



G R E T A
GROUP OF EXPERTS
ON ACTION AGAINST
TRAFFICKING IN HUMAN BEINGS

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

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Preamble

The Group of Experts on Action against Trafficking in Human Beings (GRETA) has been set up pursuant to Article 36 of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention"), which entered into force on 1 February 2008. GRETA is composed of 15 independent and impartial experts coming from a variety of backgrounds, who have been selected on the basis of their professional experience in the areas covered by the Convention. The term of office of GRETA members is four years, renewable once.

GRETA is responsible for monitoring the implementation of the Convention by the parties and for drawing up reports evaluating the measures taken by each party. In accordance with Article 38, paragraph 1, of the Convention, GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions on which the evaluation procedure is to be based and defines the most appropriate means to carry out the evaluation. GRETA adopts a questionnaire for each evaluation round which serves as the basis for the evaluation and is addressed to all parties.

The first evaluation round was launched in February 2010 and the questionnaire for this round was sent to the parties according to a timetable adopted by GRETA, which reflected the time of entry into force of the Convention for each party. GRETA organised country visits to all parties in order to collect additional information and have direct meetings with relevant actors, both governmental and non-governmental.

Following the first round of monitoring, which provided an overview of the implementation of the Convention by each party, GRETA launched the second evaluation round of the Convention on 15 May 2014. During this new evaluation round, GRETA has decided to examine the impact of legislative, policy and practical measures on the prevention of trafficking, the protection of the rights of victims of trafficking, and the prosecution of traffickers. The adoption of a human rights-based approach to action against trafficking in human beings remains at the centre of the second evaluation round. In addition, particular attention is paid to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking. The questionnaire adopted by GRETA for the second evaluation round is sent to all parties which have undergone the first evaluation round, following a timetable approved by GRETA.

GRETA's reports are based on information gathered from a variety of sources and contain recommendations intended to strengthen the implementation of the Convention by the party concerned. In its recommendations, GRETA has adopted the use of three different verbs - "urge", "consider" and "invite" - which correspond to different levels of urgency of the recommended action for bringing the party's legislation and/or practice into compliance with the Convention. GRETA uses the verb "urge" when it assesses that the country's legislation or policy are not in compliance with the Convention, or when it finds that despite the existence of legal provisions and other measures, the implementation of a obligation of the Convention is lacking. In other situations, GRETA "considers" that it is necessary to make improvements in order to fully comply with an obligation of the Convention. By "inviting" a country to pursue its efforts in a given area, GRETA acknowledges that the authorities are on the right track.

As regards the procedure for the preparation of reports, GRETA examines a draft report on each party in a plenary session. The process of confidential dialogue with the national authorities allows the latter to submit, within two months, comments on GRETA's draft report with a view to providing additional information or correcting any possible factual errors. These comments are taken into account by GRETA when establishing its final report. The final report is adopted by GRETA in a plenary session and transmitted to the party concerned, which is invited to submit any final comments. At the expiry of the time-limit of one month GRETA's report, together with eventual comments by the party concerned, is made public and sent to the Committee of the Parties to the Convention.

I. Introduction

1. The first evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") by Poland took place in 2012-2013. Following the receipt of Poland's reply to GRETA's first questionnaire on 31 August 2011, a country evaluation visit was organised from 23 to 27 April 2012. The draft report on Poland was examined at GRETA's 15th meeting (26-30 November 2012) and the final report was adopted at GRETA's 16th meeting (11-15 March 2013). Following the receipt of the Poland authorities' comments, GRETA's final report was published on 6 May 2013.¹

2. In its first report on Poland, GRETA welcomed the steps taken by the Polish authorities to combat trafficking in human beings and support victims of trafficking, through the development of a comprehensive legal and policy framework and the setting up of specialised structures. However, GRETA urged the authorities to include an express prohibition of servitude in the Criminal Code so as to ensure greater certainty and clarity as to the scope of domestic law in regard to THB. In the area of prevention of human trafficking, GRETA noted the need to design future awareness-raising activities in the light of impact assessment of previous measures and research. GRETA also drew attention to the need for adapting the existing anti-trafficking policies with a view to strengthening action against trafficking for the purpose of labour exploitation and addressing the particular vulnerability of children to trafficking. GRETA commended the involvement of non-governmental organisations (NGOs) in the identification of victims of trafficking, but urged the authorities to take further steps to secure the identification of victims, paying increased attention to children and migrants. Further, GRETA urged the Polish authorities to improve the application of the recovery and reflection period and the use of residence permits, as well as to adopt measures to facilitate and guarantee access to compensation for victims of trafficking.

3. On the basis of GRETA's report, on 7 June 2013 the Committee of the Parties to the Convention adopted a recommendation to the Polish authorities, requesting them to report back on the measures taken to comply with this recommendation by 7 June 2015.² The report submitted by the Polish authorities was considered at the 16th meeting of the Committee of the Parties (15 June 2015). The Committee of the Parties decided to transmit the authorities' report to GRETA for consideration and to make it public.³

4. On 1 September 2015, GRETA launched the second round of evaluation of the Convention in respect of Poland by sending the questionnaire for this round to the Polish authorities. The deadline for submitting the reply to the questionnaire was 1 February 2016. Poland submitted its reply on 8 February 2016.⁴

5. In preparation of the present report, GRETA used the reply to the questionnaire by the Polish authorities, the above-mentioned report submitted by them to the Committee of the Parties and information received from civil society. An evaluation visit to Poland took place from 14 to 18 November 2016, in order to hold meetings with relevant actors, collect additional information and assess the practical implementation of adopted measures. The visit was carried out by a delegation composed of:

- Mr Jan van Dijk, First Vice-President of GRETA;
- Ms Alina Braşoveanu, member of GRETA
- Mr Mats Lindberg, administrator in the Secretariat of the Convention.

1 <http://rm.coe.int/1680632f48>

2 <http://rm.coe.int/1680632341>

3 <http://rm.coe.int/1680632343>

4 <http://rm.coe.int/168063bb58>

6. During the visit, the GRETA delegation met representatives of the Ministry of the Interior and Administration, which co-ordinates Poland's efforts against trafficking in human beings, including officials of the Unit of the European Migration Network and Prevention of Trafficking in Human Beings, the Unit for Combating Trafficking in Human Beings of the National Police Headquarters, and the Border Guard Headquarters. It also met officials from the Ministry of Justice, including the Prosecutor General's Office and the National School of the Judiciary and Prosecutors, the Ministry of Health, including the Agency for Organ Donations and Transplantations, the Ministry of Family, Labour and Social Policy, the Ministry of Education, the Ministry of Foreign Affairs, including the Office for Foreigners, and the State Labour Inspectorate. Discussions were also held with the Plenipotentiary for Equal Treatment and Civil Society and representatives of the Polish Parliament (*Sejm*).

7. In the course of the visit, the GRETA delegation travelled to Gorzów Wielkopolski where it met the regional anti-trafficking team and visited a crisis centre which can accommodate victims of trafficking. The delegation also visited Child Care Home No. 2 of Warsaw Municipality which can accommodate child victims of trafficking.

8. Separate meetings were held with representatives of NGOs, trade unions, lawyers specialised in representing to victims of trafficking and the Director of the Centre for Human Trafficking Studies of Warsaw University. Discussions were also held with representatives of the offices of the United Nations High Commissioner for Refugees (UNHCR), the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and the International Organization for Migration (IOM) in Poland.

9. The list of the national authorities, NGOs and other organisations with which the delegation held consultations is set out in the Appendix to this report. GRETA is grateful for the information provided by them.

10. GRETA wishes to place on record the co-operation provided by the Polish authorities and in particular by the contact persons appointed by the Polish authorities at different points of the evaluation process to liaise with GRETA, namely Ms Ewa Nowacka, Ms Joanna Sosnowska and Ms Anna Romanowska of the Unit of the European Migration Network and Prevention of Trafficking in Human Beings of the Ministry of the Interior and Administration.

11. The draft of the present report was approved by GRETA at its 28th meeting (27-31 March 2017) and was submitted to the Polish authorities for comments on 12 April 2017. The authorities' comments were received on 14 June October 2017 and have been taken into account by GRETA when considering and adopting the final report at its 29th meeting (3-7 July 2017). The final report covers the situation up to 7 July 2017; developments since that date are not taken into account in the following analysis and conclusions. The conclusions summarise the progress made since the first report, the issues which require immediate action and the other areas where further action is needed (see pages 44-48).

II. Main developments in the implementation of the Convention by Poland

1. Emerging trends in trafficking in human beings and types of exploitation

12. Poland is a country of origin, transit and destination of victims of trafficking in human beings (THB). According to statistics provided by the Polish authorities, the number of presumed victims of THB identified by the Police and the Border Guard was 193 in 2013, 98 in 2014, 58 in 2015 and 119 in 2016 (49% of them were identified by the Police). The National Consulting and Intervention Centre for Victims of Human Trafficking (KCIK) identified and assisted 222 presumed victims of THB in 2013, 207 in 2014, 229 in 2015, and 200 in 2016. As there is a degree of double counting between these two sets of figures, it is not possible to give a total number of the presumed and identified victims of THB in Poland. A separate set of data from the Prosecutors' Office concerning victims of THB identified in the context of criminal proceedings indicates that there were 135 such victims in 2013, 103 in 2014, 115 in 2015 and 79 in 2016; these numbers are mostly included in the first two sets of figures. Thus the lack of comprehensive and coherent statistical system on THB in Poland continues to be a problem (see paragraphs 47-48).

13. Only some of the available sets of data are broken down by sex, age and form of exploitation. Nevertheless, it would appear that the majority of the identified or presumed victims over the period 2013-2016 were female (i.e. 67% of the victims identified by KCIK and 60% of the victims identified by the Border Guard). Trafficking for the purpose of sexual exploitation concerned 34% of the victims identified by KCIK and 14% of those identified by the Border Guard. The number of victims of THB for the purpose of forced labour has grown over the years and constituted 37% of the victims identified by KCIK and 75% of those identified by the Border Guard. The increase in THB for the purpose of labour exploitation has resulted in an increase in the share of male victims. There were 63 victims of trafficking for the purpose of forced begging (mostly foreign nationals trafficked to Poland) and 11 for the purpose of forced marriage among the victims identified by KCIK. A growing new trend is trafficking of people by organised crime groups in order to obtain loans or social benefits on their behalf, usually to Germany and the UK. As regards presumed child victims of trafficking, 118 were identified by KCIK (originating mostly from Romania and Poland) and 17 by the Border Guard.

14. As regards the country of origin of the victims, most of the foreign victims identified during the reporting period originated from Ukraine, Romania and Bulgaria. Other important countries of origin were Vietnam, Philippines, Sri Lanka and North Korea. The number of Polish victims of trafficking identified and assisted by KCIK was 103 in 2013, 71 in 2014, 103 in 2015 and 96 in 2016. The Border Guard identified a total of 10 Polish victims of trafficking in the reporting period and the Police, 127. Polish citizens trafficked abroad were most often identified in the UK,⁵ the Netherlands and Germany.

2. Developments in the legal framework

15. The legal provisions related to the recovery and reflection period and residence permits for victims of THB have evolved since GRETA's first evaluation, following amendments to the Law on Foreigners adopted in December 2013 (in force since 1 May 2015). The amendments introduced a certificate for third-country victims of trafficking confirming that the holder is a presumed victim of trafficking and in that capacity may remain in Poland for three months (four months in the case of children). The law further extended the maximum validity of the residence permit granted to victims who co-operate with the law enforcement agencies to three years and introduced the possibility to obtain a permanent residence permit.

⁵ There were 86 presumed Polish victims of trafficking identified in the UK in 2013, 81 in 2014 and 160 in 2015. The most common form of exploitation was forced labour, followed by social benefit or credit fraud.

16. The Law of 28 November 2014 on Protection and Assistance of Victims and Witnesses, which entered into force on 7 April 2015, regulates the protection of victims and witnesses and aims at encouraging their participation in criminal proceedings. Further, amendments to the Code of Criminal Procedure (CCP) increased the scope of victim data anonymisation, allowed for the participation in criminal proceedings of a support person chosen by the victim and extended the possibilities for witnesses to testify using a video link.

17. Further, a number of amendments have been made in the area of compensation for victims of crime, through the Law on 27 September 2013 amending the Code of Criminal Procedure and certain other laws as well as the Law of 5 August 2015 amending to the Law on State Compensation, the Code of Civil Procedure and the Law on Court Fees in Civil Matters. The latter broadened the possibilities of victims permanently resident in Poland and other European Union (EU) member States to seek compensation in situations in which the perpetrator for one reason or another cannot be held legally liable.

18. The above-mentioned measures are discussed in further detail in later parts of this report (see in particular paragraphs 135, 142-144, 151-153 and 190-193).

3. Developments in the institutional framework

19. The Inter-Ministerial Committee for Combating Trafficking in Human Beings, which comprises representatives of ministries, public agencies, NGOs and international organisations, functions as a consultative body of the Prime Minister and continues to be responsible for the overall policy co-ordination of anti-trafficking action in Poland and approving the National Action Plan.⁶ The Inter-Ministerial Committee meets twice a year. The expert-level Working Group set up within the Inter-Ministerial Committee for the purpose of monitoring the implementation of actions under the National Action Plan and exchanging information meets four times a year.

20. The Ministry of Interior and Administration continues to play the lead role in the co-ordination of anti-trafficking action. The Unit of the European Migration Network and Prevention of THB, which is subordinated to the Analyses and Migration Policy Department of the Ministry, consists of 13 staff members, seven of whom are involved in activities related to combating THB. This unit provides the secretariat to the Inter-Ministerial Committee.

21. The Polish authorities have indicated that the Inter-Ministerial Committee for Combating Trafficking in Human Beings functions as a mechanism equivalent to a National Anti-trafficking Rapporteur, but in practice its Secretariat, i.e. the Ministry of the Interior and Administration's Unit of the European Migration Network and Prevention of THB, fulfils this function and participates in the Informal EU Network of National Rapporteurs or equivalent mechanisms.

22. GRETA would like to stress that Article 29 of the Convention makes a clear distinction between national co-ordination and National Rapporteur. In GRETA's view, the key features of National Rapporteurs' mechanisms in the sense of Article 29, paragraph 4, of the Convention⁷ should be the ability to critically monitor the efforts and effectiveness of all state institutions, including national co-ordinators, and to that end maintain a constant exchange with civil society, the research community and other relevant stakeholders. The human rights-based approach to anti-trafficking policies advocated by the Convention requires adequate monitoring and evaluation. A structural separation between monitoring and executive functions enables an objective evaluation of the implementation of anti-human trafficking legislation, policy and activities, identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations.⁸

⁶ See paragraphs 23-24 of GRETA's first report on Poland.

⁷ "Each Party shall consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements."

23. GRETA considers that the Polish authorities should keep under review the effectiveness of the Unit for the European Migration Network and Prevention of THB in fulfilling the role of an equivalent mechanism to a National Rapporteur 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.

24. In January 2014, a Unit for Combating Trafficking in Human Beings within the Department for Criminal Service in the National Police Headquarters was established to monitor, co-ordinate and support police activities in the areas of combating THB and sexual abuse of children. It currently employs 10 officers. Further, the teams for combating THB within the Regional Police Headquarters and Warsaw Metropolitan Police Headquarters employ 58 officers and the Central Bureau of Investigation of the Police, 18 co-ordinating police officers involved in the anti-THB teams' work.

25. The process of establishing regional anti-trafficking teams in each of Poland's 16 regions (known as "voivodships"), which began in 2014, was completed in 2016. These teams include representatives of the offices of the regional administrations and the regional structures of the Police, the Border Guard, the State Labour Inspectorate, the Customs Service, the social assistance offices, the employment offices and NGO representatives. The purpose of the regional anti-trafficking teams is to co-ordinate prevention activities, training and the provision of assistance to victims of trafficking. The composition of the regional teams may vary from one region to another. The institutions to which the team's members belong cover the operational costs from their budgets. Awareness-raising campaigns and other activities not directly related to the functioning of the teams are financed from other sources, such as the Ministry of Justice. The GRETA delegation met the anti-trafficking team in Gorzów Wielkopolski, set up on 19 May 2014. At the time of the visit the team had 27 persons involved in its work, including representatives of the police, the Border Guard, the Prosecutor's Office, the District Court, the State Labour Inspectorate, the regional commercial inspection, the regional administration, the social services and NGOs. GRETA welcomes the setting up of regional anti-trafficking teams.

26. A nationwide network of NGOs against THB was created in July 2014 as part of a project funded by the Norway Grants Financial Mechanism. It is led by the La Strada Foundation against Trafficking in Human Beings and Slavery and currently has 19 members.

4. National Action Plans

27. In its first report, GRETA considered that the Polish authorities should take further steps to ensure that the National Action Plan to combat THB is comprehensive, in particular by stepping up action to combat trafficking for the purpose of labour exploitation and paying increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking, and to increase co-ordination at the regional level of the activities of public bodies and NGOs involved in the implementation of anti-trafficking measures.

⁸ In this context, see also the Summary report on the Consultative Meeting on Strengthening Partnerships with National Rapporteurs on Trafficking in Persons and Equivalent Mechanisms organised by the UN Special Rapporteur on trafficking in persons, especially in women and children, in Berlin, 23-24 May 2013.

28. The 2013-2015 National Action Plan against THB focused on disseminating knowledge about THB, in particular to risk groups, increasing the range and quality of assistance offered to victims of THB (including children), improving the effectiveness of the investigation and prosecution of THB offences, capacity-building of staff involved in fighting THB and supporting victims, such as law enforcement officials, judicial authorities, employees of the Office for Foreigners, social services and consulates, and improving international co-operation, notably with the UK and the Netherlands.⁹ An annual budget of 135 000 PLN (about 31 000 Euros) was made available for financing the implementation of the Plan, as well as another 1 000 000 PLN (about 230 000 Euros) for running the National Consulting and Intervention Centre for Polish and Foreign Victims of Trafficking (KCIK).

29. In addition, close to 2 000 000 PLN (about 460 000 Euros) were made available by the Polish authorities as co-financing of projects financed by the Norway Grants Financial Mechanism, which are linked to the implementation of the National Action Plan.¹⁰ Funding under the Norway Grants has enabled eight anti-THB projects in the reporting period, including training of police officers, border guards, judges, prosecutors, and migration and asylum officials. It has also financed the creation of the previously mentioned national network of NGOs against THB. A number of other projects linked to the implementation of the National Action Plan have been co-funded by the EU and foreign donors. For example, the project "Filling the Gaps in the System of Combating THB in Poland" (FIGAS), implemented by the Centre for Human Trafficking Studies of Warsaw University, the Board Guards Headquarters and the Central Border Guard Training Centre in Koszalin, was financed by the European Commission and implemented between January 2013 and March 2015.

30. The National Action Plan against THB for 2016-2018 was adopted by the Polish Government on 17 August 2016. It is divided into five chapters dealing respectively with: 1) prevention; 2) support and protection of victims; 3) prosecution of THB; 4) training of professionals; 5) studies on THB and evaluation of actions undertaken. Preventive actions are envisaged both for the general public and specific groups, in particular children and young people, Polish citizens planning to work abroad and foreigners planning to work in Poland. It is also foreseen to develop co-operation with employer associations and temporary recruitment agencies. The second chapter includes the development of a National Referral Mechanism for victims of trafficking, the preparation of legal amendments to further improve the support given to victims of THB, the organisation of an annual meeting of co-ordinators of regional anti-trafficking teams and the development of a programme for support and protection of child victims of trafficking. The third chapter focuses on improving co-operation between relevant professional groups such as border guards, police officers and labour inspectors. The fourth chapter envisages training activities for relevant professionals, including law enforcement officials, the judiciary, and other professionals providing assistance to, or likely to encounter, victims of trafficking. The fifth chapter envisages improved data collection and analysis of the assistance provided to victims and THB cases adjudicated.

31. The Ministry of the Interior and Administration draws up annual and final reports on the implementation of the National Action Plans. There is no external, independent evaluation of the National Action Plan against THB, but in principle the Supreme Audit Office is responsible for exercising independent control over all government action plans.

⁹ See page 55 of the of Report on Trafficking in Human Beings in Poland in 2015, prepared by the Unit Against Trafficking in Human Beings in the Analyses and Migration Policy Department of the Ministry of the Interior and Administration http://www.google.fr/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwju57_StM7RAhULXhoKHdkzDX8QFggaMAA&url=http%3A%2F%2Fwww.handelludzmi.eu%2Fdownload%2F91%2F13120%2FRaport2015-finalen.pdf&usq=AFOjCNHCnYqYgb7k2BI9Ia_A3Bx8LaPh9w&sig2=3W5feAmH43dbFI5LAOyMoA

¹⁰ For example, in 2015 the Central Border Guard Training Centre in Koszalin, together with IOM, implemented a project co-financed by the Norway Grants entitled "Strengthening the Potential of the Border Guard in Combating Organised Crime, including Trafficking". Under this project, 59 border guard officers were trained in identification of victims of THB. Another project co-funded by the Norway Grants, entitled "Co-operation and Competence as Key to Effective Combating of THB", was implemented by the National Border Guard Headquarters, in co-operation with IOM.

32. GRETA considers that the Polish authorities should introduce an independent evaluation of the implementation of National Action Plans against THB and other anti-THB projects, as a tool for assessing the impact of the activities and planning future policies and measures to combat THB.

5. Training of relevant professionals

33. In its first report, GRETA considered that there was a need for further investment in the continuous training and awareness raising of relevant professionals, in particular prosecutors, judges, border police officers, immigration officials, labour inspectors, social workers and members of NGOs likely to come into contact with victims of trafficking.

34. The subject of THB remains part of the curricula of the initial training of police officers at the Police Academy in Szczytno. A more specialised course on THB was developed in 2014 and is being implemented at the Police Academy in Piła. It includes elements of the curriculum for combating THB developed by the European Agency for Law Enforcement Training (CEPOL) and covers relevant national and international legislation, including the updated Law on Social Assistance and the Law on Foreigners, the investigation of THB cases and the establishment of Joint Investigation Teams. A total of 159 police officers have completed this five-day course (a total of 36 hours).

35. Three-day workshops on THB are organised on an annual basis, with some 90 participants in each, for anti-trafficking co-ordinators from the Police, the Border Guard and the Central Bureau of Investigation of the Police, prosecutors, judges, representatives of NGOs and officials from the Ministry of the Interior and Administration. The most recent training took place on 5-9 June 2017 at the Border Guard Training Centre in Koszalin.

36. Training on prevention and combatting of THB is provided continuously to border guard officers. The training covers identification of victims of trafficking and assistance to victims. More advanced training is provided to investigative staff. In 2013-2015 a total of 2557 border guard officers were trained on issues related to THB. Four training sessions on THB for border guards, boarding and check-in staff at Warszawa-Chopin international airport were held in 2014. Further training courses on particular themes with relevance to THB were also organised, such as four courses on the identification of victims of THB in 2013, attended by 417 border guards and delivered by IOM in the framework of the Assisted Voluntary Returns Programme. The e-learning courses developed by the IOM on "Identifying, protecting and assisting victims of human trafficking", were followed by 3329 border guards in the reporting period.

37. A training session on THB for the purpose of labour exploitation, including related case law of national and international courts, was organised by the Prosecutor's Office on 2 December 2016; it was attended by 60 prosecutors. In 2013 one training event was organised for judges and prosecutors on Directive 2011/36/EU and another one on forensic, criminological and legal aspects of trafficking in human beings. However, given the random allocation of criminal cases to judges, there is little incentive to develop specialism in THB.

38. GRETA was informed that training sessions for labour inspectors are organised every year and about one fourth of labour inspectors (i.e. 416 persons) have been trained on THB.

39. There has been no training on THB for health-care professionals, except for those employed by the Ministry of the Interior, who were trained in 2013 and 2015, and those involved in organ transplantations. In their comments on the draft GRETA report, the Polish authorities have referred to a new training programme for nurses and midwives which covers the issue of THB for the purpose of organ removal.

40. Training has also been organised for staff of the Office for Foreigners, on an annual basis as of 2014, on identification of victims of THB, including in the context of voluntary returns and identification of victims among asylum seekers. By way of example, 55 officials of the Office for Foreigners attended training on identification of potential victims of trafficking in human beings among persons applying for refugee status.

41. The Ministry of Family, Labour and Social Policy has provided training to employees of crisis intervention centres as regards assistance to victims of THB, as follows: 2013 – four training sessions involving 87 persons; 2014 – two training sessions involving 44 persons; 2015 – four training sessions involving 95 persons.

42. The Ministry of Foreign Affairs organises periodic training about THB for staff to be sent to consular posts abroad. In 2013-2015, 16 such training sessions were held with a total of 400 participants.

43. Training for social workers is organised four times a year by the Ministry of Family, Labour and Social Policy, in co-operation with the Ministry of Interior and Administration and the NGOs Nobody's Children Foundation and La Strada Foundation. The training focuses on the identification of child victims of THB and their rights. KCIK also organises lectures about THB for students preparing to become social workers.

44. The Network of NGOs against THB organises training sessions on various aspects of THB for its members and public officials. Since the establishment of the network in July 2014, about 260 people have been trained.

45. GRETA welcomes the training on THB given to a range of professional groups, and in particular the annual three-day workshops for police and border guards. Given the low rate of convictions for THB offences and the low numbers of compensation awards made to victims of trafficking, GRETA considers that training should be strengthened for prosecutors and judges (see also paragraph 188). Further, periodic training on THB should be introduced for other relevant professional groups, such as health-care staff.

6. Data collection and research

46. In its first report GRETA considered 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). 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.

47. Data on THB continues to be collected separately by the Police, the Border Guard and the General Prosecutor's Office. The National Consulting and Intervention Centre for Polish and Foreign Victims of Trafficking (KCIK) maintains a database on the victims it assists. In addition, the Ministry of Family, Labour and Social Assistance collects data on victims of THB supported by the social assistance system. The Ministry of the Interior and Administration receives relevant data from the previously mentioned bodies, but there is double-counting when it comes to presumed and identified victims and the data is not always disaggregated by gender, age and form of exploitation (see paragraphs 12-13).

48. GRETA is concerned by the lack of progress in setting up a coherent data collection system on THB in Poland, which makes it difficult to undertake a comprehensive assessment of the situation and the extent to which measures to combat THB correspond to the actual needs. For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA urges the Polish authorities to develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical data on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of human trafficking cases. Statistics regarding victims should be collected from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. This should be accompanied by all the necessary measures to ensure 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.

49. There have been a number of studies related to THB in Poland in recent years, conducted by research institutions, NGOs, international organisations and public bodies, such as the Ministry of the Interior and Administration.

50. In the context of the project "Improving Poland's Capacity to Prevent Trafficking in Human Beings", which was funded by the Norway Grants Financial Mechanism and implemented by the Ministry of the Interior and Administration and the Council of Europe, research entitled "Study on Demand Reduction Measures to Combat Trafficking in Human Beings for the Purpose of Labour Exploitation through Engagement of the Private Sector" was published in 2016.¹¹

51. Another study entitled "Trafficking for Forced Labour: Mechanisms of Formation and Effective Prevention"¹² was carried out in 2014 by the Centre for Human Trafficking Studies of Warsaw University in the framework of the project "ADSTRINGO - Addressing Trafficking for Labour Exploitation through Improved Partnerships, Enhanced Diagnostics and Intensified Organisational Approaches".¹³ The aim of this project, which involved a number of countries of the Baltic Sea region, was to gather knowledge about the mechanisms that lead to forced labour and to strengthen co-operation between national and regional institutions. The study collected information on sectors vulnerable to forced labour, recruitment methods and ways of exercising control over people exploited in work. Further, a study entitled "Modern Slavery Landscape in Poland", carried out in 2014 by the Centre for Human Trafficking Studies of Warsaw University as commissioned by the Australia-based NGO Walk Free Foundation, drew a map of modern slavery in Poland.¹⁴

52. Further, research into the factors that contribute to economic migration was conducted in 2014 by La Strada Foundation together with the Institute of Technology and Education of Koszalin Technical University and the Dutch organisation Fairwork. Another study on prevention of trafficking and the role of national rapporteurs was carried out as part of the project FIGAS, which run from January 2013 to March 2015 with EU funding.¹⁵

¹¹ Zbigniew Lasocik, *Study on Demand Reduction Measures to Combat Trafficking in Human Beings for the Purpose of Labour Exploitation through Engagement of the Private Sector*, April 2016. Available at:

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806b61f0>

¹² Zbigniew Lasocik, Emilia Rekosz-Cebula and Łukasz Wieczorek, *Human Trafficking for Forced Labour in Poland - Effective Prevention and Diagnostics Mechanisms*, Warsaw, October 2014.

http://www.cbss.org/wp-content/uploads/2012/11/raport_polish_english_ONLINE.pdf

¹³ <http://www.heuni.fi/en/index/researchareas/humantrafficking/adstringo-addressingtraffickinginhumanbeingsforlabourexploitationthroughimprovedpartnershipsenhanceddiagnosticsandintensifiedorganisationalapproaches.html>

¹⁴ Available at: <http://www.globallslaveryindex.org/country/poland/>

¹⁵ For more details, see the Polish authorities' reply to GRETA's questionnaire, pp.33-34.

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168063bb58>

53. In 2016 Leiden University's Asia Centre published a report on research conducted into suspected North Korean forced labour in Poland (see paragraph 76).¹⁶ Another recent research publication focuses on the criminal law provisions and criminological aspects of THB.¹⁷

54. GRETA welcomes the research on different aspects of THB carried out in Poland, including as regards trafficking for the purpose of labour exploitation, which has been on the rise. GRETA invites the Polish authorities to encourage and support further research on THB, in particular on the issue of child trafficking.

¹⁶ Marte Boonen, Klara Boonstra, Remco Breuker, Christine Chung, Imke van Gardingen, Kim Kwang-cheol, Oh Kyuwook and Anoma van der Veere, *North Korean Forced Labour in the EU: the Polish Case*, available at: <http://slavestothsystem.eu/wp-content/uploads/2016/07/North-Korean-Forced-Labour-in-the-EU-the-Polish-Case.pdf>

¹⁷ Paweł Łabuz, Irena Malinowska, Mariusz Michalski and Tomasz Safjański, *Handel ludźmi. Przestrzeń prawnokarna i kryminalistyczno-kryminologiczna* (Trafficking in Human Beings: Criminal Law and Criminological Regime), Warsaw, 2017.

III. Article-by-article findings

1. Prevention of trafficking in human beings

a. Measures to raise awareness (Article 5)

55. In its first report GRETA considered that future actions in the area of awareness-raising should be designed in the light of impact assessment of previous measures and research, and that 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.

56. In 2015 the Ministry of Interior and Administration organised a nationwide awareness-raising campaign as part of the project "Improving Poland's Capacity to Prevent Trafficking in Human Beings", funded by the Norway Grants Financial Mechanism (see paragraph 50). It was developed in the light of the findings of the report "Social Awareness of Human Trafficking Threats and Threats Regarding taking up a Job Abroad" published in October 2015. The campaign was addressed to a broad audience and carried a general message that anyone may fall victim to trafficking and require help. The project involved the broadcasting of spots on three nationwide TV channels and the radio in December 2015, mobile exhibitions, re-printing and dissemination of the Council of Europe comic book "You Are Not for Sale", and updating of the KCIC web site. The second part of the campaign was implemented in February/March 2016. Further, lectures for students and future social workers were delivered by Council of Europe experts in October 2016.

57. The website www.handelludzmi.eu and the associated Facebook page hosted by the Ministry of the Interior and Administration provides basic information on the dangers related to THB and useful information for victims as well as vulnerable groups. The site also contains advice for people planning to take up work abroad and contact details of organisations providing support for victims of THB in Poland and the EU. The website is managed and updated by the Ministry of the Interior and Administration. In 2015 the average number of website hits per month was about 16 000.

58. An awareness-raising project on safe migration and protection against trafficking for Polish emigrants was implemented in 2014 by the NGO La Strada Foundation together with the organisation Fairwork from the Netherlands, the Association of Polish Women in the Netherlands and the Institute of Technology and Education of Koszalin Technical University.

59. The impact of awareness-raising campaigns is usually evaluated by the institutions conducting them, but it appears that the evaluation is often limited to the assessment of whether the indicators or specific output goals that were planned for the campaign were reached, rather than the actual impact of the campaigns. In their comments on the draft GRETA report, the Polish authorities have referred to the above-mentioned report "Social Awareness of Human Trafficking Threats Regarding taking up a Job Abroad", which provides tools for assessing the impact of awareness-raising activities by means of measuring social awareness and attitudes. By way of example, the anti-trafficking team in Świętokrzyskie Region used the report to assess the impact of awareness-raising by means of a survey of the target group.

60. GRETA considers that the Polish authorities should continue their efforts to raise awareness of THB and design future actions in this area in the light of impact assessment of previous measures. To this end, independent evaluation studies should be made an integral part of future projects to raise awareness.

b. Measures to prevent THB for labour exploitation (Article 5)

61. In its first report, GRETA considered 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 to go for help and advice, and provide them with information about their rights.

62. As noted in paragraph 13, THB of foreign nationals for the purpose of labour exploitation in Poland has been on the rise. According to the previously mentioned report "Study on Demand Reduction Measures to Combat THB for the Purpose of Labour Exploitation" (see paragraph 50), there are gaps in the Polish anti-trafficking framework and forced labour is still not adequately addressed (see also paragraph 97).¹⁸

63. The National Labour Inspectorate carries out inspections to ensure compliance with labour law, occupational health and safety regulations and regulations regarding the activities of employment agencies and the legality of employment of Polish and foreign citizens. Labour inspections can take place at weekends and at night. However, the legislation in force is reportedly ambiguous as regards whether labour inspections need to be announced in advance or not.¹⁹ Labour inspectors also monitor the work of temporary employment agencies to ensure that they comply with the legislation. Labour inspectors can only make inspections in relation to domestic workers if there is a properly registered work contract, which is seldom the case.

64. The National Labour Inspectorate carried out 2026 inspections on the legality of employment in 2013, 2240 in 2014 and 2956 in 2015. The inspections in 2015 concerned foreigners from 129 different countries, including some 21 000 third-country nationals. About 74 % of the inspected foreigners were Ukrainians, who constitute the largest group of illegally employed foreigners.²⁰ The National Labour Inspectorate and the Border Guard co-operate and since 2009 they have been conducting joint inspections regarding the legality of employment of foreigners.

65. Only a few suspected cases of THB for the purpose of labour exploitation have been found by labour inspectors and referred to the Police, Border Guard or the Prosecutor's Office. Practical difficulties in the labour inspectors' work include language barriers and reluctance or fear of workers to report irregularities.

66. The Law of 9 July 2003 on Employment of Temporary Workers regulates amongst other the rules to be followed by job placement agencies. The National Action Plan for 2016-2018 foresees developing co-operation with temporary employment agencies aimed at preventing THB for forced labour.

¹⁸ Zbigniew Lasocik, *Study on Demand Reduction Measures to Combat Trafficking in Human Beings for the Purpose of Labour Exploitation through Engagement of the Private Sector*, April 2016, p. 9.

¹⁹ *Ibid*, pp. 16-17.

²⁰ Report on Trafficking in Human Beings in Poland in 2015, prepared by the Unit against Trafficking in Human Beings in the Analyses and Migration Policy Department of the Ministry of the Interior and Administration, p. 33.

67. Since 2015, nationals of six countries can get visas with the right to work in Poland for six months per year, based on a Polish employer's "statement of intention to employ".²¹ Foreigners employed under this scheme may change employer within the six month period, provided that the new employer duly registers the employment and the total duration of work in Poland per year does not exceed six months. However, the "statements of intention to employ" issued under this scheme appear to be problematic because they do not guarantee employment and migrant workers may be forced to accept any job offer once in Poland. Trade union representatives indicated that abuse by employers tends to increase towards the end of the six-month period during which the "statement of intention to employ" is valid because the employer knows that the employee has to leave Poland at the end of the period. According to trade union representatives, police officers sometimes consider violations of the labour legislation, such as non-payment of wages, as having limited societal harm and are reluctant to investigate them, especially as the punishment is limited to a fine.

68. Polish legislation permits the conclusion of so-called "civil law contracts" which make it possible for an employer and an employee to agree on working conditions below the Polish minimum standards, for example as regards minimum wages and employers' social contributions. According to trade union estimates, some 80% of the Ukrainian citizens working in Poland are working under such "civil law contracts". The relevant legislation has recently been amended and as of 1 January 2017 Polish minimum wages must be paid under "civil law contracts". Labour inspectors are tasked with monitoring whether the wages are effectively paid. However, the minimum working conditions standards do not apply to persons performing work under "specific task contracts") pursuant to which the person accepts to carry out the designated work for a fixed amount of money, regardless of the time it takes. This type of contract is apparently widespread in Poland due to the fact that it is not covered by the obligation for the employer to pay social security contributions.

69. In their comments on the draft GRETA report, the Polish authorities have referred to activities envisaged for 2017, such as launching a programme entitled "National Legalisation of Foreigners' Employment", which will include a training workshop for entrepreneurs employing foreigners and will promote the replacement of "civil law contracts" with employment contracts. The regional anti-trafficking teams, in particular in regions with a high number of Ukrainian workers (e.g. Bydgoszcz), are planning awareness-raising activities in co-operation with the border guard officers and labour inspectors.

70. Following amendments to the public procurement legislation in 2012, companies convicted of illegal employment of foreigners are excluded from participation in public tenders. Similarly, companies in which leading positions are held by natural persons who have been convicted of THB offences are excluded from public tenders.²² Further, as of 2015, all government procurement agreements have to include social clauses.

²¹ Citizens of Armenia, Belarus, Georgia, the Republic of Moldova, the Russian Federation and Ukraine. The legal basis for this arrangement is a Regulation of the Ministry of Labour and Social Policy of 21 April 2015. According to the Ministry of Family, Labour and Social Policy, there were 665 956 statements of "intention to employ a foreigner submitted by the end of 2015; 97.7 % of them concerned citizens of Ukraine. The vast majority of foreigners working under this scheme are employed in agriculture and construction. According to trade union estimates, there are some 700 000 - 800 000 migrant workers in Poland, some 90 % of whom are Ukrainians.

²² The public procurement legislation is available at:

https://www.uzp.gov.pl/_data/assets/pdf_file/0008/33110/Public_Procurement_Law_2016_consolidated.pdf

71. A project entitled "Migrants' Rights in Practice", which has been run by IOM, in collaboration with the Ministry of the Interior and Administration and the State Labour Inspectorate, since November 2011, aims at facilitating the integration of third-country nationals by increasing awareness of their rights and obligations in Poland and strengthening the fight against discrimination and exploitation of migrants in the labour market. The project is co-financed by the European Fund for the Integration of Third-Country Nationals and the Polish authorities. A telephone hotline has been set up as a part of the project, intended for migrants and nationals of Armenia, Belarus and Ukraine who are planning to apply for employment in Poland. The project also hosts a website²³ in eight languages (Polish, English, Chinese, French, Armenian, Russian, Ukrainian and Vietnamese). The hotline and website are promoted through advertisements in the media, leaflets distributed by border guard officers and at universities where foreign students study. Information meetings for migrants about their rights and obligations in Poland and anti-discrimination training for professionals also form part of the project.

72. The Office for Foreigners hosts a website²⁴ with information in Polish, English and Russian about relevant legislation, possibilities to work in Poland and regulations for issuing residence permits.

73. Some preventive measures are being taken in respect of citizens of countries considered to be at particular risk. Given the relatively high number of Filipino citizens identified in 2014 as victims of THB for the purpose of labour exploitation, a meeting was held at the initiative of the Embassy of the Philippines in Poland, at which Filipino citizens were informed about the risks of trafficking, the rights under Polish legislation and the Polish system of protection and assistance to victims of trafficking.

74. A seminar entitled "Trafficking in Poland in the Context of Recent Events in Ukraine - Diagnosis of the Situation, Strengthened Co-operation and Analysis Challenges" was held in 2014 at the initiative of the Polish Red Cross. The seminar, carried out in co-operation with the Foundation against Trafficking and Slavery and La Strada Foundation, was attended by 50 people, including representatives of the Polish and Ukrainian authorities, NGOs and international organisations. Further, at the end of 2015, a working meeting between the Ministry of the Interior and Administration, IOM and the Ukrainian Consulate in Warsaw took place. The main purpose of this meeting was to discuss the feasibility of conducting joint information activities in 2016 about the dangers of human trafficking for forced labour among Ukrainian job seekers in Poland. Another project targeting Ukrainian citizens planning to take up work in Poland, entitled "Safe Labour in Poland", implemented by EastWestLink, a Polish job placement agency, with co-funding from the Asylum, Migration and Integration fund (AMIF),²⁵ involved the establishment of a contact point providing legal aid to foreign workers.

75. The job placement agency Aterima together with the NGO PoMOC Association has since 2011 been organising Internet-based awareness-raising activities directed towards people planning to take up work abroad. Further, La Strada Foundation implements a project called "NGO & Co Business Engagement in Addressing Trafficking", which promotes zero tolerance of THB among private companies. Other initiatives undertaken to strengthen respect of human rights by businesses are mentioned in the "Study on Demand Reduction Measures to combat Trafficking in Human Beings for the Purpose of Labour Exploitation through Engagement of the Private Sector".²⁶

²³ www.migrant.info.pl

²⁴ <http://www.foreignersinpoland.com/office-foreigners/>

²⁵ http://ec.europa.eu/dgs/home-affairs/financing/fundings/migration-asylum-borders/asylum-migration-integration-fund/index_en.htm

²⁶ Zbigniew Lasocik, *Study on Demand Reduction Measures to combat Trafficking in Human Beings for the Purpose of Labour Exploitation through Engagement of the Private Sector*, April 2016 pp. 26-30.

76. As noted in paragraph 53, Leiden University's Asia Centre conducted research into suspected forced labour of North Korean citizens in Poland.²⁷ According to the report, the North Korean workers were employed through temporary employment agencies, their salaries were sent to State accounts in North Korea and therefore they were apparently victims of state-sponsored human trafficking. The report notes that since 2010, the Labour Inspectorate has conducted over 20 inspections of companies employing North Korean workers and irregularities have been found on some occasions, such as at the Crist shipyard in Gdynia. In 2014 a North Korean worker was reportedly killed in an accident at the Crist shipyard, which led to exposing a number of illegal practices by the employers. However, the labour inspectors found that the documentation of the North Korean workers was in order. According to officials from the Ministry of Foreign Affairs met by GRETA during its visit to Poland, since early 2016 no new visas have been granted to North Korean workers and no existing visas have been extended. All visas expired in November 2016, which means that there should be no legally employed North Koreans remaining in Poland. Representatives of the Ministry of Foreign Affairs stated that the newly appointed Polish consular representative in North Korea had been informed of the existing risks and that decisions to grant visas to Poland are taken on an individual basis, there being no general policy regarding certain nationalities.

77. Despite the above-mentioned initiatives, the Polish authorities acknowledge that measures to facilitate legal residence and work in Poland are not sufficient to prevent human trafficking. Most identified foreign victims of trafficking for the purpose of labour exploitation arrived in Poland in compliance with the legislation, but nevertheless they were subjected to exploitation afterwards.

78. GRETA notes the measures already undertaken in Poland to prevent human trafficking for the purpose of labour exploitation and considers that the Polish authorities should:

- review and assess the system of "statements of intention to employ" third-country nationals for periods of six months per year with a view to preventing exploitative practices;
- provide the National Labour Inspectorate with necessary resources and further training to effectively prevent and combat THB;
- strengthen inspections in sectors considered at risk of THB by engaging with key stakeholders, including with a view to preventing THB in supply chains;
- work closely with the private sector, in line with the Guiding Principles on Business and Human Rights,²⁸ and consider including business representatives in the regional anti-THB teams.

79. Further, GRETA invites the Polish authorities to keep under review the effectiveness of the amendments concerning the payment of minimum wages under "civil law contracts" and to monitor the conclusion of "specific task contracts" to ensure that they do not provide a gateway to human trafficking.

²⁷ Available at: <http://slavestothsystem.eu/wp-content/uploads/2016/07/North-Korean-Forced-Labour-in-the-EU-the-Polish-Case.pdf>

²⁸ http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

c. Measures to prevent trafficking in children (Article 5)

80. A number of activities to prevent trafficking in children were implemented as part of the National Action Plan for 2013-2015, such as reprinting and disseminating the Council of Europe comic book "You Are Not for Sale", training of teachers and training of social workers, police and border guard officers on the identification and support of child victims of trafficking, in co-operation with the NGOs Nobody's Children Foundation and La Strada Foundation. Competitions for school children were organised for a short story, comic strip or video clip on the topic of human trafficking. The two most recent competition rounds attracted almost 600 entries. Nonetheless, civil society representatives consider that the topic of THB should be included in the national school curricula as awareness-raising measures do not have sufficient coverage.

81. As part of crime prevention, police officers conduct awareness raising on an on-going basis in schools. Pursuant to Ordinance No. 14 of the Chief Police Officer of 22 September 2016, there is a coordinator dealing with prevention of THB at each voivodship, municipal and district (*powiat*) Police headquarters. Nevertheless, according to the Police, it is necessary to conduct training of street workers on how to proactively identify victims of trafficking among children they are in contact with.

82. The Polish authorities have indicated that the school attendance rate of Roma children has increased (from 85.8% in 2004-2005 to 93.2% in 2014-2015). In the school year 2016-2017, some 2 231 students of Roma origin (98% of the Roma population in Polish schools) received additional material assistance (e.g. books, school supplies, gym clothes).

83. In 2012, the NGO Nobody's Children and the Orbis Hotel Group developed a Code of Conduct for the hotel industry with the aim of protecting children from sexual exploitation.²⁹ By signing the Code of Conduct, the Orbis Hotel Group has committed itself to informing key persons of the Company's policy and co-operating with the police, taxi drivers, owners of bars and restaurants. The activities undertaken by Orbis and the Accor Hotel Group include training hotel staff on how to spot and report cases of child sexual abuse and informing hotel guests through flyers and a website about this problem.

84. According to data of the Ministry of Family, Labour and Social Policy, there were 196 unaccompanied foreign children in 2014 (87 in family foster care and 109 in institutions); 168 in 2015 (75 in family foster care and 93 in institutions); and 200 in 2016 (70 in family foster care and 130 in institutions). There is no information about child victims of trafficking having been identified among these children. According to data from the Office for Foreigners, in 2014-2016, a total of 81 unaccompanied children applied for international protection. In 2016, 30 foreign children absconded from family or institutional care.

85. Children are registered at birth in the hospital registers. Hospitals notify births to the competent authorities and issue a "birth card" to the parents, which should be presented to the competent city hall office in order to officially register the child and obtain a birth certificate. In case the birth does not take place in a health-care facility, persons present during the delivery must declare the birth to the relevant civil status office. Should for whatever reason the procedures explained above not be followed, birth registration may be done upon a court order. There are reportedly some cases of non-registration of Roma children.

86. While welcoming the steps taken by the Polish authorities to raise awareness of child trafficking, GRETA considers that the authorities should continue and strengthen their efforts in the area of prevention of child trafficking for the purpose of sexual exploitation, labour exploitation (including exploitation of begging) and forced criminality, in particular by sensitising and training child protection professionals across the country, raising awareness of children through education, and paying increased attention to children from Roma communities, unaccompanied children and migrant children (see also paragraph 126).

- d. Measures to prevent trafficking in human beings for the purpose of organ removal (Article 5)

87. GRETA notes that while human trafficking for the purpose of organ removal as defined by the Convention and organ trafficking as defined by Articles 4 to 8 of the Council of Europe Convention against Trafficking in Human Organs³⁰ are two distinct crimes, they bear certain similarities and share similar root causes, such as shortage of organs to meet demand for transplantation and poor economic and other conditions that put persons in a vulnerable position. Therefore, measures to prevent organ trafficking can help prevent trafficking for the purpose of organ removal and the reverse is also true.³¹ Among the necessary preventive measures, GRETA underlines the importance of a robust and transparent domestic system for the removal and transplantation of human organs and the need for training of health-care professionals. GRETA also stresses the importance of conducting a thorough investigation of each case where there is information or suspicion of trafficking for the purpose of organ removal, paying attention to the abuse of the vulnerability of the “donor” and ensuring that “donors” are treated as victims of trafficking in human beings.

88. The Law of 1 July 2005 on Cell, Tissue and Organ Recovery, Storage and Transplantation prescribes penalties for illegal practices related to the commercialisation, storage and transplantation of cells, tissues and organs. Article 40a of this Law makes training compulsory for relevant professionals whose work impacts the safety of organ donors and recipients. Three types of training are provided to medical staff who may get involved in harvesting organs or performing transplantations, all of which are compulsory: initial training for new employees, continuous training held at least once every two years, and *ad hoc* training in cases of new or amended legislation or significant scientific progress in the field of transplantation. The training is provided by the Centre for Organisation and Co-ordination of Transplantation “Poltransplant” and covers ethical and legal donation, collection and processing of cells, tissues and organs, as well as measures to prevent trafficking in human organs.

89. Polish citizens may register their refusal to become organ donors after their death. In the absence of such a refusal, any citizen is considered a potential donor. Any hospital has the right to harvest organs from dead donors, but only a number of authorised hospitals have the right to carry out transplants.

90. The institution in charge of managing and supervising the national waiting list for organs is the Centre for Organisation and Co-ordination of Transplantation “Poltransplant”. Article 38.3.3 of the Ordinance of the Minister of Health of 4 December 2009 sets out the rules for the management of the list.

91. The Police monitor the Internet for any advertisement regarding organs for transplant and at least on one occasion such an advertisement was found, but there are no known cases of human trafficking for the purpose of organ removal in Poland.

³⁰ Opened for signature in Santiago de Compostela on 25 March 2015.

³¹ See Council of Europe/United Nations, Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs, 2009, in particular pages 55-56; OSCE, Trafficking in human beings for the purpose of organ removal in the OSCE region, OSCE Occasional Paper No. 6, 2013.

92. On 25 March 2015 Poland signed the Council of Europe Convention against Trafficking in Human Organs and the authorities have indicated that work towards amending national legislation in the light of this Convention is on-going. GRETA encourages the Polish authorities to ratify the Council of Europe Convention against Trafficking in Human Organs as this would contribute to the prevention of trafficking for the purpose of organ removal.

93. GRETA invites the Polish authorities to ensure that, as part of their training, medical and other health care professionals involved in organ transplantations continue to be sensitised about THB for the purpose of organ removal.

e. Measures to discourage demand (Article 6)

94. Several of the previously mentioned projects carried out in recent years have had components aimed at discouraging demand for services of victims of trafficking, such as the project "Migrants' Rights in Practice", which was carried out by the IOM office in Warsaw in partnership with the Ministry of the Interior and Administration and the General Labour Inspectorate (see paragraph 71), and the project "Safe Labour in Poland", which was implemented by EastWestLink (see paragraph 74). The latter project promoted a proactive role of the private sector in reducing illegal employment and violations of employees' rights.

95. A National Action Plan for the implementation of the UN Guiding Principles on Business and Human Rights was adopted on 29 May 2017 by the Polish Government. It contains measures to prevent and limit forced labour, including through awareness raising and training of employers and introducing a duty of employers in both the public and private sectors to report on actions taken to prevent forced labour.

96. The Polish authorities have also referred to the criminalisation of illegal employment of foreigners through the 2012 Law on the Consequences of Employment of Foreigners Illegally Staying in the Territory of Poland, which expressly prohibits the employment of a foreigner who is a victim of trafficking in human beings and does not possess relevant valid documents (see also paragraphs 169 and 183).

97. As mentioned in paragraph 50, the "Study on Demand Reduction Measures to Combat Trafficking in Human Beings for the Purpose of Labour Exploitation through Engagement of the Private Sector" was carried out as part of the project entitled "Improving Poland's Capacity to Prevent Trafficking in Human Beings", implemented by the Ministry of the Interior and Administration in partnership with the Council of Europe and financial support from the Norway Grants. The report analysed inter alia international good practices in demand reduction and their applicability to the Polish context.³² According to this report, a comprehensive professional debate on human trafficking and labour exploitation is still lacking in the public domain and media in Poland and the issue of demand reduction to combat trafficking in human beings is not sufficiently addressed; further, there is a lack of effective mechanisms to check whether companies meet the basic conditions for the elimination of forced labour and only a few Polish companies have codes of conduct for socially responsible production or service.

98. GRETA was not informed of any measures to discourage demand that fosters sexual exploitation leading to trafficking. The use of services of a victim of THB, with the knowledge that the person is trafficked, is still not criminalised in Poland (see also paragraph 169).

³² Zbigniew Lasocik, *Study on Demand Reduction Measures to Combat Trafficking in Human Beings for the Purpose of Labour Exploitation through Engagement of the Private Sector*, April 2016. Available at: <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806b61f0>

99. GRETA considers that the Polish 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. This should include the introduction of an incentive system for companies that decide to adopt codes of conduct to publish and effectively implement them. The government should periodically present to Parliament and the public the results of monitoring compliance with such codes.

f. Border measures (Article 7)

100. As noted in GRETA's first report, the Border Guard have specialised units dealing with preventing and combating human trafficking and in each region there is an anti-THB co-ordinator.³³ Since May 2014 the Border Guard has had the same mandate as the Police to investigate THB offences. The Border Guard conducts preparatory proceedings as well as investigative and operational activities aimed at gathering evidence against perpetrators of human trafficking. The Police and the Border Guard try to avoid duplication and if it turns out that both authorities are investigating the same case, efforts are made to create joint investigation teams.

101. Border guard officers come across victims of trafficking when conducting checks in places considered at high risk of trafficking, such as roadside nightclubs, or when carrying out work place inspections together with the labour inspectors. The Border Guard follows guidelines on the identification of victims of trafficking, the so-called "Algorithm of Conduct of Law Enforcement Officers in Case of Revealing a Crime of THB" (see also paragraph 104). Indicators of THB are used by first line officers and those investigating THB offences. As regards training of border guard officers concerning THB, see paragraphs 35-36.

102. GRETA notes the positive opinions held by civil society interlocutors as regards the work of the Border Guard in identifying victims of trafficking and investigating THB crime and welcomes the Border Guard's extended mandate as regards such investigations. GRETA invites the Polish authorities to continue ensuring that Border Guard officers are provided with training and resources to prevent and combat THB.

2. Measures to protect and promote the rights of victims, guaranteeing gender equality

a. Identification (Article 10)

103. In its first report, GRETA urged the Polish authorities to take further steps to ensure that all victims of trafficking are properly identified, including by establishing a National Referral Mechanism (NRM) which defines the roles and procedures of all authorities competent to perform identification and by providing frontline staff with operational indicators, guidance and toolkits to be used in the identification process. GRETA further urged the Polish authorities to 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 possible victims of trafficking, including among persons detained as irregular migrants.

³³ See paragraph 126 of GRETA's first report on Poland.

104. As noted in paragraph 30, the development of a NRM is foreseen in the National Action Plan for 2016-2018. In the meantime, the rules and procedures for the identification of victims of trafficking remain the same as at the time of the first GRETA evaluation.³⁴ The formal identification of victims of THB can be performed by the Police, the Border Guard or the Prosecutor's Office. The identification of victims of trafficking by the Police and the Border Guard follows the "Algorithm of Conduct of Law Enforcement Officers in Case of Revealing a Crime of THB", which provides detailed instructions. According to this document, in case of a report that a person may be a victim of trafficking, the law enforcement official should inform a specially trained officer of the same sex as the possible victim. This officer should establish whether there are reasonable grounds to suspect a THB offence, whether the person could be a victim/witness of this offence, and whether he/she agrees to report the offence.

105. Further, the National Consulting and Intervention Centre for Polish and Foreign Victims of Trafficking (KCIK) can identify victims of trafficking who are legally present in Poland and do not wish to contact a law enforcement agency, or have not been identified as victims of trafficking by such an agency. The Police, Border Guard or any other stakeholder who suspects that a person might be a victim of trafficking can consult the KCIK making use of its specially trained and experienced staff. Though not formally competent to identify victims, a supportive role is played by representatives of other institutions such as social workers, staff of the regional anti-trafficking teams and NGOs which may or do come into contact with victims of THB.

106. According to data provided by the Polish authorities, the Police identified 141 victims of THB in 2013, 50 in 2014, 25 in 2015 and 52 in 2016, and the Border Guard identified 52 victims in 2013, 48 in 2014, 33 in 2015 and 104 in 2016. Further, KCIK identified 222 presumed victims in 2013, 207 in 2014, 229 in 2015 and 200 in 2016. As noted in paragraph 12, there is a degree of double counting between these sets of figures. Few victims of trafficking have been identified at Poland's borders, but because of the Border Guard's mandate to investigate THB offences, they have identified foreign and Polish victims within the country's territory. It is noteworthy that more victims have been identified in some regions, such as Lubuskie Region which is situated along the Polish-German border (31 cases in 2014). As noted in paragraph 65, only a few suspected cases of THB for labour exploitation have been found by labour inspectors.

107. There are 11 centres for asylum seekers in Poland, two of which are initial reception centres and nine provide longer-term accommodation. The Office for Foreigners, which is subordinated to the Ministry of Foreign Affairs, is responsible for processing asylum applications.³⁵ An "Algorithm for dealing with a person who has applied for refugee status and is potentially a THB victim" has been in use since 2014. It was developed by a working group of representatives of the Ministry of the Interior and Administration, the Office for Foreigners and the Border Guard. In addition, there are internal guidelines for staff of the Office for Foreigners on how to proceed if a presumed victim of trafficking is detected. Since the beginning of 2014 there has been a co-ordinator of the Office for Foreigners with particular responsibility for the identification of possible victims of THB, who are referred to the Border Guard for further verification. By way of example, in 2014 one Ukrainian, one Cameroonian and three Vietnamese asylum seekers were identified as presumed victims of trafficking, and in 2015 one Armenian and three Vietnamese victims were identified. At least one victim of trafficking was granted asylum based on the applicant's status as a victim of THB, in combination with other humanitarian concerns.

³⁴ See paragraphs 137-146 of GRETA's first report on Poland.

³⁵ The approximate number of asylum applications in Poland is as follows (with positive decisions in brackets): 2013: 15000 (208); 2014: 8000 (262); 2015: 12000 (348); 2016: 11000 (78). Asylum seekers typically originate from the Russian Federation (North Caucasus), Ukraine and Tajikistan.

108. Border Guard officers may identify victims of trafficking among detained foreign nationals and a few suspected victims of trafficking have been identified in that way. Representatives of the NGO Halina Nieć Legal Aid Centre visit detention facilities and border checkpoints, monitor the situation and provide legal aid to detained foreign nationals. Other NGOs providing legal aid are also allowed access to facilities for irregular migrants. However, because of the remoteness of most of these locations,³⁶ NGOs have difficulties finding financial resources for the travel and therefore their role in detecting possible victims of trafficking in detention centres is limited.

109. GRETA welcomes the steps taken to improve the identification of victims of trafficking among asylum seekers and irregular migrants. GRETA notes the plans to introduce a National Referral Mechanism and considers that the Polish authorities should increase their efforts to identify victims of trafficking for all forms of exploitation, including by:

- pursuing a proactive approach to the identification of victims of trafficking of all forms of exploitation, and in particular for the purpose of labour exploitation in sectors considered to be at risk;
- encouraging use of regular and co-ordinated multi-agency inspections by organisations responsible for regulating employment, health and safety in those sectors most at risk;
- improving the identification of victims of trafficking in detention centres, including by ensuring access to such centres by specialised NGOs providing legal aid and by providing sufficient funding to NGOs for such visits.

b. Assistance measures (Article 12)

110. In its first report, GRETA considered 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 shelter places across the country adapted to the victims' needs, as well as to make sure that when the provision of assistance is delegated to NGOs, the State provides funding and exercises quality control. The authorities were further asked to ensure that suitable accommodation is provided for male victims of trafficking and that they can fully benefit from the assistance measures provided for in law. Further, GRETA stressed that victims of THB should be guaranteed access to public health care.

111. The legal basis for assisting victims of trafficking is provided by the amended Law on Social Assistance. Assistance is financed by the State budget, as delegated to local self-governments or to NGOs, and by the budgets of the local self-governments. The local self-governments can assign the implementation of victim assistance to NGOs following a tender procedure and on the basis of an agreement. The assistance measures to which victims of trafficking are entitled include psychological and legal support, social assistance, safe accommodation, medical care, food in the form of whole-day board or cash benefit for subsistence, clothing and an allowance for special purposes.³⁷

³⁶ The six detention centres in which irregular migrants are kept pending deportation are mostly located in remote areas (Lesznowola, Krosno Odrzańskie, Przemyśl, Biała Podlaska, Białystok and Kętrzyn).

³⁷ For further details, see paragraphs 150-158 of GRETA's first report on Poland.

112. In 2013-2015, a total of 3 100 000 PLN (about 720 000 Euros) was spent from the Ministry of the Interior and Administration's budget on assistance measures for victims of THB. The National Consulting and Intervention Centre for Victims of Human Trafficking (KCIK) remains the main public institution providing assistance to foreign and Polish victims of trafficking.³⁸ It is presently run by the NGOs La Strada Foundation and PoMOC. Accommodation is provided in two shelters (one in Warsaw run by La Strada and one in Katowice run by PoMOC, the former being for women only, and the latter for women and any children accompanying them). KCIK organises medical services and psychological support for victims of trafficking, provides translation and interpretation services and runs a telephone hotline. In 2012 a group of volunteers was created to help victims visit doctors, consulates and or the police, as well as accompany victims to attend activities. Accommodation in shelters was provided by KCIK to 153 presumed victims in 2013, 90 in 2014 and 125 in 2015 (there is double-counting as some victims stay longer than one year). The types of assistance received by the victims in 2015 were as follows: social assistance (160 victims), crisis intervention (153 victims), material support (133 victims), legal counselling (120 victims), psychological support (110 victims), medical assistance (35 victims), assistance in obtaining documents (19 victims, including 15 foreigners, with documentation linked to legalising their stay in Poland).

113. The Programme for the Support and Protection of Victims/Witnesses of THB was set up in 2006 in order to cater for foreign nationals who are possible victims of human trafficking.³⁹ Since January 2010 it has been implemented by KCIK. By way of example, 126 foreign victims of trafficking benefited from the programme in 2015, among whom the largest group were Vietnamese citizens (37), followed by Ukrainians, Filipinos and Romanians.

114. There are 18 crisis intervention centres in Poland which can accommodate victims of trafficking, 15 of which are financed by municipalities. The remaining three are run and financed by NGOs, though these may also receive some financial support from the State or regional budgets. KCIK supports and advises staff of crisis intervention centres who undergo regular training on THB organised by the Ministry of Family, Labour and Social Affairs. For practical reasons, most foreign victims of trafficking are accommodated in the Warsaw area.

115. GRETA visited a crisis intervention centre in Gorzów Wielkopolski. Opened in 1996, it offers safe accommodation to people in need, both women and men, including victims of trafficking. The centre's staff consists of six counsellors, including psychologists and social workers. The centre can provide accommodation to persons in need for up to three months. In 2013 there were five victims of THB accommodated at the centre, in 2014 none, in 2015 one and in 2016 two.⁴⁰ All victims were women subjected to sexual exploitation and all but one were foreigners.

116. As part of the services of KCIK, La Strada Foundation organises secure accommodation for men in social assistance centres. In Warsaw, La Strada Foundation offers five places for men and on 25 May 2017 it signed an agreement with the authorities of Warsaw City on setting up transitional housing for male victims of trafficking and their families. Further, PoMOC may provide support to male victims through co-operation with the Society of St. Albert, which runs a shelter for men and families and whose staff have received training on human trafficking.

117. A document entitled "Standards of Safe Shelter for Victims of Trafficking" was adopted by the Ministry of Family, Labour and Social Policy in 2014 and distributed as a guideline to social workers and other staff engaged in the provision of assistance to trafficking victims, including staff of crisis intervention centres. Particular attention is paid to the need to provide safe accommodation for male victims of THB. However, the Department of Social Assistance and Integration is not obliged to monitor the implementation of these Standards.

³⁸ See paragraph 152 of GRETA's first report on Poland

³⁹ For further details, see paragraph 152 of GRETA's first report on Poland.

⁴⁰ By the time of GRETA's visit in November 2016.

118. A new provision since GRETA's first visit is Article 10 of the Law of 28 November 2014 on Protection and Assistance to Victims and Witnesses, pursuant to which victims, including victims of trafficking in human beings, can be granted financial support from the Victims' Assistance and Post-penitentiary Assistance Fund.⁴¹ This financial support can cover the following kinds of expenses: medical and psychological care, rehabilitation, legal assistance and material support. It is not possible to indicate if any victims of trafficking have received such financial support as no register is kept of the victims who were supported by this fund, but the Polish authorities have stressed that any victim of crime has access to it.

119. GRETA was informed that emergency health care was provided to victims of THB without any problems. However, as was the case during the first visit, access for victims of THB to public health care for non-urgent treatment remained problematic. In their comments to GRETA's draft report, the Polish authorities have indicated that victims of trafficking are provided with medical services pursuant to the 2004 Law on Health Care Services Financed from Public Funds. GRETA notes that while it is stated in this law that Polish and EU citizens and third-country citizens with a residence permit, as well as refugees and persons granted subsidiary protection, are covered by the health insurance necessary for benefitting from medical services, third-country citizens whose stay in Poland is irregular – which is the case of a number of victims of trafficking - do not appear to benefit from these provisions.

120. GRETA urges the Polish authorities to guarantee effective access to public health care for all victims of trafficking, regardless of residence status, in accordance with Article 12 of the Convention.

121. Further, GRETA considers that the Polish authorities should take additional steps to provide assistance to victims of trafficking, and in particular to ensure that sufficient funding is made available to assist victims of THB when the assistance is delegated to NGOs or local authorities.

c. Identification and assistance of child victims of THB (Articles 10 and 12)

122. In the first report, GRETA considered that the Polish authorities should 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.

123. In order to improve the identification of child victims of trafficking in human beings, a document entitled "Algorithm of Identification of Child Victims of Trafficking in Human Beings and Conduct of Police and Border Guard Officers" was prepared and disseminated in mid-2015. According to it, identification cannot be based only on information provided by the child, but must be supplemented by an in-depth analysis of the child's situation and circumstances. Hearings of presumed child victims must be performed in a child-friendly environment. After the preliminary identification, police and border guard officers should inform the relevant anti-trafficking co-ordinator about the case. In the meantime the presumed child victim should be kept separated from unrelated persons if there is a suspicion that they could be traffickers or their accomplices. In practice, the identification of child victims of human trafficking is most often the result of routine work carried out by police officers or institutions providing social assistance. Children are rarely able to self-identify as victims of trafficking.

⁴¹ The Victims and Post-penitentiary Assistance Fund is a special-purpose state fund administered by the Minister of Justice. It was created on the basis of the Law of 12 February 2010, amending the Criminal Code and the Law on Environmental Protection. The regulations concerning the Fund are contained in Article 43 of the CCP and the Minister of Justice's Regulation of 29 September 2015 on Victims and Post-penitentiary Assistance Fund. The fund is made up of income from fines and cash adjudged by the courts, deductions withheld from sentenced persons' work income, income from disciplinary punishments, inheritances, legacies and donations, grants and (public) collections. The fund is used to provide various forms of support (medical, psychological, legal, educational) to victims of crime, witnesses and their relatives.

124. According to the Civil Procedure Code, the Family Court is the competent institution to protect the welfare of all children, including victims of trafficking, and act in their best interests. The family court is the respective Department of Family and Juveniles of each District Court, which has judges specialised in family law. Family courts are competent to take decisions in all cases where the interests of the child are considered to be threatened,⁴² including as regards placing a child in institutional or foster family care. GRETA refers to the United Nations Committee on the Rights of the Child (CRC), which in its 2015 concluding observations on Poland referred to inappropriate court decisions on the protection of child victims of human trafficking, including concerning their placement in institutions for socially maladjusted children without necessary counselling and other services.⁴³

125. Family courts also decide about the appointment of a guardian for a child.⁴⁴ Until a suitable guardian is found/family relationships established, individual staff members of the KCIK or child care institutions may act as guardian. There is a pool of such professionals who may act as temporary guardians.

126. There are no specialised shelters for child victims of trafficking in Poland. There used to be, until 2012, a children's home in Warsaw which had places reserved for child victims of THB, but these places were abolished as an unintended consequence of new legislation⁴⁵ concerning the organisation of accommodation and support for children, which involved a move towards smaller care units. It was also considered that there were not enough child victims of trafficking in need of accommodation to maintain a specialised institution.⁴⁶ According to the authorities, the reform of institutional child care was intended to provide better care through smaller residential units and the staff involved are trained in dealing with child victims of THB and other forms of abuse, despite the lack of a specialised centre for child victims of THB.

127. With the approval of the competent family court, teenaged girls or smaller children accompanying their mother can be placed in one of the two shelters run by KCIK. In other cases, child victims of both sexes are referred to institutional care in children's homes which form part of the child care system or to foster families providing emergency child care. KCIK makes efforts to locate the families of child victims of trafficking in view of family reunification and carries out risk assessment to ensure that the family has not been involved in the trafficking.

128. Unaccompanied foreign children who are not seeking asylum are placed, depending on the circumstances, either in foster care facilities or in guarded centres (in justified cases and provided they are over 15 years old). The decision on placement is taken by the guardianship court, which also appoints a guardian to represent the child in administrative proceedings. Foreign child victims of trafficking are entitled to education on the same terms as any other children and can have Polish language lessons to support their integration.

129. GRETA is concerned by the disappearances of presumed foreign child victims of trafficking from institutional care. Polish child welfare institutions providing accommodation to, amongst others, child victims of trafficking seem not very well prepared to receive foreign child victims, *inter alia*, due to language barriers and lack of interpreters.

⁴² As defined in Article 109 of the Family Code.

⁴³ Concluding observations on the combined third and fourth periodic reports of Poland by the United Nations Committee on the Rights of the Child, paragraph 50 (c).

⁴⁴ Article 99 of the Family Code.

⁴⁵ The Law on Family Support and Foster Care, which entered into force on 1 January 2013.

⁴⁶ From October 2009 until the end of 2012, five foreign child victims of THB stayed at the children's home in question.

130. When the age of a presumed child victim of trafficking is uncertain, the age stated by the child is checked, where possible, with the diplomatic mission of the stated country of origin or by means of information exchanges with law enforcement agencies of that country. Otherwise, age determination is carried out by means of an x-ray of the wrist and/or teeth. GRETA notes that this method of age assessment does not take into account psychological, cognitive or behavioural factors. According to Article 397, paragraph 4, of the Law on Foreigners, a foreigner who claims to be a child but refuses to submit to a medical examination can be treated as an adult. Until the completion of the age assessment of a victim of THB, a person claiming to be a child will be treated as such. GRETA invites the Polish authorities to review the age assessment procedures, ensuring that the best interests of the child are effectively protected, and taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child.⁴⁷

131. GRETA urges the Polish authorities to improve the identification and assistance of child victims of trafficking, in particular by:

- increasing the capacity to detect child victims of trafficking by training a larger range of professionals who may come into contact with child victims of trafficking in the use of trafficking indicators and involving child specialists in the identification of child victims of trafficking to ensure that the best interests of the child is the primary consideration;
- providing safe accommodation for child victims of trafficking and unaccompanied children and addressing the problem of such children disappearing, including by providing adequately trained supervisors and interpreters;
- making available reintegration programmes for child victims of trafficking.

d. Protection of private life (Article 11)

132. According to the Law of 29 August 1997 on Personal Data Protection, everyone has the right to protection of his/her personal data. Generally, processing of personal data needs the approval of the person concerned. According to Article 36, the data administrator is obliged to implement technical and organisational measures to ensure the protection of personal data processed, in a manner appropriate to the risks and category of the data being protected, and in particular to protect the data from unauthorised disclosure, takeover by unauthorised persons, processing in violation of the Law, loss, damage or destruction. Every institution or organisation, be it in the public or the private sector, is bound by the rules of the Law. The authority for the protection of personal data is the General Personal Data Inspector, who supervises compliance with the rules.

133. GRETA was informed that personal data of victims of trafficking are kept by KCIK on an internal computer system without network access and the system is blocked with a password. KCIK requests the victims' consent concerning the use of their data.

⁴⁷ [General Comment No. 6 Treatment of unaccompanied and separated children outside their country of origin](#), Committee on the Rights of the Child, Thirty-ninth session, 17 May - 3 June 2005.

e. Recovery and reflection period (Article 13)

134. In its first report, GRETA urged 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.

135. The recovery and reflection period is currently regulated by the Law of 12 December 2013 on Foreigners, which entered into force on 1 May 2014. According to Article 10 of this law, a foreigner who is presumed to be a third-country victim of trafficking in human beings within the meaning of Article 115 of the CC, shall receive a certificate confirming the existence of that presumption. The certificates are granted by the Police, the Border Guard or the Prosecutor's Office, who have to inform the Ministry of the Interior and Administration in order for it to registers them. Certificates are only issued to victims who at the time of their identification as victims were present irregularly in Poland. According to Article 171(1), a foreigner's stay shall be considered legal during the period of validity of the certificate, i.e. three months from the date of issuance or four months in the case of children. A presumed victim of THB assisted by KCIC would need to contact the Police, Border Guard or Prosecutor's Office in order to obtain a certificate. Being granted a certificate does not require the victim's co-operation in the criminal investigation. While pressure to co-operate is not put on victims, the police would nonetheless explain to them the urgency of police investigations, as evidence can otherwise be destroyed.

136. The certificate, apart from constituting the basis for a temporary residence permit, entitles the victim of THB to a Polish identity document. This identity document can be issued on the basis of Articles 260, 261, 262 and 263 of the Law on Foreigners to persons who have no other proof of identity and are resident in Poland. This identity document cannot serve as a travel document allowing the crossing of the Polish border. The officer issuing the certificate shall inform the foreigner about the availability of assistance measures. The certificate may be suspended if a victim of THB actively, voluntarily and on his or her own initiative has renewed contacts with the traffickers. There are no appeal possibilities against a negative decision as regards the issuance of a victim's certificate.

137. According to Ordinance No. 14 of the Chief Police Office issued on 22 September 2016, persons identified as possible victims of THB are to be informed about their rights in writing in a language they understand, including the possibility to be issued a certificate of the right of residence in Poland and, if need be, an interpreter is to be used.

138. GRETA was informed that to date no certificate has been suspended. In 2014, 22 certificates were issued, in 2015, 33 and in 2016, 23.⁴⁸ This rather low number is explained by the Polish authorities by the fact that legally residing victims do not need a certificate to legalise their stay. In the view of civil society representatives met by GRETA, the issuance of the certificate is somewhat arbitrary and practices vary between the issuing authorities in different parts of the country.

139. In their comments on the draft GRETA report, the Polish authorities have referred to a draft amendment to the Law of 14 July 2006 on the Entry into, Residence in and Exit from the Republic of Poland of EU Nationals and Their Family Members, pursuant to which EU and EEA citizens who are presumed victims of trafficking shall be provided with a certificate confirming the existence of such a presumption, similarly to third-country nationals. GRETA would like to be kept informed of the entry into force of this amendment.

⁴⁸ Out of the 23 adult victims who were issued with certificates in 2016 (12 women and 11 men), 20 were Ukrainian; 21 were victims of forced labour.

140. GRETA recalls that the primary aim of the recovery and reflection period is to distance victims of trafficking from the influence of the perpetrators and to give them sufficient time to take a decision on whether to co-operate with the authorities. Further, GRETA notes that after three months EU citizens can only stay legally in other EU countries if they meet a number of requirements (e.g. economic activity, sufficient resources, being enrolled as a student), therefore the possibility that they would be considered as being irregularly present cannot be excluded and they should logically be entitled to enjoy a recovery and reflection period. GRETA once again urges the Polish authorities, in compliance with the obligations under Articles 10, 12 and 13 of the Convention, to take additional steps to ensure that all possible foreign victims of trafficking, including EU/EEA nationals, are consistently offered a recovery and reflection period, regardless of where in Poland they are identified.

f. Residence permits (Article 14)

141. In its first report GRETA urged the Polish authorities to ensure that victims of THB can take full advantage of the right to be granted a residence permit.

142. The Law on Foreigners extended the maximum validity of a residence permit granted to a victim who co-operates with law enforcement agencies to three years (the minimum remains six months). The conditions for this type of residence permit, defined in Article 176 of the law, are that the victim stays on the territory of Poland, co-operates with the authority competent to conduct proceedings in relation to the crime of human trafficking and has terminated all contacts with the persons suspected of committing the crime of human trafficking. Such a temporary residence permit is granted to a foreigner at the request of the administrative authority competent for the place of residence of the foreigner. Foreigners staying on the territory of Poland on the basis of a temporary residence permit for victims of trafficking have the right to exemption from the obligation to obtain a work permit, in accordance with Article 87, paragraph 2, point 1, of the Law of 20 April 2004 on Employment Promotion and Labour Market Institutions.

143. Further, in accordance with Article 181 of the Law on Foreigners, a foreigner residing on Polish territory may be granted a short-term stay if his/her presence on Polish territory is justified by his/her personal situation. Such an authorisation is granted for a period necessary to achieve the "objective pursued", but no longer than six months. The "objectives pursued" may be the person's medical recovery, but may also refer to the interests of the host state, for example to allow a witness to testify in court. Such temporary residence permits are granted to a foreigner at the request of the region competent for the place of residence of the foreigner. So far, no victim of THB has applied for this type of permit. According to the Polish authorities, this is explained by the fact that it is more beneficial for victims of trafficking to obtain a temporary residence permit on the basis of their co-operation with law enforcement officials, based on Article 176 of the Law on Foreigners.

144. Pursuant to the Law on Foreigners, a victim of human trafficking may also apply for a permanent residence permit if he/she: 1) has resided at least one year on the territory of Poland on the basis of a temporary residence permit for victims of THB, immediately before filing an application for a permanent residence permit; 2) has co-operated with law enforcement authorities in criminal proceedings; and 3) has a well-founded fear of return to his/her country of origin, attested to by the prosecutor in charge of the criminal proceedings. A draft amendment to the Law on Foreigners shifts the competence for determination of the presence of a well-founded fear from the prosecutor to the administrative authority competent for granting the permanent residence permit.

145. GRETA was informed that one foreign victim of trafficking was granted a temporary residence permit in 2013, 25 in 2014 and 18 in 2015. The majority of these permits were granted on the basis of the victims' co-operation in the investigation/criminal proceedings. In 2013 one Moldovan victim of trafficking was granted subsidiary protection. Further, in one case, a Ugandan woman who had been trafficked for the purpose of sexual exploitation was granted refugee status, in line with the UNHCR 2006 Guidelines on the application of refugee status to victims of trafficking.⁴⁹

146. GRETA welcomes the legal changes which allow victims of trafficking to be issued residence permits on the basis of their co-operation in criminal proceedings or when required by their personal situation. GRETA considers that the Polish authorities should take steps to ensure that victims of THB can effectively take advantage of the possibility to be issued residence permits, including by consistently informing victims, in a language they can understand, about the application procedure.

g. Compensation and legal redress (Article 15)

147. In its first report, GRETA urged the Polish authorities to adopt measures to facilitate and guarantee access to compensation for victims of trafficking, and in particular to ensure that victims are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed, and to enable victims to exercise their right to compensation by building the capacity of legal practitioners to support victims wishing to claim compensation and including compensation into existing training programmes for law enforcement officials and the judiciary. In addition, GRETA urged the authorities to encourage prosecutors to request compensation orders to the largest possible extent and to include all victims of trafficking in the scope of the Law on State Compensation for Victims of Crimes, irrespective of their nationality and residence status or the type of injury sustained.

148. Under Article 300 (2) and (3) of the Code of Criminal Procedure (CCP), victims are to be informed in writing of their rights, including the right to compensation, before the first questioning by the police or the prosecutor, in a simple and comprehensible language which allows persons who are not assisted by professional lawyers to understand their rights and obligations. Leaflets with information on the rights of victims of THB which refer, *inter alia*, to the right to compensation and the right to an attorney, have been issued by the Unit against Trafficking in Human Beings in nine languages (Bulgarian, Chinese, French, English, Polish, Romanian, Russian, Ukrainian and Vietnamese).⁵⁰

149. The provisions concerning victims' access to legal aid have already been described in GRETA's first report.⁵¹ According to Article 87(1) of the CCP, a victim who has the status of a party to the criminal proceedings can avail him/herself of professional legal aid which is provided free of charge if the victim demonstrates inability to bear the costs of legal aid. Representatives of the Polish Bar Council indicated that in practice very few victims of THB are assisted by lawyers during criminal proceedings and suggested that a list of lawyers qualified to provide assistance to victims of THB be drawn up and these lawyers be adequately trained. Further, there is reportedly a shortage of qualified legal interpreters where needed.

150. As noted in GRETA's first report, victims of trafficking may seek compensation: i) during criminal proceedings, by filing a motion in accordance with Article 46 of the CC; ii) in civil proceedings, independently of criminal proceedings, in accordance with the general principles of Article 415 of the Civil Code; iii) on the basis of the Law on State Compensation for Victims of Certain Crimes.⁵²

⁴⁹ UNHCR, Guidelines on International Protection: The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking, HCR/GIP/06/07, 7 April 2006.

⁵⁰ <http://handelludzmi.eu/hl/o-handlu-ludzmi/informacje-dla-ofiar/6671,Prawa-ofiar-handlu-ludzmi.html>.

⁵¹ See paragraph 180 of GRETA's first report on Poland.

⁵² For more details about this law, see paragraphs 184-186 of the GRETA's first report on Poland.

151. Since GRETA's first evaluation, through the Law of 27 September 2013 amending the Code of Criminal Procedure and certain other laws, the scope of ruling on damages and redress in Article 46 of the CC was extended and the conditions for granting compensation were simplified. The amendments also repealed the provisions of Articles 62-70 of the CCP and thus terminated the possibility of seeking compensation by bringing an adhesion claim during criminal proceedings, but compensation from the perpetrator can still be claimed as part of the criminal proceedings or in separate civil proceedings based on Article 415 of the CCP. Further, the obligation to inform the victim of his/her rights was introduced in Article 300 of the CCP by the Law of 28 November 2015 on the Protection and Support of Victims and Witnesses.

152. The Law of 5 August 2015 amending the Law on State Compensation, the Code of Civil Procedure and the Law on Court Fees in Civil Matters (in force since 12 January 2016) broadened the personal scope of the right to compensation by removing the condition of the victim's nationality and replacing it with the condition of the victim's place of residence. According to the amended law, State compensation can be granted if the offence was committed on the territory of Poland or other EU country against a person having his/her permanent place of residence in Poland or other EU country, which in practice excludes third-country nationals.

153. Further, the deadline for applying for State compensation has been extended from three to five years as of the date of the crime being committed and compensation claims can now be submitted by persons other than the injured person on their behalf. The maximum amount of State compensation has been increased from 12000 PLN (about 2800 Euros) to 25000 PLN (about 5800 Euros). The judge decides on the amount of compensation on the basis of evidence presented by the victim about the extent of damage suffered or loss incurred (Article 9(2) of the Law on State Compensation), including any medical certificates. In practice, it is often difficult for victims to present such evidence. The Law of 5 August 2015 broadened the scope of the right to State compensation which can now be obtained even if the perpetrator has not been convicted.

154. Compensation from the perpetrator in criminal or civil proceedings or State compensation can be sought after the victim has returned to his/her country of origin. GRETA was informed that there had been at least one case where a returned victim applied for compensation from the perpetrator in criminal proceedings. There are no known cases of State compensation having been rewarded to victims of THB or to victims who returned to their countries.

155. The Polish authorities have provided two examples of compensation granted to victims of trafficking in the reporting period. Both relate to compensation from the perpetrator in the context of criminal proceedings. In a case pending before the Circuit Court in Szczecin, a 16-year old Polish girl who had been trafficking for the purpose of forced prostitution received compensation of 20 000 PLN (approximately 4700 Euros). In another case pending before the Circuit Court in Legnica, 28 Romanian victims of trafficking for the purpose of forced labour received 4 000 PLN each (approximately 1000 Euros).

156. GRETA welcomes the legislative developments in the area of compensation, some of which are in line with GRETA's previous recommendations, as well as the measures taken to inform victims of trafficking of the right to seek compensation and the procedures to be followed. However, in the light of the small number of compensation awards to victims of trafficking, GRETA once again urges the Polish authorities to:

- ensure a higher consistency in the provision of information about the right to seek compensation to victims of trafficking, including by facilitating the provision of legal aid by lawyers and providing qualified interpreters when needed;
- encourage prosecutors to request compensation orders to the largest possible extent and review the role of prosecutors in trafficking cases, in view of removing any contradictions;

- make victims of THB eligible for State compensation regardless of their residence status.

157. Further, GRETA once again invites the Polish authorities to develop a system for recording claims for compensation by victims of trafficking, as well as compensation awarded to victims of trafficking.

h. Repatriation and return of victims (Article 16)

158. In order to ensure the safe return and protection of a victim of THB against re-victimisation, a risk assessment procedure was drawn up in 2014 and is implemented as of 2015 by KCIK, the Border Guard, the Police and by the Ministry of the Interior. As a rule, the risk assessment is performed for third-country nationals and only in justified cases for citizens of the EU (as the latter are normally not subject to expulsion). This risk assessment is carried out in respect of victims of THB included in the Programme of Support and Protection of Victims/Witness of THB.⁵³ The risk assessment is based on information from the victim, KCIK, the Police and/or Border Guard. The Ministry of the Interior and Administration assesses the situation in the country to which the victim is to be returned. GRETA was informed that in practice risk assessments of victims from Roma communities are challenging because they do not want interviews forming part of the risk assessment to be conducted in their home communities.

159. The IOM office in Poland continues to run a programme of assisted voluntary return of foreigners, including EU citizens, which is proposed to victims of THB. The programme is based on an agreement signed between the Minister of the Interior and Administration and IOM which is co-financed by the European Return Fund. In 2013-2015, 49 victims of THB were assisted through this programme, mainly EU nationals, typically Bulgarian women trafficked for sexual exploitation and Romanian men trafficked for labour exploitation or forced begging. The assistance provided by IOM includes assistance in obtaining travel documents where necessary, organising the return journey and reintegration assistance, including three months of financial support.⁵⁴ Additional support may be allocated for starting a business, undergoing education, rebuilding a house or subsidised employment. GRETA was informed that no child victims of THB have taken part in the IOM's voluntary return scheme, though such a return would be possible, following a careful risk assessment.

160. One Polish victim of THB exploited abroad was returned to Poland by IOM in 2015 and NGOs helped 17 other Polish victims of THB return to Poland in the same year.⁵⁵

161. Together with IOM, Poland participates in the TACT project (Transnational Action – Safe and Sustainable Return and Reintegration of Victims of THB) which also involves France, Greece, Italy and Spain, the priority countries of return being Albania, Morocco and Ukraine. The project was initiated in 2015 and is financed from the European Asylum, Migration and Integration Fund. Its goals include the establishment of a co-operation mechanism in the field of safe return and reintegration of victims of THB in the priority countries, strengthening co-operation between relevant institutions and the provision of victims returning to their countries of origin with reintegration support.

⁵³ See Report on Trafficking in Human Beings in Poland in 2015, prepared by the Unit against Trafficking in Human Beings in the Analyses and Migration Policy Department of the Ministry of the Interior and Administration, page 52.

⁵⁴ Returnees receive the equivalent of 1200 PLN (about 280 Euros) in the currency of the country of return on the day of their return and thereafter 1000 PLN (about 230 Euros) at the end of each month, for three months.

⁵⁵ Report on Trafficking in Human Beings in Poland in 2015, prepared by the Unit against Trafficking in Human Beings in the Analyses and Migration Policy Department of the Ministry of the Interior and Administration, page 39.

162. GRETA considers that the Polish authorities should ensure that any repatriation is conducted with due regard for the rights, safety and dignity of victims of trafficking, is preferably voluntary and complies with the obligation of *non-refoulement*. A risk assessment should be carried out for all victims of THB to be returned, be they EU or third-country nationals, and regardless of whether they have been covered by the Programme for Support and Protection of Victims/Witnesses of THB. The Polish authorities should further develop co-operation arrangements with States of return with a view to ensuring effective and comprehensive risk assessment relating to the possible return of victims of THB and enabling their safe return. Full consideration should be given to the UNHCR's guidelines on the application of the Refugees Convention to trafficked people.⁵⁶

3. Substantive criminal law

a. Criminalisation of THB (Article 18)

163. In its first report on Poland, GRETA urged the authorities to include an express prohibition of servitude in the definition of THB, so as to ensure greater certainty and clarity as to the scope of domestic law.

164. As was the case at the time of GRETA's first evaluation round, THB is criminalised by Article 115, paragraph 22, of the Criminal Code, which has remained unchanged.⁵⁷ As regards the forms of exploitation, this article refers to prostitution, pornography, other forms of sexual abuse, forced labour or services, beginning, slavery, other forms of abuse of human dignity, and harvesting organs, cells and tissues. "Servitude" is still not specifically mentioned as a type of exploitation, despite GRETA's recommendation to this effect. As noted in paragraph 51 of GRETA's first report, the Polish authorities have argued that, in the light of case law of the Constitutional Tribunal pertaining to the infringement of human dignity, in particular on the basis of Article 30 of the Polish Constitution⁵⁸ as well as the case law of the European Court of Human Rights, servitude is a form of abuse of human dignity and is covered by this term. GRETA notes the arguments put forward by the Polish, but nonetheless considers that the Criminal Code should include an express prohibition of servitude in order to contribute to the practical and effective protection against treatment contrary to the Convention on Action against Trafficking in Human Beings.

165. Forced begging is one of the forms of exploitation under Article 115, paragraph 22, of the CC. In 2014 the Border Guard identified several cases of presumed victims of human trafficking for the purpose of forced begging. These cases concerned citizens of Romania who were recruited by threat of violence, deceit and abuse of their critical situation. In connection with one of the investigations, a Polish-Romanian joint investigation team (JIT) was set up (see paragraph 197).

166. Forced marriage or illegal adoption are not mentioned among the forms of exploitation related to THB but since the list of forms of exploitation in Article 115 of the CC is open-ended (referring to "other forms of abuse of human dignity"), forced marriage and illegal adoption can be considered as part of THB offences. There is no separate offence of forced marriage in Polish legislation, whereas illegal adoption for profit is an offence under Article 211a of the CC.

⁵⁶ [UNHCR, Guidelines on International Protection: The application of Article 1A\(2\) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking, HCR/GIP/06/07, 7 April 2006](#)

⁵⁷ See paragraph 49 of GRETA's first report on Poland.

⁵⁸ Article 30 of the Polish Constitution states that the inherent and inalienable dignity of the person shall constitute a source of freedoms and rights of persons and citizens. It is inviolable and its respect and protection is the obligation of public authorities.

167. As noted in GRETA's first report, there is no reference to "abuse of a position of vulnerability", but the Polish authorities have clarified that the Convention's term "abuse of power or of a position of vulnerability" is implemented through the notions of "abuse of dependence, abuse of critical situation or a state of helplessness" which are of the same nature and cover the same scope. The Polish authorities indicated that in 2013-2015 Polish courts recorded several cases in which they found an element of abuse of a state of helplessness of the victim. The courts considered that helplessness may result from lack of knowledge of the Polish language, illiteracy, not possessing identity documents, lack of knowledge of one's location, difficult financial or life situation or being under the influence of drugs. The abuse of the state of the victim's helplessness may constitute an aggravating circumstance when deciding on the penalty.

168. Pursuant to Article 189a of the CC, committing the crime of THB is punishable with deprivation of liberty for a minimum term of three years, whereas making preparations to commit this crime is punishable with imprisonment of three months to five years. The court can impose additional measures on the convicted person, such as payment of compensation to the victim, forfeiture of proceeds or making the judgment publically known.

b. Criminalisation of the use of services of a victim (Article 19)

169. Polish law does not criminalise the use of services of a victim of THB with the knowledge that the person is a victim of THB. As noted in GRETA's first report,⁵⁹ the Polish authorities consider that other provisions are relevant in this respect, such as the criminalisation of the production of child pornography, as well as the criminalisation of illegal employment of foreigners, in particular Article 10 of the 2012 Law on the Consequences of Employment of Foreigners Illegally Staying in the Territory of Poland, which expressly prohibits the employment of a foreigner who is a victim of trafficking in human beings and does not possess relevant valid documents. GRETA invites the Polish authorities to consider establishing as a criminal offence the use of services of which are the object of sexual or labour exploitation, with the knowledge that the person is a victim of trafficking in human beings.

c. Corporate liability (Article 22)

170. Since the adoption of the first GRETA report on Poland, the Law on the Liability of Corporate Entities has been subject to several changes which concern the catalogue of offences for which a legal entity can be held liable. According to the legislation currently in force, corporate entities can under certain circumstances be held liable for a THB offence when the injured party was abused to provide forced labour or services (Article 16, paragraph 1, item 9, of the Law on the Liability of Corporate Entities). The criteria include that the act was committed by natural persons acting on behalf of or in the interest of a corporate entity, exercising their right or obligation to represent it, to take decisions on its behalf or to exercise internal control. Corporate liability may also apply when the conduct by a natural person representing the corporate entity caused or could cause an advantage to that entity (even non-financial). Sub-contractors can be held liable if their activity can be considered as aiding and abetting or soliciting to commit an offence (Article 18 of the Criminal Code). The Polish authorities did not have knowledge of any cases in which corporate entities were held liable for THB offences in the reporting period.

171. GRETA considers that the Polish authorities should review the effectiveness of the legal provisions on corporate liability in relation to THB offences, examine the reasons why no legal entities have been prosecuted for trafficking-related acts and, in the light of the findings, take measures to ensure that the criminal liability of legal entities can be acted upon in practice.

⁵⁹ See paragraph 119 of GRETA's first report on Poland.

d. Non-punishment of victims of trafficking in human beings (Article 26)

172. In its first report, GRETA stressed the importance of ensuring that the Methodological Guidelines for Prosecutors are fully applied in order to prevent the punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so.

173. As noted in the first GRETA report on Poland, there are no express provisions in the Criminal Code on relieving of responsibility a person who was compelled to commit an offence, but there are general provisions that according to the Polish authorities can achieve the desired effect.⁶⁰ Article 26 of the CC provides for non-punishment in case of a "state of greater necessity".⁶¹ If a victim of THB was acting under the conditions described in Article 26 of the CC while committing an offence, the investigation against that person may be discontinued on basis on the Article 17(1) of the CCP. The same article allows also discontinuing the investigation in situations when the victim was submitted to physical constraint which excluded undertaking and executing any decision by the victim. Further, Articles 59, 60(3), 60(4) and 61 of the CC provide the possibility of extraordinary mitigation of the penalty, conditional suspension of its execution or withdrawal from imposition of a penalty if the particular circumstances arise and the conditions cited in these provisions have been fulfilled.

174. GRETA was informed that in one case in 2014 involving six citizens of "the former Yugoslav Republic of Macedonia" charged with tax offences and illegal production of cigarettes, the non-punishment principle was applied as the prosecutor found that they had been recruited in their country and promised legal work in the EU, after which they were transported to Poland and placed in a closed location in which cigarettes were being produced illegally. The victims were ordered not to leave the property, they were supervised and violence was used against them. The prosecutor decided to discontinue the investigation on the basis of Article 26, paragraph 1, of the CC. The Polish authorities have also referred to the case of a Vietnamese woman suspected of illegally crossing the Polish border who was identified as a victim of trafficking and the investigation was discontinued on the basis of Article 26 of the Convention.

175. According to civil society representatives met by GRETA, the application of the non-punishment principle by the prosecution service varies depending on the location. GRETA was informed of cases in which victims of THB had been convicted of drug smuggling.

176. GRETA is concerned that the existing Criminal Code and Criminal Procedure Code provisions are not sufficient to ensure that victims of trafficking are not punished for unlawful acts committed as a direct result of being subjected to trafficking. GRETA considers that the Polish authorities should take additional measures to ensure compliance with the principle of non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they have been compelled to do so, in accordance with Article 26 of the Convention. Such measures should include the adoption of a specific legal provision and/or the development of further training for prosecutors on the scope of the non-punishment provision, including with regard to administrative/civil law sanctions. Reference is made in this context to the recommendations on non-punishment for legislators and prosecutors contained in the paper issued by the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings in consultation with the Alliance against Trafficking in Persons Expert Co-ordination Team.⁶²

⁶⁰ See paragraphs 204-206 of GRETA's first report on Poland.

⁶¹ "1. Whoever acts with the purpose of averting an immediate danger threatening any well-being protected by law, if the danger cannot otherwise be avoided but the well-being sacrificed has a lower value than that of the well-being rescued, shall be deemed to have not committed an offence. 2. Whoever rescues any well-being protected by law under the circumstances defined in paragraph 1, or sacrifices well-being which does not represent a value manifestly greater than the well-being being rescued, shall also be deemed to have not committed an offence".

⁶² <http://www.osce.org/secretariat/101002?download=true>

4. Investigation, prosecution and procedural law

a. Measures related to effective investigations (Articles 1, 27 and 29)

177. In its first report GRETA considered that there was a need for improving the knowledge and sensitivity of judges, prosecutors, investigators and lawyers about THB and the human rights of victims, paying particular attention to overcoming potential entrenched negative attitudes and prejudices vis-à-vis victims of trafficking.

178. As noted in paragraph 24, in January 2014 a Unit for Combating Trafficking in Human Beings at the Department for Criminal Service of the National Police Headquarters was set up to monitor, coordinate and support police activities in the areas of combating trafficking in human beings and sexual abuse of children.⁶³ This specialised police unit operates a hotline for THB-cases, which in practice is a mobile phone carried by a member of the department for a week at the time. Anybody in need of help in relation to THB can call this number at any time. The department also operates a corresponding e-mail address. By the time of GRETA's visit there had been 180 calls to the hotline in 2016 and 70 e-mails, but not all communications could be confirmed as relating to THB. The hotline number and e-mail address have been advertised through campaigns and NGOs are involved in disseminating information about them.

179. The Prosecutor's Office investigates offences for which at least three years' imprisonment is foreseen. There is a prosecutor appointed as a focal point for THB cases at each regional Prosecutor's Office and at the General Prosecutor's Office there is a co-ordinator who supervises preparatory proceedings in THB cases.⁶⁴

180. According to information provided by the Polish authorities, the number of investigations into THB cases was 68 in 2012, 76 in 2013, 64 in 2014 and 34 in 2015.⁶⁵ The number of indictments was 23 in 2012, 26 in 2013, 15 in 2014 and 7 in 2015. The number of convictions for THB was 22 in 2012, 23 in 2013, 17 in 2014 and 36 in the first half of 2015. The number of final convictions was 16 in 2012, 12 in 2013 and nine in 2014.⁶⁶ Most of the sentences involved imprisonment of up to two years, in 11 cases the sentences involved imprisonment of up to three years, and in one case, from eight to 15 years. In 2016, 33 persons were sentenced for THB offences, five of whom received conditional sentences.⁶⁷ The statistics are not disaggregated into type of exploitation.

181. According to official statistics, 60 preparatory proceedings were concluded in 2015 and charges were brought in nine cases, which represent 15% of the concluded cases; the corresponding share was 34.2% in 2013 and 23.4% in 2014, thus there seems to be a downward trend. Most commonly proceedings were discontinued pursuant to Article 17, paragraph 1(2) of the CCP.⁶⁸ Some investigations were discontinued pursuant to Article 322(1) of the CCP (failure to identify the perpetrators). As it has proved difficult to secure sentences for THB offences, prosecutors sometimes bring charges under other crime headings in order to secure conviction, even if the sanction is not as high as it would have been in the cases of a THB offence.

⁶³ Until January 2014, there were police officers specialised in combatting THB at the Central Bureau of Investigation of the Police.

⁶⁴ The structure of the prosecution service is as follows: Prosecutor General's Office, Regional Prosecutor's Offices (11), Circuit Prosecutor's Offices (45) and District Prosecutor's Offices (342).

⁶⁵ The investigations were initiated by the Police or the Border Guard.

⁶⁶ See Report on Trafficking in Human Beings in Poland in 2015, prepared by the Unit against Trafficking in Human Beings in the Analyses and Migration Policy Department of the Ministry of the Interior and Administration, page 47.

⁶⁷ These are not necessarily final sentences.

⁶⁸ "The act does not meet the criteria of a prohibited act or it is acknowledged by the law that the perpetrator has not committed the crime".

182. NGO representatives met by GRETA noted that while the criminalisation of THB in Poland has existed for six years, its application by prosecutors and judges differs across Poland. Lawyers specialised in supporting victims of trafficking expressed the view that the specialised anti-THB units of the police work well, but their work is not matched by that of the Prosecutor's Office, which apparently causes a degree of frustration among the Police. GRETA was informed that some cases of forced labour detected by labour inspectors had not led to prosecutions. An example was given of a case of Ukrainian workers employed to dig ditches in freezing temperatures who were locked in a cellar during the night, which was reportedly not prosecuted.

183. According to the Ministry of Justice, the fact that the Criminal Code contains no provision criminalising forced labour as such does not mean that this type of behaviour remains unpunished in the Polish legal system as it can be punished under different legal provisions, such as Article 191 of the CC ("forcing to a specific behaviour"), Chapter XXVIII of the CC ("crimes against the rights of persons engaged in gainful employment") or Articles 9 to 11 of the Law of 15 June 2012 on the Consequences of Employment of Foreigners Illegally Staying in the Territory of Poland. However, the National Labour Inspectorate has expressed the view that forced labour should be criminalised as a stand-alone offence as this would make prosecutions easier.

184. GRETA refers to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), which in its 2014 concluding observations on Poland expressed concern about the limited training on gender-sensitive investigation methods of law enforcement officers and the low number of prosecutions and convictions of traffickers.⁶⁹

185. As regards the use of special investigation techniques in police preliminary investigations into suspected THB offences a court may order interception of communications, such as wiretapping, upon written request by the Police Commander in Chief and prior written consent of the General Public Prosecutor or alternatively upon written request by the Regional Police Commander and prior written consent of the District Prosecutor with territorial competence. Article 19a of the Law on Police of 6 April 1990 also allows controlled purchase, sale or takeover of objects relating to a crime. While controlled purchase and controlled delivery are in theory allowed in the investigation of THB offences, the General Prosecutor's Office guidelines state that they should not be used because of the ethical obstacles to treating a victim of THB as a subject of delivery. According to Article 22.1 of the same law, the police may be assisted by persons who are not police officers, for example informants.⁷⁰

186. There is no entity within the police that would exclusively conduct financial investigations. Officers conducting investigations related to THB are obliged to carry out activities aiming to discover the flow of money between the offenders and to seize offenders' property for future penalties. In 2015 the Deputy Prosecutor General sent an order to all prosecutors to investigate the money flow in the course of THB investigations and to ensure that all profits coming from THB are confiscated and forfeited to compensate victims. The Police and Border Guard can seize assets of suspects, such as flats, cars and cash, in cases in which prosecutors have decided to raise charges. An asset recovery division was created within the structure of the Criminal Service Bureau of the National Police Headquarters. There are also co-ordinators of asset recovery at every regional Police Headquarters. In 2013 confiscation of property was ordered in one case of THB and other assets were seized by court order in three THB cases, whereas the corresponding numbers for 2014 were one property and seven other assets seized, and in 2015 one property and eight other assets seized.

⁶⁹ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/POL/CO/7-8&Lang=En

⁷⁰ For further details on special investigation techniques, see paragraph 214 of GRETA's first report on Poland.

187. There is no specific legislation concerning blocking, filtering and take-down of illegal Internet content in Poland. The obligation to block or take down illegal content can, however, derive from the decision of a court or a public administration body which is based on the applicable law. The decision must be addressed to the content providers or the Internet service providers considered as the "aiding" person under the relevant law.⁷¹ Further, the Law on Providing Services by Electronic Means regulates any blocking of websites and introduces a solution known as "notice and takedown". In practice, such measures are mainly taken in matters concerning the dissemination of child pornography which could also include live streaming of sexual abuse of children.

188. GRETA is concerned by the rather low number of convictions for THB and urges the Polish authorities to take measures to ensure that THB offences are prosecuted as such, and lead to effective, proportionate and dissuasive sanctions, including by:

- identifying gaps in the investigation and prosecution of THB cases;
- reviewing the existing legal provisions and court rulings on forced labour with a view to extending the scope of forced labour to include working conditions contrary to human dignity in line with the ILO indicators of forced labour;
- training prosecutors and judges on the rights of victims of THB and developing further their capacity and specialisation to deal with THB cases and fully apply the existing provisions criminalising THB.

b. Protection of witnesses and victims (Articles 28 and 30)

189. In its first report GRETA considered that the Polish authorities should extend all special witness and victim protection procedures to cover child victims of THB up to the age of 18.

190. The Law of 28 November 2014 on Protection and Assistance of Victims and Witnesses which entered into force on 8 April 2015 introduced provisions relevant to the protection of victims of THB, such as keeping the secrecy of the place of residence and work (Article 191 of the CCP) and the possibility to testify without the presence of the defendant (Article 390, paragraph 3, of the CCP). Protection measures include change of the victim's place of residence or granting of a new identity; however, such measures have not yet been taken in respect of victims of trafficking. The law also makes it possible to conduct anonymous interviews of victims or witnesses in court hearings.

191. The Law on Protection and Assistance of Victims and Witnesses aims to facilitate access to psychological assistance for victims of crime and police co-ordinators have been appointed at regional police headquarters to ensure co-operation between police units when granting protection and psychological support to victims. Until 27 November 2015 the Police had issued 187 orders to grant assistance and protection on the basis of the Law on Protection and Assistance of Victims and Witnesses, but there is no information whether any of the above concerned a case of trafficking in human beings.

⁷¹ See Study on Blocking, Filtering and Take-down of Illegal Internet Content in the 47 Member States of the Council of Europe, commissioned by the Secretary General of the Council of Europe and prepared by the Swiss Institute of Comparative Law in 2016. The full study, with further details on relevant Polish legislation, is available at: <http://www.coe.int/en/web/freedom-expression/study-filtering-blocking-and-take-down-of-illegal-content-on-the-internet>

192. The Law of 13 June 2013 amending the Criminal Code and the Code of Criminal Procedure, as well as the Minister of Justice's Ordinance of 18 December 2013 on the preparation of interrogation in the manner specified in Articles 185a-185c of the CC, entered into force in 2014. The CCP provides that child victims of crimes are to be protected by the principle of a single hearing unless relevant circumstances come to light which require another hearing to be held or if requested by an accused who did not have a lawyer at the time of the first hearing. The principle of a single hearing concerns all victims and witnesses up to 15 years of age if their testimony could be important for the resolution of the case. This rule also applies to victims and witnesses up to the age of 18 when there is a justified concern that the direct presence of the accused at the hearing could affect their testimony or have a negative impact on the mental state of the child. A counsel must be appointed for the child and an audio-visual recording of the interview with the child is mandatory. Further, all interviews with child victims or witnesses of human trafficking must be conducted in child-friendly interview rooms.

193. The Law on the Protection and Assistance of Victims and Witnesses provides for the participation in criminal proceedings of support persons chosen by victims/witnesses, including NGO representatives, psychologists and medical experts. The General Prosecutor's Office, in its recommendations for prosecutors conducting cases of THB, encourages the conduct of hearings with the participation of a psychologist.

194. GRETA considers that the Polish authorities should extend the application of the single hearing principle to cover all child victims of THB, regardless of the precise circumstances and type of THB exploitation in the case. In the context of protecting child witnesses and victims, GRETA refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.⁷²

c. Jurisdiction (Article 31)

195. Polish courts have jurisdiction if an offence was committed on Polish territory, vessel or aircraft, abroad by a Polish citizen, or abroad by a foreign citizen against the interests of Poland, a Polish citizen or a Polish legal entity. There is a possibility to start or continue criminal proceedings in Poland regarding offences committed in Poland but reported abroad, in the country of residence of the victim. In order to start such proceedings in Poland, the competent authorities in Poland must be informed that an offence was committed. In general, double criminality is the condition for criminal liability for offences committed abroad but, notwithstanding the provisions applicable at the place of committing an offence, a Polish court has jurisdiction in case the offence was committed by a Polish national or a foreigner (whose surrender has not been decided) if Poland is obliged to prosecute such an offence under a treaty, such as offences specified in the Rome Statute of the International Criminal Court.

5. International co-operation and co-operation with civil society

a. International co-operation (Articles 32 and 33)

196. Poland has concluded bilateral agreements on mutual legal assistance in criminal matters with Algeria, Belarus, Bosnia and Herzegovina, Canada, China, Egypt, Iraq, Libya, Serbia, the USA, Thailand, Vietnam and "the former Yugoslav Republic of Macedonia". Co-operation between Poland and states with which Poland has not concluded an agreement on mutual legal assistance takes place on the basis of reciprocity and the legal provisions of Section XIII, Chapter 62 of the CPC, which regulates judicial assistance and service of documents in criminal cases.

⁷² [Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice](#) (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies)

197. International information exchange takes place via Polish liaison officers, foreign liaison officers accredited in Warsaw, as well as via Interpol and Europol. At the bilateral operational level the Polish Border Guard co-operate in particular with counterparts of Romania, Germany and the UK. It is also possible to exchange evidence directly between Prosecutors' Offices in the framework of Joint Investigation Teams (JITs). Since the first GRETA report, three JITs have been established. The first one was established with Romania in 2014 concerning trafficking of Romanian citizens to Poland for exploitation in the form of forced begging. The second JIT was set up with the United Kingdom in 2014 and aimed at investigating trafficking of Polish nationals to the UK for the purpose of labour exploitation. Further, in connection with the suspected functioning of a criminal group operating in Poland and Belgium, forcing Polish workers to work in a network of delicatessen shops in Belgium, an agreement on establishing a JIT for one year was signed on 17 June 2016.

198. Given that a relatively large number of Polish citizens have been identified as victims of THB in the UK, co-operation against THB and in support of its victims has intensified between Poland and the UK. The two Governments have agreed on the creation of an anti-THB co-operation plan, which includes co-operation between NGOs in the field of identification of, and assistance to, victims of THB, preventive actions, organisation of study visits and exchange of law enforcement officials.

199. As a part of actions aimed at preventing trafficking in human beings and related crimes, the Prevention and Traffic Police Bureau of the General Headquarters of the Polish Police has established a partnership co-operation with the Dutch Police. In this context, the project "Your safety - Our Business, Work in the Netherlands" included exchange of experience between the Dutch and Polish police forces combating THB crime.

200. The Polish Border Guard participates in common actions of Frontex against THB and took an active part in developing the Frontex Handbook on Risk Profiles in Trafficking in Human Beings. The Border Guard also co-operates with Europol and participated in the implementation of the multi-annual strategic plan against THB which forms part of the EU Policy Cycle 2014-2017 against serious organised crime. Operation "Archimedes", which took place from 15 to 23 September 2014, is an example of joint international action against THB in which Poland took part. In Poland, the operation involved large numbers of police, border guard and customs officers and led to the identification of 30 presumed victims of trafficking.

201. Since 2013 the Centre for Missing Persons Search of the National Police Headquarters has had an early warning system for missing children called Child Alert. It operates a call centre for reporting missing children to the national toll-free emergency number 995. Information about Child Alert has been disseminated through public media. In addition, a free-of-charge helpline 116 000 is available for parents and children around the clock, offering psychological and legal advice in cases related to missing children, parental abductions, unaccompanied migrant children and other missing children cases.⁷³ Since 2014 Poland takes part in the Amber Alert Europe initiative for Child Alert operators in Europe which gives cross-border access to data bases on missing children.

202. GRETA welcomes the steps taken in the area of international co-operation and invites the Polish authorities to continue their efforts in this regard, including by developing co-operation with labour inspectorates abroad.

⁷³ During the seven years of its operation the helpline has answered some 900 000 calls and replied to 33 000 anonymous messages through its associated internet portal (www.116111.pl). The number is presently operated by the NGO Foundation ITAKA Centre for Missing People Search.

b. Co-operation with civil society (Article 35)

203. Civil society continues to play a vital role in anti-trafficking action in Poland. Specialised NGOs participate with consultative status in the meetings of the Inter-Ministerial Committee for Combating Trafficking in Human Beings (see paragraph 19). Further, they participate in the expert-level Working Group set up within the Inter-Ministerial Committee for the purpose of monitoring the implementation of the National Action Plan. An expert group on victims of trafficking linked to the Inter-Ministerial Committee provides a framework for the NGOs operating the National Consulting and Intervention Centre (KCIK), namely La Strada Foundation and PoMOC, and relevant public authorities to meet on a monthly basis to discuss action against trafficking and the provision of support to victims. The regional teams against THB also involve NGO representatives.

204. As explained in paragraph 112, KCIK is funded from the budget of the Ministry of the Interior and Administration to provide assistance to victims of trafficking, including the operation of two specialised shelters.

205. The Network of NGOs against THB organises training sessions on various aspects of THB for its members as well as for a range of public officials. Further, NGOs are involved in awareness-raising activities alongside public authorities (see, for example, paragraphs 58 and 74-75) and research (see paragraph 52).

206. However, GRETA was informed that while NGOs were consulted about relevant legislative developments, their proposals and feedback were rarely reflected in the draft legislation or amendments. NGOs also noted with regret that the Government Minister responsible for co-operation with civil society had not yet met with the main anti-trafficking NGOs.

207. GRETA stresses that the important contribution of civil society to anti-trafficking action should be duly recognised and supported by involving them as equal partners in the planning and assessment of anti-trafficking measures. GRETA considers that the Polish authorities should further strengthen co-operation with civil society and build strategic partnerships with a range of civil society actors, including trade unions and academia.

IV. Conclusions

208. Since the adoption of GRETA's first report on Poland in March 2013, progress has been made in a number of areas.

209. The Polish authorities have continued to develop the legal framework relevant to action against trafficking in human beings. The adoption of new legislation on the protection and assistance of victims and witnesses and the legislative amendments in the area of compensation for victims of crime have the potential of promoting the rights of trafficking victims. Another welcome development is the introduction of changes in the Law on Foreigners which allow victims of trafficking to be issued residence permits either on the basis of their co-operation with the competent authorities or when required by their personal situation.

210. Since GRETA's first evaluation, regional anti-trafficking teams have been set up throughout Poland, bringing together representatives of public authorities and civil society. The establishment of a specialised anti-trafficking unit at the Department for Criminal Service of the National Police Headquarters and the appointment of anti-trafficking co-ordinators or focal points at the Police, Border Guard and Prosecutor's Office complement the institutional framework for combating human trafficking.

211. GRETA welcomes the adoption of the National Action Plan to Combat Human Trafficking for 2016-2018 which has a comprehensive scope and pays particular attention to combating trafficking for the purpose of labour exploitation, as well as envisaging the development of a National Referral Mechanism.

212. A range of professional groups have been trained on how to detect and combat trafficking in human beings. The training is often carried out in co-operation with NGOs and, whenever possible, a multi-stakeholder approach is promoted.

213. Research on different aspects of human trafficking has also been carried out by different actors, often within the framework of international projects, paying particular attention to human trafficking such for the purpose of labour exploitation, which has been on the rise.

214. GRETA commends the steps taken since the first evaluation visit to prevent trafficking for the purpose of labour exploitation through raising awareness about this phenomenon and strengthening the capacity of labour inspectors to detect forced labour.

215. Improvements have also been made in the area of protection of victims' rights. GRETA welcomes in particular the steps taken to improve the identification of victims of trafficking among asylum seekers and irregular migrants, including by the adoption of guidelines and indicators for their identification.

216. Further, GRETA commends the efforts made by Poland in the area of international co-operation, both when it comes to law enforcement co-operation and participation in international projects.

217. However, despite the progress achieved, some issues give rise to concern. In this report, GRETA requests the Polish authorities to take further action in a number of areas. The position of the recommendations in the text of the report is shown in parentheses.

Issues for immediate action

- GRETA urges the Polish authorities to develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical data on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of human trafficking cases. Statistics regarding victims should be collected from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. This should be accompanied by all the necessary measures to ensure 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 (paragraph 48);
- GRETA urges the Polish authorities to guarantee effective access to public health care for all victims of trafficking, regardless of residence status, in accordance with Article 12 of the Convention (paragraph 120);
- GRETA urges the Polish authorities to improve the identification and assistance of child victims of trafficking, in particular by:
 - increasing the capacity to detect child victims of trafficking by training a larger range of professionals who may come into contact with child victims of trafficking in the use of trafficking indicators and involving child specialists in the identification of child victims of trafficking to ensure that the best interests of the child is the primary consideration;
 - providing safe accommodation for child victims of trafficking and unaccompanied children and addressing the problem of such children disappearing, including by providing adequately trained supervisors and interpreters;
 - making available reintegration programmes for child victims of trafficking (paragraph 131);
- GRETA once again urges the Polish authorities, in compliance with the obligations under Articles 10, 12 and 13 of the Convention, to take additional steps to ensure that all possible foreign victims of trafficking, including EU/EEA nationals, are consistently offered a recovery and reflection period, regardless of where in Poland they are identified (paragraph 140);
- In the light of the small number of compensation awards to victims of trafficking, GRETA once again urges the Polish authorities to:
 - ensure a higher consistency in the provision of information about the right to seek compensation to victims of trafficking, including by facilitating the provision of legal aid by lawyers and providing qualified interpreters when needed;
 - encourage prosecutors to request compensation orders to the largest possible extent and review the role of prosecutors in trafficking cases, in view of removing any contradictions;
 - make victims of THB eligible for State compensation regardless of their residence status (paragraph 156);
- GRETA is concerned by the rather low number of convictions for THB and urges the Polish authorities to take measures to ensure that THB offences are prosecuted as such, and lead to effective, proportionate and dissuasive sanctions, including by:
 - identifying gaps in the investigation and prosecution of THB cases;

- reviewing the existing legal provisions and court rulings on forced labour with a view to extending the scope of forced labour to include working conditions contrary to human dignity in line with the ILO indicators of forced labour;
- training prosecutors and judges on the rights of victims of THB and developing further their capacity and specialisation to deal with THB cases and fully apply the existing provisions criminalising THB (paragraph 188).

Further conclusions

- GRETA considers that the Polish authorities should keep under review the effectiveness of the Unit for the European Migration Network and Prevention of THB in fulfilling the role of an equivalent mechanism to a National Rapporteur 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 23);
- GRETA considers that the Polish authorities should introduce an independent evaluation of the implementation of National Action Plans against THB and other anti-THB projects, as a tool for assessing the impact of the activities and planning future policies and measures to combat THB (paragraph 32);
- Given the low rate of convictions for THB offences and the low numbers of compensation awards made to victims of trafficking, GRETA considers that training should be strengthened for prosecutors and judges (see also paragraph 188). Further, periodic training on THB should be introduced for other relevant professional groups, such as health-care staff (paragraph 45);
- GRETA invites the Polish authorities to encourage and support further research on THB, in particular on the issue of child trafficking (paragraph 54);
- GRETA considers that the Polish authorities should continue their efforts to raise awareness of THB and design future actions in this area in the light of impact assessment of previous measures. To this end, independent evaluation studies should be made an integral part of future projects to raise awareness (paragraph 60);
- GRETA notes the measures already undertaken in Poland to prevent human trafficking for the purpose of labour exploitation and considers that the Polish authorities should:
 - review and assess the system of “statements of intension to employ” third-country nationals for periods of six months per year with a view to preventing exploitative practices;
 - provide the National Labour Inspectorate with necessary resources and further training to effectively prevent and combat THB;
 - strengthen inspections in sectors considered at risk of THB by engaging with key stakeholders, including with a view to preventing THB in supply chains;
 - work closely with the private sector, in line with the Guiding Principles on Business and Human Rights, and consider including business representatives in the regional anti-THB teams (paragraph 78);
- GRETA invites the Polish authorities to keep under review the effectiveness of the amendments concerning the payment of minimum wages under “civil law contracts” and to monitor the conclusion of “specific task contracts” to ensure that they do not provide a gateway to human trafficking (paragraph 79);

- GRETA considers that the authorities should continue and strengthen their efforts in the area of prevention of child trafficking for the purpose of sexual exploitation, labour exploitation (including exploitation of begging) and forced criminality, in particular by sensitising and training child protection professionals across the country, raising awareness of children through education, and paying increased attention to children from Roma communities, unaccompanied children and migrant children (paragraph 86);
- GRETA encourages the Polish authorities to ratify the Council of Europe Convention against Trafficking in Human Organs as this would contribute to the prevention of trafficking for the purpose of organ removal (paragraph 92);
- GRETA invites the Polish authorities to ensure that, as part of their training, medical and other health care professionals involved in organ transplantations continue to be sensitised about THB for the purpose of organ removal (paragraph 93);
- GRETA considers that the Polish 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. This should include the introduction of an incentive system for companies that decide to adopt codes of conduct to publish and effectively implement them. The government should periodically present to Parliament and the public the results of monitoring compliance with such codes (paragraph 99);
- GRETA invites the Polish authorities to continue ensuring that Border Guard officers are provided with training and resources to prevent and combat THB (paragraph 102);
- GRETA notes the plans to introduce a National Referral Mechanism and considers that the Polish authorities should increase their efforts to identify victims of trafficking for all forms of exploitation, including by:
 - pursuing a proactive approach to the identification of victims of trafficking of all forms of exploitation, and in particular for the purpose of labour exploitation in sectors considered to be at risk;
 - encouraging use of regular and co-ordinated multi-agency inspections by organisations responsible for regulating employment, health and safety in those sectors most at risk;
 - improving the identification of victims of trafficking in detention centres, including by ensuring access to such centres by specialised NGOs providing legal aid and by providing sufficient funding to NGOs for such visits (paragraph 109);
- GRETA considers that the Polish authorities should take additional steps to provide assistance to victims of trafficking, and in particular to ensure that sufficient funding is made available to assist victims of THB when the assistance is delegated to NGOs or local authorities (paragraph 121);
- GRETA invites the Polish authorities to review the age assessment procedures, ensuring that the best interests of the child are effectively protected, and taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child (paragraph 130);
- GRETA considers that the Polish authorities should take steps to ensure that victims of THB can effectively take advantage of the possibility to be issued residence permits, including by consistently informing victims, in a language they can understand, about the application procedure (paragraph 146);
- GRETA once again invites the Polish authorities to develop a system for recording claims for compensation by victims of trafficking, as well as compensation awarded to victims of trafficking (paragraph 157);

- GRETA considers that the Polish authorities should ensure that any repatriation is conducted with due regard for the rights, safety and dignity of victims of trafficking, is preferably voluntary and complies with the obligation of *non-refoulement*. A risk assessment should be carried out for all victims of THB to be returned, be they EU or third-country nationals, and regardless of whether they have been covered by the Programme for Support and Protection of Victims/Witnesses of THB. The Polish authorities should further develop co-operation arrangements with States of return with a view to ensuring effective and comprehensive risk assessment relating to the possible return of victims of THB and enabling their safe return. Full consideration should be given to the UNHCR's guidelines on the application of the Refugees Convention to trafficked people (paragraph 162);
- GRETA considers that the Criminal Code should include an express prohibition of servitude in order to contribute to the practical and effective protection against treatment contrary to the Convention on Action against Trafficking in Human Beings (paragraph 164);
- GRETA invites the Polish authorities to consider establishing as a criminal offence the use of services of which are the object of sexual or labour exploitation, with the knowledge that the person is a victim of trafficking in human beings (paragraph 169);
- GRETA considers that the Polish authorities should review the effectiveness of the legal provisions on corporate liability in relation to THB offences, examine the reasons why no legal entities have been prosecuted for trafficking-related acts and, in the light of the findings, take measures to ensure that the criminal liability of legal entities can be acted upon in practice (paragraph 171);
- GRETA considers that the Polish authorities should take additional measures to ensure compliance with the principle of non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they have been compelled to do so, in accordance with Article 26 of the Convention. Such measures should include the adoption of a specific legal provision and/or the development of further training for prosecutors on the scope of the non-punishment provision, including with regard to administrative/civil law sanctions (paragraph 176);
- GRETA considers that the Polish authorities should extend the application of the single hearing principle to cover all child victims of THB, regardless of the precise circumstances and type of THB exploitation in the case (paragraph 194);
- GRETA invites the Polish authorities to continue their efforts in this regard, including by developing co-operation with labour inspectorates abroad (paragraph 202);
- GRETA considers that the Polish authorities should further strengthen co-operation with civil society and build strategic partnerships with a range of civil society actors, including trade unions and academia (paragraph 207).

Appendix

List of public bodies, intergovernmental organisations, non-governmental organisations and other civil society actors with which GRETA held consultations

Public bodies

- Ministry of the Interior and Administration
 - Human Trafficking Department of the National Police
 - Border Guard Headquarters and Training Centre
- Ministry of Justice
 - Prosecutor General's Office
 - National School of the Judiciary and Prosecutions
- Ministry of Family, Labour and Social Policy
- Ministry of Education
- Ministry of Foreign Affairs
 - Office for Foreigners
- National Labour Inspectorate
- Plenipotentiary for Equal Treatment and Civil Society
- Parliament (Sejm)
- Regional Anti-trafficking Team of Gorzów Wielkopolski

Intergovernmental organisations

- International Organization for Migration (IOM)
- Office for Democratic Institutions and Human Rights (ODIHR)
- United Nations High Commissioner for Refugees (UNHCR)

NGOs and other civil society organisations

- All-Poland Alliance of Trade Unions (OPZZ)
- Centre for Human Trafficking Studies of Warsaw University
- Network of Anti-trafficking NGOs
- Polish Bar Council

Government's comments

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

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

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the Polish authorities on 7 September 2017 and invited them to submit any final comments. The comments of the Polish authorities, submitted on 9 October 2017, are reproduced hereafter.

