

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



CP(2018)11

**Report submitted by the Maltese authorities
on measures taken to comply with
Committee of the Parties Recommendation
CP(2017)3 on the implementation
of the Council of Europe Convention
on Action against Trafficking in Human Beings**

Second evaluation round

Received on 6 March 2018

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GRETA Recommendations	MT Response	IMPLEMENTATION
Section I: Points requiring urgent Action		
<p>1. GRETA urges the Maltese authorities to step up their efforts to provide assistance, including safe accommodation, which is adapted to the specific needs of victims of trafficking, including to male victims (paragraph 93).</p>	<p><i>The Maltese authorities acknowledge that further progress in this sphere is necessary. However, it must be emphasized that all victims who required accommodation were in fact provided with such accommodation, including male victims. This is the case even if use had to be made of centres for asylum seekers.</i></p> <p><i>It should however be noted that the national welfare agency, APPOGG, has provided 3 additional new residences in 2017, which will provide accommodation for victims of human trafficking.</i></p>	<p><i>Implemented</i></p>
<p>2. GRETA urges the Maltese authorities to:</p> <ul style="list-style-type: none"> - take measures to ensure that the procedure for the identification and referral to assistance of child victims of THB takes into account the special needs and circumstances of children, through developing a specific referral mechanism for children involving child specialists, child protection services and specially trained police officers and prosecutors; 	<p><i>The development of guidelines to assist in the identification of child victims of trafficking is envisaged by the new Action Plan. It should be noted that so far no child victims of trafficking have been identified in Malta.</i></p>	<p><i>Ongoing</i></p>

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<p>- ensure that child victims of THB benefit from the assistance measures provided for under the Convention, including appropriate accommodation and access to psychological support and legal assistance;</p>	<p><i>Should child victims of trafficking be identified they would be provided with the necessary assistance as indicated in the Convention. Agenzija Appogg already has trained personnel who could provide the required psychological assistance. Moreover, Malta already has a set up in place to provide support to unaccompanied minors. This set-up could also avail children who are victims of trafficking should the need arise. Furthermore, Police officers and prosecutors have been made aware of the specific needs and requirements of child victims in specialised training delivered in partnership with IOM.</i></p>	<p><i>Implemented</i></p>
<p>- step up their efforts to increase the training of relevant officials and staff on the identification of child victims of trafficking (paragraph 102).</p>	<p><i>Should child victims of trafficking be identified they would be provided with the necessary assistance as indicated in the Convention. Agenzija Appogg already has trained personnel who could provide the required psychological assistance. Moreover, Malta already has a set up in place to provide support to unaccompanied minors. This set-up could also avail children who are victims of trafficking should the need arise. Furthermore,</i></p>	<p><i>Implemented</i></p>

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	<p><i>Police officers and prosecutors have been made aware of the specific needs and requirements of child victims in specialised training delivered in partnership with IOM.</i></p> <p><i>In addition, in 2017 the Malta Police established a Victim Support Unit, which provides a single point of contact for victims of crime, especially the most vulnerable, shortly after filing a police report. Depending on the victims' needs at that particular time, the Unit helps to minimize the adverse emotional and psychological stresses of victims of crime. The services offered include crisis counselling, information about victims' rights and referrals to other government and non-government agencies for ongoing support.</i></p> <p><i>Furthermore, in November/December 2017 training was held in Malta for about 100 front line stakeholders on child trafficking delivered by NSPCC Child Trafficking Advice Centre, London, UK, a charity specializing in child trafficking only and supported by Government funding and human resources. Different sessions were held for different stakeholders from</i></p>	
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	<p><i>the agencies, Civil Society and government departments who may encounter children and young persons during their daily work. An expert from the UK Crime Agency and an Immigration Official from the Home Office in London delivered a session purposely targeting Police officers from immigration, victim support and Vice Squad.</i></p>	
<p>3. GRETA notes with concern that the legal provisions concerning the recovery and reflection period have not been amended as recommended in its first evaluation report. GRETA recalls that Article 13, paragraph 3, of the Convention, refers to public order considerations and improperly claimed victim status as being the only grounds for terminating or not granting a recovery and reflection period. Consequently, GRETA once again urges the Maltese authorities to:</p> <ul style="list-style-type: none"> - remove the need to co-operate with the authorities as a pre-condition for being granted a recovery and reflection period; - establish the minimum duration of the recovery and reflection period at 30 days, during which time it is not possible to remove the victim or potential victim of trafficking from the country's territory; 	<p><i>It should be noted that the pertinent legislation transposes an EU Directive and reflects the same precise wording outlined in the Directive framing the need to co-operate with the authorities as a pre-condition for the recovery and reflection period. In this regard it should be stated that our objective should be to encourage cooperation to apprehend traffickers and prevent future victimisation of other people.</i></p> <p><i>The current provision provides for a maximum period for recovery and reflection of two months, during which period the person concerned cannot be removed from Malta. The Maltese authorities will be</i></p>	<p><i>It is considered that no further action is required</i></p> <p><i>Ongoing</i></p>

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<p>- ensure that no termination of the recovery and reflection period is carried out on the grounds that victims or presumed victims have “actively, voluntarily and on their own initiative renewed contact with the perpetrators” without due regard to the person’s individual situation, which involves an examination of his/her case (paragraph 110).</p>	<p><i>considering the specific reference to a minimum period for recovery and reflection in line with GRETA’s recommendation.</i></p> <p><i>The Maltese authorities are not in agreement with this recommendation, as it is considered that this could undermine our efforts against human trafficking.</i></p>	<p><i>No further action is deemed necessary in terms of this recommendation.</i></p>
<p>4. GRETA urges the Maltese authorities to examine the reasons for the absence of compensation claims and awards to victims of trafficking and to make additional efforts to guarantee effective access to compensation for victims of THB, in line with Article 15 (4) of the Convention, including through the systematic provision of legal advice and information (paragraph 127).</p>	<p><i>It should be noted that Article 4 (a-k) of the Victims of Crime Act (Cap 539 of the Laws of Malta), features specific provisions on victims of human trafficking. Moreover, legislative provisions relating to compensation is already in place.</i></p> <p><i>It should however be noted that for some years victims of trafficking sought to leave Malta after their case had been detected. However, labour trafficking victims involved in more recent cases have claimed their wages, and in one case those wages</i></p>	<p><i>No further action is considered since measure is already being implemented.</i></p>

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	<p><i>were obtained by the victims concerned. The other case is still sub-judice.</i></p> <p><i>It is therefore no longer the case that victims of trafficking have not obtained compensation.</i></p>	
<p>5. GRETA one again urges the Maltese authorities to introduce as an aggravating circumstance the offence of THB committed against a child, regardless of the means used (paragraph 139).</p>	<p><i>By virtue of the Criminal Code (Cap 9 of the Laws of Malta) an offence committed against a child, even if it does not involve the use of the means of exploitation, is subject to a penalty commensurate with one involving the victimisation of an adult with recourse to the means in question. Furthermore, if those means have been used, the offence against a minor becomes subject to a further aggravation.</i></p> <p><i>Malta considers that the present legislation is already dissuasive vis-à-vis human trafficking in general and human trafficking against children. Moreover, an offence against child is already effectively aggravated when compared to an offence against an adult.</i></p>	<p><i>No further action is deemed necessary.</i></p>

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<p>6. GRETA once again urges the Maltese authorities to take measures to ensure that crimes related to THB are investigated, prosecuted and adjudicated promptly and effectively, including by providing regular training to judges and prosecutors on THB and the rights of victims and encouraging the development of specialisation among judges and prosecutors (paragraph 157).</p>	<p><i>During 2016, the Ministry for Justice, Culture and Local Government in collaboration with the International Organization for Migration (IOM) entered into an agreement to implement a six-month project on how to Improve Quality of Prosecution and Protection of Victims of Trafficking through the Justice System in the Republic of Malta for the members of the Judiciary as well as police investigators and prosecutors. A research was undertaken for a period of six months examining judicial sentences regarding trafficking in persons. Afterwards, a two-day training event was held addressing the Judiciary. During the training it was emphasized that all efforts should be made to protect the victim at all stages during the judicial process from the initial stage of identification until their reinsertion into society. It was also stressed that we must strive to make the Court environment as friendly as possible to these people including, wherever this is possible, through the minimisation of contact with the former exploiter. Topics covered during the training amongst other</i></p>	<p><i>This measure is being implemented.</i></p>
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were: Major problems faced by the participants in the fight against trafficking in Malta, and how can the Quality of Prosecution and Protection of Victims of Trafficking be improved.

Please refer to Point 2.3 for further information about training on child trafficking.

The police invested resources to enhance their ability to detect, investigate and subsequently arraign in court cases of human trafficking regarding both sexual and labour by attending training held abroad dedicated to law enforcement officials. During 2017 alone, various police officials attended training in Vicenza, Madrid, Warsaw, Vienna and Malta organised by Interpol, Cepol, Frontex, OSCE, FBI and the UK Metropolitan Police.

Furthermore, Government has been implementing National Action Plans in the field of human trafficking since 2011, which plans have provided for, inter alia, referral mechanisms, training sessions and other initiatives.

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	<p><i>These initiatives have been financed by Government, which embarked on projects implemented in cooperation with international experts, particularly the International Organisation for Migration. It should also be noted that following such training Police have clearly enhanced their capabilities, as attested by the identification and prosecution of comparatively large-scale labour trafficking cases. The detection and action on these cases demonstrated will to act in all cases of human trafficking.</i></p>	
<p>Section II – Other points requiring Action</p>		
<p>7. GRETA considers that the Maltese authorities should keep under review the effectiveness of the Anti-Trafficking Monitoring Committee in fulfilling the role of a National Rapporteur or equivalent mechanism, and examine the possibility of designating as a National Rapporteur a separate organisational entity or another independent mechanism for monitoring the anti-trafficking activities of State institutions (paragraph 21).</p>	<p><i>The Maltese authorities consider that the Monitoring Committee is fulfilling its monitoring task effectively, which is attested by the fact that the entities on the ground have registered improvements in relation to the detection and response to human trafficking cases. The Committee’s work undoubtedly contributed to raising awareness and highlighting the importance of human trafficking</i></p>	<p><i>No further action is considered necessary.</i></p>

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	<i>and measures to counter it. Furthermore, coordination between entities has also improved including as a result of the activities of the Committee.</i>	
8. GRETA considers that the Maltese authorities should ensure that the budget allocated to action against THB is adequate to cover all actions needed to combat THB (paragraph 22).	<i>It should be noted that the budget allocated to THB is only meant to cover training initiatives undertaken by the Ministry as well as other activities such as research. Hence, the budget is not meant to cover operational costs, which are borne by the respective Departments. It is for this reason that the budget is considered generally adequate.</i>	<i>No further action is considered necessary.</i>
9. GRETA considers that the Maltese authorities should, especially in the absence of an independent National Rapporteur or equivalent mechanism, commission an external evaluation of the implementation of the current National Action Plan upon its expiry, as a basis for the development of the next National Action Plan (paragraph 27).	<i>The Maltese authorities, whilst taking note of this recommendation, consider that the relative funds would best be invested in measures that would directly benefit victims of trafficking.</i>	<i>No further action is considered necessary.</i>
10. GRETA considers that the Maltese authorities should take further steps to provide systematic training about THB and the rights of victims of trafficking to all relevant professionals, including prosecutors, judges, labour inspectors, asylum officials and the staff of	<i>Each plan of action contemplates continuous training on human trafficking focusing on the various aspects of the phenomenon. Thus, Government ensures systematic</i>	<i>This measure has been implemented.</i>

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administrative detention centres, such as the Safi Barracks. The training should aim in particular at strengthening victim identification and protection, increasing the number of successful prosecutions, and guaranteeing compensation to victims (paragraph 39).

training for enhancing capabilities of actors in the field from national funding. Moreover, the various stakeholders attend various training abroad whenever they are invited.

*In **November 2016** training was provided on two days by two foreign trainers from IOM and Frontex together with local experts, one from the Police and one from the Jesuit Refugee Service to 50 officials. The aim is to enhance the capacity of the stakeholders, and the Maltese system as a whole, to address the identification and protection challenges and counteract the crime of trafficking in persons more effectively, to increase knowledge on the scale and nature of trafficking in persons and to facilitate information sharing and cooperation at the national level. The Frontex expert also shared clues and techniques with trainees both from the police side and the agencies side of how they can ask for information and/or look out for details that by inference can help in*

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	<p><i>generating knowledge to be reused by the police to secure a greater number of convictions.</i></p> <p><i>Stakeholders benefitting from the October training were:</i></p> <p><i>Immigration Police, Vice Squad Police, Rapid Response Unit Police, Asylum Determination Officers from the Office of the Refugee Commissioner, Officials from Appogg Agency, and the Agency for the Welfare of Asylum Seekers.</i></p>	
<p>11. GRETA considers that the Maltese authorities should continue their efforts to develop a comprehensive and coherent statistical system on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of THB cases (paragraph 42).</p>	<p><i>A measure contemplated by the 2017-2019 Action Plan is the ‘Review of available statistical data relating to recognised human trafficking cases as well as potential cases with a view to better disaggregating such data in accordance with established practices’.</i></p> <p><i>For the purpose, a refresher course was also held on the 5th of September with all the stakeholders for the purpose of implementing this measure.</i></p> <p><i>This was followed up with additional individual meetings with the Police</i></p>	<p><i>Being implemented</i></p>

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	<p><i>and Appogg, as the main contributors of data, to agree on the way forward, specifically to discuss:</i></p> <ul style="list-style-type: none"> <i>-Contact Points;</i> <i>-Statistical Info to be collected and provided; and,</i> <i>-Timeframes for the provision of feedback.</i> 	
<p>12. GRETA considers that the Maltese authorities should continue to conduct and support research on THB-related issues as an important source of information for future policy measures. Possible research areas include trafficking for the purpose of sexual exploitation and the risk of trafficking of unaccompanied minors and refugee children (paragraph 45).</p>	<p><i>A measure contemplated by the 2017-2019 Action Plan is 'Research among minors and women in Open Reception Centres with a view to obtaining information concerning their plans for the future, as well as about their current situation i.e.:</i></p> <ul style="list-style-type: none"> <i>-about their current situation, especially vis-a-vis employment and/or training/education;</i> <i>-about their social life in Malta; and,</i> <i>-about their contacts in other European countries including family members and friends.</i> <p><i>For the purpose researchers from the University of Malta were tasked to conduct this research. A set of 40 interviews are planned with women and children in the two main Open Centres for families in Malta.</i></p>	<p><i>This measure is being implemented.</i></p>

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	<p><i>The full report with the outcome of this research is expected in June 2018.</i></p>	
<p>14. GRETA considers that the practice of linking visas or residence permits to a single employer could increase the risk of labour exploitation as an employee would in practice be unable to leave the individual employer (paragraph 55).</p>	<p><i>Employment licences (work permits) are issued to third country nationals on the basis of labour market considerations and in accordance with the provisions article 4 of Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State, which was transposed into Maltese legislation under the relative Subsidiary legislation of the Immigration Act (Cap 217) whereby the application has to be endorsed by the employer wishing to engage such third country national. In this regard the position of the employer and the authorities has to be safeguarded also from abuse.</i></p> <p><i>It is to be remarked that the authorities allow mobility in the labour market and hence the third</i></p>	<p><i>No further action is considered necessary in terms of this recommendation.</i></p>

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	<i>country national can move from employer to another. Such requests are processed in a confidential manner hence such approach minimizes the risk of exploitation.</i>	
15. GRETA welcomes the measures taken by the Maltese authorities to prevent THB for the purpose of labour exploitation and considers that these efforts should be intensified, including by further sensitising relevant officials about trafficking for the purpose of labour exploitation and the rights of victims, and working closely with the private sector, in line with the Guiding Principles on Business and Human Rights (paragraph 56).	<i>The current action plan specifies implementing measures in this sense. Arrangements will start at the end of this year to fulfil this recommendation.</i>	<i>Ongoing</i>
16. GRETA considers that the Maltese authorities should increase their efforts to raise awareness of child trafficking, including by continuing and expanding the provision of information to school children about this phenomenon (paragraph 61).	<i>The Maltese authorities are planning to raise awareness about human trafficking issues in a general manner, which could refer to child trafficking. It should however be reiterated that so far; no cases of child trafficking have been encountered in Malta.</i>	<i>Ongoing</i>
17. Further, GRETA considers that Malta should, in line with Article 7 of the United Nations Convention on the Rights of the Child, grant Maltese citizenship to children	<i>In this regard it is to be remarked that in accordance with Maltese Legislation a stateless person shall be</i>	<i>This measure is being implemented.</i>

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<p>who have not been registered as born in another country before reaching Malta and who run the risk of remaining stateless (paragraph 62).</p>	<p><i>entitled to be naturalised as a citizen of Malta if he/she satisfies the provision of Article 10 (6) and (7) of the Maltese Citizen Act, Cap 188.</i></p> <p><i>Consequently, a person is considered to have been born in Malta and before reaching the country in the circumstances provided for by the said Act in Article 2 (2) as follows: For the purpose of this Act, a person born abroad a registered ship or aircraft, or abroad an unregistered ship or aircraft of the government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.</i></p>	
<p>18. GRETA encourages Malta to sign and ratify the Council of Europe Convention against Trafficking in Human Organs (paragraph 65).</p>	<p><i>Malta signed and ratified the Convention on Trafficking in Human Organs on 7 November 2017.</i></p>	<p><i>Completed</i></p>
<p>19. GRETA considers that the Maltese authorities should strengthen their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society and the private sector (paragraph 70).</p>	<p><i>Linked to Recommendation 15</i></p>	<p><i>Ongoing</i></p>

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<p>20. GRETA welcomes the creation of a National Referral Mechanism and the related Standard Operating Procedures and considers that the Maltese authorities should ensure the regular training of relevant officials in the use of trafficking indicators, including asylum officials and staff working in reception centres for asylum seekers and administrative detention centres (paragraph 84).</p>	<p><i>Action in this regard is contemplated in the current action plan notably 'Mentoring in training of service providers in relation to the identification and the provision of assistance to the victims of trafficking, including training on the implementation of Standard Operating Procedures'.</i></p>	<p><i>Still to be implemented.</i></p>
<p>21. GRETA invites the Maltese authorities to consider expanding the grounds for granting temporary residence permits to victims of THB on the basis of their personal situation, in addition to the residence permit on the basis of the victim's co-operation in the investigation or criminal proceedings (paragraph 116).</p>	<p><i>In exceptional circumstances, the Maltese authorities do consider granting temporary residence permits to victims of THB on the basis of the personal situation of the persons concerned.</i></p>	<p><i>This measure is being implemented.</i></p>
<p>22. Further, GRETA considers that the Maltese authorities should review the provisions of Article 10 (in particular sub-points d and g) of S.L. 9.12 as regards grounds for refusing compensation to victims of crime with a view to ensuring that the right to private life and the right to compensation for victims of trafficking are respected (paragraph 128).</p>	<p><i>The Ministry for Justice, Culture and Local Government does not envisage any legislative review concerning legal provisions referred to for the reason that the Justice Department assures that they are fully committed to ensuring the right to private life and the right to compensation for victims of trafficking are respected in line with normal internationally recognised standards.</i></p>	<p><i>No further action required.</i></p>

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<p>23. GRETA considers that the Maltese authorities should continue to take steps to ensure that the return of victims of THB is preferably voluntary, and is conducted with due regard to their rights, safety and dignity, including the right to non-refoulement (Article 40(4) of the Convention) and, in the case of children, by fully respecting the principle of the best interests of the child (paragraph 132).</p>	<p><i>Returns of victims of human trafficking to their respective countries of origin were always voluntary. The principle of non-refoulement is always taken into account in accordance with the Refugees Act (Cap. 420).</i></p>	<p><i>This measure has been implemented.</i></p>
<p>24. GRETA considers that the Maltese authorities should ensure that there is sufficient awareness of the non-punishment provision and its scope amongst police, prosecutors and judges and that the relevant authorities exercise fully their discretion not to prosecute victims of trafficking for unlawful acts they were compelled to commit (both criminal and administrative offences – paragraph 145).</p>	<p><i>While training has not been conducted specifically on the non-punishment principle, for the Police as prosecutors, the Police have been sensitised about this matter during the various training programmes. Moreover, Police Cadets undergoing training prior to qualifying to join the Force are also informed about the non-punishment principle.</i></p> <p><i>The principle of non-punishment is derived from Council Directive 2011/36EU: article 8 provides that Member States shall, in accordance with the basic principles of their legal systems, take the necessary measures to ensure that competent national authorities are entitled not to prosecute or impose penalties on victims of trafficking in human beings for their involvement in criminal activities which they have been</i></p>	<p><i>This measure has been implemented.</i></p>

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compelled to commit as a direct consequence of being subjected to any of the acts referred to in Article 2. A similar provision has been included in our Criminal Code; section 248E (6) of the Criminal Code in fact states that the offences committed under this sub-title shall not be liable to punishment if the offender was compelled thereto by another person where the provisions of article 33(b) do not apply.

Furthermore, the Victims of Crime Act (Chapter 539), in the part dealing specifically with victims of trafficking (sections 15 et seq) makes it obligatory for the victim to be given all the necessary assistance and support before and during proceedings to exercise his rights under the Council Directive 2011/36EU.

As indicated also in previous occasions when this query was raised by GRETA it is evident that Judges and Magistrates do benefit from continuous training both locally and abroad made available directly by the Judicial Studies Committee or by foreign bodies through the said Committee. It might be relevant to

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	<p><i>point out that unlike in other jurisdictions the Maltese judiciary do not have a role as prosecutors although they do have an investigatory role as inquiring magistrates in the context of which they may recommend that charges be brought against a person suspected of a crime. Prosecution of an accused is the prerogative of the Executive Police and the Attorney General.</i></p>	
<p>25. GRETA considers that the Maltese authorities should make full use of the existing legal possibilities to provide protection of witnesses and victims in THB cases (paragraph 158).</p>	<p><i>If any person needs witness protection this can be made available by virtue of legal provisions which grant witnesses physical protection by police. In addition, such witnesses would not be prosecuted for a crime while they are testifying against the principal or accomplice in the criminal case. Nonetheless none of the human trafficking victims opted to avail themselves of this legal provision. The Victims Unit within the Police Vice Squad also assists if and where necessary.</i></p> <p><i>Moreover, victims of human trafficking always testify by means of video conferencing and as such do not face the perpetrator in the court room. Generally, they are accompanied by the social worker or</i></p>	<p><i>Recommendation is considered as completed.</i></p>

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	<p><i>member of the NGO as well as their lawyers who generally are also appointed by the NGO specialising in dealing with human trafficking cases.</i></p>	
<p>26. GRETA notes the steps taken by the Maltese authorities in the area of international co-operation in combating THB and invites them to continue their efforts (paragraph 166).</p>	<p><i>In May 2017 the Malta Police and the Courts cooperated with the Italian Anti-Mafia and Judiciary to extradite 3 Ukrainian nationals operating between Turkey and Europe smuggling migrants of various nationalities. These are facing charges of human trafficking and migrant smuggling in Italy.</i></p> <p><i>A second case with similar modus operandi was encountered in June involving 2 other Ukrainian nationals. An extradition order was filed with the Maltese authorities for the two to face charges of human trafficking and migrant smuggling in Italy.</i></p> <p><i>It should also be noted that the Ministry for Home Affairs and National Security and the Ministry of Foreign Affairs and Trade Promotion donated the sum of EUR 20,000 to the UN fund dedicated to human trafficking victims.</i></p>	<p><i>This measure is being implemented.</i></p>

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<p>27. GRETA considers that the Maltese authorities should continue involving civil society actors in anti-trafficking work and should allocate appropriate funding to NGOs for the purpose of supporting victims of THB (paragraph 170).</p>	<p><i>Civil society actors are being involved in the human trafficking issues, including in particular in the Anti-human trafficking stakeholder task force.</i></p> <p><i>It should be noted that, as regards victim support, this is offered by Agenzija Appogg through government funding.</i></p> <p><i>Furthermore, the relevant competent authorities are currently in the process of waiving certain fees for identified victims of THB with a view to facilitating, inter alia, their access to the labour market.</i></p>	<p><i>Measure is being implemented.</i></p>
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