law on Operative-Investigative Activity, including surveillance, monitoring of internet-based communications, phone tapping and engaging under-cover agents in criminal groups.

215. In Georgia, criminal proceedings for THB can be initiated *ex officio* by the prosecutor or by the victims themselves. According to the Georgian authorities, most victims of THB co-operate in the proceedings, even though the investigations can also be undertaken *ex officio* if the victim is unwilling to co-operate. NGOs can represent victims of trafficking and be third parties in the proceedings.

216. According to statistical information provided by the Georgian authorities, there were 14 criminal proceedings initiated in 2008 and 33 in 2009. In 2010, there were 11 investigations, leading to four cases prosecuted. The number of convictions handed down was respectively 10 in 2008, 37 in 2009 and one in 2010. The Georgian authorities have argued that the decrease in the number of cases of THB over the last years is due to the successful eradication of corruption in the law enforcement bodies, the new security measures for passports and the high penalties for the crime of THB. However, GRETA notes that without robust data collection it is difficult to be certain about the reasons why the number of cases of THB has decreased. GRETA stresses the importance of proactive investigation to detect cases of THB for the purpose of sexual and labour exploitation.

217. According to a research conducted by the IOM Mission in Georgia, in the majority of analysed cases of women trafficked from Georgia abroad, the recruiters were Georgian women, including some who had acquired Turkish citizenship. The male recruiters and exploiters were primarily husbands or close relatives or acquaintances of the victims, forcing them to engage in prostitution<sup>28</sup>.

218. Pursuant to Article 13(6) of the Anti-Trafficking Law, the measures to protect, assist and rehabilitate victims of trafficking prescribed in this Law are to be applied before, during and after criminal proceedings. Investigators, prosecutors and judges must inform victims of trafficking about their rights and legal status in a language that they can understand. The Ministry of Internal Affairs is responsible for ensuring the security of victims and witness. Statutory victims, as well as persons providing legal protection and assistance to them, have the right to request protection for their own security and the security of their family members, in accordance with procedures established by the Georgian legislation (Article 14(7) of the Anti-Trafficking Law).

219. There are two mechanisms to protect victims of trafficking and witnesses during criminal proceedings. Witnesses who are also victims of trafficking are placed in shelters for victims of trafficking, while witnesses in criminal proceedings are protected under the witness/victim protection procedures, in accordance with the criminal procedure. The Georgian authorities have informed GRETA that the decision to place a victim of trafficking in the witness protection program is taken by the prosecutor with the consent of the Chief Prosecutor of Georgia. A new protection programme, including witnesses and victims of trafficking, has been developed and is scheduled for adoption in December 2011. A special unit has been set up at the Ministry of Internal Affairs ("WitSec Unit") to implement the witness protection programme.

220. Article 13(2) of the Anti-Trafficking Law establishes that a closed court hearing on the crime of THB may be held, based on a motion by the prosecutor, the victim or his/her representative. In addition, the special protective measures prescribed in Chapter IX of the CCP may be applied for victims of trafficking who are witnesses in criminal cases. Such measures include physical protection, relocation, change of the identity and appearance of victims. The provision of special protection measures is crucial to ensure the ability and confidence of victims and witnesses to give evidence. The Georgian authorities have informed GRETA that the special protection measures under the CCP have not yet been applied to victims of trafficking.

221. GRETA notes the lack of specific provisions for child victims of trafficking and recalls the concluding observations concerning Georgia of the United Nations Committee on the Rights of the Child, recommending that the Georgian authorities ensure that all children victims and/or witnesses of crimes, including THB, are provided with the protection required by the Convention taking into account the UN Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime<sup>29</sup>.

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<sup>28</sup> IOM Mission in Georgia (see footnote 8).

<sup>29</sup> 48th session of the UN Committee on the Rights of the Child, "Concluding observations on Georgia", document CRC/C/GEO/CO/3, of 23 June 2008.

222. **GRETA considers that the Georgian authorities should:**

- **step up the proactive investigation of cases of THB for the purpose of sexual and labour exploitation;**
- **continue to ensure that the life and safety of victims of trafficking and of those assisting them are adequately protected during court proceedings;**
- **address the lack of application of the special protection measures to victims of trafficking;**
- **address the significant reduction of prosecutions and convictions since 2010.**

## **5. Concluding remarks**

223. GRETA welcomes the legal and institutional measures taken by the Georgian authorities to combat trafficking in human beings, the financial resources set aside to this end and the continued political will to maintain anti-trafficking actions as a priority for the country.

224. That said, GRETA considers that the Georgian authorities should take further steps to ensure that the human rights-based and victim-centred approach underpinning the Convention is fully reflected and applied in the national policy to combat THB, from prevention to protection, prosecution and redress. This includes taking measures to strengthen the aspect of prevention amongst groups vulnerable to THB, such as IDPs, including children, as well as orphan children and children working and living in the street. The training of law enforcement officials, prosecutors, judges, social workers, consular staff and other relevant professionals should stress the need to apply a human rights-based approach to action against THB on the basis of the Council of Europe Anti-Trafficking Convention and the case-law of the European Court of Human Rights.

225. The human rights-based approach to THB also requires taking further steps to secure that all victims of trafficking are properly identified and that they benefit from a recovery and reflection period before having to decide whether to co-operate with the law enforcement authorities.

226. The Georgian authorities have put in place measures and programmes to provide assistance to victims of trafficking. That said, in practice, very few victims have benefitted from individual rehabilitation and reintegration plans and a small number of victims have received the one-off payment from the State Fund. Increased provision should also be made in the national policy against THB for measures to assist the reintegration and rehabilitation of victims of trafficking and to prevent re-trafficking.

227. Similarly, the Georgian authorities have made available the necessary investigative and legal tools to prosecute traffickers, but GRETA notes with concern the significant reduction in the number of prosecutions and convictions since 2010.

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

## Appendix I: List of GRETA's proposals

### Core concepts and definitions

1. GRETA considers that the Georgian authorities must ensure that no additional conditions of damage or loss and in particular no evidence of such damage or loss are required from a person who has been subjected to THB in order to qualify as a victim of trafficking under the Anti-Trafficking Law and to benefit from the protection measures provided for in this law.

### Comprehensive approach, co-ordination and international co-operation

2. GRETA urges the Georgian authorities to step up their efforts aimed at ensuring that national action to combat THB is comprehensive, in particular by:

- paying increased attention to prevention and protection measures among vulnerable groups, such as IDPs;
- paying increased attention to prevention and protection measures addressing the particular vulnerability to trafficking of children, in particular those without parents and IDPs;
- increasing efforts to prevent and detect THB taking place within Georgia;
- stepping up action to combat THB for the purpose of labour exploitation;
- ensuring that gender issues are addressed in a gender-sensitive way, and that gender mainstreaming is reflected in all elements of Georgia's anti-trafficking policy.

3. Further, GRETA considers that the Georgian authorities should step up their efforts to ensure that national action to combat THB is comprehensive, in particular by:

- taking measures to detect and address the trafficking of foreign nationals to or through Georgia;
- ensuring that anti-trafficking measures extend beyond big towns.

4. While welcoming the efforts made by the Georgian authorities in the area of international co-operation against THB, GRETA considers that efforts should be intensified outside the criminal field. GRETA invites the Georgian authorities to pursue and strengthen co-operation with Turkey and other countries of destination, as well as continue exploring possibilities for international co-operation with a view to preventing and combating THB and assisting the victims of trafficking.

### Training of relevant officials

5. GRETA considers that the Georgian authorities should improve the system of proactive identification of victims through more advanced training of relevant professionals.

6. Further, GRETA invites the Georgian authorities to take full account of gender and child-specific aspects when designing future trainings on THB.

## Data collection and research

7. GRETA considers that, for the purpose of preparing, monitoring and evaluating its anti-trafficking policies, the Georgian 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.

8. GRETA invites the Georgian authorities to make operational the databases under construction as a matter of priority.

9. Further, GRETA invites the Georgian authorities to conduct and support research on THB-related issues, in particular in areas which have received little attention, such as trafficking among IDPs, national trafficking, and trafficking for the purpose of labour exploitation. More attention should also be paid to research on trafficking routes in and out of Georgia by sea, given that the scope of this phenomenon is still little known. The results of the research should be used as a source of information for future policy measures in the field of action against THB.

## Prevention of THB

10. GRETA urges the Georgian authorities to step up their efforts to address the socio-economic vulnerability of IDPs, potential migrants and children (including those held in special schools and institutions for persons with disabilities). In this context, GRETA invites the Georgian authorities to consider including specific references to the prevention of THB in the National Strategy for IDPs.

11. GRETA considers that the Georgian authorities should continue their efforts to discourage demand for services from trafficked persons, paying particular attention to the sectors with a higher risk of THB.

12. Further, GRETA considers that the Georgian authorities should continue developing awareness raising and information campaigns to prevent THB for the purpose of labour exploitation, both within Georgia and abroad, targeting the most vulnerable groups (IDPs, children, potential migrants).

13. GRETA welcomes the efforts of the Georgian authorities to strengthen the prevention of THB through information and education measures. That said, GRETA considers that future actions in this area should be designed in the light of the assessment of previous measures and be focused on the needs identified.

14. In addition, GRETA considers that further efforts should be made to:

- detect cases of THB through proactive screening during border control;
- address the role and involvement of private employment agencies in cases of THB for the purpose of labour exploitation;
- introduce a checklist to identify potential THB-related risks during the visa application system.

15. Further, GRETA invites the Georgian authorities to consider carrying out information campaigns to alert potential foreign victims of trafficking of THB-related risks and how to get help, in co-operation with countries of origin.

16. GRETA invites the Georgian authorities to monitor and evaluate the effectiveness of the new travel and identity documents in the prevention and detection of cases of THB.



## **Identification of victims of THB**

17. GRETA considers that the Georgian authorities should step up their efforts to improve the proactive detection and identification of victims of trafficking.

18. GRETA invites the Georgian authorities to evaluate the implementation of the mandatory referral mechanism for cases of violence against children and to explore the possibility of expanding it to THB, as an additional tool to improve the identification of child victims of trafficking.

## **Assistance measures**

19. GRETA considers that the Georgian authorities should address the low number of victims of trafficking who agree to take part in individual rehabilitation and reintegration plans.

20. Further, GRETA considers that the Georgian authorities should step up their efforts to protect and safeguard the best interest of child victims of trafficking, including legal guardianship, appropriate accommodation, education and support programmes tailored to the needs of the child.

21. GRETA invites the Georgian authorities to:

- continue offering vocational training to victims of trafficking and providing them with access to the labour market in order to facilitate the reintegration of victims of trafficking into society and to avoid re-trafficking;
- consider developing further the system of shelters for victims of trafficking, in particular by providing appropriate accommodation for children;
- address the need for sufficient and well-trained social workers so that victims of trafficking can receive appropriate assistance.

## **Recovery and reflection period**

22. GRETA urges the Georgian authorities to ensure that trafficked persons are systematically informed of the possibility to use a reflection period and that they are effectively granted such a period if they so wish.

23. GRETA considers that the Georgian authorities should expand the aims of the 30-day reflection period to include the recovery of victims of trafficking from the trafficking experience, in line with the Convention.

## **Residence permits**

24. GRETA considers that the Georgian authorities should take steps to ensure that foreign victims of trafficking can take full advantage of the right to be granted a temporary residence permit by systematically providing them with information concerning their right to apply for such a permit, the procedure to be followed and the conditions to be met.

25. GRETA invites the Georgian authorities to consider granting temporary residence permits to victims of trafficking on the basis of their personal situation and not only to those victims who agree to co-operate with the law enforcement authorities.

## **Compensation and legal redress**

26. GRETA urges the Georgian authorities to provide information to all victims of trafficking concerning possibilities to obtain compensation and to ensure that they have effective access to legal aid in order to enable them to exercise their right to compensation from the State Fund and/or from the traffickers.

27. In order to facilitate access to compensation by victims of trafficking, GRETA urges the Georgian authorities to ensure that they have an effective possibility of claiming compensation from traffickers, in either civil or criminal proceedings.

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

28. GRETA invites the Georgian authorities to consider conducting a review of the institutional and procedural framework for the return of victims of trafficking to ensure that due regard is taken to their safety, dignity and protection and 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.

29. Further, GRETA invites the Georgian authorities to continue their co-operation with the national authorities, NGOs and international organisations in countries from which Georgian nationals victims of THB are repatriated, as well as in countries of return of victims of trafficking identified in Georgia.

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

30. GRETA urges the Georgian authorities to review the legislation in order to fully reflect the aggravating circumstances included in the Convention, in particular when the crime of THB is committed by a public official in the performance of his/her duties.

31. Further, GRETA urges the Georgian authorities to explore the reasons for the non-application of the measure for confiscation of assets in cases of THB.

32. GRETA considers that the Georgian authorities should:

- step up the proactive investigation of cases of THB for the purpose of sexual and labour exploitation;
- continue to ensure that the life and safety of victims of trafficking and of those assisting them are adequately protected during court proceedings;
- address the lack of application of the special protection measures to victims of trafficking;
- address the significant reduction of prosecutions and convictions since 2010.

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

### Public bodies

- Ministry of Justice
- Ministry of Foreign Affairs
- Ministry of Internal Affairs
- Ministry of Internally Displaced Persons from Occupied Territories, Accommodation and Refugees
- Ministry of Education and Science
- Ministry of Labour, Health and Social Protection
- Office of the Chief Prosecutor
- Office of the Public Defender of Georgia
- Legal Aid Service
- Parliament of Georgia
- High Council of Justice
- Patrol Police
- Border Police
- Police Academy
- State Fund for the Protection of and Assistance to the (Statutory) Victims of Trafficking in Human Beings

### Intergovernmental organisations

- International Labour Organisation
- International Office of Migration Mission to Georgia
- International Centre for Migration Policy development (ICMPD)

### Non-governmental organisations

- Anti-Violence Network of Georgia
- Georgian Young Lawyers Association (GYLA)
- The Human Rights Centre

## **Government's comments**

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

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

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the Georgian authorities on 20 December 2011 and invited them to submit any final comments within one month. The Georgian authorities' comments, submitted on 27 January 2012, are reproduced hereafter.

## **Georgian authorities' Final Comments to the Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Georgia**

The Georgian authorities wish to thank the Delegation of GRETA composed of Mr Davor Derencinovic, Ms Louise Calleja and Ms Carolina Lasén Diaz, Administrator at the Secretariat of the Convention, for the spirit of co-operation during the monitoring process.

Recognizing the consideration by GRETA of Georgia's initial comments and replies to the *Draft report on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Georgia*, herewith Georgia would like to submit the final comments and observations with regard to the following paragraphs of the Report:

1. *Executive Summary, para. 2, second sentence:*

- a) The Georgian authorities are undertaking complex measures to address in a comprehensive and sustainable manner systematic improvement of the socio-economic conditions of IDPs via the Special State Programme, in close cooperation with international and non-governmental organizations.
- b) The complex measures are being undertaken within the framework of the State Migration Commission established at the end of 2010 to plan and implement complex and sustainable policies in the field of migration management, including addressing the socio-economic conditions of potential migrants (See also: para. 118 of this Report);
- c) While generally the socio-economic vulnerability of children is not an issue characterizing Georgia, Special Steering Group set up in November 2011 under the Ministry of Labour, Health and Social Protection is addressing the protection of street children, including their vulnerability to THB.

2. *Executive Summary, para. 2, third sentence:*

Georgian authorities, as consistently demonstrated since 2006, and as well reflected by GRETA in this Report (See: para-s. 94-102), are in a constant process of upgrading the needs- and results-oriented awareness raising and information campaigns.

3. *Executive Summary, para. 3, second sentence:*

The continuous advancement of training relating to the issues of THB targeting the respective professionals is constantly on the high agenda of the Georgian authorities. The planning of the new phases of training are based on the respective needs assessments. The 2011-2012 NAP as well as training curricula of all the institutions concerned include the provision of advanced trainings in line with the evolving nature of the crime of THB in their yearly action plans. The last such training programme prepared by Paul Holmes on the request of the Government of Georgia, who visited Georgia for this purpose second time, was held on 6-8 December, 2011 with a total of 29 participants representing Special Operations Department, Patrol Police Department, Police Academy, Office of the Chief Prosecutor within the "look beneath the surface". For the demonstration purposes it is apt to mention briefly that three separate modules were covered as listed herewith: Trafficking for sexual exploitation – monitoring of the sex industry, Investigation of child trafficking cases, Investigation of labour trafficking cases.

4. *Executive Summary, para. 3, third sentence:*

The consistent actions are undertaken to increase the identification of foreign as well as Georgian victims of THB by better trained police and social workers, uprooted corruption, increased possibilities for patrolling and border check procedures, public awareness raising on the signs of THB and help available in Georgia, targeting society at large, including the nationals of foreign states visiting/transiting Georgia, as the information is disseminated minimum in 5 languages: Georgian, Armenian, Azeri, English, Russian.

5. *Executive Summary, para. 4, third sentence:*

The Georgian authorities - Police as well as the Mobile Group and the State Fund - systematically in detail inform the victims of trafficking of their right to use reflection period and request compensation. This information is provided to THB victims in writing, as well as during the first interview. It must be also reiterated that the Georgian authorities have established all the mechanisms for effective access to legal aid by victims of THB to exercise this right as per the Georgian legislation. Provision of free legal is institutionalized for THB victims via the State Legal Aid Service or State Fund and the respective smoothly functioning procedures in the respective proceedings are in place.

6. *Executive Summary, para. 5:*

Recognizing particular importance of measures to properly address the needs of children the Georgian authorities would like to underline again that within the current set up of the anti-THB system in Georgia not only children who are victims of THB but also children accompanying their parents who had been trafficked are entitled and when such a need arises, receive the appropriate accommodation, age specific education and support programmes tailored to the needs of the child (See: also the para-s. 143, 151, 154 and 156 of this Report). This is due to the provision in the Law on Fight against Trafficking in Human Beings, Article 18(5) (*Mechanisms for Assistance and Rehabilitation of (Statutory) Victims of Trafficking in persons*) of which reads as follows: “*When performing their obligations under this Article, all Service Institutions for the Victims of Trafficking in persons (Shelters) shall take into consideration the victims’ age, sex and special needs, particularly special needs of the children in appropriate housing, education and care.*” Georgian authorities will respectively update GRETA on the further developments with regard to the legislative as well as implementation aspects in this respect.

7. *Executive Summary, para. 8:*

Against the background of exceptionally well established co-operation mechanisms in Georgia unifying governmental and non-governmental sectors in the fight against THB (See also: para-s. 36, 38, 58 of this Report) Georgian authorities take good note of the need of continuing the excellent co-ordination, co-operation and partnerships among governmental departments, law enforcement agencies, NGOs and other members of civil society in Georgia, therefore finding it extremely difficult to take on board the wording in the paragraph “... GRETA considers that the Georgian authorities should continue improving co-ordination, co-operation and partnership ...”

8. *Footnote 3:*

With regard to the multilateral instruments listed in the footnote 3 of paragraph 13, it shall be noted, that Georgia is a signatory, but not a party, to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and the Convention on Cybercrime.

9. Para. 33:

The core funding for the State Fund was always provided from the State Budget of Georgia since the establishment of the State Fund in 2006. The Georgian Government fully provides all the funding for the full functioning of the State Fund from the Georgian State Budget and the funding has been gradually and systematically increased since 2006. That said, the State Fund as a Legal Entity of Public Law has a possibility to attract additional funding from other sources. The last project funded by using such an opportunity was finalized in 2011.

10. Para. 37:

Thirty employees out of all the employees of the SOD are specially trained to investigate cases related to Trafficking in Human Beings.

11. Para. 55 in conjunction with para. 133:

Following up on the consideration of GRETA with regard to the qualification of a person as a victims of trafficking the Georgian authorities would like to emphasize that the provisions of Criminal Law and/or the procedures set up for the Permanent Group are employed in the process of identification of a victim of trafficking in human beings. No prove of damage is required by either of the procedures. The definition as provided in the Criminal Code is the guideline for both situations. As the definition in the Criminal Code does not link the damage incurred to the status and provides that the actions, including recruitment, etc. *for the purpose of exploitation* constitute the crime of trafficking in human beings, this provision has always been used in practice when asserting the status of a person as a victim of trafficking in human beings.

12. Para. 59:

With regard to the statement “*However, no specific measures have been taken to ensure that the identification, protection, assistance and rehabilitation of child victims of trafficking are carried out be respecting the best interest of the child*” we would like to note the following, as previously indicated in the initial comments to the Draft Report under para. 12:

Specific measures have been taken to ensure that the identification, protection, assistance and rehabilitation of child victims of THB are carried out respecting the best interest of the child, as: the special trainings have been conducted for the professionals, social workers working with the State Fund, the members of the Permanent and Mobile Groups, staff of the State Fund, Police, prosecutors, judges and education sector professionals were particularly trained in identification and referral mechanisms. In addition, the State funded protection, assistance and rehabilitation programmes envisage, in case of need, provision of child-friendly process in the best interest of the child. The special planning was made by the State Fund to allow children victims of trafficking to join school and get education in a secure manner, not to disclose their trafficking situation and not to jeopardize their security. The State shelters are equipped with the necessary inventory for children – starting from babies.

Along with that special attention was devoted to the particular vulnerabilities of orphans, children working and living in the street and internally displaced children by providing tailored awareness campaigns for them and the educators having dealt with child day centers and other child institutions. The special campaigns addressed children working and living in the street. Internally displaced children are a separate group targeted during each event covering internally displaced persons.

*13. Footnote 13:*

With regard to the information related to Internally Displaced Persons (IDPs) it would be apt to mention that the status of IDP is granted to a person based on the application by such a person. Official data refer to 263 700 IDPs at the end of 2011. The process of receiving applications and granting the status of IDPs is ongoing.

*14. Para. 67:*

Georgian authorities are happy to continue their efforts with regard to the issues listed under para. 67 and as previously indicated in the initial comments to the Draft Report under para. 67, we would like and highly appreciate to reconsider the use of term “urging” of the Georgian authorities due to the following reasons:

- IDPs are specific group in NAP and therefore absolutely specifically addressed in the national action to combat THB;
- Children, particularly those without parents and IDPs are addressed and this will be further extended by the setting up of the Special Steering Group under the umbrella of the Ministry of Labour, Health and Social Protection in November, 2011.
- The legislation of Georgia neither the NAP do not differentiate between the identification and addressing the trafficking of foreign nationals or Georgian nationals. The practice has showed that the identification of foreign victims is taking place. Therefore, all the mentioned are already included in the national policy measures.
- Prevention and identification of trafficking has been institutionalized and is ongoing since 2006;
- THB for the purpose of labour exploitation has been in the center of the attention since 2006, as evidenced with the wide public awareness, investigations on labour exploitation facts and other actions by the Georgian authorities. The work continues and certainly gets the ongoing attention.
- As provided above the anti-trafficking measures were always targeting big cities and most remote areas (See also: paragraph 20 above).
- Georgian anti-THB policy provides equal protection and opportunities to all. Gender specificities are taken into account including in shelters. Georgia’s Gender Equality Council is also involved in the anti-THB activities, by having the Chairwoman of the Georgia’s Gender Equality Council who is at the same time the Deputy Chairwoman of the Parliament of Georgia an invited member of the Anti-Trafficking in Human Beings Coordination Council.

As noted above, the Georgian authorities will continue consistent and sustainable human rights approach work on all the issues listed under para. 67 of the Report.

*15. Para. 68:*

Georgian authorities are pleased to state that the human rights centered efforts will continue and develop respectively with regard to better addressing the trafficking of foreign national to or through Georgia, as has been done with regard to the prevention of illegal crossing of the border, forging Georgian identity documents and other respective measures undertaken by the Georgian authorities that had subsequently led to decrease of trafficking of foreign nationals to or through Georgia.



Georgian authorities are also pleased to note that the implementation of anti-trafficking measures had started from the regions of Georgia at the very outset of the anti-trafficking policy making in Georgia in 2006 in close co-operation with civil society. The work will further expand as the Georgian authorities do aim at reaching every remote place in Georgia with that purpose and demonstrate strong will and planning, including budgetary, for that matter.

*16. Para. 78:*

The databases were successfully introduced and starting operation at the end of December, 2011.

*17. Para. 89:*

With regard to a Strategic Partnership Agreement with Europol, it shall be noted, that in 2010 the Ministry of Internal Affairs of Georgia has approached the EU to nominate Georgia as a candidate country for the conclusion of Strategic Partnership Agreement with Europol, which would be a step forward in combating the trans-national organized crime, including THB. The signature of the Agreement is envisaged in the upcoming years.

*18. Para. 91:*

Appreciating the comments in the Report, the Georgian authorities would like to briefly underline that the efforts by the Georgian authorities in the field of international co-operation are being intensified outside the criminal field. Some recent examples of these include the meetings in December 2011 organized on the initiative of the Georgian authorities with the counterparts in Turkey and Azerbaijan in the field of fight against trafficking in human beings, with the participation of law enforcement, state services providing support and assistance to victims (Azerbaijan) and respective NGOs (Turkey). The meetings were organized within the previously established cooperation platforms in the field of fight against trafficking in human beings that are being used since 2006 in between Georgia, Turkey and Azerbaijan. Similar meetings are being planned by the Georgian authorities in early 2012 with other partner state.

*19. Para. 100:*

Georgian authorities would like to note that the Ministry of Education and Science, in co-operation with IOM, revised national curriculum and included the topic of THB in it. Furthermore, the Ministry and IOM organized meetings with authors to adequately reflect the topic in relevant textbooks.

*20. Para. 116:*

In addition to the information provided on the consular training, the Georgian authorities would like to provide the following:

*In addition to the trainings provided by the Diplomatic Training Center directly, all the consular officers received training on THB within the consular week in Tbilisi in 2011 following up on the specific trainings undertaken in 2009 and 2010 for consular offices in Turkey and Greece. The consular training was further followed up by a working meeting on 21 December for Georgia's consuls from the Commonwealth of Independent States and Asia in line with the "look beneath the surface in the fight against THB" actions of the Georgian authorities was held in Tbilisi. The training was conducted by the State Fund and the ATIP Coordination Council.*

*21. Para. 117:*

In addition it is also apt to note that the Georgian mobile phone networks provide the contact information of Georgia's embassies and consulates automatically via sms upon arrival to a foreign country.

22. *Para 122:*

Appreciating the invitation by GRETA to consider carrying out information campaigns to alert potential victims of trafficking of THB-related risks and on how to get help, the Georgian authorities are pleased to note that this activity has been implemented at the border crossing points, namely in Tbilisi International Airport and Border Crossing points with Armenia, Azerbaijan and Turkey. The information campaign is being managed in close co-operation with variety of NGOs (e.g. Women for Future, Anti-Violence Network of Georgia, etc.) in Armenian, Azeri, Russian and Turkish languages along with Georgia. The special posters/leaflets are being disseminated for that purpose since 2008.

23. *Para. 125:*

To make the information more precise the following shall be mentioned:

*Issuance of electronic Identity Documents started on 1 August, 2011. There are around 120,000 e-IDs issued throughout Georgia already.*

24. *Para. 135:*

The Georgian authorities would like to note herewith that special training was institutionalized on the issues related to the identification and provisions of support to children victims of THB and special consideration for the identification of child victims of trafficking continues notwithstanding the introduction of the new additional mandatory referral mechanism aimed to identify and report cases of violence against children. This is also reflected in the 2011-2012 NAP on Fight against Trafficking in Human Beings.

25. *Para. 143:*

With regard to the specific assistance measures for child victims of trafficking and the amendments being prepared to the Law the Georgian authorities deem it expedient to highlight the following:

Even without those amendments child-specific service have been provided to any victim or even children of trafficked parents accompanying the latter in shelters without any delay, as based on Law on Fight against Trafficking in Human Beings this is possible. This is expressly stressed in Article 18(5) of the Law, as cited above under the comments on Executive Summary, establishing that *all shelters must take into consideration the age, sex and special needs of the victim and particularly the special needs of children regarding appropriate housing, education and care*, as also stated in para. 148 of this Report and demonstrated in the para. 151 of this Report, by providing the exact figures of children accommodated in shelters in 2008-2010.

26. *Para. 147:*

Concurring with GRETA on *the importance of providing appropriate assistance and accommodation to [...] victims*, the Georgian authorities would like to underline that the purpose of placing potential victims of trafficking in NGO-run shelters or other alternative accommodation is exactly to provide appropriate assistance and respective security to them and not to leave them without the care and attention in the process of identifying their status, which in the case of using the alternative procedures of the Permanent Group may not exceed 48 hours, as noted in this Report also.

*27. Para. 148 in conjunction with para. 152:*

The Georgian authorities would like to reiterate that all the child specificities are taken into account in shelters for trafficked persons where in case of a need children are also accommodated. There has not been a need for child shelters identified luckily by neither governmental, nor non-governmental actors. Child victims are separated within shelter facilities from adult victims, even though they share building of shelter. There are child corners and child friendly equipment in shelters.

At the same time, with regard to para. 152 it shall also be mentioned that in case of a need to accommodate unaccompanied children in shelters, they will be placed separately and certainly not in the same accommodation (rooms) with adults. There is a good possibility of this in both shelters under the responsibility of the State Fund.

*28. Para. 169:*

With regard to the duration of the period given to victims of trafficking for reflection the following is apt to be noted: the reflection period lasts for 30 days in both cases, notwithstanding whether the Permanent Group is dealing with the issue or not. The 48 hours term only refers to the obligation of the Permanent Group to make a decision not to hamper the enjoyment by a victim of the rights and services provided by the Georgian legislation and anti-trafficking system. If in 48 hours the person gets the status he or she may enjoy the protection and services from the State Fund for as much as required, going beyond 30 days as well, if such a need arises. Therefore, the 48 hours refer only to the obligation of the Permanent Group to make a decision and is in no way related to the duration of the reflection period given to a potential victim of trafficking.

*29. Para. 170:*

To make precise the understanding of the spirit of the concept of reflection period as provided in the Georgian legislation the following is apt to be noted: the reflection period is not regarded only as relevant to foreign victims of trafficking. The special emphasis to residence permits in this connection is made with the purpose to specifically address the vulnerable situation of those who may need residence permit in Georgia. This does not automatically mean that reflection period is regarded only as relevant to foreign victims of trafficking. The reflection period, as stipulated in the Law Article 12 (para. 167) is regarded relevant to any victim of trafficking, including Georgian nationals victims of trafficking.

*30. Para. 177 in conjunction with Para. 179:*

Georgian authorities would like to emphasize that even though no residence permits were granted to victims of trafficking in 2008, 2009 and 2010, this has in no way hampered the provision of the protection and human rights based assistance measures to them, including the safe and voluntary repatriation following the stay in shelter for at times over nine months and receipt of the respective rehabilitation and reintegration services. Having said this, Georgian authorities would like to underline that the human rights based approach is employed in all aspects of taking care of victims of trafficking in human beings in Georgia in all aspects of such care and support.

*31. Para. 221:*

Taking good note of the mention by GRETA of the lack of specific provisions for child victims of trafficking Georgian authorities would like to refer to the comments made above with regard to the following paragraphs: *Executive Summary, para. 5 as well as para. 59 and para. 143*, along with noting, as mentioned in the para.-s 17 and 143 of the GRETA Report that “an amendment to the law concerning children is underway”.

It shall also be noted that the Witness Protection Program of Georgia, which was recently drawn up on the basis and in compliance with UN standards, envisages protective measures for children with consideration of the best interests of the child.

*32. Para. 224:*

Georgian authorities, appreciating the importance of the human rights-based and victim-centered approach for the anti-THB legislation and practices having been developed in Georgia, stand ready to continue the measures to strengthen the aspect of prevention among all groups vulnerable to THB, as well as other actions applying strictly human rights-based approach to action against THB, as the underpinning premise for the entire respective legislation and practice.

*33. Para. 226:*

Georgian authorities would like to note that all the identified victims have equal possibility to benefit from individual rehabilitation and reintegration plans provided that they wish to use these services. There have been no reports about any victim willing to use these services who had not received the assistance.

*34. Proposals 2 and 3:*

Georgian authorities, appreciating GRETA's proposals, stress that all the efforts listed under these proposals will continue in a steady manner with paying full respect to human rights-based and victim-centered approach.

*35. Proposal 4:*

Georgian authorities would like to note that on the initiative of Georgia the international co-operation against THB goes beyond the criminal field. Some of the recent examples include the co-operative initiatives with Turkey and Azerbaijan, involving the professionals and services outside criminal field.

*36. Proposals 7 and 8:*

Georgian authorities, appreciating GRETA's proposal, as also provided in the Georgia's initial comments and replies to the *Draft report* under para. 32 relating to para. 80 of the *Draft Report*, would like to recall that for the purpose of identifying and systematizing existing information on traffickers, a Unified Information Database was established in the Ministry of Internal Affairs of Georgia in 2006, which includes information obtained through criminal intelligence measures, pre-trial investigation and court hearings and/or information received from the International Criminal Police (Interpol) or other relevant organizations.

Unified Information Database operated by the Information Centre of Information-Analytical Department of the Ministry of Internal Affairs consists of the following information:

- Number of THB crimes;
- Information on persons concerning whom criminal prosecution is initiated. This information is classified by gender, age and citizenship;
- Information on statutory victims also contains notes on gender, age, citizenship, etc;
- Information about the place of crime (country, city/village, etc);
- Form of exploitations (sexual, labor, minor etc.).

Along with this database, there are two statistical programmes installed in the Georgian Prosecution Service and the State Fund with the support of ICMPD. The systems became operational in December, 2011 (See: para. 78 of the Report and comment 14 above).

It shall also be noted that the Law of Georgia on Data Protection adopted by the Parliament of Georgia in December, 2011 was added to the Georgia's legislation from the point of view legal basis to protect information.

*37. Proposal 15:*

Georgian authorities, appreciating GRETA's proposal would like to highlight that the information campaigns to alert potential foreign victims have been undertaken by Georgia for several years now (See also: comment to *Executive Summary, para. 3, third sentence*, above).

*38. Proposal 21 in conjunction with Para. 165:*

With regard to invitation by GRETA of the Georgian authorities to *consider developing further the system of shelters for victims of trafficking, in particular by providing appropriate accommodation for children*, the Georgian authorities deem it appropriate to address the outlined issue via the needs assessment undertaken in close co-operation with the civil society on assessing the existing needs in this respect in Georgia.

With respect of invitation by GRETA of the Georgian authorities to *address the need for sufficient and well-trained social workers so that victims of trafficking can receive appropriate assistance*, the Georgian authorities would like to note that while the system of social workers is being developed in Georgia, the needs of specifically victims of trafficking are fully covered by the well-trained social workers specifically assigned to the State Fund to appropriately address the needs of victims of trafficking. No gap has been identified neither by the authorities nor by the civil society in this regard so far.

*39. Proposal 22 in conjunction with Para. 172:*

The Georgian authorities assure GRETA that the information on the possibility to use a reflection period is consistently provided to potential victims. Despite the fact that the Georgian authorities would have liked to have this norm in the legislation being put in practice, the alternative human rights centered resources and services available via the State Fund seem to be used by the victims more than considering the use of the reflection period (See also comment to: *Executive Summary, para. 4, third sentence*, above).

*40. Proposal 24 in conjunction with Para. 179:*

It is apt to mention that the Georgian authorities - Police as well as the State Fund - always inform the foreign victims of trafficking of their right to apply for residence permit. This information is provided to them systematically in an institutionalized manner in writing, as well as during the first interview. The information may be provided repeatedly at any point as well.

*41. Proposal 25 in conjunction with Para. 180:*

With regard to the invitation by GRETA of the Georgian authorities to *consider granting temporary residence permits to victims of trafficking on the basis of their personal situation and not only to those victims who agree to co-operate with the law enforcement authorities* it shall be noted that this is absolutely possible and if a person has a status of a victim, a shelter or the State Fund may facilitate the application for acquiring the temporary residence permit, based on the Article 19(1)(g) of the Law on the Legal Status of Aliens, according to which "*in case of a reasonable doubt that a person may be a victim of trafficking in human beings, he/she may be issued with a temporary residence permit*".

42. *Comment 26 in conjunction with Para. 186:*

Georgian authorities, appreciating GRETA's call to provide information to all victims of trafficking concerning possibilities to obtain compensation and to ensure that they have effective access to legal aid in order to enable them to exercise their right to compensation from the State Fund/or from the traffickers, would like to stress that this is being done since 2006. The information is provided verbally, as well as in writing, as included in a brief guide for identified victims of trafficking in human beings, both – by Police and by the State Fund, along with the explicit advise that the State Fund will assist a victim if he/she decides to request reimbursement of moral, physical or material damages, which a victim has incurred because of crime of trafficking in human beings. This written notification also includes the reference to a possibility to receive a one-off payment of GEL 1,000 in case it is impossible to reimburse damages incurred by a victim by other means as envisaged by the Georgian legislation (See also comment to: *Executive Summary, para. 4, third sentence*).

43. *Comment 27 in conjunction with Para. 187:*

The Georgian authorities, recognizing the importance of an access to compensation by victims of trafficking, will continue provision of the effective possibility of claiming compensation from traffickers, including provision of the detailed information both by State Fund and law enforcement bodies in charge of the proceedings on this possibility, as well as provision of free legal aid service from the Legal Aid Service or State Fund of Georgia, and the respective smoothly functioning procedures in the respective proceedings.

44. *Comment 30 in conjunction with Para. 204*

With regard to the call by GRETA to review the legislation in order to fully reflect the aggravating circumstances included in the Convention, in particular when the crime of THB is committed by a public official in the performance of his/her duties, Georgian authorities would like to note, as provided in the Georgia's initial comments and replies to the *Draft report* under para. 84, relating to para. 196 of the Draft Report, that a situation when the crime of THB is committed by a public official in the performance of his/her duties, is envisaged in the composition – disposition of the Article 143<sup>1</sup> with the following wording: “by abusing power”. This is the formulation in the Georgian criminal legislation equal to the “public official in the performance of his/her duties”, as provided in the Convention. At the same time it shall also be noted that Article 143<sup>2</sup> envisages the abuse of power as an aggravating circumstances as follows: 143<sup>2</sup> (paragraph 2). The same act [i.e. trafficking in minor] committed:

- a) through the abuse of power;

Having mentioned the above stated, the Georgian authorities will consider the review of the legislation to have the wording in law more closely following the wording in the Convention.