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

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**Report submitted by the Polish authorities
on measures taken to comply with
Committee of the Parties Recommendation CP(2013)7
on the implementation
of the Council of Europe Convention
on Action against Trafficking in Human Beings**

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Ministry
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Migration Policy Department

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Thank you very much for your letter dated on 26 March 2015 (DG-II/PN/DD/mc) on the follow up to the recommendation of the Committee of the Parties on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Poland.

It is my pleasure to transmit the information on the measures taken by Republic of Poland to comply with the said recommendation CP (2013) 7.

This information focuses on the period since the adoption of the recommendation on 7 June 2013 and intends to complement information transmitted earlier.

We look forward to the discussion at the meeting of the Committee of the Parties on 15 June 2015.



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*Report submitted by the Austrian authorities on measures taken to comply
with Committee of the Parties Recommendation CP(2013)7
on the implementation of the Council of Europe Convention on Action
against Trafficking in Human Beings*

26 May 2015

Definition of “trafficking in human beings”

1. GRETA urges the Polish authorities to enact a specific legislative prohibition of servitude so as to ensure greater certainty and clarity as to the scope of its domestic law.

As mentioned previously in Polish comments to GRETA recommendations (see comments to point 52 of GRETA report), the offence of trafficking in humans has been included in Article 189a of Penal Code. Moreover, the Act of 6 June 1997 - Provisions introducing the Penal Code – contains, as a separate provision, Article 8 that penalizes conducts which consist in submitting a person into slavery, keeping a person in the position of slavery or perpetrating trafficking in slaves. The doctrine indicates that the provision of Article 8 of the aforementioned Act is *lex specialis* with regard to Article 189a of Penal Code. Moreover Article 8 covers the elements of servitude defined in jurisprudence of ECHR.

Comprehensive approach and co-ordination

2. GRETA considers that the Polish authorities should take further steps to ensure that the national action to combat THB is comprehensive, and in particular to:

- **increase co-ordination at the regional level of the activities of public bodies and NGOs involved in the implementation of anti-trafficking measures;**

In the National Action Plan against Trafficking in Human Beings for 2013-2015 in point III. 3 - initiating the activity of voivodeship units against trafficking in human beings is written. These units are to be composed of the representatives of various institutions, organisations and non-governmental organisations of the regional level, with no participation of the central administration. This facilitates efficient management of all preventive actions as well as coordination help and assistance to the victim.

In the second half of 2014, **the actions were intensified to establish regional (voivodeship) units against trafficking in human beings**, with the participation of representatives of Offices of the Voivode, the Police, the Border Guard, the Labour Inspectorate, local authorities and non-governmental organisations. Currently, eleven such units exist (out of 16 voivodships, that Poland is divided to), five remaining will be launched by the end of 2015.

So far two meetings for coordinators of the abovementioned units were held.

Similar project is being run at the level of non-governmental organisations - the Foundation against Trafficking in Persons and Slavery “La Strada” coordinates the project **“Polish nationwide network of the non-governmental organizations against trafficking in human beings”**, co-funded by Norwegian Financial Mechanism. It aims to create a nationwide network of non-governmental organizations, to support the prevention and combating trafficking in people and organise help and support for a victim of trafficking.

Both governmental and non-governmental projects will exist in every voivodship in Poland and will cooperate smoothly to provide effective help and support for each and every victim of trafficking in human beings.

- **step up action to combat THB for the purpose of labour exploitation, in particular in the sectors of agriculture, construction, food processing and domestic help;**

From 2012 the **Ministry of Labour and Social Policy has published information materials** in Belarusian, Georgian, Moldovan, Russian and Ukrainian language on the possibilities to take up employment by Belarusian, Georgian, Moldovan, Russian and Ukrainian citizens and from 2014 by Armenian citizens under simplified rules specified in Article 1(22) of the Ordinance of the Minister of Labour and Social Policy (of

20.07.2011) on cases when work can be commissioned to a foreigner in the territory of the Republic of Poland without a need to obtain a work permit.

Publicising materials which are distributed, *inter alia*, in diplomatic missions of the simplified procedure states and in many institutions in contact with migrants in Poland is geared towards informing foreigners wishing to take up an employment in Poland about the rules on legal and safe employment under the procedure, as well as on their rights. Part of the leaflet devoted to safety in taking up and performing work in Poland by foreigners includes practical information promoting such immigrant behaviours as e.g. checking employers and temporary work agencies in databases and Internet registers, which increases their personal safety, including as regards threat of human trafficking.

These information are also available at the public employment service portal launched in November 2014 (www.psz.praca.pl) – in a section for foreigners, although only in Polish language so far. One can find there, among others, information on rules of employment of third country nationals in Poland and on possible support of the public employment services as well as other rights of third country nationals.

There are also many **awareness raising campaigns carried out by the Ministry of the Interior** – in 2013-2014 total number of 110,000 leaflets for foreigners who suspect they might have been abused within the framework of trafficking in human beings (in English, French, Russian, Ukrainian, Bulgarian, Romanian, Vietnamese, Chinese, Persian (fārsi), Romani and in the alternative in Polish) and 10,000 bookmarks informing on the National Consulting and Intervention Centre for Polish and Foreign Victims of Trafficking (KCIK).

In November 2011, International Organisation for Migration – IOM in partnership with the Ministry of the Interior and the National Labour Inspectorate launched the project entitled “**Migrants’ rights in practice**” (“Prawa migrantów w praktyce”), being continued from July 2014 as “Migrants’ rights in practice 2” (“Prawa migrantów w praktyce 2”). It aims at facilitating the integration of the nationals of non-EU countries by raising their awareness of their rights and obligations in Poland and by actions that contribute to counteracting discrimination and exploitation of migrants, especially in the labour market.

Within the framework of the project, hotlines are operating in Poland and in the migrants’ countries of origin – Belarus, Ukraine and Vietnam – so far they have provided almost 7000 consultations since the start of the project. An information portal for migrants www.migrant.info.pl is also run. The website presents information, among others, on entry to and stay in Poland as well as employment and Polish citizenship. The website includes also many practical tips on everyday life in Poland, such as costs of living, education or health care systems. The website is available in Polish, English, Chinese, French, Russian, Ukrainian, Armenian and Vietnamese. Since the start of the project almost 1,800,000 visitors (entries) and more than 500 thousand users have been recorded.

Moreover, there are information meetings for foreigners organised (in 2013-2014 there were 77 such meetings, attended in total by more than 3000 persons) as well as trainings, where a module devoted to trafficking in human beings has been carried out (17 meetings with almost 300 people in 2013-2014).

“Migrants’ rights in practice 2” (“Prawa migrantów w praktyce 2”) is being continued up to mid-2016.

Also the **Ministry of Foreign Affairs, following OSCE recommendations** regarding prevention of domestic servitude of private domestic workers in foreign diplomatic households, developed (in cooperation with the MoI, social organisations interested) and introduced on 1 April 2014 new procedures for the employment of private domestic workers in private households of members of diplomatic missions, consular posts and representations of international organisations. Diplomats, who intend to employ a domestic worker, have to sign a contract with them in order to ensure the worker’s protection at least to the extent specified in the Labour Code, including remuneration equal or higher than the minimum wage in the Republic of

Poland, payment of health and social insurance contributions, provision of health care and transfer of remuneration to the domestic worker's bank account.

Prior their arrival in Poland the domestic workers are informed on their rights and obligation in the Republic of Poland by a consul, and then, at least once a year, they attend face-to-face meeting with an employee of the MFA Diplomatic Protocol. It is an opportunity for them to inform on their working conditions in Poland. The MFA Diplomatic Protocol also provides them with necessary support in case of violation of their employees' rights.

- **pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking.**

Within the framework of preventive actions addressed to school children, the **Ministry of National Education** provided information on its website www.men.gov.pl on multimedia materials for teachers to give preventive classes regarding various forms of violence against children and young people, offered by the Nobody's Children Foundation under "Academy of protection against violence" ("Akademia ochrony przed przemocą").

The Nobody's Children Foundation reissued the brochure "Preventing sexual exploitation of children in tourism" in cooperation with ECPAT International. 500 copies of the brochure were reprinted and are distributed within the framework of trainings for tourism sector and higher education institutions. It is also available online (www.kodeks.fdn.pl/materialy-0).

The Nobody's Children Foundation prepared a scenario "Trafficking in children" addressed to teachers and counsellors who work with children aged 13–18, which is available on the website of the Nobody's Children Foundation to be downloaded together with a film and a poster "You don't have a price" (www.fdn.pl/dla-nauczycieli-i-pedagogow). The website provides also additional scenarios regarding commercial exploitation of children and information on the educational game "Don't lose!". According to those scenarios, the Nobody's Children Foundation carried out in 2013-2014 trainings in this field for more than 400 educators and teachers.

In 2013-2014, the Nobody's Children Foundation realised the project "Don't look away! Be aware and react in cases of sexual exploitation of children in travelling and tourism". The campaign is supported by the Commander-in-Chief of the Police and under honorary patronage of the Minister of the Interior, the Ombudsman and the Ombudsman for Children, as well as the National Border Guard Headquarters, non-governmental organisations and enterprises from tourism sector. Within the framework of the campaign, the Nobody's Children Foundation developed materials and a website for reporting cases of child abuse – www.stopseksturystyce.fdn.pl, which is a part of an international campaign. The reports go directly to Police. The Nobody's Children Foundation meets with the representative of the National Police Headquarters on a biannual basis to review the operation of the website and interventions made by Police.

The Nobody's Children Foundation implements the Code of Conduct (The Code of Conduct for the Protection of Children from Sexual Exploitation in Travelling and Tourism), aiming at protecting children from commercial sexual exploitation in tourism.

The Code of Conduct and the campaign "Don't look away!" were promoted in a wide range of audience during a tourism fair. The fair was visited by about 18,000 people. During the fair a conference was held on the problem of commercial sexual exploitation of children in context of travelling and tourism. In the frame of this programme, in 2013-2014, 345 hotel employees and students of schools of tourism received training on preventing trafficking in and sexual exploitation of children in tourism.

What is very important, the Nobody's Children Foundation runs a telephone helpline for children and young people 116 111. In 2014, the counsellors received 132,473 calls from children and young people.

Moreover, in June 2014, on the initiative of the Committee for Combating and Preventing Trafficking in Human Beings of the Mol Migration Policy Department and in cooperation with the Mazowieckie Voivodeship Office and La Strada Foundation, an information meeting was organised for employees of selected care and educational centres “**Support and protection of unaccompanied foreign minors who are potential victims of trafficking**”. During the meeting the employees of the centres were encouraged to active contact with the National Consulting and Intervention Center in case of suspected trafficking in human beings, and in particular of unaccompanied foreign minors.

The meeting should result in pilot actions in the Capital City of Warsaw aiming at:

- raising competences in identifying potential victims of trafficking by the staff of care and educational intervention centres;
- development of mechanisms of cooperation and support between the juvenile victims’ carers and the National Consulting and Intervention Center staff.

Lessons learned will help to develop a universal model of identification and support for juvenile victims of trafficking in Poland.

Due to a negligible proportion of recorded cases of identifying potential juvenile victims of trafficking and therefore due to limited experience as regards support provided, in 2015 the pilot actions will continue with participation of subsequent selected care and educational centres of Mazowieckie Voivodeship.

3. GRETA also invites the Polish authorities to ensure that the Unit against THB is put in a position to fulfill its mandate effectively by further investing in its human resources.

The **Unit against Trafficking in Human Beings** in the Department of Migration Policy of the Ministry of the Interior currently comprises five staff (four persons in 2013).

In January 2014 the Commander-in-Chief of Police decided to establish the Unit for Combating Trafficking in Human Beings in the Department for Criminal Service in the National Police Headquarters and entrusted it to monitor, coordinate and support activities of fighting trafficking in human beings and pedophilia performed by other organisational units of Police with more numerous personnel – up to 11, starting from 5 staff. In regional Police headquarters and Metropolitan Police Headquarters, Units for Combating Trafficking in Human Beings still function as previously, but also with greater staff – 61 from 48 people. What means the number of personnel dealing with THB issues at police has grown significantly (72 in 2014 from 53 in 2013).

4. Further, GRETA invites the Polish authorities to introduce an independent evaluation of the implementation of the NAP as a tool for assessing the impact of the activities and for planning future policies and measures to combat THB, and to consider the establishment of an independent National Rapporteur or other mechanism for monitoring the anti-trafficking activities of State institutions (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).

According to the National Action Plan against Trafficking in Human Beings for 2013-2015 (point V 5) there is a discussion in Poland ongoing on a need for appointment of **the National Rapporteur on Trafficking in Human Beings**. This discussion is initiated by the Human Trafficking Studies Centre of the University of Warsaw, that organised the first “round table” debate on the plausibility of and grounds for appointing the National Rapporteur on 1 December 2014 and the summary conference on the project “Filling the gaps in the system of combating human trafficking in Poland - FIGAS” on 9 March 2015, which was devoted mainly to the possibility of appointment of the National Rapporteur.

Once the discussion leads to some common conclusions it may result with a decision whether to appoint the National Rapporteur on Trafficking in Human Beings in Poland or not.

Training of relevant professionals

5. GRETA considers that the Polish authorities should take further steps to improve the knowledge and sensitivity of relevant professionals, in particular prosecutors and judges, about THB and the rights of victims. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.

In 2014 the Commander-in-Chief of **Police** has established a team for developing the syllabus of a specialist course on preventing and combating trafficking in human beings. The most important changes in the modernised course syllabus include:

- elements of the CEPOL course in combating trafficking in human beings;
- updating the content concerning national and international regulations, including the amendments to the Act on social assistance and the Act on foreigners;
- extension of content on tactics of combating trafficking in human beings, taking into account its individual forms, and supplementing the international cooperation with information on joint investigation teams.

The first course with a new syllabus took place in September 2014 at the Police Academy in Piła.

In 2013-2014, in total 171 Police officers received training within the framework of the specialist course (of which 132 according to the old syllabus and 39 according to the new one in 2014). In 2015, four editions of the course are planned, during which 80 Police officers will receive training.

The abovementioned is a kind of specialised course, apart from a module on trafficking in human beings, with special attention to identification and proceeding of THB victim that is present in basic course for all Police officers.

In 2015 a project, co-funded by Norwegian Financial Mechanism, is being realised - "Strengthening Police capacity to prevent and combat the cross-border and organised crime, including trafficking and itinerant criminal groups by creation of the educational platform using e-learning and remote learning" (2/NMF PL15/14), implemented by Metropolitan Police Headquarters. In the frame of this project, postgraduate studies in criminological aspects of migration processes in the Schengen area and specialized courses on combating and preventing cross-border crime in the Schengen area are being organised.

Border Guards provides trainings on an ongoing basis, in line with the four-level *System of training Border Guard officers in trafficking in human beings* (approved in 2010). In 2014:

- the training at level 1 was provided to 598 persons (761 in 2013);
- the training at level 2 – to 52 Border Guard officers (35 in 2013);
- the training at level 3 – to 8 officers (35 in 2013);
- the training at level 4 – to 42 Border Guard officers.

There are also organised additional courses in accordance to needs - for example in 2013 there were 4 courses organised on identification victims of THB, in particular travelling by air, 6 trainings, delivered by IOM in the frame of "Voluntary Returns" Programme, which were attended by 417 Border Guard officers. And in 2015 there are being realized projects, co-funded by Norwegian Financial Mechanism:

- "Strengthening the potential of Border Guards in terms of combating the organised crime, including trafficking in human beings" (16/NMF PL 15/14), implemented by the Central Border Guard Training Centre in Koszalin;

- “Cooperation and competence as a key to effective fight against trafficking in human beings” (22/NMF PL 15/14), implemented by International Organization for Migration (IOM) and National Border Guard Headquarters;
- “Strengthening the competence and qualifications of public services in the areas of migration and asylum with particular emphasis on preventing illegal migration” (26/NMF PL 15/14), implemented by National Border Guard Headquarters.

Also the **Office for Foreigners** is a part of THB trainings, especially in reference to foreign victims. In 2013-2014 the employees of the OF participated in:

- a training “Identification of victims and procedure to be followed in case of trafficking in human beings” under the project entitled “Increasing the effectiveness of migration management in Poland”, delivered by IOM and attended by 17 persons;
- a training on proceeding with THB victims and unaccompanied children, delivered by IOM in the frame of “Voluntary Returns” Programme for 30 OF employees;
- a training devoted to trafficking in human beings - overview of the phenomenon, perpetrators’ methods, rules of identification of victims and provision of support to victims - was held for 28 employees of the OF.

In 2013-2014, cyclical trainings, organised by the **Ministry of Labour and Social Policy** for the employees of crisis intervention centres, took place 6 times and were attended in total by 126 persons.

In addition, a number of meetings with the personnel who may have contact with potential victim of trafficking in human beings took place. Also, a series of classes were carried out – based on an own programme – for students of the College for Social Workers in Warsaw, extramural faculty, within the framework of the National Consulting and Intervention Center for the Victims of Trafficking (KCIK).

Preventing and combating trafficking in human beings were the subjects of two trainings for 65 labour inspectors, which were held in March 2013 and in June 2014 in Wrocław. The trainings’ agenda included the issues related to trafficking in human beings for forced labour, i.e. the definition, overview of the phenomenon in Poland and the system for combating and preventing trafficking in human beings, the role of the state labour inspection in combating and preventing trafficking in human beings for forced labour.

The **healthcare personnel** may play a significant role in identification of alleged victims of trafficking in human beings, including mainly Polish nationals. Therefore, in 2013 a pilot training was held for the medical personnel of the Central Teaching Hospital of the Ministry of the Interior in Warsaw and the topics to be discussed at the trainings for medical personnel were agreed and two meetings with the medical personnel of the Ministry of the Interior were held eventually in 2014:

- a training supporting the identification of victims of trafficking in human beings in Katowice;
- a meeting on the procedure to be followed in the case of contact with a suspected victim of trafficking in Wrocław.

Starting from 2013, a module on trafficking in human beings has been included in the cyclical trainings for **candidates for consular posts** abroad, organised by the Ministry of Foreign Affairs. The purpose of this module is to familiarise the consular staff with the issues related to trafficking in human beings, the extent of support available to victims and the rules of conduct in case of encountering a potential victim of human trafficking. In 2013-2014, 10 such trainings were held and app. 250 persons underwent them. According to the Ministry of Foreign Affairs, in mid 2016 all members of the Polish consular staff will have undergone the training on trafficking in human beings, provided by the experts of the Ministry of the Interior and La Strada Foundation.

The international cooperation established by the International Cooperation Department of the **National School of Judiciary and Public Prosecution** allowed to provide trainings to 39 participants from Poland in 2014, within the framework of seminars organised by the Academy of European Law in Trier and under the project of the Judicial Academy of the Slovak Republic on "Judiciary and protection of victims", where the topics of individual trainings referred to combating the trafficking in human beings. Similarly in 2013, the National School organised international seminar for judges and prosecutors on the Directive 2100/36/EU.

Apart from those trainings, in 2013 a training for 50 prosecutors was organised in the subject of forensic, criminological and legal aspects of trafficking in human beings. In 2014 the National School of Judiciary and Public Prosecution did not provide any trainings devoted to trafficking in human beings. This problem was not included in the plan of trainings for 2015 either.

Fortunately, the National School of Judiciary and Public Prosecution received support from Norwegian Financial Mechanism and is realising a project "Training of the judiciary and prosecutor's office staff in the area of preventing and combating the cross-border and organised crime" (1/NMF PL15/14). Within the project, it is planned to organise a training on combating and preventing illegal migration (for 340 people), as well as trainings on human trafficking (for approx. 560 people), as well as 2 expert workshops, 2 conferences and to prepare 5 compendia of knowledge in the above mentioned training modules.

In 2013-2014 there were also **many conferences, workshops, etc** organised for different participants, but always aiming in raising awareness and improve qualifications in dealing with trafficking in human beings, such as:

- annual trainings for representatives of the National Labour Inspectorate (Chief Labour Inspectorate and district labour inspectorates) and Border Guard officers dealing with the legality of employment entitled "Cooperation of authorities in the area of the legality of employment of foreigners on the territory of the Republic of Poland" were organised in April of 2013 and 2014;
- annual joint workshops for Police and Border Guard officers on combating trafficking in human beings and providing assistance to victims of such crime took place in April 2013 and May 2014 - the training was attended by representatives of Border Guard, Police, Ministry of the Interior, prosecutor's offices, courts, Europol and La Strada Foundation;
- a training for the Border Guard foreigners' department officers which took place in Otwock (30 September and 1 October 2014) on the procedures to be followed in case of identification of a foreign victim of trafficking in human beings in the light of provisions of the Act of 12 December 2013 on foreigners;
- an e-learning training on "Identification, protection and support of victims of human trafficking", developed by IOM under the "Voluntary Returns" Programme, which was accompanied by a focus training organised (27 June 2014) for 23 representatives of Border Guards, Police and the Office for Foreigners;
- a seminar on the possibility of controlled purchase in investigation THB cases, organised in November 2013 by the Human Trafficking Studies Centre of the University of Warsaw.

There were also seminars, conferences and trainings on the subject of trafficking in human beings for **NGOs' personnel**:

- training "Trafficking in human beings – prevention, identification of victims, assistance and protection system for victims", delivered by IOM (12.06.2014 in Warsaw), attended by 18 representatives of non-governmental organisations;
- seminar "Trafficking in human beings in Poland in the context of recent developments in Ukraine – diagnosis of the situation, enhancement of cooperation and analysis of challenges" (27.11.2014) held at the Office of the Executive Board of the Polish Red Cross. The seminar included a workshop on

trafficking in human beings for employees of the Polish Red Cross. The training delivered by La Strada Foundation focused on such issues as definition of trafficking in human beings, procedure to be followed, identification and contact with victims of trafficking, guidelines for organising assistance for victims and methods of involving volunteers in providing assistance. The training was attended by 17 employees of the Polish Red Cross, including the representatives of the Information and Tracing Service and regional branches.

Data collection and research

6. GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Polish 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, including when NGOs working with victims of trafficking are asked to provide information for the national database.

At the beginning of 2014, a meeting of the representatives of the General Prosecutor's Office, the Ministry of Justice and the Ministry of the Interior on collection of statistical data was held in Warsaw. The meeting involved the presentation of the basic principles of data generation from the SIP LIBRA system operating in the prosecution units. The arrangements made at the meeting should be further developed and as a result should allow to improve the procedure for collection of data on the scale of trafficking in human beings in Poland, in line with the relevant guidelines provided by the European Commission to the EU Member States.

It can be observed that statistical systems that institutions dealing with THB are provided with, are better and better, what allows to make more profound analysis. Now, they are working on make these systems comprehensive and coherent.

The **updated statistical form has been provided from 2013 in the Ministry of Justice**. It includes additional data on:

- the amount of the compensation granted in total and the number of cases in which compensation was granted under the Law on State Compensation for Victims of Crimes;
- a perpetrator of trafficking in human beings (among others: his/her relation to the victim, his/her specified role in the trafficking offence);
- purpose of trafficking offence (among others: sexual abuse in pornography, prostitution, forced labour, forced committal of offence, use in begging);
- a victim (date of birth, sex, place of leaving, nationality, profession, whether the victim received the compensation or not).

The **Main Border Guard Training Centre in Koszalin also undertook an initiative on improving the data collection system**, it obtained a grant for the SIC – Modular Multitask Foreigner Identification System, along with a module for risk analysis of victims of trafficking in human beings, as part of the applications proposed by the National Centre for Research and Development. The results of the project will include the development of an IT tool to analyse the data on crime perpetrated by foreigners.

7. GRETA invites the Polish authorities to continue conducting and supporting research on THB-related issues as an important source of information for the evaluation of current programmes and for planning future policy measures. Areas where research may shed more light on the extent of the problem of THB include trafficking for the purpose of labour exploitation, trafficking in children and internal trafficking (i.e. within Poland).

The research on the phenomenon of trafficking in human beings, especially with regard to the victims are being conducted continuously, although a few results of that research were published.

Unit against Trafficking in Human Beings prepared last year:

- the analysis entitled “ Victims of trafficking in human beings using the assistance of the National Consulting and Intervention Center for Polish and foreign victims of trafficking in human beings in the years 2012-2013”, which was made on the basis of 312 anonymous questionnaires filled out in the years 2012-2013, of which 237 concerned the persons identified as victims of trafficking ;
- the first report on the evaluation of trends in trafficking in human beings, presenting statistics and evaluation of activities against trafficking in human beings in the years 2011-2013, submitted to the European Commission (the obligation to draw up the report stems from Article 30 of Directive 36/2011).

In 2014, also **Halina Nieć Legal Aid Centre** drew up a report entitled “Trafficking in Human Beings with Regard to Foreigners in Poland” for 2013. The report is available at www.pomocprawna.org and was printed in 50 copies.

The Foundation Against Trafficking in Persons and Slavery “La Strada” implemented in:

- 2014 - the report on the research within the project "Civil Monitoring Of Public Institutions Of Cooperation With Respect To Identify Victims Of Trafficking In Human Beings and Respect Their Rights". It was based on analysis of documents regulating the rights of victims in Poland and the Czech Republic and study on practical realisation of standards agreed in selected public institutions and NGOs;
- 2014 - the project "Ex. Netherlands - support safe migration and protection against human trafficking - counseling and assistance to Polish emigrants". The aim of the project is to prepare Poles to emigrate, to encourage them to seek information on the conditions of work and residence abroad and to seek help in case of problems - in particular in the Netherlands. The project comprises of a pilot study examining the factors promoting emigration, the willingness to go and ways and means of travel. Basing on these results there will be information campaign prepared. The project is supported by the Ministry of Foreign Affairs and realised in cooperation with the University of Koszalin - Institute of Technology and Education, NGO "Fairwork" from the Netherlands and the Association of Polish Women in the Netherlands.

Moreover, **International Organisation for Migration** realised a project “ADSTRINGO – Addressing trafficking in human beings for labour exploitation through improved partnerships, enhanced diagnostics and intensified organisational approaches”. The project was implemented by the International Organisation for Migration (IOM), the European Institute for Crime Prevention and Control (HEUNI), in cooperation with the Minister of the Interior of the Republic of Lithuania, the University of Tartu in Estonia and the Council of the Baltic Sea States’ Task Force against Trafficking in Human Beings (CBSS TF-THB). A part of the project was a research, done by the Human Trafficking Studies Centre of the University of Warsaw and the report "Trafficking for Forced Labour: mechanisms of formation and effective prevention" with recommendations for countries and enterprises.

The Institute of Public Affairs closed in 2013 two-year project "Combating human trafficking in the European Union: promoting cooperation in the field of law and protection of victims" - aimed to

understand better the phenomenon of human trafficking, as well as an analysis of existing national, the EU and the international law in this regard, a comparison of policies and legal and institutional measures relating to trafficking, to analyse the implementation of national programs to combat human trafficking, obstacles to effective prosecution of crime, and promoting training for Police, judges and prosecutors.

Additionally, on 17 October 2014, the Ministry of the Interior announced **second edition of the competition for diploma theses on trafficking in human beings**. The competition is under the patronage of the Minister of the Interior. It is open to all students and graduates of higher education institutions. Theses that may be submitted are ones the exams on which resulted in positive grades and took place between 01.01.2013 and 15.08.2015.

International co-operation

8. GRETA invites the Polish authorities to continue developing the aspect of international co-operation with a view to preventing THB, assisting victims of trafficking and prosecuting offenders.

Poland leads thorough international cooperation in the general subject of trafficking in human beings. In the frames of cooperation with the Council of the Baltic Sea States – Poland actively cooperated in the project entitled “**ADSTRINGO**”, abovementioned (point 7) and in the additional module, i.e. “ADSTRINGO – Poland and Russia”.

In November 2013 there was international conference organised In Warsaw on “**Putting victims first**”. 200 experts from Council of Europe and 35 European countries took part in thorough discussion on protecting and promoting the rights of victims of trafficking, in particular: identification of victims of trafficking with a specific focus on labour exploitation, standards of safe accommodation for victims of trafficking, legal redress and compensation, ensuring victims’ rehabilitation and safe return.

Also other international undertakings happened *ad hoc* – such as:

- partnership agreement with Bulgaria for a project “Increasing the effectiveness of referral, support, protection and reintegration of victims of THB, through the practical application of the Transnational Mechanism”, co-financed from the Norwegian Financial Mechanism for 2009-2014;
- seminar “Trafficking in human beings in Poland in the context of recent developments in Ukraine – diagnosis of the situation, enhancement of cooperation and analysis of challenges”;
- study visit of representatives of public services and non-governmental organisations from Belarus under the project “USAid – establishment and strengthening of national reference mechanisms” to the Ministry of the Interior and other institutions responsible for support for victims;
- meeting organised on the initiative of the Embassy of the Philippines devoted to labour migration and threat of trafficking in women, which aimed to familiarise the Filipino community in Poland, and women in particular, with the possibilities of asserting their rights when they are violated by employers.

Apart from current **cooperation lead by Police and Border Guards** p. ex. in the frame of FRONTEX or within the network of Liaison Officers (Polish abroad, as well as foreign accredited in Poland), there are also Joint Investigation Teams (JIT) created when there is a need. In November 2013 there was JIT with Romanian Party appointed to combating criminality related to trafficking in human beings to exploit them in begging. It worked up to November 2014.

Polish Police cooperates closely also with National Crime Agency on Polish women exploited sexually in United Kingdom.

Measures to raise awareness and discourage demand

9. GRETA considers that future actions in the area of awareness raising should be designed in the light of impact assessment of previous measures and research, and be focused on the needs identified. Awareness-raising campaigns, education in schools and training of relevant professionals should aim at promoting gender equality and eradicating gender-based violence and the stigmatisation of victims of trafficking.

Great part of trainings and other awareness raising activities were described above (points 2 and 5).

In 2013-2014 the projects were also created and the documentation was prepared to receive 85% **support of Norwegian Financial Mechanism**. These years were exceptional in terms of acquisition of external funding for actions related to problem of trafficking in human beings. The funds from the Norwegian Financial Mechanism 2009-2014 will be allocated for financing 7 projects and 2 pre-defined project, that include a module on trafficking in human beings, with a total value of over PLN 15 million, under the programme entitled "Schengen Cooperation and Combating Cross-border and Organised Crime, including Trafficking and Itinerant Criminal Groups". The implementation of those projects in 2015 should result in a significant qualitative change with regard to prevention of trafficking in human beings in Poland, as most of them contains the module of awareness raising actions, and a predefined project "Improvement of Polish capacity to fight against trafficking in human beings", amounted to approximately PLN 2,105,400, implemented by Migration Policy Department of the Ministry of the Interior is totally devoted to raising up social awareness in the context of trafficking in people for forced labour.

The realisation of the project "**Improvement of Polish capacity to fight against trafficking in human beings**" has started already in the first half of 2015 with public opinion polls on awareness of trafficking in human beings issues and risks are being carried. Basing on the results of these public inquires there will be campaigns lead in the second half of 2015. The aim of this research is to gain knowledge of the understanding and perceptions of phenomenon of trafficking in human being within Polish society. As

Poland has been experiencing significant migration, many public institutions undertake efforts in order to minimize risks connected with migration and work abroad. But before launching any awareness activities, it is essential to gain knowledge of people's awareness connected with risk factors and institutions that can be contacted in case of problems. Thus the results of the abovementioned opinion polls will feed into future prevention activities and the report from the research will be used to design awareness-raising activities for at-risk-groups.

Moreover, there are other preventive projects, like:

- "Lubuski alliance of uniformed and civil services against trafficking in human beings and cross-border crime" (40/NMF PL-15/14), implemented by Lubuski Voivodship Office;
- "Safe school in the Schengen Area" (11/NMF PL 15/14), implemented by the President of city of Lublin,
- "Polish nationwide network of the non-governmental organisations against trafficking in human beings" (20/NMF PL 15/14), implemented by The Foundation against Trafficking in Persons and Slavery "La Strada".

10. Further, GRETA encourages the Polish authorities to strengthen their efforts to discourage demand for services from trafficked persons as regards all forms of exploitation.

At every meeting, lecture, conference, etc people involved in prevention of trafficking in human beings try to show other participants the linkage between low price of an item and cost of producing it. They try to show the brutality and inhumanity of trafficking in human beings in general and in detail. And in the end

they make society more aware that their will of possession things may cost somebody's health, dignity or life.

Also above mentioned projects, co-financed by Norwegian Financial Mechanism include such issue in their actions, in particular when we talk about a predefined project **"Improvement of Polish capacity to fight against trafficking in human beings"**, implemented by Migration Policy Department of the Ministry of the Interior. The project was to be implemented earlier, but due to some procedural delays it is being realised this year. In the first half of 2015 the public opinion polls on awareness of trafficking in human beings issues and risks are being carried. Basing on the results of these public inquiries there will be campaigns lead in the second half of 2015. The campaign will consist of TV spot, radio spot, leaflets, billboards, citylights, as well as guest lectures of Council of Europe experts organised at Polish universities. The project is addressed mainly to the most vulnerable groups – young people considering taking up a job abroad and entrepreneurs and the clients who may consciously or unconsciously profit from labour or services provided by victims of trafficking.

In the frame of the project a seminar on demand reduction strategies aimed at combating trafficking in human beings also will be organised. As a first step, there will be a research study lead to examine Polish legislation and practice in the areas of labour rights, corporate liability, procurement and disclosure rules. Subsequently, a seminar will be organised. Polish and foreign experts will be expected to discuss the responsibility of the State to prevent and remedy THB-related abuses by private business and the role of business in respect of trafficking in human beings. This seminar aims to increase private sector awareness on human trafficking and encourage it to develop measures to eliminate the risk of THB in their supply chain.

11. GRETA also invites the Polish authorities to contribute to awareness-raising prevention activities in the main countries of origin of victims trafficked to Poland, in co-operation with these countries, in order to alert potential victims of THB-related risks.

The activities taken by Polish authorities as well as those supported by Polish authorities were already described above in points 2 and 5.

Social, economic and other initiatives for groups vulnerable to THB

12. GRETA considers that the Polish authorities should take further steps to identify persons and groups vulnerable to THB, and to address them through targeted social, economic and other initiatives.

As described above, there were campaigns, actions and information addressed to vulnerable groups, like people leaving Poland for work or for holidays and also for children. Actions taken are described in point 2.

In 2015, in the frame of abovementioned (point 10) project **"Improvement of Polish capacity to fight against trafficking in human beings"**, implemented by Migration Policy Department of the Ministry of the Interior there are public opinion polls ongoing on awareness of the subject of trafficking in human beings. The research will be conducted in the whole territory and in the chosen regions of Poland. The results of those surveys will be analysed and presented in the second half of 2015. They will also be helpful to identify the vulnerable groups, which will be subsequently addressees of new projected awareness-raising campaign.

Border measures to prevent THB and measures to enable legal migration

13. GRETA considers that the Polish authorities should continue their efforts to provide written information to foreign nationals planning to travel to Poland, in a language that they can understand, in order to alert them to the risks of THB, inform them of where they can go for help and advice, and provide them with information on their rights.

The actions that aim to make the foreigner coming to Poland as safe as possible in the context of trafficking in human beings were described above (in particular in point 2).

Identification of victims of trafficking in human beings

14. GRETA urges the Polish authorities to take further steps to secure that all victims of trafficking are properly identified and can benefit from all the assistance and protection measures provided for under the Convention. To this end, the Polish authorities should:

- **strengthen multi-agency involvement in victim identification by introducing a national referral mechanism which defines the roles and procedures of all authorities competent to perform identification and frontline staff who may come into contact with victims of trafficking;**

Under the National Action Plan against Trafficking in Human Beings for 2013-2015 there has been pointed out a need to develop and describe the rules of the National Referral Mechanism for victims of human trafficking. This task is under progress and is expected to be completed by the end of 2015.

Accordingly, it is essential to highlight the engagement of **the expert group for supporting and protection of victims of human trafficking**. The group came into existence in 2010 however since 2013 it has been gathering systematically once a month with the overwhelming aim to monitor the ongoing affairs concerning victims and beneficiaries of the National Consulting and Intervention Centre for Victims of

Trafficking (KCIK) and to streamline the national system of protection for victims. It is presiding by the National Reference Mechanism's coordinator in the Ministry of the Interior. Apart from the MoI employees, the expert group comprises experts of trafficking in human beings from: National Police Headquarter, National Border Guard Headquarter, General Prosecutor's Office as well as from non-governmental organisations conducting the National Consulting and Intervention Centre for Victims of Trafficking task (i.e. La Strada Foundation).

- **provide frontline staff with operational indicators, guidance and toolkits to be used in the identification process; these indicators should be regularly updated in order to reflect the changing nature of human trafficking;**

Since 2013 within the work of the abovementioned group many procedures and documents have been prepared and implemented in order to improve the National Referral Mechanism in the aspect of identification and referral of victims. The most significant ones are the following:

- the **"Procedure of conduct for employees of the Office for Foreigners who process applications for the refugee status in case a foreigner is preliminarily identified as a victim of trafficking in human beings"** drafted in 2013 and implemented in the Office for Foreigners in 2014. The purpose of the procedure is to streamline the flow of information between the Office for Foreigners, Border Guards and the National Consulting and Intervention Centre for Victims of Trafficking (KCIK) in case a victim of trafficking in humans is identified. The procedure has been included in the agenda of trainings for the

OF employees, particularly from the Department of Refugee Procedures, and the indicators attached to the Procedure serving as a practical tool for identifying potential victims of trafficking in humans during status interviews with foreigners. Apart from that, the Department for Refugee Procedures of the Office for Foreigners appointed an external coordinator for trafficking in human beings whose task is, *inter alia*, to monitor flow of information and actions taken in respect of foreigners who are (potential) victims of trafficking in human beings covered by the refugee procedure.

- the **“Indicators to identify possible victims of trafficking in humans”** prepared in 2013 in order to facilitate identification of victims of human trafficking by Police and Border Guard officers. In October 2013, Ministry of the Interior provided National Border Guards Headquarters with indicators to be used by Border Guard officers. The tool comprises 2 levels. The first level is more general and dedicated to preventive units of law enforcement agencies who might have contact with alleged victims. The second level of the tool is more elaborated and thus divided into 3 parts in accordance with 3 most popular forms of exploitation (sexual exploitation, forced labour, forced begging). This level of indicators is dedicated to experts of trafficking in human beings in law enforcement agencies, particularly to criminal structures responsible for conducting human trafficking proceedings. At the end of 2014 the usage of indicators among Border Guard officers was positively evaluated. It is worth mentioning that before implementation, the tool (at both levels) had been directly agreed and consulted within focus groups with the participation of Police and Border Guard officers from selected units.
 - the document entitled **“Rights of victims of trafficking in humans and the rights and obligations of persons injured by trafficking in humans”** prepared in 2014 which enumerates all rights a victims of human trafficking is entitled to starting from a potential victim status and ending with status of injured party in court proceeding. The document has been prepared and dedicated mainly to officers of law enforcement agencies who are supposed to effectively pass this information to a victim when identified. Apart from that, there has been prepared a short version of the document dedicated directly to victims. This “victim’s version” of the document also lists all rights but it is less descriptive and includes more practical information. This version has already been translated into 9 foreign languages and it is expected to be published as a leaflet for distribution in 2015 and onwards.
 - the **“Procedure of Risk Assessment in case of a Return of a Foreign Victim of Human Trafficking”** drafted in 2014 and implemented at the beginning of 2015. The Procedure comprises 3 stages of verification. At first the risk is verified by the staff of La Strada Foundation upon information directly provided by a victim. If the organisation sees any travel risk or is not sure of victim’s safeness after arrival to the country of return, the second and the third stages of assessment are launched. The following stages are within the competence of law enforcement agencies (Police/Border Guards) and the Ministry of Interior. Police, Border Guards verify their information gathered upon criminal proceeding whereas the Ministry of the Interior checks information about the country/region of return. After completing all information from different sources a joint risk assessment is made and a final decision is taken. The Procedure includes practical tools in the form of questionnaires for effective verification.
- **ensure that law enforcement officials, social workers, labour inspectors and other relevant actors adopt a more proactive approach and increase their outreach work to identify potential victims of trafficking:**

All abovementioned trainings, workshops, conferences and meetings aim to make law enforcement officials, social workers, labour inspectors, consular personnel, healthcare staff, teachers more sensitive to the subject of trafficking in human being and more proactive in identification potential victims of trafficking.

- **adopt nation-wide procedures for the identification of child victims of trafficking;**

At present, the expert group for supporting and protection of victims of human trafficking is working on the document titled **“Algorithm of Identification and Conduct for Police/Border Guard Officers in Case of Minor Victims of Human Trafficking”**. This document aims to improve the scale of identification of child victims as well as to sort out the rules of conduct towards minor victims with respect to all rights they are entitled to. It is expected that the document will be completed and ready for implementation at the end of 2015.

- **pay more attention to the identification of persons detained as irregular migrants and provide additional training to staff who come in contact with such persons.**

The expert group for supporting and protection of victims of human trafficking is also engaged in **the problem of identification of victims among irregular migrants staying in the guarded centres for foreigners**. Working on such a procedure is scheduled for the second half of 2015. Yet it is worth mentioning that since 2010 the Ministry of the Interior keeps organising annual trainings for officers from guarded centres of Border Guards to facilitate identification and referring victims of human trafficking in the centres.

Consequently, from 2013 new actors have been engaged in the process of identification and protection of human trafficking victims, i.a. Ministry of Foreign Affairs in the aspect of identification Polish victims abroad and foreign victims exploited in domestic servitude in private diplomatic residences (see point 2, 5, 11 and 13) and the Office for Foreigners with reference to identification of foreign victims applying for refugee status.

Assistance to victims

15. GRETA considers that the Polish authorities should take further steps to provide assistance to victims of trafficking, and in particular to:

- **ensure that there is a sufficient number of places across the country offering adequate conditions and adapted to the victims’ needs; when assistance is delegated to NGOs, the State has an obligation to provide adequate financing and ensure the quality of the services delivered by the NGOs;**

From 2013 the public task titled the **National Consulting and Intervention Centre for Victims of Trafficking - KCIK** (completely financed from the State’s budget), has been commissioned to two non-governmental organisations: the Foundation against Trafficking in Persons and Slavery “La Strada” (Foundation La Strada) and the Po-MOC – Mary Immaculate Association for Women and Children (PoMOC). As a result since 2013 within the KCIK there are two shelters dedicated for female victims of trafficking instead of previous one.

If a victim from various reasons cannot take advantage of one of the shelters offered within KCIK. The personnel of the Centre is obliged to organise an alternative safe accommodation. It may be in one of the crises intervention centres within the system of social assistance or in other institutions (e.g. NGO-run shelters). Such a procedure is also implemented towards male victims or when a family is trafficked. In each case the intervention for a victim is paid from the State budget (either from social assistance budget or the KCIK’s one). At this point it needs noting that the budget for KCIK has been raised since 2015.

Apart from that, in 2013 the Ministry of the Interior in cooperation with NGOs and selected welfare centres prepared a document titled **“Standards for a safe shelter for victims of trafficking in human beings”**. The guidelines provided therein are intended for institutions that run shelters or plan to set up shelters professionally supporting adult victims of trafficking. The document also remarks the need of professional

shelters for men. In October 2013 the document was passed on to the Ministry of Labour and Social Policy and has been further disseminated among welfare system structural units

- **improve the system for providing assistance to child victims of trafficking, both in terms of accommodation and as regards medium and long-term support programmes tailored to the needs of the children;**

As far as children are concerned, they can directly benefit from one of two shelters within KCIK. However it is possible only in the case of female teenagers and with an approval of a competent guardianship court. In other cases, such a younger victim or male underage victim, they are referred to institutionalised child houses within the child care system or to foster families serving as an emergency child care. Nonetheless, in such situations children are still beneficiaries of KCIK and are provided all other services they need.

It also should be noted that Po-MOC has implemented in 2014 a project “**Specialised counselling for women and children who were subject to contemporary forms of slavery or other forms of violence**” for the Katowice City Hall.

Due to lack of Polish experiences as regards providing adequate shelter to unaccompanied foreign minors who are victims of trafficking, in 2014 gathering information continued on good practices of other countries in that respect. Development of a final material, including a description of good practices and guidelines on standards to be met by Polish centres aiming at providing a safe shelter to juvenile victims of trafficking, is planned for 2015.

- **ensure that suitable accommodation is provided to male victims of trafficking and that they can fully benefit from the assistance measures provided for in law;**

Male, female and underage victims of trafficking in human beings can fully benefit from assistance measures provided for them by law. In 2013 KCIK provided assistance to 222 victims (including 31 underage victims) and in 2014 accordingly - 207 (34).

In 2013 KCIK accommodated 151 victims:

- 70 victims (including 8 teenagers) were offered shelters within the KCIK,
- 45 victims within social assistance,
- 38 victims in alternative shelters at the KCIK’s expense.

Similarly, in 2014 KCIK provided accommodation to 90 persons:

- 57 victims (including 1 teenager) were offered shelter within the KCIK,
- 76 victims within social assistance,
- 15 victims in alternative shelters at the KCIK’s expense.

- **guarantee access to public health care for victims of trafficking.**

All victims who are **beneficiaries of KCIK are also entitled to medical assistance** if they are in such a need.

In 2013 KCIK provided medical assistance to 51 victims, 13 of them needed hospitalisation. In 2014 there were 54 medical intervention in which 10 were conducted in hospital.

In general, Polish law guarantees medical help for everybody who needs it and stays at the Polish territory. Even if any act does not provide particular regulation on victims of trafficking in human beings, there are other that can be a basis to receive an appropriate medical help:

- the Constitution of the Republic of Poland,
- the *Act on healthcare services financed from public funds* (from 27.08.2004 as amended),
- the *Act on foreigners* (from 12.12.2013 as amended),

- the *Act on granting protection to foreigners within the territory of the Republic of Poland* (from 13.06.2003 as amended).

It should be highlighted that **minors and pregnant women as well as women during the childbirth and postnatal periods benefit from special legal protection in the Republic of Poland**. This protection is guaranteed by domestic legislation as well as the international agreements ratified by the Republic of Poland.

Taking into account health problems seen in victims of trafficking, including substance abuse harms or mental disorders, it should be recognized that these persons – also foreigners holding a place of residence at the territory of the Republic of Poland – regardless of whether they remain subject to health insurance, they are entitled to free of charge healthcare under the following laws:

- the *Act on upbringing in sobriety and counteracting alcoholism* (from 26.10.1982 as amended),
- the *Act on counteracting drug addiction* (from 29.07.2005 as amended),
- the *Act on protection of mental health* (from 19.08.1994 as amended),
- the *Act on preventing and combating infections and combating infectious diseases among people* (from 5.12.2008 as amended),
- the *Act on Emergency Medical Services* (from 8.09.2006 as amended),
- the *Act on the Card of the Pole* (from 7.09.2007 as amended).

Recovery and reflection period

16. GRETA urges the Polish authorities to ensure, in compliance with their obligations under Article 13 of the Convention, that all possible victims of trafficking, including European Economic Area nationals, are systematically informed of the possibility to have a recovery and reflection period and are effectively granted such a period regardless of whether or not they co-operate with the investigation.

The Act of 12 December 2013 on foreigners, that entered into force on 1 May 2014, has implemented important changes in terms of **granting reflection period and residence permits for foreign victims of trafficking**.

Under new legal framework foreign victims who are illegal migrants when identified are entitled to a 3-month reflection period (and a 4-month reflection period in case of underage victim). Under the reflection period a victim receives from Police or Border Guard officer a certificate confirming the presumption that he/she is a victim of human trafficking. The stay of a foreigner is ceased to be legal upon validity of the certificate. A victim is not required to cooperate with the investigation at this stage. The only condition for a victim is to terminate all contacts with suspects. Except from legal stay, the certificate entitled victims to:

- protection against imposing the return obligation;
- application for a Polish identity document (if there is such a need);
- immediate release from a guarded centre or a detention centre for foreigners;
- assistance of IOM in voluntary return;
- social assistance.

The new provisions implemented by the Act on foreigners, on one hand have significantly simplified the procedure of granting reflection period, and on the other hand have increased the catalogue of victim's rights. As a result more foreign victims have benefited from the reflection period - while in 2013 there was no case of granting a reflection period, in 2014 there were 22 such cases registered, and in 2015 (up to 30 April) there are already 8 of them.

As regards to the legalisation of the stay of European Economic Area nationals in the aspect of granting them recovery and reflection period, they are entitled to the freedom of movement of persons specified in Directive 2004/38 of the European Parliament and of the Council of 29 April 2004 on the right of EU citizens and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC.

Abovementioned directive was implemented to Polish law by the Act of 14 July 2006 on the entry into, residence in and departure from the Republic of Poland of nationals of the European Union Member States and their family members. According to the abovementioned act the EEA nationals are entitled to the stay for a period not exceeding 3 months without any additional requirements. Therefore they are excluded from the scope of the Act on foreigners, and there is no need to issue them residence permits covering the reflection period. Nevertheless, they are also entitled to other forms of assistance under the same conditions as other victims who benefited from reflection period.

17. Further, GRETA considers that the relevant legislation should be amended in order to reflect the Convention and the fact that Council Framework Decision of 19 July 2002 on combating trafficking in human beings had been replaced by Directive 2011/36/EU.

Provisions of the amended Act on foreigners meet the regulations on the subject, included in Directive 2011/36/EU.

Residence permits

18. GRETA urges the Polish authorities to ensure that victims of THB can take full advantage of the right to be granted a residence permit.

In the light of provisions of the abovementioned (point 16) new Act on foreigners, foreign victims are also empowered to apply for a **temporary residence permit**. It refers to foreign victims who immediately decide on cooperation with investigation or if they express such a will during the „reflection period”. Pursuant to Article 176 of the abovementioned act “A temporary residence permit for victims of human trafficking shall be granted to a foreigner who meets all of the following conditions:

1. resides in the territory of Poland;
2. has started to cooperate with the authority competent to conduct proceedings (i.e. Police/Border Guard/prosecutor);
3. has terminated contacts with suspects of committing human trafficking.”

A temporary residence permit is granted, refused or revoked by a voivode competent with respect to the place of residence of a foreigner by way of decision and is issued for a period of 6 months up to 3 years. Victims who are granted this residence permit are entitled to:

- protection against imposing the return obligation;
- immediate release from a guarded centre or a detention centre for foreigners;
- assistance of IOM in voluntary return;
- social assistance;
- taking up education in public schools for adults or continue education in vocational courses;
- taking up work without having a work permit.

Apart from that, victims who reside on the territory of Poland for a period no shorter than 1 year, on the basis of the abovementioned temporary residence permit, may apply for a permanent residence permit.

In order to ensure victims of trafficking in human beings can take full advantage of the right to be granted a residence permit, Ministry of the Interior keeps organising trainings on the new provisions of the act on

foreigners dedicated to Police and Border Guard officers, as well as to NGOs and social workers. Additionally, Ministry of the Interior prepared and disseminated various leaflets, brochures in Polish and foreign languages which inform about new provisions. Such information is also included in the document **“Rights of victims of trafficking in humans and the rights and obligations of persons injured by trafficking in humans”**.

In 2014 there were 19 temporary residence permits granted for victims of human trafficking, while **in 2015 (30 April) further 9 permits** were granted and 4 applications have been still proceeded.

Compensation and legal redress

19. GRETA urges the Polish authorities to adopt measures to facilitate and guarantee access to compensation for victims of trafficking, and in particular:

- **ensure that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;**

The Law of 28 November 2014 on protection and aid for victims and witnesses introduced a number of improvements in this respect. Under Article 300 § 2 and 3 of the Code of Criminal Procedure, which came into force on 8 April 2015, **a victim receives the information about his/her rights**, among others, on the possibility to receive compensation from the perpetrator or from State. The information is provided in writing (Letter of Rights) before first questioning by Police or prosecutor in a simple and comprehensible language which allows persons who are not assisted by professional lawyers to understand their rights and obligations.

The Letter of Rights will be translated into 26 languages, including non-European ones.

- **enable victims of trafficking to exercise their right to compensation, by building the capacity of legal practitioners to support victims to claim compensation and including compensation into existing training programmes for law enforcement officials and the judiciary;**

The National School for Judges and Prosecutors conducted **11 training sessions for prosecutors, associate prosecutors (assessors) and prosecutors’ assistants (506 persons altogether), devoted to actions for damages as well as compensation** under the Law on State Compensation for Victims of Crimes in 2013 and 2014. The following topics were discussed during the training: assistance for victims, estimation of needs and initiation of assistance for victims, cooperation with organisations that aim to provide aid and assistance to victims, scope of information on the rights of victims and possibility to receive help, provided by the authorities conducting the criminal proceedings.

- **encourage prosecutors to request compensation orders to the largest possible extent;**

In most cases of trafficking in human beings, steps are taken to determine the assets of suspects. The next step is to seize the assets by issuing provisions on bail and / or property freezing in order to secure it for punishment of forfeiture, as well as remedies in favour of a victim (accordingly to the Article 299 of the Penal Code). The prerequisite for security on property is a criminal offense for which a fine, forfeiture, punitive or monetary benefit and a remedy or compensation for damage suffered can be imposed (Article 291 § 1 Code of Criminal Procedure), as well as crimes against property or causing damage to property (Article 291 § 2 Code of Criminal Procedure). Those instruments are important for future compensation, assessment of recovery measures and forfeiture of proceeds obtained from crime of trafficking in human beings.

At the end of last year Prosecutor General sent a request for assessment of above mentioned tools to all 11 Appellate Prosecutors’ Offices.

So far, basing on Ministry's of Justice statistical data:

- for 26 persons judged in 2013 for trafficking in human beings or preparation to it, 12 of them was fined (apart from detention), in 1 case the seizure of property and in 3 – seizure of assets was ordered;
- for 21 persons judged in 2014 for trafficking in human beings or preparation to it, 4 of them was fined (apart from detention), in 1 case the seizure of property and in 7 - seizure of assets was ordered.

Although we are not in a possession of statistics regarding compensation exclusively to victims of trafficking in human beings, generally in 2014 compensation was ordered in 47 cases (in total – more than 300,000 PLN), and in 2013 – 48 cases (more than 250,000 PLN).

- **include all victims of trafficking in the scope of the Act on State Compensation for Victims of Crimes, irrespective of their nationality and residence status or the type of injury sustained;**

While Article 15 (4) of the Convention obliges States to guarantee compensation for victims, it leaves a room as for the methods to reach this goal. It suggests alternatives such as a special fund established by the state, measures or programmes aiming at social aid or social integration of victims. Furthermore, it refers to the conditions of national law which are decisive for granting compensation. Consequently the recommendation to include all the victims of trafficking in the scope of the above mentioned Act goes beyond the Convention. Moreover, **since Poland provides for above mentioned measures and programmes, the requirement of the Convention is already fulfilled** (see comments to point 189 tiret 4 of GRETA report).

Nevertheless, it should be pointed out that the draft Law amending the Law on state compensation for victims of certain crimes and the Law – Code of Civil Procedure is under parliamentary scrutiny at the moment. The draft envisages broadening personal scope of the Law by abandoning a criterion of a nationality of a victim. It does not, however, foresee the resignation from the reference to residence status nor from type of injury sustained by a victim since these conditions are in compliance both with the European Convention on the Compensation of Victims of Violent Crimes (Article 2) and the Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims (see the Report of the European Commission – COM(2009) 170 final) which are implemented by the Law on state compensation.

- **enable victims of trafficking who have left Poland to benefit from the possibilities to claim compensation.**

Victims of trafficking are not deprived of the possibility of claiming compensation when they leave Poland. Their rights in this respect may be executed by way of cooperation mechanisms as provided for in the Law on state compensation, as well as an adequate representation in the course of criminal or civil proceedings. In that respect the role of the prosecutors are significant since they can on behalf of victims request for compensation during criminal proceedings (Article 49a of the Code of Criminal Procedure) or bring a civil action for damages (§ 192 of the Regulation on common prosecutors' offices).

20. Further, GRETA invites the Polish authorities to further develop the system for recording compensation claims of and awards to victims of trafficking.

As mentioned above (point 6), the updated statistical form has been provided by the Ministry of Justice. It includes additional data, inter alia, on amount of the compensation granted in total and number of cases in which compensation was granted under the Law on State Compensation for Victims of Crimes.

Non-punishment of victims of trafficking in human beings

21. GRETA stresses the importance of ensuring that the Methodological guidelines for prosecutors are fully applied in order to prevent imposing penalties on victims of trafficking for their involvement in unlawful activities to the extent that they were compelled to do so. While the identification procedure is ongoing, potential victims of trafficking should not be punished for immigration-related offences.

General Prosecutor's Office and Appellate Prosecutors Offices **constantly monitor investigations on trafficking in human beings**. One of these points, is a situation where a victim of trafficking in human beings is charged of any other crime, connected with the situation that she/he is a victim of that crime.

The other way of getting information on such cases is an information exchange within the expert group for supporting and protection of victims of human trafficking (described in point 14), which meets regularly once a month in the Ministry of the Interior and the current situation of victims of trafficking in human beings is discussed.

In case of receiving information that there is any investigation against a person, identified as a victim of trafficking in human beings, General Prosecutor's Office takes appropriate steps: examine the files, supervise prosecutor's office in a county, and if it is not enough – takes other procedure measures to look into the situation and to assess whether steps taken during the investigation against victim are not against the law.

The other measures planned to be taken are **trainings - internal training for all coordinators and prosecutors dealing with cases of trafficking in human beings**, with special attention paid to subject of investigation against a victim.

Situation of trafficking in human beings, assessment of level of investigation, analyses of files, sentences and practice are subjects of annual report issued by Department for Organized Crime and Corruption in Prosecutor General's Office. The report is presented to other prosecutors' offices to be analysed and used in practice, in particular to avoid mistakes already identified.

Investigation, prosecution and procedural law

22. GRETA encourages the Polish authorities to take measures to identify gaps in the investigation procedure and the presentation of cases in court, *inter alia*, with a view to ensuring that crimes related to THB are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions.

As mentioned before (point 21) there is a system of constant monitoring, analysing and reporting on the system of investigation and prosecution of cases on trafficking in human beings.

Following that monitoring, **amendments to Code of Criminal Procedure have been implemented in reference to interrogation of a minor**, also underage victim of trafficking in. They are described in point 24.

23. Further, GRETA considers that there is a need for improvement of the knowledge and sensitivity of judges, prosecutors, investigators and lawyers about THB and the human rights of victims. During the training, particular attention should be paid to overcoming potential entrenched negative attitudes and prejudices vis-à-vis victims of trafficking.

In 2014, the National School of Judiciary and Public Prosecution submitted a training project entitled "Training of the judiciary and prosecution personnel in combating and preventing cross-border and

organised crime” to the Ministry of the Interior as the operator of programme entitled “Schengen Cooperation and Combating Cross-border and Organised Crime, including Trafficking and Itinerant Criminal Groups” – PL15, financed from the funds of the Norwegian Financial Mechanism.

The main objective of the project is to increase capacity of services in preventing and combating cross-border crime and organised crime including trafficking in human beings and migration of criminal groups by organising trainings for judges and prosecutors in fields of cross-border crime, with special attention to drug crime, crime related to business transactions, and also combating and preventing illegal migration and trafficking in human beings.

The project will also include two expert workshops, two conferences, development of five compendia of knowledge in the various training modules and will strengthen capacity of Polish services including courts and prosecutors' offices in the fight against cross-border crime.

It is planned to train up to 500 persons, starting from autumn 2015.

See also information provided for in point 19 tiret 2.

Protection of victims and witnesses

24. GRETA considers that the Polish authorities should extend all special protection procedures to cover child victims of THB up to the age of 18.

The Law of 13 June 2013 on amendment of the Criminal Code and Code of Criminal Procedure, that came into force on 27 January 2014, introduced several changes to Code of Criminal Procedure to further strengthen the protection of victims of trafficking:

- additional limitation of questioning of a child victim under 15 was envisaged (apart from already existed one-time questioning requirement, the Law introduced condition that a questioning can be conducted only where it is necessary for the adjudication in a court - Article 185a § 1 CCP);
- abovementioned guarantees were granted also a child victim of trafficking under 15 as well as above that age; in the latter case where there are reasonable grounds to believe that questioning in other circumstances would have a negative impact on child's mental state (Article 185a § 1 and 4 CCP);
- obligation to provide audio-video recording of questioning of child victims under the age of 18 (victims of trafficking included) was introduced (Article 147 § 2a CCP);
- practice of questioning of a child victim in special room in court buildings or outside gained a legal basis (Article 185d § 1 CCP);
- detailed regulations concerning preparation for a hearing of a child victim and witness in special rooms, assistance of psychologist included, as well as requirements concerning these rooms (Regulation of the Minister of Justice of 18 December 2013 on the preparation of a hearing conducted under Articles 185a – 185c of the Code of Criminal Procedure).

25. GRETA also invites the Polish authorities to make full use of the available measures to protect victims and witnesses of THB and to prevent intimidation in the course of the investigation and during and after the court proceedings.

In order to reinforce and consolidate framework of protection and assistance for crime victims and witnesses, including victims of trafficking, the Ministry of Justice prepared the Law on the protection and aid for victims and witnesses. The Law came into force on 8 April 2015. It determines the rules, conditions and scope of application of the protection measures and aid for a victim and a witness as well as their relatives, if there is a threat for their life or limb in connection with pending or accomplished criminal proceedings. The protection measures and aid can be applied or granted also before the institution of criminal proceedings if the risk for life or limb is revealed in the course of actions carried out by Police to

prevent, detect, establish perpetrators and to obtain and record evidence (Article 1.1 and Article 1.2 of the Law). The Law envisages the following protection measures and aid:

- protection for duration of evidence gathering act or hearing,
- personal protection,
- aid to change the place of residence (Article 3.1 of the Law).

The protection for duration of evidence gathering act or hearing can consist in the presence of Police officers close to a victim or a witness during those acts or round trip (Article 4.1 of the Law).

The personal protection may consist in:

- permanent or temporal presence of Police officers close to a victim or a witness,
- temporal observation of a protected person and his/her environment,
- indication of safe places to stay or safe ways to relocate for a protected person,
- determination of scope, conditions and means of contacting a protected person with third persons (Article 5.2 of the Law).

The aid to change the place of residence can consist in:

- making available temporal accommodation,
- assistance in hiring an apartment,
- assistance in move or settlement
- assistance in running important errands connected with change of the place of residence (Article 6.2 of the Law).

Moreover, a protected person has the right under specified conditions to financial aid covering basic existential needs, costs of temporal accommodation or an apartment, healthcare (Article 7.1 of the Law).

Besides, in case of threat to mental health of a protected person, he/she has to be informed about access to psychological support provided by organisations which gained donations from the Fund on Aid for Victims and Postpenitentiary Assistance (Article 10.1 of the Law). The new mechanism also provides for acceleration of granting psychological support (no more that 14 days from referral).