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Reply from the Netherlands  
to the Questionnaire for the evaluation of the implementation  
of the Council of Europe Convention on Action against  
Trafficking in Human Beings by the Parties

Second evaluation round  
(Reply submitted on 19 September 2017)



# Answers of The Netherlands to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties

## Second evaluation round

In the answers below, reference is made several times to the information provided by the Netherlands in February 2017 on the measures taken to implement the proposals of GRETA from the first evaluation round [CP(2017)8]. This information is referred to as the "interim report".

Sometimes there seems to be confusion whether "identification" refers to the detection of possible signs or possible victims of THB or to the formal recognition of a person as a victim of THB. In the answers to this questionnaire, the word "detection" has therefore been used to refer to coming across possible signs or victims of THB and the word "identification" has been used to refer to (formal) recognition of someone as a victim of THB.

### A. Follow-up questions

1. Please provide information on developments since GRETA's first evaluation report on your country in the following areas:

1 a) the main forms of trafficking in human beings (THB) and emerging trends observed in your country (for example, any new types or sectors of exploitation, recruitment methods, countries of origin or destination of the victims);

Answer:

When it comes to victims:

- The main forms of THB are still THB for sexual exploitation and, to a lesser extent, labour exploitation.
- The number of registered victims decreased in 2015. This is due to the pressure on the capacity of the police and other partners from the large influx of refugees and terrorist threats. The official figures for 2016 are not yet known, but are expected to be lower than 2015 again.
- The number of minor victims of sexual exploitation has increased. In addition to the large proportion of minors, the share of Dutch victims in sexual exploitation has also risen to 46% of victims of sexual exploitation, against 35% in 2014
- There is an increase in the number of possible victims of sexual exploitation from Romania and a reduction in the number of possible victims from West Africa and China.
- A growing number of victims of sexual exploitation has a mild mental disability, victims are more often recruited from care or youth institutions.
- The number of victims of other forms of exploitation (outside the sex industry) has risen.
- A rising form of criminal exploitation is the forced application for all kinds of benefits and surcharges. There is an increasing variety in the forms in which forced services occur.

When it comes to suspects:

- In recent years there has been a larger proportion of female suspects. They often fulfil service roles, such as arranging the trip abroad or being paid to offer houses where the prostitution can take place.
- The number of young perpetrators is also striking; one in five suspects is an adolescent (18 to 22 years), or even minor, at the time of committing the crime.
- Recruiting victims is increasingly taking place through the internet and social media. Sexting is increasingly used as a way to blackmail victims.

These trends and statistics are based on the Monitor Mensenhandel part 1: Cijfers mogelijke slachtoffers 2011-2015

(statistics possible victims 2011-2015)<sup>1</sup> and part 2: Cijfers vervolging en berechting 2011-2015 (statistics prosecution and adjudication 2011-2015)<sup>2</sup> of the National Rapporteur and on the National Threat Assessment Organised Crime 2017 (Nationaal Dreigingsbeeld Georganiseerde Criminaliteit 2017)<sup>3</sup> published by the National Police. The Threat Assessment identifies THB for sexual exploitation, for labour exploitation and for the exploitation of criminal activities and forced services as a threat to Dutch society. THB for organ removal has not been identified as a threat to Dutch society as a whole.

1 b) any changes in your country's laws and regulations relevant to action against THB;

Answer:

- The Netherlands has ratified the 'Protocol of 2014 to the Forced Labour Convention, 1930'. A bill to approve the Protocol was adopted by both the Lower House of Parliament and the Senate in April 2017. The bill came into force on 1 August 2017.
- In 2016, a private member's bill was initiated in the Lower House that would institute a duty of care regarding child labour on companies operating in the Netherlands. The bill was approved by the Lower House on 7 February 2017, and is now being examined by the Senate. If enacted, the bill would require companies to (1) conduct due diligence on their value chains including (2) an action plan to address any risks that have been uncovered, and to (3) submit a declaration outlining this due diligence process to the monitoring body (to be determined). The bill would enter into force in 2020.
- For information on:
  - the Regulation of prostitution and fight against abuses in the sexual service sector bill and
  - the private member's bill amending the Dutch Criminal Code (CC) which establishes criminal liability for a person who uses sexual services with the knowledge or severe suspicion that a victim of THB is involved

please see the response to recommendation 18 in the interim report.

1 c) the institutional framework for action against THB, in particular: any changes in respect of the composition and functions of the bodies responsible for co-ordinating national action against THB, the involvement of NGOs in co-ordinating bodies, the entities specialised in the fight against THB, and the establishment of a national rapporteur or other mechanism for monitoring the implementation of anti-trafficking strategies, policies and activities;

Answer:

- Currently the mandate of the Task Force on Human Trafficking is being extended for another three years by the Minister of Security and Justice. As mentioned in the comments on the first GRETA report, in 2014 the composition of the Task Force was expanded to include the Association of Netherlands Municipalities (VNG), the National Information and Expertise Centre (LIEC) and Youth Care<sup>4</sup>. In November 2016, a representative of the SOM ('Strategisch Overleg Mensenhandel') also joined the Task Force. The SOM is a cooperation of social (care) institutions and organisations that deal with shelter, counselling and representation of interests of victims of human trafficking.
- The largest Trade Union of the Netherlands, FNV, was involved in TeamWork!, the project for the Netherlands presidency of the Council of the EU (see the response to recommendation 1 in the interim report), from the beginning and is involved in the follow-up to this project.
- In The Netherlands the investigation of THB is mainly performed by the Aliens, Identification and Human Trafficking Units (AVIMs). There is an AVIMs in each of the ten Regional Police Units. They are located within the regional crime investigation departments, which are responsible for tackling and combating more serious crime. The AVIMs are responsible for investigating THB. The AVIMs work closely together with other governmental agencies and with NGOs. They are supported by the national Centre of Expertise on Aliens, Identification and Human Trafficking (EVIM), which is part of the Central Unit. Each year EVIM initiates and coordinates two national action days against THB in which all the AVIMs participate. They focus on non-location bound forced prostitution.

<sup>1</sup> See: <https://www.nationaalrapporteur.nl/Publicaties/monitormensenhandel/index.aspx>.

<sup>2</sup> See: <https://www.nationaalrapporteur.nl/actueel/2016/rechter-straft-lager-voor-mensenhandel.aspx>.

<sup>3</sup> See <https://www.politie.nl/themas/nationaal-dreigingsbeeld-georganiseerde-criminaliteit-2017.html>.

<sup>4</sup> One organisation that has been participating in the Task Force but seems to have been omitted from both the Dutch response to the first questionnaire and the GRETA report is the Inspectorate SZW.

The AVIMs also take part in international actions and action days (e.g. JITs and EMPACT action days). The goal is always to work in a multidisciplinary way with other governmental agencies and NGOs to achieve the best results in the fight against THB.

The core business of the AVIMs is to detect perpetrators of THB and bring them to court. Besides that, the AVIMs also have an important role to play when it comes to supporting (possible) victims of THB.

- The GRETA report on the Netherlands (2014) mentions the National Expert Group on THB (LEM), which met once a month and was formed by the designated THB specialists of the regional police units. The LEM has been replaced by the LOSM (Landelijk Overleg Specialisten Mensenhandel or National Meeting of THB specialists).

1 d) an overview of the current national strategy and/or action plan to combat trafficking in human beings (duration, objectives and main activities, bodies responsible for its implementation, budget, monitoring and evaluation of results).

Answer:

- The Dutch approach to THB is structured along a number of main lines. As mentioned above, there is of course the Task Force on Human Trafficking that brings together the main actors in the approach against THB. Then there are a number of large programmes, including the project on the National Referral Mechanism, the programme on the issue of “loverboys” or pimp boyfriends, and the programme on exploitation of Roma children. The continuance of these programmes and the creation of possible new initiatives are subject to discussion, including in relation to the negotiations for a new Dutch government. Finally, there is the programme on THB for labour exploitation set up by the Inspectorate SZW.
- In the meantime, starting in 2017, the National Police and the Public Prosecution Service will receive additional funds to strengthen their fight against THB. € 1 million is available in 2017 and € 2 million will be available per year from 2018 onwards. These funds will be used for:
  - an increase in the number of police detectives certified to investigate cases of THB by 5% a year and a comparable investment in the capacity and expertise of and management of investigations by the Public Prosecution Service;
  - training for all frontline police officers in recognising the signs of THB.

The Expertise Centre on THB and Migrant Smuggling will also be able to hire more analysts (2 analysts in 2017 and 5 analysts in the year 2018), in order to improve the information position for the purpose of more large and international investigations.

- During its new mandate (see 1c), stimulating a comprehensive and multidisciplinary approach to THB involving all partners that have something to contribute will remain the central aim of the Task Force on Human Trafficking. It will focus on new manifestations of THB such as THB for criminal exploitation and the overlap between THB and migrant smuggling, without losing sight of better known forms of THB. The Task Force will stimulate and strengthen its connection with regional forms of cooperation against THB.
- When it comes to the project on the National Referral Mechanism, the most notable initiative since interim report, has been the preparation of the operational pilot to develop a model to establish the likelihood that people are in fact victims of THB in a multidisciplinary way. This has recently been given the green light. For an overview of the other efforts related to the National Referral Mechanism for possible victims of THB since June 2014, please see the response to recommendation 9 in the interim report.
- As referred to in response to recommendation 1 in the interim report, the Inspectorate SZW has formalised a new programme for 2017-2019 to tackle THB for the purpose of labour exploitation. This programme contains a broad approach to tackling labour exploitation by investing in criminal investigations, cooperation with other partners and so on. To increase the effectiveness of protection of vulnerable groups the Inspectorate will invest in prevention, the willingness to press charges and the comprehensive (inter)national approach to labour exploitation.
- For that approach the Inspectorate will collaborate with partners (such as the Public Prosecution Service, the Regional Information and Expertise Centres and NGOs), experiment with tackling employers that commit serious violations of labour laws which do not qualify as labour exploitation, with making the companies in the production chain responsible for their approach to labour exploitation (via chain pressure) and with targeted communication to further increase awareness among professionals involved in tackling labour exploitation.
- For an overview of other efforts on THB for labour exploitation since June 2014, please see the response to recommendation 1 in the interim report.

- To boost the quality of the existing specialised treatment services for child victims of sexual exploitation, an international expert meeting was organised on April 7th 2017. The input from abroad provides knowledge for further development of the Dutch youth care for these victims. For an overview of other efforts against trafficking in children since June 2014, please see the response to recommendation 2 in the interim report.
- When it comes to THB for the exploitation of criminal activities (or criminal exploitation), a so-called administrative report based on the investigation 13Oceans (see the answer to question 3) was published in 2016. Begging, especially by children, as well as criminal activities by children, are in some cases ordered by family members or other adults. The report shows that if you look at begging and 'ordinary' crime in a different way, the child may be considered to be a victim of THB and the family member or adult that accompanies the child may in fact be a trafficker. In response to this report, all police officers will be trained on recognising the signs of THB for criminal exploitation as of 2017 as part of the investment mentioned earlier. The integral method used in the investigation 13Oceans is being given a follow-up. The integrated guidance committee, in which police and the public prosecution collaborated with other partners, will be transformed into a national expert group. The expert group will provide support to care and partners in the field of security to help them with an effective approach to tackle this form of human trafficking.

## B. Cross-cutting questions

Gender equality (Articles 1.1.b, 5.3 and 17)

2. What specific measures are taken in your country to address the gender dimension of THB and incorporate gender equality into the policies to prevent and combat THB and to protect and promote the rights of victims, including through the empowerment of women and girls?

Answer:

General anti-trafficking policy in the Netherlands is gender-neutral, since it is important to recognise that men and women, boys and girls can all fall victim to THB. Many parts of the anti-trafficking policy are gender specific, however. For example:

- Information on recognising the signs of a specific type of trafficking may have a focus on either possible female or male victims, depending on which gender is most often encountered in this kind of trafficking.
- Preventive measures in the Netherlands have so far mainly focused on women and girls, because they form the majority of the Dutch victims encountered so far. However, there are also materials available aimed at boys. As mentioned in the response to recommendation 2 in the interim report, an overview has been made of all the available prevention materials<sup>5</sup>. Please see the answer to question 8b for more information on this overview.
- There are separate shelters for male and female victims, since they have different needs.
- Research has been commissioned into boys who fall victims to so-called "loverboys" or pimp boyfriends, since not much is known about this issue. For more information about this, please see the answer to question 5.

Having gender-specific policies or practices helps to detect different kinds of victims of different types of trafficking, since the type of trafficking people are vulnerable to can be gender specific. It also helps to ensure that all victims are provided with tailor-made assistance, regardless of their gender.

Non-discrimination (Article 3)

3. What measures are taken to ensure that trafficked persons who are members of ethnic minorities have access to the rights specified in the Convention?

Answer:

All victims are provided with access to appropriate care and assistance. No distinction is made between victims based on their ethnicity. Depending on their specific needs the type of support offered may vary from victim to victim. There is a difference in the form of the shelter provided for Dutch victims of trafficking and foreign victims. For Dutch victims and victims with legal residence, the general women's shelters and youth care facilities are available. Victims without legal residence are able to stay in the so-called COSM shelters.

<sup>5</sup> See <https://www.wegwijzermensenhandel.nl/Actueel/Nieuwsberichten/index.aspx>.

As soon as someone is legally resident in the Netherlands (for example, by virtue of a B8 residence permit), he/she will have the same entitlement to medical care, legal assistance and so on as a victim who is a Dutch citizen.

An example of a case involving trafficked persons who are members of ethnic minorities is 13Oceans. In this case, about 20 Roma children from Eastern Europe were being forced to steal and pick pockets by adults. Some of these children were less than ten years old. The children were not going to school. Some of the girls were getting pregnant at a very early age; child abuse was suspected. They were being moved around Europe to avoid detection. The money that was earned was taken to the former Yugoslavia, where the criminal networks involved are based. An investigation was started to tackle the criminal networks, gain insight into this phenomenon and, most importantly, safeguard the children.

The networks seemed to be based on family ties. Since most of the persons involved did not have any documentation, however, it could be difficult to determine the exact nature of these ties. In order to break the hold of the criminal networks over the children, the court placed about 10 children under supervision and in closed youth care institutions. However, some of the children managed to run away. The investigation led to the arrest of two persons in Barcelona. They are suspected of THB, participating in a criminal organisation, using false identities and removing children from legal custody.

In two squalid houses used by the persons arrested, six children were found, including a heavily pregnant 14-year old and a baby. Four of these children had run away from youth care institutions in the Netherlands. All six children were eventually brought back to the Netherlands. The court appointed guardians for all the children and deprived their parents of their parental rights. Returning the children to Eastern Europe was considered too dangerous; it would risk them falling into the hands of the criminal network again. The children now all live with either a foster family or in a youth care institution and are going to school (apart from the ones that are too young). For the children's safety, the parents have not been told where they live.

The Prosecution Service and the Police cooperated on the investigation with colleagues in Austria, Bosnia-Herzegovina, Croatia and Spain. The Child Care and Protection Board, the Salvation Army, Fier, Nidos, the Royal Netherlands Marechaussee (RNLM or KMar), the Immigration and Naturalisation Service (IND), the Repatriation and Departure Service (DT&V), the Expertise Centre on Trafficking in Human Beings and People Smuggling (EMM) and the Ministry of Security and Justice were involved in providing protection and care to the children and bringing them back to the Netherlands.

4. What specific measures are taken to ensure that trafficked persons who are irregular migrants or migrant workers are identified as victims of THB and have access to the rights provided for in the Convention?

Answer:

- Please refer to the response to recommendation 10 in the interim report for information on measures taken to ensure that trafficked persons who are irregular migrants or migrant workers are detected as victims of THB.
- Within the immigration chain, constant attention is paid to detecting signs of THB among migrants. This applies to all migrants, regardless of how they have come to the Netherlands, so also to irregular migrants and migrant workers. The answer to question 6 contains information on the training of professionals in the immigration chain to detect signs of THB.
- Please refer to the response to recommendation 9 in the interim report for information on measures taken to ensure that all possible victims, including irregular migrants or migrant workers, have access to the rights provided in the Convention.
- All victims of human trafficking are entitled to free legal assistance by a lawyer (see also the answer to question 42b). CoMensha administers a centrally financed fund for translation services for victims of human trafficking, on top of general provisions with regards to translation service in the care system.
- In addition, the answer to question 38 describes the kinds of support that irregular migrants have access to in the specialised shelters (the so-called COSM). The answer to question 10b describes the kinds of support available for unaccompanied minors. The response to recommendation 13 in the interim report describes the assistance provided to EU and Dutch nationals.

5. What measures exist to ensure that male victims of trafficking are identified and provided with assistance and protection, including safe accommodation, as provided by the Convention?

Answer:

Men often become victim of a different form of exploitation than women, mostly outside the sex industry. More attention is being given to detect these forms of exploitation, for example through the provision of training and public awareness, see the response to recommendations 3 and 7 in the interim report. This can also be seen in the official figures. More male victims and victims of exploitation outside the sex industry are reported to CoMensha

In 2017, the NGO Comensha has received a grant from the Ministry of SZW to (among others things) improve (on the basis of client profiles) the assistance to groups of victims (mostly male) of labour exploitation.

Research has been conducted to look at boys who become victims of sexual exploitation, to see what the differences are between boy and girl victims. A number of cases of male victims, that show a lot of similarities with the 'traditional' girl victims, have been found. The numbers are not very high though. This is because this problem is hidden and appears to be invisible, even more so than is the case with girls. Important conclusion is that the way a boy ends up in a situation of sexual exploitation is different from girls. Because of a certain vulnerability (e.g. being homeless or having been cast out by their families) boys start to work in prostitution more or less voluntarily. But because of that same vulnerability, they eventually can then end up in a situation of exploitation. The results of this research will be shared with relevant partners working with (possible) male victims in an expert meeting to be organised this fall.

For an overview of the other efforts to provide assistance and protection to male victims, please see the response to recommendation 15 in the interim report.

Training of relevant professionals (Articles 10 and 29)

6. Please describe how the needs for training of professionals in the area of action against THB are identified and met, with an indication of the categories of staff that receive such training, whether the training is obligatory or optional, the content and focus of the training, and the funding provided for training activities. If the impact of training has been assessed, please provide details.

Answer:

The following list describes the training provided to different actors involved in tackling THB:

National Police (NP):

As mentioned in the response to recommendation 3 in the interim report, the National Police will receive additional funds starting this year to strengthen its fight against THB. The first additional training to certify 20 police detectives started earlier this year.

The TOM, AMO and AMS training mentioned in the Dutch reply to the first GRETA questionnaire (question 8) have been changed into the OCM training (Opleiding Certificering Mensenhandel or Training Certification THB). The training is currently being recalibrated. There will be a new set-up:

- AVIM Orientation
- AVIM Basis
- AVIM Operational Field
- AVIM Specialism (among which will be the OCM training, digital investigations and financial investigations).

New AVIM staff will first follow the AVIM Orientation within their own unit. AVIM Basis will be obligatory for all AVIM staff, unless there are reasons to exempt a member of staff. Completion of AVIM Basis will be necessary to follow AVIM Operational Field or AVIM Specialism.

In the fight against THB it is very important that as many police officers as possible are able to recognise the signs of all manifestations of THB. For this reason, the National Police will start to train all frontline police officers in recognising the signs at the end of 2017. They will also be trained in the correct registration of signs in the business process systems and in passing on information about signs of THB to the AVIMs. This training will be obligatory and will also be paid from the additional funds received from the Ministry of Security and Justice.

#### Royal Netherlands Marechaussee (RNLM):

In 2014 the Royal Netherlands Marechaussee (RNLM) started its own course for officers, who are assigned with the task of interviewing and recognising possible victims of human trafficking. These victims are only interviewed by certified officers, who have completed this mandatory course, called "certified interrogator victims of human trafficking". The course lasts sixteen weeks in total and includes three weeks of class teaching, four weeks of in-service training with operational units of the RNLM and with civilian counterparts, and nine weeks of self-tuition and examination. The in-service training includes one week at one of the specialised shelters (COSMs) for victims of human trafficking.

In the basic course for border guards at the training facility of the RNLM, each officer receives one day of mandatory class education in the combating of trafficking in human beings. When needed, operational brigades can receive an additional day of training on the topic of THB, to keep the awareness and knowledge at the appropriate level among its personnel. Each RNLM officer possesses a physical booklet consisting of indicators related to all kinds of punishable offences, included THB and all procedures concerning dealing with THB. The RNLM has its own "Digital knowledge forum", in which every officer is able to consult all the relevant and available information about this topic digitally.

#### Immigration chain:

All relevant actors in the migration and refugee domain are trained to detect signs of human trafficking:

#### Immigration and Naturalisation Service (IND):

- The Immigration and Naturalisation Service is responsible for implementing the Human Trafficking Residence Scheme for victims of human trafficking and witnesses reporting human trafficking to the competent authorities. The IND has an important task in the early detection and in passing on signs of human trafficking to the investigative authorities. Case workers (including those taking decisions on asylum applications and gender contact persons) report information about signs of human trafficking to units which register and pass the information on to the Expertise Centre on Human Trafficking and People Smuggling. These units are so-called HIKs: handhavinginformatie knooppunten or enforcement information centres.
- Signs of (possible) THB may be detected by the IND but also by other actors within the chain of organisations that together make out the immigration chain. Professionals within this chain of organisations (including IND personnel) are therefore trained to detect signs of human trafficking. To facilitate early detection different instruments have been developed for example a so called quick reference card with indicators and a procedure how to report signals. Workshops and presentations are some of the instruments used to train staff.
- The IND has also collaborated in the development of a EASO training course for case workers in Europe which will shortly be launched.

#### Central Agency for the Reception of Asylum Seekers (COA):

COA is responsible for the reception of asylum seekers in the Netherlands. The COA staff are trained to recognise signs of human trafficking. Each reception center has two contact persons for questions regarding human trafficking and / or smuggling. These contact persons have had additional training. In addition, these contact persons are provided with a refreshment course twice a year. COA collaborates with the EMM, CoMensha and the RNLM in these trainings.

#### Nidos:

The Nidos staff members working at the application centre of Ter Apel, where UAMs enter the migration procedure, and in the protected shelter for UAMs, have been trained to detect signs of THB. This training will soon be introduced nationally, at all UAM shelters where Nidos staff is present.

#### Repatriation and Departure Service (DT&V):

The majority of the departure supervisors, who are in direct contact with migrants, have been trained to recognise signs of THB. The training is obligatory and provided by Fairwork and IOM. In the training the departure supervisors learn to recognise the signs of THB and what steps need to be taken in the case of such signs. IOM trains the departure supervisors on how to return migrants to their country of origin when staying in the Netherlands is no longer possible.

#### Custodial Institutions Agency (DJI):

Custodial Institutions Agency personnel (staff on migration affairs, the medical service and the spiritual care service) are trained to recognise signs of trafficking in human beings in the detention of aliens. For the medical service, guidelines are available on recognising signs of trafficking in human beings. In cases that occur, the



personnel refer the cases to the police. Employees of the Custodial Institutions Agency are also trained by the NGO Fairwork, which stands up for the rights of victims of human trafficking.

#### Municipalities:

Municipalities that provide training all have their own way of determining the needs for training of professionals and how they will meet them. As an example, the City of Rotterdam looks at which role(s) their civil servants fulfill to determine if they could play a role in detecting the signs of trafficking. They then provide ad hoc training. The training is voluntary and well attended. The training usually focuses on what THB is, how it can be detected and where these signs should be reported. Sometimes a follow-up session is organised in cooperation with the police and the Inspectorate SZW about improving the quality of the signs, so that the police and Inspectorate SZW are able to act on them quickly.

#### Rotterdam provides training

- to civil servants who work at the desk where inhabitants can register where they live or apply for a new identification document or driving license,
- to supervisors of alcohol licenses and environmental issues,
- to inspectors of the municipal register (who check if those registered at an address actually live there and if those who live there are registered) and
- to the multidisciplinary intervention teams that visit inhabitants causing a nuisance and look for overcrowding, illegal letting and housing fraud.

The number of trainings provided varies: in 2017, four trainings are planned; in 2016 there were 14. Between 15 and 20 civil servants participate in each training.

In 2017 an online e-learning training on THB came available for desk clerks (working on the Municipal Personal Records Database (Basisregistratie personen, BRP), among other things) and supervisors of local authorities<sup>6</sup>. This online training improves the knowledge of the employees on THB. When employees of local authorities come into contact with possible victims of THB, the training enables them to recognise and detect signs of possible THB. The e-learning was developed by the CCV (Centrum voor Criminaliteitspreventie en Veiligheid) and commissioned by the Ministry of Security and Justice.

#### Comensha:

Comensha uses the so-called barrier model (see the answer to question 59) to identify professionals and organisations that could come in contact with possible victims of human trafficking. Not only professionals and organisations in law enforcement (police officers, labour inspectors, border guards) and government (for example municipalities) but also the private sector is a target group that should be aware of human trafficking and how signs of THB could be detected.

In 2017, CoMensha is exploring the field of aviation and is in consultation with several airline companies. CoMensha will also have a meeting with the Schiphol Group about the importance of awareness of human trafficking, especially at airports. CoMensha is also looking into the medical sector (hospitals) as a group that should be trained. A pilot training was given at the VU University Medical Center (VUmc) in Amsterdam. Special attention was given to the discrepancy between the confidentiality of medical information and the need to pass on possible signs of human trafficking. CoMensha received positive feedback from the participants in the pilot training. CoMensha is therefore mapping the medical field.

CoMensha also pays attention to schools and started giving low-key awareness sessions to children at primary school about the use of internet, social media and mobile devices and the potential dangers of sexting and grooming. For now this is optional for schools. Schools do have to pay attention to sexuality and sexual diversity. CoMensha will discuss this further with the Ministry of Education, Culture and Science to see if a collaboration could be set up.

In 2017, Comensha received additional funding from the Ministry of Social Affairs and Employment, part of which has been allocated for the development of a training for the Central Agency for the Reception of Asylum Seekers and the Dutch Council for Refugees, with emphasis on the position and rights of asylum seekers in relation to the prevention of THB. Part of the funding has been allocated for making an inventory of the curriculum of educational programs in relation to the subject of THB at universities and universities of applied sciences and to see if any changes are needed.

<sup>6</sup> See <https://hetccv.nl/onderwerpen/mensenhandel/e-learning-signalering-mensenhandel/>.

Training at youth care institutions is very important, as the young people in care are often very vulnerable and could be a target for THB. CoMensha is in contact with Youth Care the Netherlands and the 'Safe Home' organisations<sup>7</sup> to see what kind of additional possibilities there are to better reach this target group in an effective way.

#### Shelters (ACM/COSM):

Professionals working in shelters have to be trained social workers. In addition, it is important that professionals working at shelters for victims of trafficking understand what THB is. At the COSM in Amsterdam (also known as the Amsterdams Coördinatiepunt Mensenhandel (ACM) of HVO Querido), all the professionals working in the shelter have to follow a training about anti-trafficking legislation. This training is given by a lawyer who specialises in THB together with a police officer from the AVIM. The municipality of Amsterdam pays for the lawyer. If there are any questions about an individual case, workers from the shelter can always consult this specialised lawyer (or the lawyer of the victim involved).

Every month the shelter holds a meeting about topics that are relevant to trafficking victims and their needs, such as (recent) changes in the law or traumas that the victims could suffer from. For every topic the shelter invites a specialist. Recent topics discussed are:

- Dublin claims
- The victim's children
- The possible danger arising from internet and mobile phone use
- When a victim becomes a perpetrator.
- Mental disability

The shelter makes sure that its team is made up of professionals with different specialisations, such as drug abuse and its side effects, the development of children, sexting and grooming, PTSS, financial compensation etc. They keep their knowledge up-to-date, for example by attending an expert meeting or training, and share it with their colleagues.

#### Chamber of Commerce:

All front office and back office staff of the Chamber of Commerce were trained in detecting signs of THB 2012 and 2013. This training is being repeated in 2017.

#### Other training:

For (additional) information about training for the following organisations, please see the response to recommendation 3 in the interim report:

- Inspectorate SZW;
- Police detectives and frontline police officers;
- Training for municipalities by FairWork; this project was carried out in cooperation with Comensha; and
- Training for the judiciary and prosecutors (including legal staff and policy advisors of the Public Prosecution Service).

#### Special measures concerning children (Articles 5, 10, 11, 12, 14, 15, 16, 28 and 30)

7. Please describe whether and how trafficking in children is specifically addressed in your country. If there are institutions responsible for taking the lead in combating trafficking in children and a specific national referral mechanism for child victims of trafficking, please provide details.

#### Answer:

When it comes to shelter and mental health care, Dutch child victims and child victims from EU countries can make use of the regular amenities of youth care organisations. Since the decentralisation in 2015, the municipalities are responsible for making sure that victims of human trafficking get the assistance and shelter they need. The municipalities have established so called "social neighbourhood teams" consisting of healthcare and welfare professionals who can refer both child victims and adult victims to appropriate care. For Dutch child victims and child victims from EU countries, the regular child protection measures are also applicable. This means that a judge

<sup>7</sup> See <https://www.rijksoverheid.nl/contact/contactgids/veilig-thuis>.

can impose measures to protect a child: a supervision order where parents must get help and support in raising their child or an authority ending measure where parents lose custody of their child. The Child Protection Board can ask the judge to impose a protection measure. The Certified institutions, affiliated with the Youth Care Netherlands, implement these measures imposed for Dutch children and children from EU countries living in the Netherlands. For unaccompanied minors, the Nidos Foundation is responsible for the guardianship.

For more information on the Nidos Foundation and for an overview of the efforts to prevent victimisation, detect victims and provide care for both Dutch and foreign child victims since June 2014, please see the response to recommendations 2 and 9 in the interim report.

8. What practical measures are taken to reduce children's vulnerability to trafficking and create a protective environment<sup>8</sup> for them, including through:

- a. ensuring registration of all children at birth, in particular from socially vulnerable groups;
- b. raising awareness of THB through education;
- c. training professionals working with children.

Answer:

8 a) All children born in the Netherlands have to be registered within three days of the birth. The civil servant of the municipality where the child is born will draw up a birth certificate free of charge. If a copy of the birth certificate is requested, a moderate fee will be charged. Subsequently, based on the birth certificate, registration of the child will take place in the Municipal Personal Records Database (Basisregistratie Personen, BRP).

Registration of children in the BRP offers several benefits to the parents. For example, the parents will automatically receive a call-up to go to the child consultation clinic (consultatiebureau, a children's health clinic) to receive the mandatory vaccinations. These are free of charge. Within two to four weeks of registration, the parents will also receive a letter from the Sociale Verzekeringsbank, the organisation that implements national insurance schemes in the Netherlands. This letter will enable them to claim child benefit (kinderbijslag), money provided by the government to help with the costs of bringing up and caring for children under 18<sup>9</sup>. The amount of child benefit ranges from € 200,59 to € 286,55 per three months, depending on the age of the child.

To enrol a child in school, it will need to have a citizen service number (burgerservicenummer or BSN<sup>10</sup>). This is a unique personal number allocated to everyone registered in the Municipal Personal Records Database. Parents will need to provide the BSN to the school by showing them the child's passport or identity card. When a child reaches the age at which education is compulsory, registration means that the school attendance officer will automatically be involved to monitor the child. If necessary, the child will also be monitored by youth care. Finally, all children need their own passport or identity card to travel or to receive healthcare.

8 b) and c)

- As mentioned in the response to recommendation 2 in the interim report, an overview has been made of all the available prevention materials<sup>11</sup>. This overview has been distributed to schools, municipalities, and youth workers. In this overview training materials for professionals working with children have also been included. In the same response, the work of the committee Azough was also mentioned. The committee has drawn up a number of practical guides and roadmaps that help youth care professionals in the detection and support of child victims and should lead to better cooperation between youth care professionals and the police. Last year, a new project was set up to make these products applicable to victims with mental health problems, because children in this group have a higher chance of becoming a victim. And the knowledge about "loverboy" problems is being enhanced in the so-called "social neighbourhood teams" which consist of healthcare and welfare professionals

<sup>8</sup> The concept of a protective environment, as promoted by UNICEF, has eight key components:

- protecting children's rights from adverse attitudes, traditions, customs, behaviour and practices;
- government commitment to and protection and realisation of children's rights;
- open discussion of, and engagement with, child protection issues;
- drawing up and enforcing protective legislation;
- the capacity of those dealing and in contact with children, families and communities to protect children;
- children's life skills, knowledge and participation;
- putting in place a system for monitoring and reporting abuse cases;
- programmes and services to enable child victims of trafficking to recover and reintegrate.

<sup>9</sup> See

[https://www.svb.nl/int/en/kinderbijslag/aanvragen/hoer\\_kunt\\_u\\_kinderbijslag\\_aanvragen/u\\_woont\\_in\\_ni\\_kind\\_geboren\\_in\\_ni/in dex.jsp](https://www.svb.nl/int/en/kinderbijslag/aanvragen/hoer_kunt_u_kinderbijslag_aanvragen/u_woont_in_ni_kind_geboren_in_ni/in dex.jsp).

<sup>10</sup> See <https://www.government.nl/topics/identification-documents/the-citizen-service-number>.

<sup>11</sup> See <https://www.wegwijzermensenhandel.nl/Actueel/Nieuwsberichten/index.aspx>.

employed by municipalities to offer social care and support. In this way, the detection and referral of victims will be improved.

- As also mentioned in the interim report (recommendation 7), for the past years, the Ministry of Security and Justice has financed campaigns run by M. (Report Crime Anonymously) to make the general public, but also prostitutes, clients and social workers, aware of THB for sexual exploitation and to stimulate them to report cases of exploitation. In 2016 a new campaign on forced prostitution, with a focus on minors, was introduced by M. As part of this campaign presentations have also been given to professionals working with young people to inform them about the signs of human trafficking.

9. Please explain what methods are used to verify the age of a presumed victim of trafficking where the age is uncertain and there are reasons to believe that the person is a child. Would such a person be presumed to be a child until the age verification is completed?

Answer:

The age of possible victims who claim to be unaccompanied minors is determined in the following manner: if an unaccompanied minor has no documents to prove his/her age, the IND together with the Marechaussee/Police can carry out a visual inspection. They might conclude to accept the declared age and that he/she is indeed a minor; or they might conclude that he/she is an adult and offer him/her the possibility to determine their age. This means undergoing a radiological examination (photo of wrist and if necessary of the collar bones). If the person refuses such an examination, the IND will conclude that they are an adult.

Legal provisions of age assessment are laid down in the Aliens Act Implementation Guidelines. Age assessment has been possible since 1999. The EU Asylum Procedures Directive states that Member States are expected to assume minority if doubts about the age of the applicant remain after the examination.

10. What steps are taken in your country to ensure that the rights of the child and his/her best interests<sup>12</sup> are duly taken into consideration, in particular when it comes to:

- identification of child victims of trafficking;
- appointing a legal guardian, organisation or authority which shall act in the best interest of unaccompanied minors identified as victims of trafficking;
- locating the child's family;
- ensuring that the identity or details allowing the identification of a child victim of trafficking are not made publicly known through the media or by any other means;
- access to appropriate and secure accommodation, education and health care;
- issuing residence permits for child victims of trafficking;
- providing counselling and information in a language that the child can understand, legal assistance and free legal aid prior, during and after legal proceedings, including to claim compensation;
- carrying out best interests determination, including risk assessment, prior to any decision on the return of child victims to their country of origin, and ensuring the child's safe return in accordance with the best interests of the child;
- special protection measures for children.

Answer:

10 a) As mentioned in the reaction to questions 8 b and c, the committee Azough and several follow-up projects have done a lot of work to improve the detection of child victims. Furthermore, in the next few years all frontline police employees will be trained in recognising signs of human trafficking. This training is currently being developed and special attention will be given to detecting child victims. See also questions 1d and 6.

Please refer to the answer to question 11 for information on ensuring the best interests of the child when it comes to detection of victims of trafficking among unaccompanied minors (UAMs).

10 b) As described in the response to recommendation 2 of the interim report, Nidos provides temporary guardianship for children without parents who seek asylum in the Netherlands. The Civil Code stipulates that Nidos has to ensure that young people are educated and cared for so that they can develop well. In this framework, Nidos among other things arranges shelter and counselling, education, medical care and legal assistance for these minors. Within the category of unaccompanied minors there may be (possible) victims of trafficking. Nidos indicates if this is the case when these children enter the Netherlands and then takes care of their placement in the

<sup>12</sup> "The best interests of the child" means that any situation should be looked at from the child's own perspective, seeking to take the child's views into consideration and with the objective of ensuring that his/her rights are respected. Any decision concerning a child should therefore be guided by what is objectively best for that child, given her/his age and maturity.

Protected Shelter. Where necessary, Nidos makes sure that additional treatment for psychological trauma occurs.

Please see the interim report for further information on the care for unaccompanied minors who may be victims of trafficking.

10 c) Family tracing may be done at different stages of the asylum process. In principle, tracing starts the moment Nidos is given custody of a UAM. Nidos will try to restore contact between the UAM and its parents or family if possible. If the UAM is given a residence permit, family tracing is relevant for family reunification. If the UAM is refused a permit, family tracing is important to realise the return of the UAM. The organisations involved (Nidos, DT&V, IND) can contact local organisations that could play a role in family tracing, such as the Dutch representation, IOM or the Red Cross.

10 d) For the processing of personal data of victims of trafficking the strict regime of the Personal Data Protection Act applies. This means that these data may not be shared without the consent of the victim. CoMensha collects statistics on victims of THB, it does so at the request of the Ministry of Security and Justice. The National Rapporteur receives anonymous data from CoMensha for her reports.

The committee Azough has developed several tools for professionals working in youth care to report possible victims of trafficking to CoMensha, taking into account the legal framework for the protection of privacy. For example, the committee has developed a folder for parents and children to inform them about the registration and what is being done with the data. A model consent statement has also been developed. The committee also developed a handbook for professionals which explains how professionals should deal with the victims and what information should be provided exactly to CoMensha to be able to describe the nature and extent of human trafficking in the Netherlands. A choice has been made to advise youth care workers to not report the names of minor victims but only the date of birth and the birthplace. This way, any double counts (which can occur if the same victim is reported by multiple agencies) may be deleted without reporting the names of victims.

The names of victims are never shared with the media.

10 e) For information on the on-going efforts to provide child victims with appropriate and secure accommodation, education and health care, please refer to:

- The activities of the committee Azough, youth care organisations and the work with the so-called “social neighbourhood teams” (see answers to questions 7, 8b and c, 10d, 33 and the response to recommendation 2 in the interim report).
- The international expert meeting held on April 7th 2017 to boost the quality of the existing specialised treatment services for child victims of sexual exploitation (see answer to question 1d).
- Support for unaccompanied minors who may be victims of trafficking (answer to question 10b above).

All children of school age that are staying at a youth care facility go to school; this could for example be a school on the territory or a school nearby.

10 f) Child victims of trafficking can obtain a residence permit on the grounds of human trafficking on the same grounds as adults. First, on the condition that human trafficking is reported to the police and a criminal investigation against the perpetrator has started.

A possible victim that does not cooperate with police, may obtain a temporary residence permit on humanitarian grounds, if they are unable to cooperate with the criminal investigation due to threats or a serious medical impairment. Being a minor may in some cases also be seen as a reason to grant this specific type of residence permit.

Finally, child victims may in some cases also apply for asylum.

Unaccompanied minors are interviewed by specially trained IND staff. Statements from minors younger than twelve are taken in rooms that have been specially designed for this purpose. If a pedagogical or psychological examination shows that a child younger than twelve has problems that would make a further interview difficult, no further interview will be carried out.

10 g) According to the Directive on THB of the Public Prosecution Service (PPS; July 2013) all victims of human trafficking (minor and adults) have the right to ask the court to convict the suspect to pay damages. All victims of human trafficking are entitled to free legal assistance by a lawyer. During the criminal trial, a victim that does not sufficiently speak the Dutch language is entitled to an interpreter at the hearing. Victims may ask the Public Prosecutor for an interpreter. As mentioned in reply to question 4, CoMensha administers a centrally financed fund for translation services for victims of human trafficking, on top of general provisions with regards to translation service in the care system. More information about translation services is given in reply to question 42a. Specifically

for child victims, the PPS Directive states that the victim may be accompanied by a representative or an adult of choice during the interview.

10 h) When deciding if an unaccompanied minor who has had temporary residence during the investigation or prosecution of THB will be granted a residence permit based on individual circumstances, the following circumstances will be taken into account:

- the risk of reprisals against the person and his or her family and the degree of protection against these reprisals the authorities of the country of origin are willing and able to provide;
- the risk of prosecution in the country of origin for example on grounds of prostitution;
- the possibilities of social reintegration in the country of origin, taking into account the specific cultural background and e.g. the prostitution past of the person, enduring disruption of family-relations, the societal views on prostitution and the government policy on that matter.

If the UAM is not granted a residence permit, a departure trajectory will be started up. The departure trajectory for unaccompanied minors starts when the IND, the police or the Royal Military Constabulary transfers the minor to the Repatriation and Departure Service (RDS). Immediately after the transfer of the minor, a departure supervisor will be assigned who will, together with the minor, prepare the minor for the potential departure with the aim to make it careful and timely. The emphasis is on voluntary return.

There are specialised supervisors for unaccompanied minors, who prepare the return in consultation with the partners involved such as the police, IND and Nidos. Before the first departure interview there is a meeting with the guardian to exchange information on the minor and the guardian is invited to attend the departure conversations.

During the departure process, the RDS (using input from the partners) pays attention to special situations such as distress, medical conditions and smuggling / trafficking. In addition, the minor is offered various forms of support to return. Where necessary, the RDS applies for a (substitute) travel document at the diplomatic representation of the country of which the minor is believed to be a national.

Adequate reception must be available for unaccompanied minors upon return. The first aim is to reunify the unaccompanied minor with their family, because it is in the best interests of the child. This happens, for example, through family tracing in the country of origin. If this cannot be realised, the supervisor searches for alternative reception for the minor in their country of origin. During the departure procedure (local) initiatives and organisations that can support the minor to return to the country of origin, can be brought to the minor's attention.

Adequate reception is defined according to the local conditions of the country of origin of the minor. Therefore, there is not a clear definition for adequate reception. The Aliens Circular states that adequate reception is reception where the circumstances do not differ significantly from the conditions under which care is offered to peers who are in a similar position to the unaccompanied minor. The reception may consist of care by parents, relatives, friends, neighbours, tribe, clan or fellow villagers, but also care in a private reception facility.

10 i) Besides the rights mentioned in the reaction to question 10 g, all victims are entitled to good and timely information. Victims of human trafficking are entitled to information on the execution of any imprisonment imposed (for example, on the first leave and release of the perpetrator). Victims of human trafficking have the right to speak at the court hearing or to submit a written victim's statement.

Additionally, the need for appropriate protection of the victim's privacy, safety and health has been included in the Directive on THB of the Public Prosecution Service (PPS; July 2013). The Directive states that, as a rule, it is in the victim's interest that:

- Interviews take place without unnecessary delay
- The number of interviews is limited.
- Repeating of interviews is avoided.
- Visual contact between the victim and the suspect is avoided.
- He/she does not have to act as a witness during a public session (this decision is up to the judge) and is not asked unnecessary questions about their private life.

Additional protective measures for minor victims of human trafficking have also been included in the Directive of the PPS:

- When possible, the minor victim is always questioned by the same persons.
- If possible, the interrogation takes place in a space designed or modified for the interrogation of minors

- The victim may be accompanied by a representative or an adult of choice during the interrogation.

- If possible, video recordings are made of the interrogation of the minor victim or the minor witness, which can be used as evidence in the criminal proceedings.

For special protection measures for unaccompanied minors (UAMs), please refer to the answer to question 11.

11. What practical measures are taken in your country to identify victims of trafficking among unaccompanied foreign minors, including asylum seekers? What measures are taken to prevent their disappearance? Have there been cases of non-voluntary return of child victims of trafficking?

Answer:

Signs of (possible) exploitation (human trafficking) may be detected by various actors. All relevant actors in the migration and refugee-domain are trained to detect signs of human trafficking. In the application center of Ter Apel various organisations have developed a protocol on how to act if one of them detects a possible victim of human trafficking. Crucial within this protocol is sharing relevant information with other actors. In the protocol the Police (AVIM), Immigration and Naturalisation Service (IND), Nidos Foundation, the Central Agency for the Reception of Asylum Seekers (COA), Legal Aid Board, Dutch Council for Refugees (Vluchtelingenwerk), Repatriation and Departure Service (DT&V) and CoMensha have all joined forces.

In order to prevent as many as possible unaccompanied minors from going missing, in general they are under intensive supervision. The guidance of the unaccompanied minors is aimed at increasing their knowledge, skills, and assertiveness, and at providing an alternative perspective.

Immediately upon the entry of an UAM into the Netherlands or upon finding an UAM without legal residence by the authorities, the UAM is brought to a special application center for UAM. At the application centre (AC), the police, the Immigration and Naturalisation Service (IND) and NIDOS Foundation (guardian) are present. Upon arrival of the UAM in the territory of the Netherlands, NIDOS becomes responsible and submits an application for guardianship to the court to this end. The responsibility for the child rests with Nidos. Nidos is authorised to represent the UAM interests during the asylum procedure and may be assisted by a lawyer in this procedure. During the intake, a first assessment is made of the risk that the unaccompanied minor will abscond, or disappear from supervision. On the basis of this assessment, Nidos may decide to place an unaccompanied minor in protected reception.

A separate national protocol has been drawn up for UAMs who go missing. All parties involved like the COA, Nidos and the police must work in conformity with this protocol. At the start of the procedure at the application centre, the police/RNLM take fingerprints of the UAMs, including for children below the age of 12. This happens on the basis of the Protocol Identification and Labelling of third-country nationals. In the case of a disappearance, the purpose of these measures is to enable an accelerated tracking down using the data already collected. On the basis of the protocol, action is undertaken by the police in all cases in which it is unknown if the UAM is in a safe situation (e.g. with family).

When a UAM goes missing, the RNLM and police are informed immediately. Within 24 hours, the organisations concerned provide all information about the concrete details of the case and about any possible suspicious situations to the law enforcement agencies. The RNLM and the police react immediately. The police draws up the official report, hears witnesses, conducts forensic and other investigations, checks details and file information, and, where applicable, issues a national or international alert in respect of the missing unaccompanied minor.

Children that have been victims of THB are generally given a residence permit. Forced return of children is rare. Children may only be returned if adequate and safe shelter is guaranteed in the country of return, as explained in the answer to question 10 h.

12. What programmes and services exist in your country for the (re)integration of child victims of trafficking? What solutions are provided if the reintegration of the child into his/her family is not in the child's best interests?

Answer:

For the (re)integration of child victims of trafficking, specialised (re)integration programmes are available offered by a number of health care organisations like Fier, Kompaan en de Bocht and Spirit. If the (re)integration of the child into his/her family is not in the child's interest, there are several possibilities available like a so-called family home or a foster home (gezinshuis of pleeggezin).

### C. Questions related to specific articles

#### Definitions (Article 4)

13. Have any difficulties been experienced in your country in identifying and prosecuting cases on the ground of trafficking for the purpose of forced labour or services, slavery and practices similar to slavery or servitude? If so, please provide details.

#### Answer:

As mentioned under question 1a, the number of victims of other forms of exploitation (outside the sex industry) has risen. However, it is not always easy to identify and prosecute cases on the ground of trafficking for the purpose of forced labour or services, slavery and practices similar to slavery or servitude. It can be a challenge to effectively prove labour exploitation. There is also discussion about the difference between labour exploitation and bad employment practices for instance. In some cases there are violations of labour law but they do not qualify as labour exploitation. In these cases the Public Prosecution Service, the Inspectorate SZW and other relevant partners will discuss what actions can be taken instead of prosecution under art. 273f CC to act against the employer and to ensure the protection of vulnerable workers.

Good cooperation with both private and public actors such as the Royal Netherlands Marechaussee, municipalities, harbour police, tax authorities, healthcare institutions, NGOs and special investigation services is very important for identifying and tackling THB for labour exploitation.

14. How does your country's law define "abuse of a position of vulnerability" and what are the criteria for evaluating the vulnerability of a person subjected to THB? Please provide any relevant examples where the means used in THB offences involved an abuse of a position of vulnerability.

#### Answer:

- The "abuse of a position of vulnerability" is mentioned as one of the means with which THB may be committed in article 273f para 1 subpara 1 of the Criminal Code. Para 6 of this article provides a further definition: "A position of vulnerability includes a situation in which a person has no real or acceptable alternative but to submit to the abuse involved."
- The Directive for Sentence Recommendations on THB of the Public Prosecution Service<sup>13</sup> lists the following criteria for evaluating the vulnerability of a person subjected to THB: mental disability or a DSM-5 classification (based on the fifth Diagnostic and Statistical Manual of Mental Disorders), no legal residence, trauma sustained, debt problems and no possibility of return to country of origin. These criteria often times are of influence on the penalty that is imposed. The judge always has to consider whether the abovementioned criteria are present or not. The judge is also required to motivate his/her decision on the penalty given per case.

15. To what extent does your country's law recognise the relevance of forced marriage and illegal adoption to THB offences? Please provide any examples from case law where forced marriage and illegal adoption were considered in the context of THB.

#### Answer:

The Dutch Penal Code distinguishes THB and forced marriage and illegal adoption as separate offenses. Forced marriage is punishable under article 284 of the Criminal Code. Illegal adoption is punishable under article 28 of the Adoption Act (*Wet opneming buitenlandse kinderen ter adoptie*). Both illegal adoption and forced marriage are considered to be part of THB offences when there is the intention of exploiting a person. When these criminal activities concern children, that is persons under the age of 18, the element of 'force' is not required. In that sense it does not matter whether the child agrees to the marriage or the illegal adoption.

<sup>13</sup> See <https://www.om.nl/onderwerpen/mensenhandel/@93708/richtlijn-1e/> (in Dutch).



16. Can forced begging be considered as a purpose of THB according to your country's law? Have there been any cases of child trafficking for forced begging with the involvement of the child's family or legal guardian?

Answer:

- Paragraph 2 of art. 273f CC reads as follows:

"Exploitation shall include, at the minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced or compulsory labour or services, including begging, slavery or practices comparable to slavery or servitude, servitude or the exploitation of criminal activities."

So yes, forced begging can be considered as a purpose of THB.

- There have not been any cases of child trafficking for forced begging.

17. Can the exploitation of criminal activities be considered as a purpose of THB according to your country's law? Please provide any examples from case law.

Answer:

- The exploitation of criminal activities is also included in paragraph 2 of art. 273f CC as a form of exploitation.
- 13Oceans is the biggest case of THB for the exploitation of criminal activities to have occurred in the Netherlands so far. For more details on this case, please refer to the answer to question 3 and the response to recommendation 6 in the interim report
- Another case concerned a burglary at a store by a grandfather and his ten-year-old granddaughter. The case resulted in a conviction for human trafficking in 2013 (see ECLI:NL:RBMNE:2013:2679).
- In another case, a mother sent three children, two of which her own, to collect money at the neighbours for a fake charity event. The case resulted in a conviction for human trafficking in 2016 (see ECLI:NL:RBDHA:2016:7262).

#### Prevention of THB (Article 5)

18. Is the impact of awareness-raising campaigns and other measures to prevent THB evaluated and how are the results taken into account? Please provide copies of any impact evaluation reports.

Answer:

For information on awareness-raising campaigns THB for sexual and labour exploitation, please see the response to recommendation 7 in the interim report. The awareness-raising campaigns on THB for sexual exploitation run by M. (Report Crime Anonymously) are always evaluated. The text of the interim report contains some figures from these evaluations.

19. How does your country promote and fund research on THB and use its results in the development of anti-trafficking policy? Please provide examples of recent research.

Answer:

For information about recent research on THB, please see the response to recommendations 5 and 2 in the interim report. How the results of research are used depends on the nature of the outcomes and recommendations. Recommendations will often be discussed with the relevant partners to see if changes to existing policies and practices are needed and if so, how these changes may be achieved.

As mentioned in response to recommendation 2 of the interim report, research has been conducted to look at boys who become victims of sexual exploitation, to see what the differences are between boy and girl victims. A number of cases of male victims, that show a lot of similarities with the 'traditional' girl victims, have been found. The numbers are not very high though. This is because this problem is hidden and appears to be invisible, even more so than is the case with girls. Important conclusion is that the way a boy ends up in a situation of sexual exploitation is different from girls. Because of a certain vulnerability (e.g. being homeless or having been cast out by their families) boys start to work in prostitution more or less voluntarily. But because of that same vulnerability, they eventually can then end up in a situation of exploitation.

20. How do your country's migration legislation and policies seek to prevent THB by enabling lawful migration?

Answer:

The Netherlands has a number of admission schemes for labour migrants. The aim of these schemes is to attract labour migrants with an added value for the Dutch labour market, not to avoid illegal migration and/or exploitation. The aim of adding value leads to a rather liberal admission scheme for highly skilled/highly paid labour migrants (so-called "knowledge migrants") and a restrictive scheme for lower skilled/lower paid labour migrants. The latter scheme contains a strict labour market test; if there is an available supply of Dutch/EU workers/jobseekers, a residence permit will be refused.

In case of legal migration, the salary and other labour conditions are tested against the Dutch standards for Dutch workers (i.e. a market conform salary and at least at the level of the minimum wage), so the price of legal labour by labour migrants will equal that of Dutch workers.

21. Please describe the measures taken in your country to prevent THB for the purpose of the removal of organs, and in particular:

- a. the legislation and regulations on organ transplantation and removal of organs, including requirements for the living donation procedure (information/consent, evaluation/selection, follow-up and registry) and criteria for authorising centres for living donation;
- b. the institution(s) in charge of overseeing and monitoring the medical care and recovery of donors and recipients and managing or supervising any waiting lists for organ transplantations;
- c. the guidance and training provided to relevant professionals to prevent this form of THB, to report cases and to identify and assist victims.

Answer:

21 a) In the Netherlands, organ transplantation and living donation is regulated in the Organ Donation Act (Wet op de orgaandonatie). Aspects like compensation, being able to provide informed consent, information and registration of post mortal donation are regulated by this act. Informed consent is not valid when the compensation is more than the expenses (including the loss of income).

Based on the Organ Donation Act, one can record his or her consent or objection for post mortal donation in a registry. This registry is owned by the Ministry of Health. If the deceased has not recorded their will then his or her relatives are allowed to decide whether or not donation can take place.

The law on special medical procedures (Wet bijzondere medische verrichtingen) regulates in which medical centers organ transplantation (including living donation) are allowed.

Based on the Organ Donation Act, the management of medical centers are obliged to establish a protocol concerning the availability of organs for transplantation. The management monitors the compliance with the protocol. Removing an organ without consent is punishable with imprisonment or a fine under article 32 of the Organ Donation Act. In the case of trafficking in human beings for organ removal, art. 273f of the Criminal Code applies.

21 b) In The Netherlands, the Health Care Inspectorate is in charge of overseeing and monitoring the medical care and recovery of donors and recipients. Based on the Organ Donation Act, the organ centre (Dutch Transplant Foundation) manages and supervises the waiting lists for organ transplantations.

By law, the organ centre allocates the donated organs. According to specific criteria, which are listed in the Organ Donation Act, the allocation takes place. These criteria are the match between donor and recipient, the medical urgency of the recipient and other factors which are related to the condition of the organ or the recipient's waiting time.

21 c) No specific measures have been taken.

Measures to discourage the demand (Article 6)

22. What preventive measures to discourage demand that fosters different forms of exploitation has your country adopted, in particular in the areas of:

- a. educational programmes;
- b. information campaigns and involvement of the media;
- c. legislation (including in the areas of public procurement, disclosure requirements and anti-corruption);
- d. involvement of the private sector.

Answer:

22 a) As mentioned in the response to recommendation 2 of the interim report, an overview of all the available prevention materials including educational materials has been made and distributed. This overview also contains materials focused on teaching young people to respect other people's (sexual) boundaries.

22 b) In 2015, the Public Prosecution Service increased the priority on the prosecution of customers paying for sex with a minor and minor victims of human trafficking. In June 2015, the Directive for Sentence Recommendations regarding article 248b CC of the Public Prosecution Service came into force, which formulates guidelines for the prosecution of these customers. Subsequently, some prosecutions of clients of minors (under art. 248b CC) have led to a lot of publicity because of an active press policy by the Public Prosecution Service. For more information on article 248b CC, please see the response to recommendation 8 in the interim report.

For more information on campaigns and involvement of the media to discourage demand, please refer to the response to recommendations 8, 2 and 7 in the interim report.

22 c)

- When it comes to public procurement, the Public Procurement Act (Aanbestedingswet 2012), which entered into force on 1 April 2013 and was amended on the first of July 2016, provides a general legal framework for public procurement regulations and implements the European public procurement Directives:

- Directive 2014/24/EU on public procurement;

- Directive 2014/23/EU on the award of concession contracts;

- Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors;

- Directive 2007/66/EC amending Directives 89/665/EEC and 92/13/EEC with regard to improving the effectiveness of review procedures concerning the award of public contracts (Public Contracts Review Procedures Directive).

The Public Procurement Act is further detailed in the Public Procurement Decree (Aanbestedingsbesluit) and the mandatory Proportionality Guide (Proportionaliteitsgids). Dutch public procurement law recognises the general principles of public procurement law (non-discrimination, transparency and proportionality).

So-called socially responsible public procurement<sup>14</sup> forms part of the general procurement goals of the Responsible Business Conduct (RBC) system of the government of the Netherlands. This system makes it possible to further the policy and management goals of the government through procurement. The Framework on socially responsible public procurement determines that certain contractual obligations are obligatory in so-called at-risk sectors, as determined in the KPMG study (see below in the answer to question 22d). If a supplier from one of these at-risk sectors concludes a contract with the Dutch government, they are obligated, in accordance with the OECD Guidelines for Multinational Enterprises, to carry out due diligence of their (international) supply chain to determine whether or not certain risks manifest in their supply chain. If that is the case, suppliers are obligated to draw up a plan on how they will work to diminish those human rights violations. Socially responsible public procurement aim to further international labour standards and to eliminate forced labour, slavery, child labour and discrimination, among other things.

On 11 September 2015, the government published an Action plan for Responsible and Sustainable Procurement by governments 2015-2020<sup>15</sup>. It was drawn up by the Ministries of Infrastructure and the Environment, the Interior and Kingdom Relations, Economic Affairs, Social Affairs and Employment and Foreign Affairs. As part of this Action Plan, a Manifesto on Responsible and Sustainable Public Procurement<sup>16</sup> has been signed by more than 100 provinces, municipalities and district water boards. Socially responsible public procurement is one of the themes of this Manifesto.

- When it comes to disclosure requirements, please see the answer to question 1b) for information on the private member's bill on a duty of care for companies regarding child labour. In addition, the EU directive 2014/95/EU on the disclosure of non-financial information has been implemented in the Decision disclosure non-financial information (Besluit bekendmaking niet-financiële informatie)[1]. This directive requires large public-interest

<sup>14</sup> See <https://www.pianoo.nl/public-procurement-in-the-netherlands/sustainable-public-procurement-spp/spp-themes/social-conditions-in-global-supply-chains>.

<sup>15</sup> See <https://www.pianoo.nl/document/11858/action-plan-for-responsible-and-sustainable-procurement-by-governments-2015-2020>.

<sup>16</sup> See <https://www.pianoo.nl/themas/maatschappelijk-verantwoord-inkopen-mvi-duurzaam-inkopen/ontwikkelingen-mvi/manifest-maatschappelijk-verantwoord-inkopen> (in Dutch).

companies (e.g. listed companies, banks and insurance companies) with more than 500 employees to report on their policies in relation to, among other things, environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters. In the Netherlands, around 115 companies fall within the scope of this obligation.

- When it comes to corruption, articles 177 to 178a PC establish as a criminal offence the active bribery of public officials. These provisions also cover persons whose appointment as a public official is pending, as well as former public officials. Passive bribery of domestic public officials is covered by articles 362 to 364a PC.
- The criminal provisions on active and passive bribery include the terms “gift”, “promise” and “provide or offer a service”. All gifts, including customary gifts of little value (for example representational gifts) potentially fall within the scope of the criminal provisions on bribery.
- It is not necessary for the briber to hand the gift or service to the public official directly. Intermediaries fall within the scope of the bribery provisions. The gift or service may also be intended for a third-party beneficiary.
- The provisions on passive bribery include the element of “request” or “acceptance” of a gift, promise or service. It is irrelevant whether the public official accepted the gift or promise in his capacity of “public official”. Gifts accepted outside the public official’s activities also classify as “objects of bribery”.
- It is not required that the public official is authorised to carry out an official act. It is only required that his/her functions enabled him/her to carry out the act. It is irrelevant whether the act or omission actually took place.
- For information on the private member’s bill amending the Dutch Criminal Code (CC) which establishes criminal liability for a person who uses sexual services with the knowledge or severe suspicion that a victim of THB is involved, please see the response to recommendation 18 in the interim report.

22 d)

- As mentioned in response to recommendation 8 in the interim report, the Netherlands is working on Responsible Business Conduct (RBC) sector agreements. In 2014, the Dutch Social Economic Council (Sociaal-Economische Raad or SER), an official advisory body to the government, advised the government to facilitate the development of and take part in RBC sector agreements. Such agreements offer companies the opportunity to work jointly at sector level in conjunction with the government, trade unions and civil society organisations to address risks to people and planet in their global value chains, such as child and forced labour. By working together in a structured and solution-oriented manner and based on the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights (UNGPs), the parties’ leverage increases to make sustainability the norm rather than the exception. The aim is twofold: 1) to achieve substantial improvements of specific risks for groups of people facing adverse impacts within an ambitious yet realistic time frame of 3 -5 years and 2) to offer shared solutions to address problems that companies cannot solve entirely by themselves.
- Following the Social Economic Council’s advice, the Netherlands government commissioned a study (by KPMG) to identify business sectors in which supply chains potentially pose heightened risks in terms of respect for human rights and labour rights as well as environmental protection. The study identified 13 priority sectors. This list consists of a variety of sectors including the textile/garment industry, construction, metals and electronics, oil and gas, agriculture and the food industry. A broad range of risks were taken into account in the analysis including issues such as child and forced labour, excessive working hours, health hazards and land grabbing.
- Since then, the government is in dialogue with these business sectors and their stakeholders in the Netherlands with the aim to agree on how to reduce potential risks in their supply chains, thereby giving concrete effect to their corporate responsibility, in line with the OECD Guidelines and the UNGPs.
- The primary aim is that most - if not all - priority sectors reach RBC sector agreements with their stakeholders. The initiative to form sector agreements should originate from the industry.

- The textile and clothing industry and their stakeholders reached an agreement in July 2016. They work together on issues like protection from discrimination; child labour; forced labour; achieving a living wage; safe and healthy conditions for employees; reducing adverse environmental impact by, for instance, saving on and reusing raw materials to lead to more circularity; reducing the amount of water, energy and chemicals used and prevention of animal suffering.

- The banking sector reached an RBC agreement in October 2016 - with a focus on human rights and banking - with trade unions, NGOs and the government.

- In March 2017, RBC agreements were signed by the vegetable protein and timber sectors

- In June 2017, the RBC agreement on gold was signed.

- The horticultural sector, the natural stone sector and the insurance sector are expected to follow soon.

- Besides the aforementioned, in other business sectors multi-stakeholder dialogues are also taking place which should lead to RBC sector agreements in the course of 2017.
- As part of its duty to protect people and planet, the government can contribute to the RBC agreements in several ways:
  1. by fostering policy coherence with respect to, inter alia, RBC policy, sustainable development, trade and development cooperation, and sustainable procurement;
  2. by supporting and facilitating processes leading up to the development of RBC agreements;
  3. by becoming a party to the RBC agreements and in this role, remove obstacles at government level and scale up relevant agreements to international level;
  4. by financially contributing to the RBC agreements, where observance of the OECD Guidelines is a precondition.
- The Netherlands believe that these RBC agreements are important tools to implement its sustainability goals, be it under the heading of the SDGs; the Paris agreement; or the pursuit of a circular economy. They are also instruments that can directly contribute to more effectively implementing the sustainable development chapters in Foreign Trade Agreements (FTAs). Because they are a way of self-regulation, that result in an agreement with multiple parties and therefore carry broad support, these sector RBC agreements can be more ambitious; more tailor-made and sector specific and can be reached faster than legislation could.
- Information on the RBC agreements can be found on the website [http://www.internationalrbc.org/agreements?sc\\_lang=en](http://www.internationalrbc.org/agreements?sc_lang=en).
- Another way in which the private sector is involved, is the project between Dutch law enforcement agencies and a large bank. The aim of this project is for the bank to increase its knowledge of human trafficking, so that it is better able to identify risk indicators for suspicious transactions that may form part of human trafficking activities.
- For more information on cooperation with the private sector, please see the response to recommendations 1 and 8 of the interim report.

23. Please describe the measures taken in your country to prevent trafficking for forced labour or services, *inter alia*, by means of labour inspection and labour administration, monitoring of recruitment and temporary work agencies, and monitoring of supply chains.

Answer:

- For information on the efforts regarding labour inspection, monitoring of recruitment and temporary work agencies, please see the response to recommendations 1 and 7 of the interim report.
- For information on the monitoring of supply chains, please see the answers to questions 1b, 22c and 22d.

Border measures (Article 7)

24. Please describe the specific measures taken in your country to strengthen the capacities of border guards to prevent and combat THB, in particular as regards:

- a. identification of possible victims of THB in the context of border control;
- b. identification of possible perpetrators of THB offences;
- c. gathering of first-line information from victims and perpetrators;
- d. identification of vulnerable persons in need of international protection among possible victims of trafficking.

Answer:

By virtue of its duties in the area of border control and the Mobile Security Supervision in the area of the Schengen borders, the Royal Netherlands Marechaussee (RNLM) plays an important role in the detection of possible cases involving trafficking in human beings. Vigilance in order to detect trafficking in human beings forms an on-going part of the border control process. It is therefore extremely important for border guards to possess knowledge of the signs that indicate trafficking in human beings.

The RNLM has drawn up a booklet of indicators, which includes specific indicators to detect possible victims of trafficking in human beings during the normal border control process. In addition, the Frontex Handbook on Risk Profiles on Trafficking in Human Beings 2015 is available to all border guards on the digital RNLM knowledge forum,

which every employee is able to consult.

The RNLM makes use of profiles of victims and suspects involved in trafficking in human beings and people smuggling. These profiles have been drawn up by making use of previously-recorded incidents in which suspects and victims of trafficking in human beings and/or people smuggling have been detected. The profiles are revised on a continual basis, in order to reflect the very latest developments. Checks can then be carried out based upon travel route, mode of transport and/or the composition of the travel party and this increases the likelihood that any perpetrators will be apprehended. In this way, additional information is collected and shared with other investigating authorities.

All signs of trafficking in human beings are reported to the Expertise Centre on Human Trafficking and People Smuggling (EMM). The EMM frequently provides information reports regarding issues on THB (and human smuggling) to the organisations of which it is composed (RNLM, police, IND and ISZW) and the national prosecutor for THB. The RNLM reports directly to CoMensha, an NGO that registers all (possible) trafficked persons and coordinates the search for possible shelter and assistance for victims of human trafficking.

Apart from the regular border control, the RNLM has its own specialist team, known as the Filter Team ("Sluisteam") at Amsterdam Airport Schiphol. Members of this specialist team are deployed in order to detect and take action against trafficking in human beings and people smuggling at an early stage. This is achieved by carrying out observations at the airport, as well as by analysing and upgrading information. During the time frame of 2012-2015 similar specialist teams operated at Eindhoven Airport and Maastricht Aachen Airport.

The influx of refugees and the increase in migration crime have led to the fight against of migrant smuggling being prioritised. In addition, due to a continuous growth of passenger numbers at the international airports, a larger part of the capacity of the RNLM is deployed in border control. This has led to a decrease in the capacity to be deployed in specialist teams at the airports and in Mobile Security Supervision at the Schengen borders.

All possible victims of trafficking without legal residence are offered international protection in the form of the reflection period. Please see the answer to question 38 for more information on this.

25. What measures have been taken to ensure that the personnel employed by commercial carriers, including airline attendants and staff working on other means of transportation by land and sea, are able to detect possible victims of THB and inform relevant bodies in due course?

Answer:

- In 2017 the Royal Netherlands Marechaussee (RNLM) and the NGO Comensha have updated the bulletin published in 2011 to inform airline personnel about the signs of THB. This bulletin will be used in basic and recurrent training for airline crew. In 2017 personnel from the RNLM have trained the trainers of commercial airliners on the topic of THB. These airline trainers will provide further training for their own (inflight) staff (not just on THB, but also on terrorism, drugs, etc.). Airline personnel is requested to report any suspicions of trafficking to the RNLM.
- Apart from that, the RNLM participates in a public/private cooperation project to combat crime in which the RNLM is developing an e-learning module to train private companies (a.o. ground handling companies at airports) in detecting signs of human trafficking and migrant smuggling in order to notify the RNLM and National Police.
- The National Rapporteur organised an expert group meeting with aviation stakeholders in April 2016. The meeting was attended by different governmental departments, the Dutch carrier KLM and a number of organisations of aviation personnel. Also Nancy Rivard was present, founder of the American organisation Airline Ambassadors International.
- The National Rapporteur is now in contact with the Dutch Ministry of Infrastructure and the Environment to further explore the ways in which the commercial carriers can be involved in the policies against THB. This approach not only focuses on airliners, but also on passenger assistants at airports accompanying, for instance, minors.

26. What measures have been taken to promote co-operation between border control agencies as regards the establishment and maintenance of direct channels of communication? How have these channels been used for detecting transnational THB? Please provide examples of cases in which these channels were used and any difficulties encountered by border control agencies in this context.

Answer:

The Royal Netherlands Marechaussee (RNLM) is connected to various other border control agencies by means of the combined RNLM and Police Liaison Officers network (mainly to third countries) and via Europol. Of course, the

RNLM is not just a border control agency, but also has the power to carry out criminal investigations. This makes it easier for the RNLM to use e.g. Europol channels than it would be for an organisation that only provides border control.

Apart from that the RNLM maintains various bilateral links. Information about the situation at the borders, including on cross-border criminal offences related to migration crime, are shared with the border agencies of the EU member states via Eurosur (the European Border Surveillance system). This is not police (i.e. investigative) information.

#### Identification of the victims (Article 10)

27. Is there a national referral mechanism (NRM) or an equivalent system for identification and referral to assistance of victims of trafficking, both nationals and foreigners, for any form of exploitation? If so, please specify the bodies involved in it and their responsibilities. If an NRM existed in your country at the time of the first evaluation, please indicate any changes that have been made to it in the meantime.

Answer:

Please refer to the answer to question 1d and the response to recommendation 9 in the interim report for information on the National Referral Mechanism.

28. Are there any formalised indicators for the identification of victims of THB for different forms of exploitation and how is their use by different professionals ensured in practice in your country?

Answer:

No, there are no formalised indicators for the detection of victims of THB. Within the project on the National Referral Mechanism, a list of indicators has been developed which can be used by all professionals who come into contact with possible victims. This list is, however, intended only as an aid in the detection. It has been placed on the website created as part of the National Referral Mechanism ([https://www.wegwijzermensenhandel.nl/binaries/indicatorenlijst\\_tcm21-84535.pdf](https://www.wegwijzermensenhandel.nl/binaries/indicatorenlijst_tcm21-84535.pdf)), so all professionals have access to it. As is explained in the answer to question 6, the indicators are also provided to professionals in other ways, so for example each RNLM officer possesses a physical booklet that contains indicators of THB and the IND has developed a quick reference card with indicators.

If there is even the slightest indication that a person who does not have legal residence is a victim of trafficking, he or she is offered the 3 month reflection period by the police. This indication does not need to take the shape of a formal statement or declaration. Dutch citizens or other EU residents can be referred to a shelter or other forms of support by a law enforcement organisation, an NGO, a healthcare organisation and so on.

29. What is considered as "reasonable grounds" to believe that a person is a victim of THB and which bodies have competence to identify victims upon "reasonable grounds"? Please provide examples from practice.

Answer:

As mentioned in response to questions 33 en 34 of the first questionnaire (2012), the police or the RNLM determine if there are grounds to believe that a person is a victim of THB. They base this on their own (non-exhaustive) list of indicators. As mentioned in the answer to question 6, the RNLM uses a list of specific ((inner)border-related) indicators which is available to all border guards in a booklet and via a digital knowledge forum. All professionals who come into contact with possible victims, such as law enforcement organisations, NGO's, healthcare organisations and so on, can refer Dutch citizens or other EU residents to a shelter or other forms of support, as mentioned in the response to question 28.

In the Netherlands, the criterion used when granting the reflection period to victims of human trafficking without legal residence is the "slightest indication", not "reasonable grounds". The reflection period may be granted by the police or the Royal Netherlands Marechaussee. In addition, the Inspectorate SZW may contact the police for the provision of the reflection period, if they come across possible cases of human trafficking. Access to the reflection period is granted by the police or the RNLM at the "slightest indication" of trafficking. The police or the RNLM determine if such a "slightest indication" exists.

When there is the "slightest indication" of trafficking, the possible victim is also reported to Comensha. This happens when:

1) Signs of THB are identified during the "informative talk" (see the answers to question 36 and 42a);



And/or 2) Signs of THB are identified in the report filed by the possible victim;

And/or 3) The reflection period or the B8 temporary residence permit is granted;

Or 4) An investigation into THB (of a certain size) is started "ex officio";

Or 5) A possible suspect is not covered by criteria 1 – 4, but has indicated to be in need of shelter and/or assistance.

The police approved these guidelines in November 2016, after consulting Comensha. The RNLM subsequently also adopted these guidelines. The lists of indicators mentioned before are used to determine what information can be regarded as a sign of THB.

If there is no concrete indication, but the RNLM has a gut feeling there may still be something wrong, this is reported to the AVIM of the region involved, in case they possess additional information.

At the moment the National Rapporteur is examining in what way the criterion of the "slightest indication" is applied in practice by the police, the Royal Netherlands Marechaussee at Schiphol Airport and ISZW. The report is expected in November 2017.

### 30. What measures are taken in your country to encourage self-identification of victims of THB?

Answer:

- With the various prevention materials included in the aforementioned overview (see response to question 8), students can be made aware of the dangers of human trafficking and identify themselves as victims if they find themselves in such a situation. On the website that was created as part of the National Referral Mechanism project, a special section has been included with information for (possible) victims. CoMensha also has a website specially designed for victims, with information available in several languages (Bulgarian, Hungarian, Polish, English and Dutch).

- The NGO FairWork has received a grant from the Ministry of SZW for a project to a.o. develop online tools and the work of cultural mediators to inform labour migrants about their rights and another grant to work together with labour unions and companies in the prevention of labour exploitation of Polish, Bulgarian and Romanian labour migrants. The Fairwork website provides information in several languages to inform labour migrants about their rights, how to recognise the signs of labour exploitation (including a film) and how to reach out to FairWork.

- In 2013, bilateral agreements were signed between the Netherlands and Bulgaria, Poland and Romania to strengthen cooperation in the field of labour migration. In 2014, three extra policy officers were appointed at the three Dutch embassies. A budget was made available for communication activities. The aim of the cooperation was to make it easier for migrant workers to get information about working and living in the Netherlands. The project is still ongoing at the Dutch embassy in Poland.

Another goal was to strengthen the liaison function of the Dutch embassies between implementing agencies in the Netherlands and their sister organisations in Bulgaria, Poland and Romania. In the Netherlands the agencies are: Inspectorate SZW (labour inspectorate); SVB (the National Insurance Bank, which implements national insurance schemes in the Netherlands); and UWV (Employee Insurance Agency, which implements employee insurances and provides labour market and data services).

The joint approach was based on three pillars:

1. Analysis of migration to the Netherlands
2. Building a network with national and local governments and other organisations
3. Information activities, both online and offline.

As part of the information activities, the Embassy of the Kingdom of the Netherlands in Warsaw prepared an informative film for Polish citizens, who are planning to go to or have arrived in the Netherlands for work. The film is full of advice of both experienced Poles who are already working in the Netherlands, and of professionals who support migrants. 'Prepare yourself before you go', is the main message of the film. The film is intended to encourage migrants to look for information about the country they are planning to go to, information about their future employer, as well as about the organisations or institutions that could provide them with support in case of problems. The film is available in Polish and in English and can be watched here: <https://www.netherlandsandyou.nl/travel-and-residence/working-in-the-netherlands/poland>.

Other activities undertaken by the policy officers to increase awareness among migrant workers are very diverse. They include the use of information materials, Facebook and other websites. Direct contact with people who (may)



want to come to the Netherlands is also very important. For this purpose, numerous meetings for job seekers and representatives of local organisations have been organised. The central message is: prepare yourself well, reflect before you start.

31. What measures are taken in your country to identify victims of THB during the examination of asylum applications and during return of persons whose applications are rejected? How is communication ensured between the authorities responsible for identification of victims of trafficking and immigration and asylum authorities when there are reasonable grounds to believe that a person who is irregularly staying in the country is a victim of trafficking?

Answer:

Signs of (possible) human trafficking may be detected by various actors. All relevant actors in the migration and refugee-domain are trained to detect signs of human trafficking. See the response to question 6 for more information on this.

With regards to refugees/asylum seekers, special measures have been taken to ensure detection:

- In the application centre of Ter Apel, various organisations have developed a protocol on how to act if one of them detects a possible victim of human trafficking.
- Crucial within this protocol is sharing relevant information with other actors.
- The Police (AVIM), Immigration and Naturalisation Office (IND), Nidos Foundation (Dutch guardianship institution for unaccompanied minor asylum seekers), the Central Agency for the Reception of Asylum Seekers (COA), Legal Aid Board, Dutch Council for Refugees, Repatriation and Departure Service (DT&V), and CoMensha (the coordination center for victims of human trafficking have all joined forces in this protocol.
- Signs of possible human trafficking are not only reported to the police but are also shared with the other organisations so measures can be taken if necessary.

When it comes to the return of persons whose application have been rejected, the majority of the departure supervisors at the Repatriation and Departure Service (DT&V) have been trained to recognise the signs of THB, as explained in the answer to question 6.

#### Protection of private life (Article 11)

32. What measures are taken by relevant professionals to protect the confidentiality of information and protect the personal life and identity of victims of THB, including as regards storing of their personal data? Are there any conflicts of interest between professional ethics, on the one hand, and the obligation to report an offence, on the other hand? If so, how are these conflicts resolved in practice?

Answer:

Professionals who come into contact with (possible) victims of human trafficking must adhere to the Personal Data Protection Act. Data of THB victims are classified as special personal data and very stringent rules apply to the processing of these data. In most cases, victims must give permission for the processing of their data. However if the victim is at risk, an exception can be made. In practice, many professionals struggle with the question of whether or not they can share information about a victim. In the various training modules and manuals developed for professionals attention is paid to this issue.

#### Assistance to victims (Article 12)

33. When assistance to victims is provided by non-state actors, how do your country's authorities ensure compliance with the obligations under Article 12 of the Convention, in particular when it comes to:

- a. funding;
- b. victim's safety and protection;
- c. standards of assistance and their implementation in practice;
- d. access to medical treatment, psychological assistance, counselling and information;
- e. translation and interpretation, where appropriate?

Answer:

In the Netherlands, assistance to victims is provided by an extensive network of organisations, most notably the specialised shelters, the women's shelters and youth care institutions. Through a combination of legal obligations

and contractual demands, the quality of assistance to victims is ensured.

Specialised shelters such as the Categorical Shelter for Victims of Human Trafficking (so called COSM) are contracted, and clear obligations with regards to security and general assistance are laid down in the agreements with the contracted parties. The answer to question 38 lists the kinds of assistance and support that the COSMs provide.

For women's shelters and youth care institutions, the assistance to victims of human trafficking is an integral part of their general activities. Quality demands with regards to these activities are laid down in the laws and regulations governing these sectors. For example, the quality of care that youth care organisations must provide is laid down in the Child and Youth Act. Supervision is carried out jointly by the Youth Care Inspectorate (IJZ), the Health Care Inspectorate (IGZ) and the Security and Justice Inspectorate (IVenJ). The inspectorates will check for compliance with the quality requirements laid down in the law.

Last year the Committee Azough established a quality framework to which youth care institutions specialising in treating victims of so-called loverboys / pimp boyfriends must comply. As of next year, the Youth Care Inspectorate will also monitor compliance with this quality framework by these specialist institutions.

In addition to the legal and regulatory obligations with regards to the quality of care provided by the shelters, the network of care coordinators and CoMensha also play a central role in safeguarding the assistance provided to victims. This includes legal support and advice and translation services. As mentioned in reply to question 4, CoMensha administers a centrally financed fund for translation services for victims of human trafficking, on top of general provisions with regards to translation service in the care system.

The task of providing support and shelter has been delegated to the municipalities in 2015, through changes to the Social Support Act 2015 (Wmo) and the Child and Youth Act. The women's shelters and youth care institutions are therefore funded by municipalities and they are responsible for the quality of the services provided. The municipalities receive a budget from the national government to carry out the Social Support Act and the Child and Youth Act. The COSM shelters are funded by the Ministries of Security and Justice and Health. Welfare and Sports. Access to healthcare is ensured by providing the victims with health insurance.

34. What specific measures are taken to ensure that the provision of assistance to victims of THB who have been issued a residence permit for the purpose of their co-operation in the investigation or criminal proceedings is not made conditional on their willingness to act as a witness?

Answer:

When victims of THB have been issued a residence permit for the purpose of their cooperation in the investigation or criminal proceedings, they are provided with the assistance they need. Since their cooperation is the basis for the residence permit, they are expected to cooperate with the investigation or criminal proceedings whilst they have the permit.

A presumed victim can also obtain a temporary residence permit on humanitarian grounds if there is an indication that they are a victim of human trafficking, but are unable to cooperate with the criminal investigation due to threats or a serious medical impairment.

For those victims that have been issued a residence permit for the purpose of their cooperation, measures will of course be taken to make cooperating as easy as possible for them. For example, the Directive on THB of the Public Prosecution Service (July 2013) states that the giving of evidence by the victim in open court should be avoided. The Public Prosecution Service and the investigation services must do everything to look after these interests. The Public Prosecution Service may propose that the victim be heard at trial without being present, for instance through the use of modern communication technologies. Other alternatives include having the witness heard by the Examining Magistrate, playing the sound recording of the incriminating statement the victim made to the police in the courtroom or examining the police officers who interviewed the victim in court. The judge decides whether the victim needs to testify in court or not. The answer to question 10i contains more examples of how the interests of the victim are taken into account during the investigation and criminal proceedings.

If victims who have been issued a residence permit for the purpose of their cooperation in the investigation or criminal proceedings were to end their cooperation, the residence permit would be withdrawn and as a consequence, they would also lose access to assistance and support. This is rather theoretical, however, and practically never happens. The victims know that the investigation or prosecution will probably continue if they withdraw cooperation, since this can be done "ex officio". Withdrawing cooperation does not make the case "go away". In practice, what sometimes happens is that a victim withdraws cooperation by no longer answering the phone after he or she has returned to their country of origin (and therefore no longer has a residence permit).

Please see the response to recommendation 9 and 11 in the interim report for information on residence permits for victims without legal residence.

35. What accommodation is available for victims of THB (women, men and children) and how is it adapted to the victims' needs?

Answer:

Please refer to the response to recommendations 2, 9, 13 and 15 in the interim report for a full overview of the accommodation available for victims of THB:

- the response to 2 describes the accommodation for unaccompanied minors;
- the response to 9 and 13 describes the accommodation for all other children and for women;
- the response to 15 describes the accommodation for men. As mentioned in the reply to question 5, the NGO CoMensha has received a grant from the Ministry of SZW in 2017 to (among others things) improve (on the basis of client profiles) the assistance to groups of victims (mostly male) of labour exploitation.

CoMensha registers all possible trafficked persons in the Netherlands. Based on the information recorded and a needs assessment, CoMensha refers all adult trafficked persons to the most suitable shelter. When a suitable shelter is found, the regional care coordinator then ensures the necessary assistance. In districts without a coordinator, CoMensha functions as the regional case manager, making sure the basic needs are covered. The website created as part of the project on the National Referral Mechanism ([www.wegwijzermensenhandel.nl](http://www.wegwijzermensenhandel.nl)) provides an overview of the various types of support available.

36. What measures are taken to ensure that services are provided to victims on a consensual and informed basis?

Answer:

Before a victim can formally report a case of human trafficking to the police, it is mandatory that an informative talk takes place in which the police informs the victim about the possibilities for care and shelter (among other things). It is up to the victims themselves to determine if they want to make use of these services.

Any assistance and support provided is always client led. When a victim is staying in a shelter (or receiving assistance where he or she lives), social workers always make sure to inform him or her about the different options that are available (within the confines of the relevant laws and regulations). The victim then decides which of these options he or she would like to take.

37. Is there any follow-up provided after the termination of assistance programmes? Can victims continue to receive assistance, where necessary and taking into account their specific needs resulting from the type of exploitation (including the removal of organs), after the termination of criminal proceedings, and if so what type of assistance?

Answer:

Victims can get help in many ways (shelter, financial, medical/psychological etc.). Assistance is also available for victims who do not wish to stay in a shelter or after they have left the shelter. Dutch victims and victims from EU countries can make use of these services regardless of whether they cooperate in the criminal investigation and whether the criminal proceedings are still on-going. An overview of the various types of support offered is given on the website created within the National Referral Mechanism Project (<https://www.wegwijzermensenhandel.nl/>). Third country nationals without a residence permit, may apply for a permanent residence permit on humanitarian grounds after the criminal proceedings have terminated. When they receive such a permit they can use the same services as Dutch victims and victims of the EU.

Recovery and reflection period (Article 13)

38. Please specify in which cases a recovery and reflection period can be granted and who is entitled to it (nationals, foreign nationals). Please describe the procedure for granting a recovery and reflection period, the assistance and protection provided during this period, and any difficulties encountered in practice.

Answer:

In case of even the slightest indication of human trafficking, the police or the Royal Netherlands Marechaussee

(RNLM) should offer a possible victim of trafficking time to consider if they want to press charges: the reflection period of a maximum of three months. In this period, the victim is provided with time to recover and to consider whether to report the trafficking to the police or to cooperate in the investigation in another way.

This procedure is open to EU and non-EU victims of human trafficking. It is not open to Dutch victims.

During the reflection period, the possible victims are provided with shelter in the so-called COSMs (Categoriele Opvang Slachtoffers Mensenhandel or Specialised Shelter for Victims of Trafficking). The COSMs offer accommodation, medical, psychological and financial support, social and practical support, support to find a job or another way to fill their days and support to find a place to live.

A difficulty that is reported is that the way police officers and members of the Royal Netherlands Marechaussee interpret the guideline “the slightest indication” seems to vary. As mentioned in answer to question 29, the National Rapporteur is currently drafting a report on this issue. This report will hopefully provide a greater insight into this issue.

#### Residence permit (Article 14)

39. If there is a provision in your country’s law that provides for the possibility of issuing a residence permit owing to the victim’s personal situation, how is this interpreted in practice? Please provide examples.

Answer:

Yes, it is possible to provide a person with a residence permit on humanitarian grounds, if there is an indication that they are a victim of human trafficking, but are unable to cooperate with the criminal investigation due to threats or a serious medical impairment.

Some of the circumstances that are taken into account when deciding whether to grant such a residence permit are directly related to human trafficking and are described in chapter B9/12 of the Aliens Implementation Guidelines, namely:

- the risk of reprisals against the person and his or her family and the degree of protection against these reprisals the authorities of the country of origin are willing and able to provide;
- the risk of prosecution in the country of origin for example on grounds of prostitution;
- the possibilities of social reintegration in the country of origin, taking into account the specific cultural background and e.g. the prostitution past of the person, enduring disruption of family-relations, the societal views on prostitution and the government policy on that matter.

Please see the response to recommendation 17 in the interim report for more information.

40. When a residence permit is issued for the purpose of co-operation with the competent authorities, how is “co-operation” interpreted and what does it consist of in practice?

Answer:

“Co-operation” is interpreted to mean that the possible victim has to make a statement about the case to the agency that is investigating the case (i.e. the police, the Inspectorate SZW or the RNLM). The statement does not have to take the shape of a formal complaint, but it often does. If the agency or the Public Prosecution Service has more questions later on, the possible victim will be asked to answer those questions.

As mentioned in reply to questions 10i and 34, measures will of course be taken to make this as easy as possible for the victim. The Directive on THB of the Public Prosecution Service (July 2013) contains guidelines to protect victims during the investigation and criminal proceedings, for example by trying to spare the victim having to give evidence in open court. However, a judge may decide that it is necessary for the victim to testify. The pilot project on using interrogation studios in shelters was also set up to make cooperating with the investigation easier for victims.

41. What measures are taken to ensure that a residence permit is provided to victims of THB in compliance with the obligation under Article 12.6, which states that the assistance to a victim of trafficking should not be made conditional on his or her willingness to act as a witness?

Answer:

This question seems to imply that it is necessary to provide victims of THB with a residence permit under article 12.6. However, article 12.6 requires member states to “adopt such legislative or other measures as may be

necessary to ensure that assistance to a victim is not made conditional on his or her willingness to act as a witness." It does not mention residence permits.

The response to recommendations 9 and 11 in the interim report describes how the Netherlands ensures that the assistance to a victim of trafficking is not made conditional on his or her willingness to act as a witness.

#### Compensation and legal redress (Article 15)

42. Please indicate any measures taken since the first evaluation report to promote effective compensation of victims of THB, in particular when it comes to:

- a. access to information on the relevant judicial and administrative proceedings in a language the victim can understand;
- b. access to free legal assistance and legal aid during investigations and court proceedings;
- c. compensation from the perpetrator;
- d. compensation from the state;
- e. compensation for unpaid wages to victims of trafficking.
- f. Please provide examples of compensation awarded and effectively provided to victims of THB.

#### Answer:

42 a) The victim will be informed about their rights during the first contact with the authorities in a language that he or she will understand. The victim will be informed about relevant judicial and administrative proceedings like reporting a criminal offence and about what happens to the case after that (the "informative talk" mentioned in the answer to question 36). The police and the Public Prosecution Service will keep the victim informed about the case. The victim can ask the police or the public prosecutor for an interpreter. If they arrange an interpreter for the victim, for example when filing a report with the police or during the interview, this will be free of charge. If the victim wants a written translation of the documents pertaining to the report or the criminal case, they should send a letter to the public prosecutor or the judge. Victim Support the Netherlands or a lawyer can help the victim with this.

42 b) The victim may always be represented by a lawyer, for example during the report to the police or the criminal trial. This legal assistance is free of charge for victims of THB. This is laid down in the policy of the Legal Aid Board, which implements the relevant legislation. Victims can also get free legal assistance from Victim Support the Netherlands in all cases.

42 c) To promote effective compensation of victims of THB, the National Public Prosecutor's office for serious fraud and environmental crime and asset confiscation (Functioneel Parket or FP) gives presentations to prosecutors on financial investigations and how they may use the information thus gathered to claim compensation for the victims. The aim is to prevent traffickers from keeping the money they made by exploiting human beings. In the bigger cases, victims can turn to special coordinators (*zaakscoördinatoren*) to get help with asking for compensation.

Please see the answer to question 42 of the Dutch response to the first GRETA questionnaire for further information on claiming compensation from the perpetrator.

42 d) Please see the answer to question 42 of the Dutch response to the first GRETA questionnaire for the answer to this question.

42 e) The Inspectorate SZW can fine employers that have violated the Minimum Wage Act. They can also impose penalty payments to compel the employer to compensate the workers for unpaid wages (i.e. pay the wages that are due). This means that the employer has four weeks to compensate the employees and offer proof of this to the Inspectorate. If the employer does not offer compensation, the Inspectorate SZW can impose penalty payments of up to 40.000 euros per employee.

42 f) Recently, a number of courts have awarded significant sums in compensation to victims. On 10 July 2017 a man was convicted for THB by the Court of Amsterdam. He was given a prison sentence of three years and he has to pay €175.000,- in compensation to the victim (see case no. ECLI:NL:RBAMS:2017:4866).

43. What specific measures are taken to make available the assets of traffickers to provide compensation (for example, effective financial investigations resulting in seizure of assets of perpetrators with the view to their confiscation)?

#### Answer:

Taking away unlawfully acquired benefits and reimbursement of victims are important components of the approach

on tackling human trafficking in the Netherlands. Assets of a perpetrator can be seized after a conviction but also before a legal judgement has been made, in order to insure payment of an claim. According to the Directive on THB of the Public Prosecution Service a financial investigation must always be conducted in a human trafficking case.

44. Is there a possibility for victims of THB to claim damages and compensation in the country of destination after their return to the country of origin? Please provide any relevant examples.

Answer:

If the victim stays in touch with the person or organisation that is claiming or arranging compensation on their behalf, be it their lawyer, the public prosecutor or the Criminal Injuries Compensation Fund (Schadefonds Geweldsmisdrijven), or gets in touch with such a person or organisation, then they are able to claim compensation after their return.

For example, in order to join the criminal proceedings as the injured party for the purpose of claiming damages, it is enough to fill out a form. This can be done by proxy (e.g. by a lawyer). There is no need for the victim to have been involved as a witness or to have filed a report. The victim also does not need to be present at the court case. The victim does need to be mentioned in the indictment.

In the Cornwall case<sup>17</sup>, Filipino sailors were given the opportunity to claim compensation in the Netherlands from the Philippines.

Repatriation and return of victims (Article 16)

45. What steps are taken to ensure that the return of victims of THB from your country to another country is carried out preferably voluntarily and in full observance of the duty to ensure their rights, safety and dignity, including the obligation not to return a person to a country where his or her human rights are at risk of being violated (*non-refoulement* principle)? How is risk assessment carried out when deciding upon return and repatriation of victims of THB? What is the procedure and what are the modalities of co-operation with the authorities of the receiving state?

Answer:

As described in the answers to questions 10h and 39, a risk assessment is carried out as part of the process to decide whether or not to grant a residence permit on humanitarian grounds. A risk of retaliation or prosecution can be a ground to grant such a residence permit. The Netherlands respects the principle of *non-refoulement*: when a request for protection is made, an assessment is made of the risk that the person in question runs of being treated in violation of article 3 ECHR.

In order to encourage possible victims who are not able to stay to return home voluntarily, the Ministry of Security and Justice provides subsidies to organisations (such as IOM) that facilitate voluntary return of victims, both in practical terms and through financial support. Every case requires tailor-made support. Projects such as the RAVOT project facilitate the provision of this support. For more information on project RAVOT, please refer to the response to recommendation 6 in the interim report.

46. Has any victim of trafficking who is a citizen or permanent resident of your country been returned against their will? If yes, what steps, if any, were taken to assist them after their return?

Answer:

Citizens and permanent residents are not expelled to other countries. The only possible exception would be if there is a serious public order issue. This is generally not the case with victims of trafficking. The principle of *non-refoulement* also applies in these cases.

Corporate liability (Article 22)

47. Have there been any developments in your country's law regarding corporate liability for THB offences? Does corporate liability apply to legal persons involved in THB for the purpose of forced labour or services, including by their sub-contractors throughout the supply chain? Please provide examples of any relevant cases and the sanctions imposed.

<sup>17</sup> See <https://www.teamwork-against-trafficking-for-labour-exploitation.nl/examples/exploitation-philippine-sailors-the-netherlands>.

Answer:

- According to article 51 of the Criminal Code, criminal acts may be committed by natural and legal persons. If a criminal act is committed by a legal person, prosecution may be initiated and the punishments and measures foreseen by law, where such persons are eligible, may be declared against the legal person or against those who have commissioned the acts, including those who have taken the actual initiative for the prohibited conduct, or against those together. Since THB for the purpose of forced labour or services is a criminal act under art. 273f of the Criminal Code, legal persons can be held liable for these forms of THB.
- Article 273f para 1 subpara 6 states that any person who intentionally profits from the exploitation of another person shall be guilty of trafficking in human beings. If a company is aware that one of their subcontractors is very cheap, because they are involved in trafficking for labour exploitation, but use that subcontractor anyway, it could be held liable for THB because it is intentionally profiting from the exploitation of others. Depending on the circumstances, the company may also be prosecuted for either participating in the commission of THB (art. 47 CC) or being an accomplice to THB (art. 48 CC).
- As mentioned in the response to recommendation 1 in the interim report, with the introduction of the Dutch Labour Market Fraud (Bogus Schemes) Act (Wet Aanpak Schijnconstructies: 'WAS') on 1 July 2015, 'chain liability' applies to the payment of wages which have been agreed between an employer and employee. Chain liability means that if there is a chain of employers (not necessarily in the same group of companies), the employee can hold principals higher up in the chain liable for payment of the wages to which he is entitled according to his contract or to minimum wage rules and regulations.
- On 10 November 2016 the Limburg District Court pronounced judgment in the case against mushroom farm Prime Champ Production B.V. for malpractices in the period from July 2009 up to and including August 2012. The company and its director were sentenced for THB for labour exploitation of six Polish mushroom pickers and for forging pay slips and a part of the business records. The court also sentenced another financial manager and an ICT specialist hired by the company for forgery of documents.

'Prime Champ' transported Polish mushroom pickers to the Netherlands by bus. Immediately after arrival in the Netherlands the Polish mushroom pickers were forced to sign an employment contract. The employment contract made a false claim for minimum wages. In order to receive minimum wage the pickers had to adhere to a picking standard. However, for most of the pickers the picking standard was too high. The employment contract also declared that 'Prime Champ' would arrange accommodation and one hot meal per day. The Polish mushroom pickers were not free to opt for a different arrangement. Most of the time any requests thereto were rejected by the director. Furthermore the Polish mushroom pickers worked extremely long days and weeks with hardly any days off to have leisure time. They never knew when their working day would end. Refusing to work overtime was not possible and terminating the employment contract early made the workers liable to a fine. The Polish mushroom pickers were isolated by the combination of the arrangement and the extremely long working hours. As of 2010, the salaries of the Polish mushroom pickers were creamed off through several modules in Prime Champ's time registration system. Whenever breaks took too long they were registered and often times the number of hours worked was reduced by 10% to 15%. Since 'Prime Champ' handed over these manipulated numbers to an external company, the pay slips that were drawn up by this company were false. Parts of the business records were also false due to the use of the 'creaming off' modules.

Due to the wording of the indictment, the court was only able to assess whether a small group of Prime Champ's Polish employees was exploited. The court considered it proven that Prime Champ Production B.V. was guilty of THB for labour exploitation of six Polish mushroom pickers (in conjunction with another company belonging to the 'Prime Champ' group), while the director was deemed to have been effectively in charge of this process. The court imposed a custodial sentence of 24 months on the director of 'Prime Champ', and a fine of € 75,000 on the company Prime Champ Production B.V. The court imposed a custodial sentence of six months on the financial manager and 100 hours of community service on the ICT expert. The Public Prosecutor had argued for higher sentences, but the court only found the exploitation of a small group of Polish mushroom pickers proven beyond a reasonable doubt. The court also took the long duration of these criminal proceedings into account.

Aggravating circumstances (Article 24)

48. Have there been any prosecutions and convictions for THB with the aggravating circumstance of involvement of public officials in the exercise of their functions? Please provide any relevant examples.

Answer:

No, there haven't been.

### Non-punishment provision (Article 26)

49. Is the non-punishment provision incorporated in law and/or prosecution guidelines? If so, please provide the relevant texts. Please give details, including references to case law where relevant, of cases where the non-punishment principle has been applied and the outcome of such cases.

Answer:

Please refer to the response to recommendation 19 in the interim report for a description of how the non-punishment principle has been incorporated in the Directive on THB of the Public Prosecution Service.

The public prosecutor can decide not to prosecute based on two "grounds for dismissal" (so-called "*sepotgronden*")<sup>18</sup>. (Technical) ground 06 may be used in cases where the perpetrator is not punishable, for example because of self-defense, force majeure or if the perpetrator is a victim of THB and committed the offence under coercion (non-punishment principle). If ground 06 is not applicable, (policy) ground 42 may be used in cases where the offence does not really merit punishment ("*geringe strafwaardigheid*"). These cases may be so close to a ground to exclude punishment that prosecution would be disproportionate.

### Ex parte and ex officio applications (Article 27 in conjunction with Article 1.1.b)

50. Does your country's law provide for the possibility of investigating a THB case in your country if the offence was committed on your territory, but the complaint was submitted in the country of residence of a foreign victim of THB? Please provide any relevant examples.

Answer:

Article 2 of the Criminal Code determines that the criminal law of the Netherlands shall apply to any person who commits a criminal offence in the Netherlands. In addition, no complaint is needed for THB to be investigated and prosecuted. A prosecutor can decide to act against THB "ex officio". So if the THB took place in the Netherlands, an investigation can take place regardless of where or if a complaint is submitted.

In general the Public Prosecution Service always seeks international cooperation when necessary. So when a complaint of THB is made in another country, the PPS, can take over this complaint when requested if there is a Dutch interest or connection in such a case.

The Criminal Procedure Code (*Wetboek van Strafvordering*) contains rules about international cooperation in criminal cases (Title X International Legal Aid). Legal aid can take place through formal legal requests, through Europol and Eurojust and by setting up a Joint Investigation Team. Before these official channels are used, quite often informal contacts have already been established by a liaison officer of the Dutch police, for example the one based in Bucharest, Romania. He is responsible for Bulgaria, Hungary, Moldova and Romania and is in close contact with the specialised Dutch prosecutors on THB.

51. Please describe the measures taken in your country to ensure compliance with the obligation of effective investigation into THB cases, in particular as regards:

- a. setting up specialised investigation units and the number of staff involved;
- b. exchange of information with, and obtaining evidence from, other parties;
- c. use of special investigative techniques (such as informants, cover agents, wire-tapping, controlled deliveries), with an indication of how their use is regulated and whether they can also be applied in cases not related to organised crime;
- d. investigation of THB offences committed through the Internet, including the possibility of blocking websites which are used to facilitate the recruitment of trafficking victims or the dissemination of child pornography;
- e. financial investigations to disrupt criminal money flows and ensure asset recovery;
- f. use of joint investigation teams (JITs).

Answer:

51 a) As mentioned in the reply to question 1c, there is an Aliens, Identification and Human Trafficking Unit (AVIM) in each of the ten Regional Police Units. All AVIMs are fully staffed. Nationally, about 1182 FTE work in the AVIMs. A third of their capacity is dedicated to investigating THB.

51 b) The ten Regional Information and Expertise Centres and the National Information and Expertise Centre (RIECs and LIEC) were established in order to facilitate municipalities in their fight against organised crime. The

<sup>18</sup> See the Directive on the use of grounds for dismissal (in Dutch): <http://wetten.overheid.nl/BWBR0035469/2014-09-01>.



RIECs provide the municipalities with advice and assistance in applying administrative instruments and in reinforcing cooperation and exchange of information between investigating parties and administrative parties. The LIEC has a similar task on a national level. The Centres focus on the national priority themes determined by the Ministry of Security and Justice on the basis of the 2012 National Threat Assessment on Organised Crime<sup>19</sup>. These themes include THB.

Municipalities, RIECs and the LIEC are increasingly giving shape to the administrative approach to tackling THB. In 2017 the RIECs and LIEC aim to further enhance this approach. Activities include:

- a. Facilitating the exchange of information on THB between law enforcement organisations and municipalities and improving the analysis of information on organised crime including THB;
- b. Encouraging awareness by promoting e-learning (see the answer to question 6) and several other tools to further enhance the detection of THB by municipal officials such as desk clerks or inspectors;
- c. Improving cross-border cooperation in the fight against THB by taking part in the EU funded CONFINE project<sup>20</sup>, a Belgian-Dutch project on the administrative approach which focuses on financial information as an indication of human trafficking. The main goals of the project are:
  - a) To gain insight in possible financial indicators of THB by carrying out financial screening of certain business sectors;
  - b) To create awareness about THB at the level of local municipalities;
  - c) To research the possibilities for exchange of administrative information.

To improve the exchange of information two different tracks are followed by the LIEC and RIECs. The first track is the technical realisation and improvement of the exchange of operational data. The integrated approach requires that data and information of the partners are shared. The Expertise Centre on Trafficking in Human Beings and People Smuggling (EMM) and the RIECs and LIEC gather, analyse and process data. Important suppliers of information are the police, FIOD (Fiscal Information and Investigation Service), SIOD, RNLM, IND and the municipalities. The principal legal instruments for information exchange within the RIECs are the RIEC Covenant and the RIEC Privacy Protocol. The evaluation of the RIEC Covenant took place in 2015. The RIEC Privacy Protocol was finalised in 2016.

The second track is the use of data for structural research of trends and developments. Over the past years several RIECs have experimented with the development of Subversive Organised Crime Reports in order to provide insight in trends and developments in subversive organised crime at the regional level. These reports are not only based on data provided by partners who are directly involved in the approach to tackling organised crime, but also on the analysis of public sources. In the future these Subversive Organised Crime Reports will be developed further and they will cover all regions.

In 2016, the police drew up rules for the unambiguous registration of (possible) victims in its business process system and on the method of reporting these (possible) victims to CoMensha for shelter and registration.

The police is working on developing new national formats for administrative reports. When the police finds administrative violations during prostitution checks, these reports can be used to report the violations to the municipality with the aim of taking administrative measures against the offender(s).

51 c) Most of these measures are possible based on the Code of Criminal Procedure (CCP). For the use of some techniques, the National Police needs permission of a judge or a prosecutor. For example, the communications of a suspect of a serious crime may be recorded with the help of a technical device (authorised by the prosecutor (art. 126l CCP) or a judge (126m CCP).

However, controlled delivery is not allowed in THB cases. The general rule is that controlled laissez passer of goods is prohibited (art. 126ff CCP). The seizure of goods may be postponed, but only in the interests of the investigation with a view to conducting the seizure at a later moment. That means that controlled laissez passer is possible, but the authorities are not supposed to lose track of the illegal goods, otherwise they will not be able to carry out the seizure later on.

When the police and the PPS know that victims of THB are being "passed", there is a ban on letting such a laissez passer carry on. This ban also covers the situation where migrants are being smuggled in conditions contrary to human dignity or where the conditions they will be living or working in once arrived are contrary to human dignity. In these cases, the police and PPS are obliged to intercept such a transport.

<sup>19</sup> As mentioned in the reply to question 1a, the National Threat Assessment Organised Crime 2017 was published recently.

<sup>20</sup> See <http://www.genk.be/confine>.

This ban follows from a resolution which was passed by the Dutch Parliament in 1998. The resolution states that human smuggling, THB and deprivation of liberty are serious crimes that put human dignity at risk. Allowing persons to pass in the sense that these crimes are being allowed to continue is therefore unacceptable, even in view of weighty investigative interests. The Minister of Justice later proposed to modify this ban as far as human smuggling is concerned, by making a distinction between human smuggling in conditions contrary to human dignity and human smuggling that is not contrary to human dignity. Parliament accepted this modification of the ban.

51 d)

- As mentioned in the response to recommendation 2 in the interim report, a bill has been introduced in Parliament that aims to allow police officers to pretend to be adolescents on the internet. This should make it possible for them to catch people that try to groom children before they are able to sexually abuse these children or to exploit them in forced prostitution.
- The additional funds made available by the Ministry of Security and Justice from 2017 onwards (see the answer to question 1d) will also be used to further develop the so-called WebCrawler. This is a digital application that may be used by investigators to search sources on the internet more efficiently. The aim is to detect online signs of THB, for example those contained in online advertisements, more effectively.
- Although it has not yet occurred, the current legal framework (i.e. art. 273f CC) seems to offer sufficient possibilities to prosecute providers or administrators of websites that intentionally encourage contacts for the recruitment of THB victims. Several articles regarding sexual offences (art. 242, 244, 245, 246, 247 and 248b CC) also seem to offer possibilities to prosecute websites by charging them with participating in the commission of or being an accomplice to these offences. If a website offers sexual materials involving underage persons, this may be a case of child pornography (art. 240b CC).

Providers and administrators of websites do not have personal contacts with the people using the websites, which means they are never able to ascertain that the persons offering themselves are really eighteen or older and are not being exploited. The PPS is in contact with the providers or administrators of most of these sites. This makes it possible to retrieve the data of the people using these sites relatively quickly, after which they may be investigated if necessary.

The notice and take down procedure may be used to urgently request the provider or administrator of a website to take the website or parts of it offline when it contains criminal content. Experience shows that these requests are complied with in most cases. If a request is not complied with voluntarily, the provider or administrator may be forced to comply through the procedure contained in article 54a CC.

51 e) Please see the response to recommendation 22 of the interim report for information on the use of financial investigations.

51 f) The Netherlands frequently makes use of the instrument of the Joint Investigation Team to investigate cross-border THB. As mentioned in the response to recommendation 6 in the interim report, there are on-going JITs with Bulgaria, Hungary and Romania. It also mentions the JIT that was set up with Austria and Bosnia-Herzegovina in the 13Oceans case (see the answer to question 3 for more information on 13Oceans).

52. Have you had any cases or suspected cases of THB for the purpose of the removal of organs? How did investigations take place in such cases and what special investigation techniques were used?

Answer:

No criminal investigations or prosecutions into human trafficking for the purpose of organ removal have taken place in the Netherlands so far. In 2015, there was a prosecution for trade in organs (i.e. an offence under the Organ Donation Act, see the answer to question 21a), in which the suspect was acquitted. There have been a few reports of human trafficking for the purpose of organ removal since 2005. In all of these cases the victim escaped before the organ was actually removed. None of these reports resulted in a criminal investigation. There was insufficient evidence of THB or a lack of concrete signs that could be investigated.

The Health Care Inspectorate, responsible for the enforcement of the Organ Donation Act, looks for online ads every two months since the end of 2014. This has so far resulted in four reports that have been dismissed due to the mental health of the advertiser, insufficient evidence that the advertisement was placed by the suspect or insufficient proof of a financial motive<sup>21</sup>.

<sup>21</sup> For more information on THB for organ removal in the Netherlands, see the National Threat Assessment Organised Crime 2017, <https://www.rijksoverheid.nl/regering/bewindspersonen/stef-blok/documenten/rapporten/2017/06/01/tk-bijlage-nationaal-dreigingsbeeld-2017>, pp 92-95, and <http://hottproject.com/>.

THB for organ removal has not been identified as a threat to Dutch society as a whole in the National Threat Assessment Organised Crime 2017 published by the National Police.

#### Protection of victims, witnesses and collaborators with the judicial authorities (Article 28)

53. What measures are taken to protect victims, witnesses and NGOs assisting victims during criminal proceedings from potential retaliation or intimidation during the investigation and during and after the criminal proceedings? In how many cases have special protection measures been used in respect of victims and witnesses of THB? Please specify any difficulties in providing victim/witness protection and creating a safe environment for their participation in investigations and court proceedings.

Answer:

- In general, protective measures can be taken for anyone involved in a THB case and all other criminal cases. This is not something that has been especially established for THB related matters. So, if necessary, not only victims can be protected, but also witnesses and NGOs. There are examples of victims and witnesses in THB cases that have been put in a protection programme. As far as is known, there has never been a THB case in which an NGO needed protection.
- Please refer to the answer to question 10i for the measures to protect victims that are contained in the Directive on THB of the Public Prosecution Service. As mentioned there, if possible, video recordings are also made of the interrogation of an underage witness, which can be used as evidence in the criminal proceedings.
- Please refer to the response to recommendation 23 in the interim report for information on the special witness protection programme for THB.
- The reflection period (see the answer to question 38) and the residence permit for victims without legal residence (see the response to recommendation 9 in the interim report) may also be granted to witnesses who have come forward and whose stay in the Netherlands is key to the investigation and prosecution.
- Employees of youth and care institutions also run the risk of finding themselves in an unsafe situation. Attention to their safety is therefore of great importance. The manual on co-operation with the police for youth care workers (drafted by the Azough Committee) therefore provides tips for promoting the safety of both victims, their relatives and employees in the institutions.

54. What other measures are taken to promote the participation of victims and witnesses in criminal proceedings and to give testimonies which accurately reflect their experiences and assist courts in establishing the truth? Can a victim of THB be assisted by a social worker, psychologist and/or NGO representative during the investigation and court hearings?

Answer:

- Shelters and NGOs like Fairwork and Comensha inform possible victims of their rights. Shelters like the COSM will encourage victims to press charges and cooperate with the investigation and prosecution. Victims of THB are entitled to free legal assistance by a lawyer.
- Article 51c of the Code of Criminal Procedure determines that victims may have someone assist them during the investigation and the trial. This could be a lawyer, a legal representative or a person of their choice.
- It also determines that victims may choose someone to represent them during the trial. This could for example be a lawyer or a staff member of Victim Support the Netherlands. The police, public prosecutor or the judge may decide that this person is not allowed to represent the victim. They must have a good reason for doing so, for example if this is in the interest of the investigation.

#### Jurisdiction (Article 31)

55. Please outline the measures taken by your country to establish and exercise jurisdiction over the offences set out in the Convention, in particular with regard to offences committed outside the jurisdiction of the state (including in cases where your national is a victim of THB committed abroad).

Answer:

According to Dutch criminal law, broad extraterritorial jurisdiction is established for trafficking in persons under the following conditions:

- the offence is committed in The Netherlands or on board a vessel that is flying the Dutch flag or an aircraft that is registered under Dutch law at the time that the offence is committed (articles 2(2) and 3 of the Criminal Code);
- the offence is committed against a Dutch national or by a Dutch national or an alien who has his or her habitual residence in the Netherlands (articles 5(1), 7(1), 7(3) and 6(1) of the Criminal Code and articles 3(1a), 3(1b), 3(1c), 3(3), 3(4) and 4(5) of the Decision on international obligations extraterritorial jurisdiction.

### International co-operation (Article 32)

56. Please provide examples of international co-operation initiatives with other states in preventing and combating THB, as well as an assessment of the impact of such initiatives, including any difficulties you have experienced in this area. Please also indicate any bilateral or multilateral agreements concluded by your country concerning mutual legal assistance and how such assistance is provided in the absence of an agreement.

#### Answer:

The following can be added to the examples presented by the Netherlands under recommendation 6 of the interim report.

- The Inspectorate SZW has cooperated on and co-organised the Joint Action Days on THB for Labour Exploitation in both 2016 and 2017, as part of the EMPACT-project on THB. Information on the 2016 action days was included in the interim report. In 2017, law enforcement agencies, labour inspectorates, immigration services, tax authorities and other partners joined the action days, which took place in 26 countries between 13 – 20 May. As a result of the checks undertaken, 133 suspects were detained or arrested for offences including trafficking in human beings and illegal immigration, 221 possible victims of trafficking were detected and 44 new investigations have been launched. The operation targeted a broad range of commercial sectors such as transportation, agriculture, construction, maritime, food processing and catering.
- THB sometimes takes place in conflict situations, affecting migrants and refugees in vulnerable positions. The Netherlands has pledged substantial support to increase self-reliance and perspectives of displaced people and host communities alike in crisis regions, for example by supporting UNDP in the Syria Region and through the Regional Development and Protection Programme (RDPP) in the Horn of Africa, thus diminishing the vulnerability of displaced people for THB. In addition, the Netherlands supports efforts by IOM to aid stranded migrants in Libya and Morocco in returning to their countries of origin and to collect data regarding migration in Africa, so as to gather empirical evidence on the difficulties migrants have encountered throughout the journey.
- Project SAFE! is led by HVO Querido (which also runs the COSM shelter in Amsterdam) and brings together IOM and various partners in the Netherlands, Bulgaria, Hungary and Macedonia, including the Dutch National Police. The overarching goal of this project is to ensure the safe return and sustainable re-integration of victims of trafficking and to enable their early and adequate detection and protection in the context of the current asylum and migration processes within the EU. At the core of the project lies multi-stakeholders cooperation, which allows each partner to contribute its own specialism to reach the project objectives:
  - To develop and implement strategies and a tailor-made international training program for safe return and reintegration and early detection and protection of victims.
  - To link GO and NGO stakeholders in the anti-trafficking field with organisations involved in the current asylum and migration processes within the EU and to stimulate mutual cooperation and exchange of expertise, dilemmas and best practices.
- The Ministry of Security and Justice has concluded MoUs on cooperation against organised crime in general with several countries. The MoU with China also mentions THB specifically.

The Public Prosecution Service of the Netherlands has concluded MoUs with the prosecution services in Bulgaria, Romania and the Philippines on cooperation to fight organised crime, including trafficking in human beings. The MoUs with Bulgaria and Romania refer to Council of Europe Conventions in general, but do not specifically mention the Council of Europe Convention on Action against Trafficking in Human Beings.

### Measures related to endangered or missing persons (Article 33)

57. What measures are envisaged in your country to transmit information to another party concerning a victim, witness or collaborator with the judicial authorities in a THB case, who your authorities believe is in immediate danger on the territory of another party? What protection measures are envisaged for such persons, should another party to the Convention inform you about their presence on your territory? Please provide examples from practice.

Answer:

To transmit information to another party, letters of mutual assistance may be used. This letter is either sent to the country directly in case of immediate danger on the territory of the party, or it is sent to or via Eurojust and/or Europol.

When a witness or victim is in the Netherlands and the threat against him or her comes from abroad then the Dutch police and prosecutor will take appropriate protective measures. There is one concrete example in a THB case in 2017. If necessary, international arrangements can be made by the special prosecutor for witness protection (attached to the National Public Prosecutor's Office) and the special police team for witness protection. This falls under a general programme for all types of crime, not only THB, and for anyone who takes part in criminal proceedings, not just victims. The prosecutor on witness protection and the police team actively collaborate at the international level with similar organisations abroad. This means that victims who need to be protected are actively being transferred to other countries and vice versa.

58. Has an early warning system for missing children been introduced in your country and is the harmonised European telephone number for missing children available? What other measures are there for early signalling to other countries about endangered and/or missing children? Has your country concluded any agreements or taken any other measures to reinforce co-operation with other countries in the search for missing people, in particular children, where your authorities have reasonable grounds to believe that missing children may be victims of trafficking or are at risk of becoming victims of trafficking?

Answer:

Since the 1st of September 2008, the 116 000 Hotline for missing children has been operational in the Netherlands. The Netherlands was the 3rd country in the European Union to open the 116 000 Hotline. The International Child Abduction Centre (IKO Centre) in the Netherlands is responsible for the 116 000 Hotline.

During the Netherlands Presidency of the EU in the first half of 2016, the Netherlands proposed a non-binding guideline for cross-border citizens assistance to gather information on missing persons. The objective of the guideline is to facilitate better and faster coordination of the use of cross-border citizens assistance. All member states have endorsed the guideline in DAPIX, the EU Working Party on Information Exchange and Data Protection.

Issuing an alert in the Schengen Information System (SIS II) for every missing person is a standard procedure in the Netherlands. This alert contains information about a particular person or object and also clear instructions on what to do if the person or object is encountered. SIS II does not provide the possibility for preventive alerts when there is a high risk of child abduction. For urgent alerts on missing children, the Netherlands Police also has an Amber Alert system in place.

Co-operation with civil society (Article 35)

59. What steps are taken by your country to encourage state authorities and public officials to co-operate with NGOs and other civil society organisations, including trade unions, so as to involve them in the elaboration and implementation of anti-trafficking policies, programmes and other initiatives to prevent THB? Please provide information on any memoranda of understanding or other agreements concluded between public bodies and NGOs in this field.

Answer:

- As mentioned in reply to question 1c, Comensha, the coordination center for human trafficking has always been a member of the anti-trafficking Taskforce. Since November 2016, a representative of the SOM ('Strategisch Overleg Mensenhandel'), a cooperation of social (care) institutions that deal with shelter, counselling and representation of the interests of victims of trafficking, also attends the meetings of the Taskforce.

- As also mentioned in reply to question 1c, the largest trade union of the Netherlands, the FNV, has been involved in project TeamWork! from the start.

- When the project to improve the National Referral Mechanism (NRM) was started, a so-called "sounding board" was established that includes the ministries and government agencies involved and a wide range of NGOs and social care organisations. This sounding board is used to gather input from these organisations on proposed activities in the framework of the NRM and to keep them informed about the progress of these and other activities undertaken by the ministries.

- Various so-called barrier models have been developed. A barrier model is a way to determine which barriers partner organisations (including various NGOs and other civil society organisations) can raise to prevent and

criminal activities. The entire criminal process is mapped out and for each separate step there is determined who has an opportunity to intervene and in what way. There are models for THB for sexual exploitation and for labour exploitation. Recently, the Centre for Crime Prevention and Safety (CCV) developed a barrier model specifically for THB committed by so-called called 'loverboys' or pimp boyfriends. This model was commissioned by the Ministry of Security and Justice.

- At the local and regional levels, public officials often work together with NGOs, other civil society organisations and sometimes even private organisations in various partnerships in which specific cases are discussed to determine the right strategy and the responsibilities of the partners involved.
- As mentioned in the answer to question 30, the NGO FairWork has received a grant from the Ministry of SZW to work together in 2017 with trade unions and companies in the prevention of labour exploitation of labour migrant from Poland, Bulgaria and Romania.

#### Relationship with other international instruments (Article 40)

60. Please indicate any agreements concluded by your country in accordance with Article 40.2 of the Convention.

Answer:

Please refer to the answer to question 56 for information on MoUs that have been concluded with other countries to strengthen cooperation against THB.

61. Please provide details of cases where victims or possible victims of THB have been granted refugee status or subsidiary/complementary protection.

Answer:

A person can be a refugee and a victim of trafficking at the same time. However, being a victim of trafficking is in itself not a ground for asylum. If someone wishes to apply for a residence permit on the ground of being a victim of trafficking, they may do so under the Human Trafficking Residence Scheme. The residence permits victims of trafficking may apply for are explained in the response to recommendation 9 of the interim report. There are no statistics available on refugees who may also be victims of trafficking.

#### D. Final questions

62. Which bodies and organisations contributed to responding to this questionnaire?

Answer:

Ministry of Foreign Affairs (BZ)  
 Ministry of the Interior and Kingdom Relations (BZK)  
 Ministry of Social Affairs and Employment (SZW)  
 Ministry of Health, Welfare and Sport (VWS)  
 Ministry of Economic Affairs (EZ)  
 Ministry of Security and Justice (VenJ)  
 Public Prosecution Service (PPS)  
 National Police (NP)  
 Expertise Centre on Human Trafficking and People Smuggling (EMM)  
 National Information and Expertise Centre (LIEC)  
 Inspectorate SZW (ISZW)  
 Royal Netherlands Marechaussee (RNLM or KMar)  
 Immigration and Naturalisation Service (IND)  
 Central Agency for the Reception of Asylum Seekers (COA)  
 Repatriation and Departure Service (DT&V)  
 Custodial Institutions Agency (DJI)  
 Council for the Judiciary (RvdR)  
 City of Rotterdam  
 Comensha  
 HVO Querido (COSM Amsterdam)  
 Chamber of Commerce (KvK)  
 National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (BNRM)

63. Who was responsible for co-ordinating and collecting the replies to this questionnaire?

Answer:

Ms Evelien Pennings  
 Department for Law Enforcement  
 Directorate-General for Administration of Justice and Law Enforcement  
 Ministry of Security and Justice  
 The Netherlands

E. Statistics on THB (per year, starting with 2010)

The following data on trafficking in human beings has been provided by the Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children. For more information on the National Rapporteur, please visit [www.dutchrapporteur.nl](http://www.dutchrapporteur.nl).

General remarks

"Minor" means underage under Dutch law, i.e. under the age of 18.

Nationalities are grouped according to region. 'EU in 1995' means nationals of countries that were member states of the EU in 1995 ( $n=15$ ), excluding those with Dutch nationality; 'EU from 2004' refers to nationals of countries that have joined in 2004, 2007 or 2013 ( $n=13$ ); the remaining regional categories are based on the division of the UN (see <https://unstats.un.org/unsd/methodology/m49/>), and the category 'Other' includes stateless persons.

For form of exploitation, 'Other' includes various forms of exploitation, most notably labour exploitation, but also criminal exploitation and organ trafficking. 'Unknown' exploitation includes both persons for whom the form of exploitation is not known and persons encountered/registered before exploitation had commenced.

Data for 2016 have only recently become available and are yet to be analysed.

Data for 2015 and 2016 on reflection periods (table 3), residence permits (table 5) and victims repatriated (table 9) have not yet been analysed. This is planned for the coming months and the data will feature in a quantitative data report to be published in October 2017.

The IND has only recently started registering the form of exploitation of presumed human trafficking victims applying for a reflection period or a residence permit. The earliest datasets were not very reliable for this variable, since it was not being registered in a structural way and therefore still often remained unknown.

Data on whether victims were trafficked internally or transnationally is not available.

1. Number of victims identified in the sense of having been recognised by a state institution or mandated NGO as deserving any of the rights or entitlements to services provided for by the Convention

The Netherlands does not have any data on *identified* victims, since victims registered at CoMensha are all presumed victims (i.e. identified possible victims) and they are not subjected to a formal assessment on victimisation. This is essential for the interpretation of statistics on victims in The Netherlands.

Nevertheless, when it comes to victims that are recognised as 'deserving of rights or entitlements to services provided for by the Convention' then the number of presumed victims can be used as the number of identified victims, since all persons for whom there is the "slightest indication" that they might be trafficking victims are entitled to various services and facilities, such as shelter, legal advice and (in the case of victims without legal residence) a reflection period.

2. Number of presumed victims whom the competent authorities had “reasonable grounds” to believe were victims of THB

		2. Number of presumed victims						
		2010	2011	2012	2013	2014	2015	2016
Total		993	1222	1711	1437	1561	1321	
Sex								
	Male	113	226	199	169	247	274	
	Female	879	996	1509	1268	1314	1047	
	Unknown	1	0	3	0	0	0	
Age								
	Minor	152	195	223	259	283	291	
	Adult	831	1013	1478	1166	1215	883	
	Unknown	10	14	10	12	63	147	
Nationality								
	Netherlands	315	337	428	455	468	434	
	EU in 1995 (excl. NL)	14	13	22	33	27	12	
	EU from 2004	229	356	751	545	579	422	
	Europe not-EU	24	31	47	20	40	38	
	Africa	302	360	303	227	210	184	
	Asia	61	88	95	116	184	182	
	Latin-America and the Caribbean	32	29	45	25	32	26	
	Other	0	0	1	0	0	1	
	Unknown	16	8	19	16	21	22	
Form of exploitation								
	Sexual	749	781	1216	945	1026	827	
	Other	128	250	257	178	259	280	
	Unknown	116	191	238	314	276	214	
Identifying body								
	Police	730	960	976	786	732	628	
	Royal Netherlands Marechaussee	43	24	445	343	319	173	
	Inspectorate SZW	39	33	98	54	72	102	
	Other	245	252	243	307	530	643	

There is no “reasonable grounds” test for identifying possible victims of trafficking in human beings, but instead all presumed victims of trafficking are registered (see the answer to the previous question). All kinds of organisations and individuals are able to report victims to CoMensha, not just the competent authorities.

The number of presumed victims reported by all the identifying bodies is larger than the total number of presumed victims since some victims were reported to CoMensha by more than one identifying body.

The category “other” for identifying bodies includes at the least: shelter organisations, Nidos Foundation, regional care coordinators, IOM, youth care, Dutch Council for Refugees (and other organisations for asylum and asylum seekers), legal services, individuals, and clients themselves.



		3. Number of victims granted a recovery and reflection period						
		2010	2011	2012	2013	2014	2015	2016
Total		256	357	258	223	174		
Sex								
	Male	44	87	68	44	50		
	Female	212	269	190	179	124		
	Unknown	0	1	0	0	0		
Age								
	Minor	32	29	20	10	8		
	Adult	224	328	238	213	166		
Nationality								
	EU in 1995 (excl. NL)	3	2	2	3	2		
	EU from 2004	39	104	49	44	33		
	Europe not-EU	3	5	11	3	6		
	Africa	164	190	148	113	74		
	Asia	23	31	34	44	51		
	Latin-America and the Caribbean	14	12	11	6	4		
	Other	0	1	0	1	0		
	Unknown	10	12	3	9	4		
Form of exploitation								
	Sexual	n/a	n/a	n/a	n/a	n/a		
	Other	n/a	n/a	n/a	n/a	n/a		
	Unknown	n/a	n/a	n/a	n/a	n/a		

The reflection period can be offered by the National Police and the Royal Netherlands Marechaussee. The residence permit is then granted by the Immigration and Naturalisation Service (IND). The latter organisation has provided the data above.

		4. Number of victims who received assistance (shelter)						
		2010	2011	2012	2013	2014	2015	2016
Total		199	232	246	196	140	141	
Sex								
	Male	35	54	52	38	28	38	
	Female	164	178	194	158	112	103	
Age								
	Minor	6	5	5	2	2	0	
	Adult	193	225	241	194	138	141	
	Unknown	0	2	0	0	0	0	
Nationality								
	Netherlands	17	15	18	13	17	15	
	EU in 1995 (excl. NL)	2	4	0	3	3	2	
	EU from 2004	37	42	38	40	29	30	
	Europe not-EU	3	4	10	4	3	4	
	Africa	108	138	137	99	55	60	
	Asia	19	23	34	29	30	22	
	Latin-America and the Caribbean	12	6	8	7	2	7	
	Other	0	0	0	0	0	1	
	Unknown	1	0	1	1	1	0	
Form of exploitation								
	Sexual	149	155	178	141	93	106	
	Other	25	46	51	35	34	33	
	Unknown	25	31	17	20	13	2	

For assistance there is only data available on the use of shelter by human trafficking victims. And then only the use of shelter by those (presumed) victims who were registered by CoMensha and for whom CoMensha either coordinated the shelter arrangements or was aware of their placement in a shelter. Hence, this cannot be taken as a complete overview of all victims who received assistance.

Additionally, it remains somewhat unclear what is meant exactly by 'assistance' in this context. Perhaps in the future more data will be available if the concept were to be clarified.

5. Number of victims who were granted a residence permit, with an indication of the type of the permit and its duration

		5. Number of victims granted a residence permit						
		2010	2011	2012	2013	2014	2015	2016
Total		350	417	406	268	251		
Sex								
	Male	71	109	100	66	90		
	Female	279	308	306	201	161		
	Unknown	0	0	0	1	0		
Age								
	Minor	30	24	24	14	10		
	Adult	320	393	381	254	241		
	Unknown	0	0	1	0	0		
Nationality by region								
	EU in 1995	3	2	2	1	4		
	EU from 2004	46	60	76	41	42		
	Europe not-EU	6	8	12	3	1		
	Africa	233	286	237	152	98		
	Asia	35	40	54	53	95		
	Latin-America and the Caribbean	18	13	22	8	8		
	Other	1	1	0	0	0		
	Unknown	8	7	3	10	3		
Form of exploitation								
	Sexual	n/a	n/a	n/a	n/a	n/a		
	Other	n/a	n/a	n/a	n/a	n/a		
	Unknown	n/a	n/a	n/a	n/a	n/a		

Residence permits, among which those granted based on human trafficking victimhood, are processed by the Immigration and Naturalisation Service (IND), which also collects these data. The statistics provided in answer to this question refer to *temporary residence permits* for victims of trafficking in human beings. Temporary residence permits for human trafficking victims are, in first instance, granted for one year, but they may be extended. There is a maximum of three years and they are valid for the duration of the criminal investigation and criminal prosecution.

6. Number of victims given refugee status and subsidiary/complementary protection

There are no data available on this. See also the answer to question 61.

## 7. Number of victims who claimed compensation and who received compensation

			7. Number of victims who claimed compensation and who received compensation						
			2010	2011	2012	2013	2014	2015	2016
Court imposed compensation measures (to be paid by the convicted)									
Number of irrevocably imposed compensation measures for convicted traffickers			16	14	35	26	45		
Number of victims involved			18	21	57	53	84		
Financial compensation offered by the Violent Offences Compensation Fund (Schadefonds Geweldsmisdrijven)									
Total requested			51	49	49	57	52		
Total received						58	61		
	Sex								
		Male				8	3		
		Female				50	58		
	Age								
		Minor				2	1		
		Adult				56	60		
		Unknown				0	0		
	Region of birth								
		Netherlands				26	24		
		EU in 1995 (excl. NL)				0	2		
		EU from 2004				11	21		
		Europe not-EU				1	0		
		Africa				12	9		
		Asia				5	2		
		Latin-America and the Caribbean				3	1		
		Unknown				0	2		
	Form of exploitation								
		Sexual				50	57		
		Labour				8	4		

There are several ways for victims to receive compensation, both material and immaterial, with regards to the occurrence of a human trafficking offence. Firstly, a criminal court may impose a compensation measure on a convicted trafficker as part of the verdict, to be paid to the victim. Secondly, victims have an opportunity for compensation outside civil and criminal judicial proceedings: the Violent Offences Compensation Fund. Please see the answer to question 42 of the Dutch response to the first GRETA questionnaire for more information.

### A. From traffickers via court imposed measures

The number of involved victims does *not* refer to unique victims. A compensation measure can involve more than one victim and, in addition, it is also possible that the same victims appear in several cases of several suspects of trafficking. For the total period 2010-2014 the amount of unique victims in the 136 imposed compensation measures is actually 178 (versus the total amount of 233 involved victims including double counts)<sup>22</sup>. There are no data on the characteristics of these victims.

### B. From the Violent Offences Compensation Fund

The number of persons requesting compensation and the number of persons granted one *are not cohorts*, for it is possible that a decision on an application in one year was not made until the following year(s). Hence, an unknown part of the 58 granted compensations granted in 2013 relate to requests submitted in 2012 or before.

Nationality was not recorded in the data received from the Compensation Fund. However, country of birth was. This latter variable was used, instead of nationality, to report on the region of origin of recipients of compensation.

### 8. Number of victims repatriated to your country

No cases are known of Dutch victims abroad that needed to be or have been repatriated to the Netherlands. There is no agency that records this kind of information, but it is also unlikely that there are many Dutch trafficking victims that would need this kind of assistance, since the Netherlands is primarily a country of destination and a source country for internal trafficking.

		9. Number of victims repatriated from your country to another country						
		2010	2011	2012	2013	2014	2015	2016
Total		29	36	39	25	26		
Sex								
	Male	1	0	10	3	3		
	Female	28	36	29	22	23		
	Unknown	0	0	0	0	0		
Age								
	Minor	3	1	4	1	2		
	Adult	26	35	35	24	24		
	Unknown	0	0	0	0	0		
Nationality								
	EU from 2004	25	31	25	15	12		
	Europe not-EU	0	0	0	1	1		
	Africa	3	2	6	4	6		
	Asia	0	2	8	1	5		
	Latin-America and the Caribbean	1	1	0	4	2		
Form of exploitation								
	Sexual	28	26	29	16	15		
	Other	0	0	8	4	5		
	Unknown	1	10	2	5	5		

These data are from the International Organisation for Migration (IOM) the Netherlands, which is the agency that coordinates voluntary return from the Netherlands for, among others, victims of trafficking in human beings.

<sup>22</sup> Written information by the CJIB (Centraal Justiteel Incassobureau), May 22 2015.

Firstly, it should be noted that the figures for this question do not present a representative overview of all (voluntarily) returned presumed victims of human trafficking. It is possible for victims to return to their country of origin on their own initiative / by their own means or with the help of other persons and/or organisations, without this being known to IOM (or the authorities).

10 – 15.

	Investigating and prosecuting human trafficking						
	2010	2011	2012	2013	2014	2015	2016
10. Number of investigations into THB cases	216	261	316	254	278	217	
11. Number of prosecutions of THB cases	144	166	196	196	193	184	
12. Number of convictions for THB	83	81	111	154	129	124	
Involving enforced deprivation of liberty	74	68	94	135	110	111	
<i>Average number of days of enforced imprisonment</i>	<i>617</i>	<i>753</i>	<i>772</i>	<i>804</i>	<i>665</i>	<i>558</i>	
Involving only suspended deprivation of liberty	4	8	7	16	9	6	
13. Number of judgements resulting in the confiscation of assets	n/a	n/a	n/a	n/a	n/a	n/a	
14. Number of judgements resulting in the closure of a business or an establishment	n/a	n/a	n/a	n/a	n/a	n/a	
15. Number of convictions for the use of services of a victim of THB	n/a	n/a	n/a	n/a	n/a	n/a	

#### 10. Number of investigations into THB cases

Since there are no police data available detailing the number of investigations of THB, the statistic used for this is the number of registered investigated cases THB at the Public Prosecution Service (Openbaar Ministerie, OM). This, however, is data *on an individual suspect level*, and does not refer to the number of investigations, which can often involve more than one suspect. Nevertheless, this is otherwise the broadest definition of 'number of investigations' for which there are data available.

The OM is the source of the data used for this and the following questions.

#### 11. Number of prosecutions of THB cases

The statistic used here is the number of cases (i.e. suspects) that the OM brings to trial, which excludes those cases in which the OM has decided not to prosecute.

#### 12. Number of convictions for THB

It is important to note that the number of cases registered at the OM, the number prosecutions and the number of convictions are not cohorts.

Secondly, these numbers refer to actual convictions for THB offences and not to all cases in which THB was one of charges and where a conviction followed. In other words, cases where suspects were charged with THB and one or more other offences, but only other offences could be proven, were not included in these data.

Usually, a combination of different types of penalties is imposed on those convicted for trafficking in persons. This also includes combinations of enforced and suspended deprivation of liberty. Therefore, the number of convictions involving enforced deprivation of liberty also includes convictions with a suspended part of the sentence; hence, this number refers to those convictions *at*

*least* involving enforced imprisonment. The number of convictions referring to those *only* involving suspended deprivation of liberty, however, does not include convictions where enforced imprisonment was also imposed. So, together, these two numbers include the total of convictions involving a deprivation of liberty.

For the average number of days of enforced imprisonment, it is only the duration of the non-suspended component of the custodial sentence that is displayed for trafficking in human beings in each case. The suspended component has not been taken into consideration.

It must be noted that in the judgments in which THB has been declared as proven, other proven offences alongside THB are often involved. These obviously also influence the sentence. The average duration displayed is therefore not solely imposed for THB.

13. Number of judgements resulting in the confiscations of assets

There are no data available on this.

14. Number of judgements resulting in the closure of a business or an establishment

There are no data available on this.

15. Number of convictions for the use of services of a victim of THB

There were no convictions, as the use of the services of a victim of THB does not constitute an independent criminal offence in the Netherlands. For more information on the private member's bill on this subject, please see the response to recommendation 18 in the interim report.