



Strasbourg, 19 September 2018

GRETA(2018)16

Reply from Switzerland
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 28 June 2018)

Introduction

In accordance with Article 38, paragraph 1, of the Convention on Action against Trafficking in Human Beings, GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions on which the evaluation procedure is based.

GRETA has decided that the second evaluation round of the Convention will start on 15 May 2014. For the second evaluation round, GRETA has adopted a questionnaire to be sent to all states parties which have undergone the first round of evaluation, following a timetable approved by GRETA. States parties are requested to transmit to GRETA a reply to this questionnaire within five months from the date it was sent.

Following a first round of monitoring, which provided an overview of the implementation of the Convention by each state party, GRETA has decided to examine during the second evaluation round the impact of legislative, policy and practical measures on the prevention of trafficking, the protection of the rights of victims of trafficking, and the prosecution of traffickers. The adoption of a human rights-based approach to action against trafficking in human beings remains at the centre of this new evaluation round. In addition, particular attention is paid to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking. GRETA has selected provisions of the Convention which are mainly related to these issues.

The reply to the questionnaire should be submitted in one of the official languages of the Council of Europe (English and French), and preferably also in the original language. The reply to the questionnaire should contain all the relevant information on the implementation of the Convention since GRETA's first evaluation report. Particular emphasis should be put on the practice and impact of legislative and other measures taken. Where appropriate, in order to avoid unnecessary repetition, the reply may refer to information contained in the report submitted by the national authorities on measures taken to comply with the Committee of the Parties' recommendation concerning the implementation of the proposals made in GRETA's first evaluation report.

States parties should provide copies or extracts of relevant legislation, regulations and case law mentioned in the reply to the questionnaire (as an appendix to the reply). These copies/extracts should be supplied in the original language and, wherever possible, also in one of the official languages of the Council of Europe.

A variety of stakeholders and civil society representatives should be effectively consulted in the preparation of the reply to the questionnaire, to ensure that the information provided is as comprehensive as possible.

A. Follow-up questions

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

- **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);**
- **any changes in your country's laws and regulations relevant to action against THB;**
- **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;**
- **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).**

On this point, please see appendix 1: "Situation of trafficking in human beings in Switzerland as at March 2018"

Switzerland lodged its instrument of ratification of the Protocol of 2014 to the Forced labour Convention with the International Labour Organisation (ILO) on 28 September 2017. The text will enter into force in respect of Switzerland on 28 September 2018. The Protocol targets modern forms of forced labour such as trafficking in human beings and requires governments to take measures to prevent forced labour, protect the victims and give them access to mechanisms for redress and compensation.

There are no other legislative changes to be reported since GRETA's evaluation report of 14 October 2015 for the first evaluation round.

In November 2017 the Executive Secretariat of the Swiss Co-ordination Unit against Trafficking in Persons and Smuggling of Migrants (KSMM) was assigned to the National Police Crime Prevention Division, newly created within the Federal Office of Police (Fedpol) headquarters to run Fedpol crime prevention activities. Fedpol's involvement in this area is focused on the crime phenomena constituting a strategic priority in the fight against crime for which preventive measures seem appropriate and which call for preventive action at federal level. Trafficking in human beings meets these three criteria.

On this point, please see appendix 2: "National plan of action against trafficking in human beings 2017-2020".

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?

Our perception is that trafficking in human beings is a phenomenon taking a whole host of different forms and affecting gender in different ways, depending on the type of exploitation and the economic

sectors concerned. While women are the main victims of trafficking for the purpose of sexual exploitation, men are the principal victims of trafficking for the purpose of exploitation of labour in certain economic sectors. For that reason, the Swiss strategy takes account of gender in relation to the different forms and contexts of exploitation.

In order to ensure that the gender dimension is taken into account in the devising of the Swiss national strategy, the Swiss Conference of gender equality representatives is a member of the national co-ordination system and sits on the Steering Committee of the KSMM.

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?

Switzerland has not encountered any specific issues with minorities permanently established in Switzerland. As for migrants belonging to ethnic minorities falling victim to trafficking in human beings in Switzerland, they are afforded the same services and the same rights as any other victim of trafficking in Switzerland.

In order to improve identification, care and protection of victims coming from Romania, Bulgaria and Hungary (three major countries of origin where Switzerland is concerned), various bilateral co-operation projects have been set up. Within those projects measures have been taken to facilitate access to rights and communication with trafficking victims belonging to ethnic minorities (see reply to question 56 for a description of the projects).

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?

The fact that a potential victim of trafficking in human beings is legally or illegally present on Swiss territory makes no difference, either in terms of identification efforts or as regards access to the rights provided for in the Convention.

In order to assist persons illegally present on Swiss territory but also to inform them of their rights, advice centres for undocumented foreigners have been set up in ten or so cantons (Aargau, Basel-city, Bern, Fribourg, Geneva, Luzern, Ticino, Valais, Vaud and Zurich). These advice centres are organised by voluntary sector groupings known as "collectives for the undocumented". A website¹ and an information brochure² published by the UNIA trade union and the agencies receiving undocumented foreigners provide a means of informing illegally present migrants and referring them to advice centres.

In Geneva, a special initiative entitled "Operation Papyrus"³ has made it possible, in certain circumstances, to regularise the situation of several hundred illegally present migrants. It operates on three interconnected axes:

- a process of regularising the status of undocumented foreigners;
- a mechanism for monitoring and cleaning up the economic sectors particularly affected by black-market labour and the undercutting of salaries (notably the domestic service sector);
- a mechanism aiding the integration and stabilisation of those aided by the project.

¹ <http://www.sans-papiers.ch/index.php?id=90&L=2>

² https://www.unia.ch/uploads/media/Sans_Papiers_Brosch_A7_fr_03.pdf

³ See press release from the Department of Security and Economy (EHR) of the Canton of Geneva: http://ge.ch/integration/media/integration/files/documents/communique_ce_papyrus.pdf

The departments involved in the operation (Cantonal Office for labour inspection and labour relations, cantonal police, public prosecutor and Cantonal Office for population and migration) have provided regular updates to the Geneva round table against trafficking in human beings.

In other cantons, notably in Bern canton, the situation of illegally present migrants is continually examined in the light of the legal provisions applicable to hardship cases. Illegally present migrants meeting the criteria mentioned in Article 31 of the Federal Council Order on Admission, Stay and Exercise of Gainful Activity (OASA; RS 142.201) may also have their situation regularised.

In a number of cantons, and in Bern canton in particular, joint checks are carried out by the police, the migration authorities and the labour inspectorate in order to examine all the aspects of a given situation. This means that the situation of an undocumented migrant worker will not be examined solely in the light of the regulations governing their presence in the country but also with regard to labour law and relations, as well as any criminal offences (loan-sharking, trafficking in human beings etc). In their supervisory work, the authorities supervising the labour market can rely *inter alia* on the Federal Law on accompanying measures applicable to workers posted from foreign countries and to checks on minimum salaries stipulated in standard work contracts (Law on Workers Posted from Foreign Countries; RS. 823.20) as well as the Law on Measures to Combat Illegal Labour (Law on Illegal Labour; RS 822.41). More details are provided on these laws in the reply to question 23.

On the basis of the COMPETO regulation procedure appended to the directives⁴ of the State Secretariat for Migration (SEM), all the key departments concerned by action against THB have been made aware of the issue and trained to recognise the different indicators of trafficking in human beings. This training is provided at both national and cantonal levels, and sometimes at municipal level (notably Bern city council). The COMPETO procedure makes it possible to take an approach hinging on a co-ordinated network, so that potential victims are identified.

It should be pointed out however that the question of legalising the stay of people illegally present on the territory is a political issue which is debated within the framework of cantonal parliaments. and the administrative labour procedure initiated on the basis of the labour inspection.

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?

The gender of potential victims has no implications for the checking or identification processes or the rights afforded under the Convention.

Under the Federal Law on Assistance to Victims of Crimes (LAVI, RS 312.5), cantons must set up crime victims support centres and, in doing so, cater for the special needs of the different categories of victims (Art. 9 of the LAVI). Some centres have a general brief while others are dedicated to certain categories of victims (minors, victims of sexual assault, men, women etc). The victim is free to choose which support centre they go to (Art. 15 of the LAVI).

Besides the victim support services, a number of NGOs also provide services for male victims of trafficking in human beings. These include Astrée in Vaud canton (advice, support and organisation of accommodation), the Protestant Social Centre in Geneva (legal advice), Fortis in Bern canton and Teen challenge in Glaris canton (accommodation and advice).

⁴ See point 5.6.8.2 of the Directives and comments in the sphere of foreigners (Letr Directives), pp.92-93: <https://www.sem.admin.ch/dam/data/sem/rechtsgrundlagen/weisungen/auslaender/weisungen-aug-f.pdf>

For the years 2010 to 2016, the number of male victims of trafficking in human beings turning to a support centre ranged between 4 and 16; for women, it varied between 74 and 173, according to the victim assistance statistics kept by the Federal Office of Statistics⁵.

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.

Since GRETA's last evaluation (2014), the following training sessions have been run:

Courses at the Swiss Police Institute: target audiences: criminal investigations police officers, prosecutors, cantonal migration authorities

01.06.2015 – 06.06.2015: Basic course (30 participants)
 30.05.2016 – 03.06.2016: Basic course (42 participants)
 08.05.2017 – 10.05.2017: Further training course (27 participants)
 14.05.2018 – 18.05.2018: Basic course (34 participants)

Interdisciplinary seminars organised with the Geneva Academy of Social Work: target audience: all the professionals concerned by action against trafficking in human beings

09.11.2015: Introductory day course on action against trafficking in human beings (38 participants)
 14.11.2016 – 15.11.2016: Interdisciplinary seminar, with the participation of GRETA (50 participants)

Training organised with the Federal Administrative Court:

Target audience: internal training for registrars and judges of the Federal Administrative Court
 16.12.2015: training day with participation of the SEM and the FIZ NGO (60-70 participants)

Training organised with or by the SEM:

Target audience: cantonal migration authorities

28.04.2017, 16.06.2017, 06.10.2017: Regional workshops introducing the COMPETO procedure (total of 57 participants for the three workshops, further details in section "C")

Past training courses have essentially been geared to the criminal prosecution authorities (courses at the Swiss Police Institute) and victim assistance services although they have also been open to other target audiences, particularly the migration authorities.

Several initiatives under the National Action Plan 2017-2020 are aimed at widening the circle of trained professionals:

A. General concept for training (Measure no. 4):

To obtain an overview of training needs, existing offers and responsibilities for organising training courses, a general concept is being devised (action no. 4 of the National Action Plan). This concept must take into consideration all the professionals concerned by action against trafficking in human beings. In

⁵ LAVI statistics on trafficking in human beings: <https://www.bfs.admin.ch/bfs/fr/home/statistiques/criminalite-droit-penal/aide-victims.assetdetail.2843586.html>

an initial phase, a survey was carried out in 2017 among thirty or so target groups from 19 cantons with a view to determining their position on the following points:

- relative priority assigned to action against trafficking in human beings compared with other missions
- perception of training needs
- availability to undergo training
- hindrances to training

Analysis of their replies revealed the following information:

Relative priority assigned to action against trafficking in human beings:

The police (cantonal and municipal criminal investigations police), the migration authorities (SEM and Cantonal migration authorities) and the NGOs specialising in assistance for THB victims, assistance for prostitutes and the reception of women who are victims of violence consider action against trafficking in human beings as an important mission or even as a priority. For the other departments, action against THB is of minor importance. Of all the replies received, 27% considered action against THB as an important mission, 59% had other priorities, 7% did not feel that the topic is relevant to them, and 7% did not answer this question.

Perception of training needs:

Analysis of the training needs expressed shows that in most cases there is no shared vision of training needs within any given target audience.

Availability to undergo training:

Availability to undergo training is very limited. Over 40% of the replies received indicated a refusal to undergo training of any kind, either because the department already has specialists in the area (5%) or training is not desired (36%). One-third of replies indicated availability to attend an information day (33%) and only 5% were in favour of a week-long course (envisaged by only some criminal investigations police departments and some NGOs).

Hindrances to training:

The main hindrances to training are the lack of priority assigned to the topic (21%) and work overload (17%). The cost of training and the offer are less of an issue (11% and 10% of hindrances mentioned).

As staff cannot be forced to undergo training and courses are funded mainly by enrolments, the overall training concept should propose a training offer that is likely to be taken up by the target groups. Federal grants for organising training courses may be allocated on a flat-rate basis, but only if content relates directly to assistance for victims. The flat-rate amounts allocated are CHF 1,400 for courses for the whole of German-speaking Switzerland, CHF 1,600 for courses for the whole of French-speaking Switzerland, Italian-speaking Switzerland or Rhaetian-speaking Switzerland, and CHF 2,000 for courses for participants anywhere in Switzerland which are conducted in two languages⁶.

B. Specific initiatives of the 2017-2020 National Action Plan aimed at training or raising awareness among certain categories of professionals:

In parallel to the devising of the aforementioned general concept, a number of measures aimed at training or raising awareness among certain categories of professionals are provided for in the 2017-2020 National Action Plan:

Measure no. 1: raising awareness among medical staff regarding identification of potential victims

Measure no. 5: raising awareness among Swiss consulate staff

Measure no. 7: raising awareness in labour inspectorates

Measure no. 15: training on the issue of trafficking in human beings in basic police training

⁶ See the Federal Office of Justice directives concerning financial aid for training in connection with assistance for victims: <https://www.bj.admin.ch/dam/data/bj/gesellschaft/opferhilfe/ausbildung/weisungen-finanzhilfe-f.pdf>

Measure no. 16: training regarding trafficking in human beings for the criminal prosecution authorities
Measure no. 20: training for the migration authorities

C. Training for the migration authorities in connection with action no. 20 of the National Action Plan:

Training needs are identified on the one hand through close collaboration between the SEM and the Association of Cantonal Migration Authorities (ASM), which acts as an interface for the activities of cantonal authorities competent for migration matters. Generally speaking, it could be said that, thanks to the high quality of collaboration and the networking of authorities and stakeholders concerned at all levels of state, including non-governmental organisations and victim support centres, the needs or requirements of the different stakeholders necessarily become known.

Under the 2012-2014 National Action Plan, the SEM ran an awareness-raising initiative in the form of a training event focusing on trafficking in human beings for cantonal migration authorities. It was assessed via a questionnaire for participants in order to check whether there were still questions that had not been addressed or topics requiring further analysis.

For the 2017-2020 action plan the SEM, working in conjunction with the Association of Cantonal Migration Authorities (ASM) and the FIZ, ran three regional workshops for migration authority staff in order to explain how the COMPETO procedure was to be applied.

The COMPETO procedure, which provides a description and oversight of the possible options and the procedure to follow so that victims may be granted a recovery and reflection period, short-stay permit and permission to reside in the country, has been an integral component of the SEM's LEtr directives since 1 July 2015. It is recommended that all cantons apply the procedure, with a view to harmonisation at national level.

Owing to prerogatives being shared between the Confederation and the cantons (everything relating to the granting or renewal of stay permits and not covered by orders or directives falls within the competence of the cantons), the SEM cannot oblige the cantonal authorities competent for migration matters to participate in training course but past experience has shown that, thanks to the strong collaboration between the SEM and the cantonal authorities, these training sessions/workshops have been very well attended and received.

The aforementioned training was funded by the SEM.

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.

The first thing to point out is that the level of protection in Switzerland is very high and the social safety net is finely meshed. This is due in part to the number of institutions tasked with social welfare and child protection matters but also to the prerogatives assigned at cantonal level, which ensure that the competent authorities remain close to grassroots operations. That is why, unlike other States, Switzerland does not have any street children left to their own devices.

According to an independent report produced in 2007 by UNICEF Switzerland⁷, trafficking in children is not common in Switzerland and limited to a few isolated cases. In order to update knowledge on the topic, the 2017-2020 National Action Plan provides for the production of a new report on the exploitation of minors in Switzerland for 2019 (action no. 12).

⁷ Link to the UNICEF report:

https://www.unicef.ch/sites/default/files/documents/unicef_rapport_traite_denfants_et_la_suisse_2007.pdf

The few identified cases of trafficking in minors involve forced begging, forced offending and sexual exploitation. Under the Agora project, a procedure and a set of measures were defined in 2011 with the Swiss Union of Cities and Towns in order to take adequate action on minors engaging in begging and identify potential trafficking victims⁸.

The cantonal authorities responsible for the protection of children and adults are responsible for all measures in the sphere of child protection. They are tasked with assisting families in their educative role, monitoring and safeguarding the interests of children, in collaboration with the parents and, whenever necessary, by applying for judicial measures. The services provided by these authorities can range from mere advice to full long-term care or the application of measures and mandates ordered by judicial, civil and criminal law bodies. Some cantons have already integrated cantonal authorities responsible for the protection of children and adults in their machinery for co-operation in action against trafficking.

In more general terms, child protection falls primarily within the jurisdiction of the cantons and municipalities. As the Confederation body responsible for policy on children and youth, the Federal Office of social insurance (OFAS) supports the stakeholders competent for child protection by drawing up in-depth reports and studies, as well as by encouraging exchanges of information and experience. The OFAS also has the task of co-ordinating work to follow up the recommendations of the United Nations Committee on the Rights of the Child, which entails analysing recommendations, clarifying the powers and responsibilities of the federal offices and cantons concerned and also seeking possible partnerships with NGOs. In addition, the OFAS grants financial aid to organisations involved in preventing maltreatment and negligence of children on the scale of the country as a whole or a linguistic region.

8. What practical measures are taken to reduce children's vulnerability to trafficking and create a protective environment⁹ 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.**

a. Children born in hospital are automatically declared to the authorities, even if the parents do not have permission to stay in Switzerland.

b. On-line lessons for schools on trafficking in human beings were produced in 2009 by the Education and Development foundation in collaboration with the DFAE¹⁰. The course comprises three modules and is intended chiefly for vocational colleges and upper secondary schools but also for lower secondaries (secondary I and Gymnasium). Information is provided to teachers to help them deal with the topic in class by suggesting teaching sequences and class activities but school establishments are free to decide whether or not to use these teaching resources. Given the THB context in Switzerland and particularly the very low number of trafficking cases involving minors, as well as the fact that child victims are nearly always of migrant origin, there is no provision to systematically raise awareness of the dangers of THB

⁸ Link to the recommendations of the Swiss Union of Cities and Towns:

[https://uniondesvilles.ch/cmsfiles/Traite%20de%20mineurs%20\(01013\)_2.pdf](https://uniondesvilles.ch/cmsfiles/Traite%20de%20mineurs%20(01013)_2.pdf)

⁹ 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.

¹⁰ The on-line course is available on the internet site of the Education and Development foundation:

<http://www.globaleducation.ch/module/m1/fr/index.html>

among children in Swiss schools. However, the specific problem of victims of "loverboys" is taken seriously by the Swiss authorities given the scale of the phenomenon in Europe. Targeted awareness-raising and prevention measures are being looked at, but one difficulty is the lack of information on the scale and characteristics of the phenomenon in Switzerland.

c. In several cantons the child and adult protection services are members of mechanisms for anti-trafficking co-operation and take part in awareness-raising initiatives organised by the cantonal round tables, as well as training courses organised by the KSMM and the Latin Switzerland Mission against THB (Mission Latine contre la THE), one example being the Minors protection service of Geneva canton. Interdisciplinary training courses on trafficking in human beings organised in French-speaking Switzerland are aimed at all professionals concerned by THB, including professionals working with children. However, their participation in these courses is voluntary and they cannot be made to attend them.

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?

a) Methods used by police forces and prosecution authorities

Where there is doubt as to the age of a presumed victim, the police have two main means of resolving uncertainty:

Firstly, a request for international assistance through the channels of Interpol or Europol in order to obtain information on the identity of the person concerned in the country of origin (possibly identity papers or civil status records) and prove the victim's age. Secondly, the police can request a medical examination from a forensic medicine institution. Analysis based on a hand x-ray may be carried out. If the findings do not unequivocally establish that the victim is an adult, the person will be presumed to be a minor.

Until such time as investigations into the victim's age are closed, the police will base their assumptions on the victim's statements or documents in his or her possession.

b) Methods used by the migration authorities

If the person concerned has applied for asylum in Switzerland, the Federal Administrative Court takes the line that, where there are doubts and no identity papers, the body of reliable evidence principle is to be applied when assessing their claim to be a minor. Accordingly, the State Secretariat for Migration carries out a global assessment of the evidence both supporting and weakening the case for the age claimed. Legislation and case-law both require an applicant claiming to be a minor to put their case. The age assessment is carried out as swiftly as possible after the asylum application is made, and the applicant is questioned on all the aspects relating to their age and the reasons why they have failed to produce identity papers. They are then questioned on any points suggesting that they may not be a minor in accordance with their right to put their case. The components of the body of reliable evidence are as follows: production of authentic identity papers, assessment of statements made on age, assessment of statements as to the reasons for failing to produce identity papers and assessment of the applicant's physical appearance. A forensic medicine institution may also be asked to carry out an examination following the "three pillars" method, comprising an x-ray (age by bone density), dental examination (dental age) and physiological examination (body formation and sexual maturity).

If the person concerned has not applied for asylum in Switzerland, the competent canton will be responsible for determining whether their claim to be a minor is plausible or not, relying on the aforementioned components of case-law to assess the person's age.

Individuals whose claim to be a minor is called into question by these forensic observations are considered as a minor until the authority responsible for the dossier takes a decision. If it is decided

that their claims to be a minor are not plausible, they will then be regarded as an adult, with a hypothetical adult date of birth being recorded – while it remains possible to submit new identity papers or proof of the claim to be a minor.

c) Method used by the child and adult protection authorities

Where there is doubt as to a person's age, an application may be made to the Child and adult protection court for a bone density examination, combining the application with a protection measure of temporary adult guardianship with a power of representation (Art 306.2 of the Civil Code; CC; RS 210), where parents are absent or unable to be present. The individual continues to be regarded as a minor for the duration of the procedure. If the minor concerned is supervised by the Juvenile criminal court, a bone density examination may be requested by that body.

It can happen that a THB issue is uncovered by the Juvenile criminal court, which refers the matter to the Child and adult protection court, which in turn mandates the child and adult protection authorities. The age of a person claiming to be a minor is determined with judicial-medical examination, in the presence of an appointed guardian ad litem. The decision does not depend on a mere visual inspection, but based on the Greulich-Pyle methodology, a method to assess the bone formation. Panoramic dental X-rays and pelvic radiograph can be further used. If the result falls within a certain margin of error, the applicant / victim shall be deemed a minor.

If there is any doubt, the applicant / victim is considered to be adult until the age determination procedure is completed. Once the minority is ascertained, the applicant / victim goes to the Hungarian child protection system.

10. What steps are taken in your country to ensure that the rights of the child and his/her best interests¹¹ are duly taken into consideration, in particular when it comes to:

- a. identification of child victims of trafficking;**
- b. appointing a legal guardian, organisation or authority which shall act in the best interest of unaccompanied minors identified as victims of trafficking;**
- c. locating the child's family;**
- d. 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;**
- e. access to appropriate and secure accommodation, education and health care;**
- f. issuing residence permits for child victims of trafficking;**
- g. 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;**
- h. 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;**
- i. special protection measures for children.**

a) Trafficking in minors is addressed within the framework of training courses on trafficking in human beings. Furthermore, the network and in particular the member departments and organisations of cantonal mechanisms for anti-trafficking co-operation may refer the matter to the child and adult protection authorities, which then report the situation to the police or the public prosecutor, depending on the urgency of the situation. Finally, when the KSMM's list of indicators is revised (measure no. 3), a section will be devoted to trafficking in minors.

¹¹ "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.

- b)** The Child and adult protection court usually assigns temporary guardianship with a power of representation for the minor to the cantonal child and adult protection authority, and more specifically to a temporary guardian who has the task of representing the minor on Swiss territory. If criminal proceedings are instituted, the public prosecution service appoints a guardian to represent the minor in those proceedings (the prosecution service will therefore refer the matter to the Child and adult protection court) and the minor will have two guardians, one in the civil procedure and one in the criminal procedure.
- c)** The child and adult protection authority seeks assistance from the International Social Service (ISS)
- d)** This is ensured by the child and adult protection authority, which is bound by official secrets and is guided in its actions by the best interest of the child.
- e)** This is ensured by the child and adult protection authority. Minors may be placed in an educational institution or within the close/extended family if present on the territory. Assigning temporary guardianship with a power of representation for a minor who does not have a legal representative enables them to register for sickness insurance and therefore have access to medical care, treatment etc. Access to education and medical treatment is dependent on the willingness of the minor concerned.
- f)** This is ensured by the child and adult protection authority, which co-ordinates dealings with the migration authorities and the other players in order to legalise the minor's administrative situation on the territory.
- g)** This is ensured by the child and adult protection authority. If the child does not understand the language, all interviews are carried out with an interpreter. The procedural costs (lawyers etc) are not charged to the minor. Compensation is dealt with under the Law on Assistance to Victims of Crimes (see question 42).
- h)** This is ensured by the child and adult protection authority. The Child and adult protection court is informed of a plan to return to the country of origin, and the plan is submitted. Upstream assessment is carried out by the International Social Service.

Within the framework of voluntary return assistance for THB victims funded by the SEM, IOM Bern follows highly specific internal procedures when preparing a minor's return of the country of origin:

First and foremost, this entails the procedure for determining the best interest of the child, which involves assessing as far as possible the minor's current situation and their life trajectory, but also gathering as much objective information as possible on the child's background, entourage, the current circumstances of the family in the country of origin and the child's social relations. Finally, specific information must be obtained on the social, economic and security conditions in the child's country of origin in order to ascertain the prospects for the child's development in that country.

The assessment must focus on the tangible components of the minor's life in the host country but also consider the circumstances in the context of origin:

What is their family history?

What are the resources and limitations of the family of origin and what kind of support does it require with a view to taking the child back into its care?

What are the ties between the minor and their family?

What are the possibilities of training and employment for the minor in their country of origin? Are there future prospects?

Are the requirements for the return of this young person met?

The information gathered within the framework of assessments and co-operation between the competent authorities and child protection professionals make it possible to determine what lasting

solution best meets the best interests of the separated child and what measures should be taken in the event of their return.

In the decision-making process for the return of an unaccompanied minor and its preparation, the principle of the welfare and best interests of the child or teenager must always prevail in all decisions. In the event of a return, there must be provision for long-term reintegration. Moreover, it is both desirable and necessary to monitor and assess the child's situation following their return (for a period of at least six months) to ensure the child's welfare and assess their reintegration.

No assistance from the IOM is possible unless a legal guardian is identified in Switzerland and in the country of origin.

The guardian's signature is required on all the forms used to prepare the return.

It is standard practice for the minor to be accompanied during the return journey. There may be occasional exceptions depending on the minor's age and maturity and also the airline and flight itinerary. This is to be checked on a case-by-case basis with the IOM.¹²

i) This is ensured by the child and adult protection authority. Temporary representative guardianship may be ordered for a minor.

The measures that may be ordered by a child protection authority are essentially based on Articles 307-327c of the Civil Code (ZGB). These may involve instructions, cautions, assistance for specific counselling/representation missions and/or withdrawal of parental rights regarding the child's residence, removal of parental custody, guardianship arrangements or "other appropriate measures". In all cases, the prerequisite for such measures is a concrete danger to the child's welfare. If the child's welfare is at stake and a suitable civil law measure exists to remedy such a risk, that measure will be ordered. In other words, all the measures listed under letters (a) to (i) of the question may be ordered by the child protection authority on a case-by-case basis, on condition that the measure is capable of counteracting a risk posed to the child's welfare.

At inter-cantonal level, the Conference of cantonal directors of social affairs (CDAS) has published recommendations for the development of child and youth policy in the cantons (<http://www.sodk.ch/fachbereiche/kinder-und-jugend/>) aimed at improving the living conditions of children and young people and guaranteeing fair and tailored access to the services provided for them. Furthermore another technical conference of the CDAS, the Committee on child and youth policy (CPEJ), shows heavy commitment to the application in the cantons of the rights of the child (in the light of the International Convention on the rights of the child) by regularly focusing on this topic and running related projects: <http://www.sodk.ch/fr/domaines/enfance-et-jeunesse/convention-relative-aux-droits-de-lenfant/>

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?

Regarding the asylum procedure, no specific identification procedure is used to identify victims of trafficking in unaccompanied minors at the SEM. The same list of indicators drawn up by the Swiss Co-ordination Unit against Trafficking in Persons and Smuggling of Migrants (Fedpol) is used to identify any

¹² For detailed information on the practical procedures applied during the voluntary return of an unaccompanied minor co-ordinated by IOM Bern, please consult the following link to the Practical Guide to the return and reintegration of vulnerable persons (Section on the return of unaccompanied minors – p. 106-125): https://switzerland.iom.int/sites/default/files/New%20Website%202017/IOM%20Publications/un_guide_pratique_fr_0.pdf

potential THB victims among asylum seekers. It should be pointed out however that the list of indicators is being revised and there will be a specific section for identifying minor victims. There have not been any cases of non-voluntary return of child victims of trafficking since the last evaluation.

Concerning the identification of victims of trafficking among unaccompanied foreign minors who have not applied for asylum, please see our replies to question 7, in particular the recommendations drawn up in 2011 by the KSMM, the foreigners police of the city of Bern and the Swiss Union of Cities and Towns and arrangements to care for minors forced into theft and/or begging.

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?

The cantonal child and adult protection authority is competent and co-ordinates reintegration measures with the other services concerned (notably the centres providing advice to young people and families, social services, professional assistance, migration authorities). For integration in the school environment, the child's educational level and skills will be taken into account.

If it is not possible to reintegrate children in their family or not in their interest, (the decisive criterion is the child's well-being), the child will be placed elsewhere (with a foster family). Any decision by the child protection authorities (concerning placement for example) may be challenged in court (specifically it is the child or the parents who are entitled to appeal).

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.

Generally speaking, it should be pointed out that the services concerned and the prosecution authorities in particular are not entirely sure how to proceed in a situation of exploitation through labour where there are no constituent elements of trafficking. That is why, even though the legal bases relating to THB exist and the notion of forced labour is specified (Switzerland is party to ILO Convention no. 29), difficulties persist in practice.

However, awareness of this form of trafficking in human beings has increased, and collaboration between the labour inspectorate, police, trade unions and migration services has improved in recent years:

- In Ticino canton, a centre of expertise dedicated specifically to prosecuting situations of exploitation through labour was set up within the cantonal police in 2016.
- At national level, the Federal Office of Police (Fedpol) ran a workshop on exploitation of labour aimed at the law enforcement agencies and labour inspectorates on 24 April 2017, with twenty or so representatives of the cantonal police as well as one prosecutor and two works inspectors taking part. The presentations of case studies showed how exploitation of workers happens and what indicators are useful in identifying victims. While evidence is difficult to gather in cases of trafficking in human beings for the purpose of exploitation of labour, it was shown that proactive, long-term investigations can bear fruit. Fedpol will host a second workshop in 2018 on action against THB for the purpose of exploitation of labour. 96 participants from more than 16 cantons have already enrolled, including 49 from criminal investigations services, 8 from cantonal public prosecutors' offices and 19 from labour inspectorates.

The aim of the workshop is to raise awareness of the phenomenon and foster co-operation between the different stakeholders involved.

- In May 2017, Switzerland participated for the first time in a joint effort involving 26 States in joint action days organised by Europol against labour exploitation. The campaign resulted in 68 people being checked and seven potential victims identified in different cantons and towns.

Even so, despite greater awareness of this form of trafficking, criminal investigations into trafficking in human beings for the purpose of labour exploitation remain few and far between, and convictions under Art. 182 of the Criminal Code (trafficking in human beings) are even rarer. The difficulties encountered and reported by the cantonal criminal prosecution authorities are as follows:

- Establishing the real situation and identifying the victims pose an initial difficulty, especially as many victims do not see themselves as victims and are reluctant to co-operate with the supervisory and investigation authorities;
- Criminal evidence of all the constituent elements of trafficking is not easy to establish in cases of labour exploitation;
- There is practically no Swiss case-law on the offence of trafficking in human beings for the purpose of exploitation of labour to which Swiss courts could refer;
- The wording of Article 182 of the Criminal Code criminalising trafficking in human beings is seen as problematic by several prosecutors (cantons of St. Gallen, Bern and Zurich), who think that it is too general and does not adequately address the details. The criminal law provision gives no concrete description of the acts, the means or the situation of constraint of the victim, meaning that prosecution authorities find it difficult in practice to assess whether the courts will actually subsume the actions prosecuted under the offence of trafficking in human beings in accordance with Article 182 of the Criminal Code. Accordingly, on the question of the detention of the presumed perpetrator, which presupposes a pressing suspicion, a Zurich court ruling on measures of constraint showed reluctance in several procedures to subsume a real situation under this criminal provision;
- The notion of exploitation is also subject to interpretation. According to the Federal Council, exploitation is always presumed if a person is continually prevented from exercising their fundamental rights in violation of labour provisions and legislation on compensation, health and safety at work. More specifically, this could include starvation, psychological violence, blackmail, sequestration or even physical injury, sexual violence and death threats. In Zurich, court practice when deciding whether to place people in detention in such cases follows the Delnon/Rüdy doctrine that merely breaching labour regulations and other provisions does not provide grounds for such decisions, which would be far too excessive. Breaching labour regulations alone cannot result in acts being characterised as exploitation, which requires circumstances classified in criminal law, as in blackmail, sequestration, sexual violence, death threats or other restrictions of freedom;
- In many situations, the lack of elements of constraint means that criminal proceedings cannot be instituted under the offence of trafficking in human beings: the victim accepts conditions of remuneration that do not comply with Swiss labour law and are highly unfavourable without the employer needing to exert any pressure whatsoever on the employee. This type of situation is prosecuted under the criminal offence of loan-sharking (Art. 157 of the Criminal Code) and not trafficking in human beings;
- Finally, some prosecutors point out that some notions of trafficking in human beings – even among prosecution authorities and courts – remain entrenched in a vision reflecting only the worst forms of trafficking and not encompassing the more mundane cases that nevertheless fall within the Council of Europe and United Nations definitions of trafficking in human beings.

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.

The notion of abuse of a position of vulnerability is not set out as such in Article 182 of the Criminal Code (the topic of "means" has already been examined in detail during the first evaluation round, cf. GRETA's evaluation report published on 14 October 2015, §37ff). However, the particular vulnerability of minor victims is expressly taken into account and constitutes an aggravating circumstance (Art. 182 para. 2 of the Criminal Code).

As regards examples of case-law, we refer to the judgments cited in GRETA's evaluation report mentioned above (§37 - 39), as well as appendix 3 on developments in case-law since 2014.

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.

Forced marriage is an offence in its own right in Swiss law (Art. 181a of the Criminal Code). However, Article 182 of the Criminal Code could also be applicable if someone ends up in the clutches of traffickers who have enticed them with the promise of marriage or even arranged a fake marriage in order to exploit them for sexual or other purposes, for example by making them work as prostitutes. Marriage may also be used as a means of legalising the victim's stay on Swiss territory and then being able to continue exploiting them. The situation of someone forced into marriage and exploited exclusively within the family (through domestic labour for example) is more complex. However, it is not to be ruled out that a court might also find the defendant guilty of trafficking in human beings. We do not yet have any case-law on this point.

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?

Trafficking a person for the purpose of exploiting their work is a punishable offence. Begging is covered by this notion.

After suspecting that begging was being exploited in the city of Bern and other Swiss cities or towns, the Co-ordination Unit against Trafficking in Persons and Smuggling of Migrants (KSMM) looked into the question as long ago as 2009. On the basis of tried and tested local practice in Bern, a process was devised under the AGORA concept for identifying organised begging and forced begging and also identifying the victims concerned. The AGORA concept was recommended in 2011 as a best practice for application throughout Switzerland by the Swiss Union of Cities and Towns¹³.

One case of trafficking in minors for the purpose of forced begging with the involvement of the family was uncovered and prosecuted in Geneva: the minor, of Roma origin, had been rented out by his father, in an agreement signed before a solicitor in Romania, at the age of 16 or 17. When the victim was discovered by the Geneva police he was 18 years and 2 days old. The perpetrators were found guilty of trafficking in human beings and given three years in prison by a sentencing order in 2016¹⁴.

¹³ Link to recommendations of the Swiss Union of Cities and Towns:
[https://uniondesvilles.ch/cmsfiles/Traite%20de%20mineurs%20\(01013\)_2.pdf](https://uniondesvilles.ch/cmsfiles/Traite%20de%20mineurs%20(01013)_2.pdf)

¹⁴ See press article on this case (appendix 4)

In Bern canton, the authorities know of cases where families (parents) persuade their children to beg, and the law enforcement agencies are carrying out preliminary investigations. However, there are no known cases of trafficking in children in connection with organised begging. The measures prepared via the AGORA process, providing for protection tailored to children, entailing not only temporary care and accommodation in safe locations in Switzerland but also a procedure for the repatriation of those affected, have never had to be implemented in recent years. Awareness-raising efforts and also the increased presence and checking activities of the cantonal police and the foreigners police have had a preventive effect.

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.

While trafficking for the purpose of exploiting criminal activities is not expressly mentioned in the Council of Europe definition or in Swiss criminal law (Art. 182 of the Criminal Code), it can nevertheless assimilated to a particular form of exploitation of labour. No distinction is drawn between legal and illegal work in Article 182 of the Criminal Code. As the other constituent elements of the crime of trafficking in human beings are present, both these forms of labour exploitation are punishable in criminal law and prosecuted.

If the constituent elements of trafficking in human beings are not all present, the general rules governing involvement (instigator, accomplice, co-perpetrator, intermediary) are applicable.

In a decision of 20 June 2013¹⁵, Winterthur district court in Zurich canton handed down a conviction under the following articles:

- 182 of the Criminal Code (trafficking in human beings)
- 195 of the Criminal Code (encouragement of prostitution)
- 183 of the Criminal Code (sequestration and abduction)
- 190 of the Criminal Code (rape)
- 189 of the Criminal Code (sexual constraint)
- 181 of the Criminal Code (constraint)
- 140 of the Criminal Code (robbery)
- 160 of the Criminal Code (concealment)
- 117 of the Federal Law on Foreigners (unauthorised employment of foreigners)

In this case the perpetrators had forced the victims not only into prostitution but also into committing robberies in several banks.

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.

In line with measure no. 1 of the national plan of action against trafficking in human beings for 2017-2020, a campaign to raise awareness among medical staff will be launched in 2018 with a view to improving identification of THB situations and victims in the hospital environment (A&E units). It is intended to analyse the impact of the campaign around one year after its launch via a mini-questionnaire sent out by e-mail. In addition, Fedpol will be available to assist medical staff after the information has been published and will remain in close contact with the partners involved in order to meet their needs.

Measure no. 2 of the national plan of action against trafficking in human beings for 2017-2020 provides for various awareness-raising initiatives aimed at the general public, co-ordinated by IOM Bern (further information on the site www.18oktober.ch/fr) and aimed at informing the Swiss public about the topic of trafficking in human beings. In this connection, various events are organised in several cantons by an

¹⁵ Reference: DG120034-K/U/fg

assortment of partner institutions united in action against trafficking in human beings, including the Confederation, cantonal institutions, international organisations, members of civil society and universities. With the support of 18 stakeholders involved in action against trafficking in Switzerland, exhibitions, debates, film screenings, lectures, theatre plays, poster campaigns and other initiatives took place in October 2015 throughout Switzerland to draw public attention to the existence of trafficking in human beings in Switzerland. In total, a dozen or so events built awareness and informed over 700 participants in a number of cantons, including around a hundred teenage pupils, both male and female.

In 2017, 31 activities linked to 21 different events were run over three weeks, from 17 October to 3 November. The Anti-trafficking action weeks are aimed at both men and women either within the Swiss general public or among experts invited to training sessions and thematic seminars. Furthermore, one of the key messages focuses on the diverse profiles of potential victims, who may be women, girls, men or boys.

The awareness-raising project "Action against trafficking in human beings: events around European Anti-trafficking day on 18 October and bus-tour" (2017-2018, see question 2) is to undergo external assessment in order to:

- assess its relevance and overall effectiveness as well as the approach chosen
- confirm whether the objectives proposed have been achieved
- evaluate the quality and suitability of the co-ordination mechanism (steering committee)
- come up with recommendations for future projects.

An interim report is already available and appended¹⁶.

The 2015 Action week co-ordinated by IOM Bern (see details provided for question 2) also underwent external assessment and the report is appended¹⁷.

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.

Ministry of Human Capacities, Department for Child Protection and Guardianship

. A number of independent studies on trafficking in human beings and the question of exploitation of prostitution have been commissioned by the Confederation in recent years, with varying purposes and funding sources:

A. Study of the feasibility of reliably estimating the characteristics of trafficking in human beings in Switzerland and the extent of the grey area concerning it:

Title: The characteristics of trafficking in human beings in Switzerland and the extent of the grey area concerning it – a feasibility study by the Swiss Centre of Expertise in Human Rights

Published: April 2013

Authors: BADER, Dina, D'AMATO, Gian

Swiss Forum for Migration and Population Studies of Neuchâtel University

Swiss Centre of Expertise in Human Rights

Funding: This study was one of the services commissioned by the Confederation under the annual services contract between the Confederation and the Swiss Centre of Expertise in Human Rights¹⁸.

B. Study of the links between prostitution and trafficking in human beings:

¹⁶ Appendix 5, report available in German only

¹⁷ Appendix 6, report available in German only

¹⁸ The Confederation has concluded a framework contract with the Swiss Centre of Expertise in Human Rights (SCHR), under which the SCHR reinforces the capacities of the public authorities and other circles concerned to protect and promote human rights in Switzerland in line *inter alia* with the Federal Constitution and Switzerland's international obligations. Six thematic areas have been defined (Migration, Police and justice, Gender policy, Policy on children and youth, Institutional questions, the Economy and human rights), and the Confederation purchases services from the SCHR under an annual service contract.

Title: "Erotikbetriebe als Einfallstor für Menschenhandel?" (The sex trade as a gateway to trafficking in human beings?)

"Eine Studie zu Ausmass und Struktur des Sexarbeitsmarktes in der Schweiz" (A study of the scale and structure of the sex work market in Switzerland)

Published: April 2015

Authors: Biberstein Lorenz, Killias Martin

Killias Research @ Consulting, Zurich

Funding: Federal Office of Police (Fedpol), ordinary budget

C. Exploratory study on the exploitation of labour in Switzerland:

Title: "Exploitation du travail dans le contexte de la traite des êtres humains" (Exploitation of labour in the context of trafficking in human beings)

Situation in Switzerland

Published: March 2016

Authors: PROBST Johanna, EFIONAYI-MÄDER, Denise

Swiss Forum for Migration and Population Studies of Neuchâtel University

Funding: Federal Office of Police (Fedpol), special budget for an awareness-raising campaign¹⁹

Besides these independent academic studies, commissioned and funded directly by the Confederation, it should be mentioned that several university studies are produced each year on the theme of trafficking in human beings although not commissioned or funded by the Confederation and also help to further knowledge on the subject. The federal administration also produces in-depth reports on the topic or on the exploitation of prostitution in reply to statements in parliament. One of these was the Federal Council report on prostitution and trafficking in human beings for the purpose of sexual exploitation published on 5 June 2015 in reply to postulates nos. 12.4162 Streiff-Feller, 13.3332 Caroni, 13.4033 Feri and 13.4045 Fehr²⁰.

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

It is possible to migrate to Switzerland lawfully, including with a view to engaging in gainful activity. The possibilities, procedures and legal provisions differ, depending on whether the person migrating comes from a European country covered by the Agreement on the Free Movement of Persons (AFMP) signed by Switzerland and the European Union or from a third country.

For nationals of European States covered by the AFMP wishing to migrate to Switzerland with a view to engaging in gainful activity, the free movement of persons encompasses the right to enter Switzerland, stay, gain access to employment or set up as a freelancer.²¹

For nationals of third countries, a foreigner may be admitted with a view to engaging in gainful activity on condition that their admission serves the economic interests of Switzerland, their Swiss employer has submitted an application or (in the case of freelancers) financial conditions and requirements governing the running of a business are met and the requirements laid down in Articles 20 to 25 of the Law on Foreigners (Letr) are fulfilled. The permission granted is subject to an annual quota.

It should be pointed out, however, that migration is a topic that is independent of national policy and also touches on other social and political issues and cannot be considered solely in the context of action against trafficking in human beings.

¹⁹ This study was intended to point the way for initiatives to raise awareness of trafficking in human beings for the purpose of exploitation of labour. However, the campaign has been changed since then and now focuses solely on raising awareness among medical staff.

²⁰ Link to the report : <https://www.fedpol.admin.ch/dam/data/fedpol/kriminalitaet/menschenhandel/ber-br-prost-mh-f.pdf>

²¹ For an overview of arrangements for the free movement of persons with the EU, please see the SEM factsheet: <https://www.sem.admin.ch/dam/data/sem/eu/fza/personenfreizuegigkeit/factsheets/fs-uebersicht-fza-f.pdf>

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.**

a) Law on transplantation RS 810.21: more specifically Arts. 12 – 15c (*provisions governing organ removal and monitoring of donors*), Arts. 16 - 23 (*provisions governing the allocation of organs*) and Arts. 24 - 29 (*reporting obligations and rules for authorisation*).

- Order on transplantation RS 810.211: specifically Arts. 9 – 12f, 15a – 15c

- no permission required for centres removing organs, but organ removal is subject to an obligation to report it to the Federal Office of Public Health (OFSP). On the other hand, only transplantation centres authorised by the OFSP are allowed to transplant organs (Art. 27 ff of the Law on transplantation)

- Switzerland also signed the Council of Europe Convention against Trafficking in Human Organs (CETS no. 216) on 10 November 2016, and work with a view to its ratification by parliament is under way.

b) Service responsible for monitoring living organ **donors**: Swiss Organ Living-Donor Health Registry (SOL-DHR/SNO) – Art. 12c para. 1 let. a of the Order on transplantation

- **Recipients**: transplantation centres, Swiss Transplant Cohort Study (STCS) – Art. 20 of the Order on transplantation

- **Waiting list**: National allocation service (Swisstransplant) – Art. 19 of the Law on transplantation

c) Directives of the Swiss Academy of Medical Sciences: Donation of solid organs by living persons (2008)

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.**

a) In Switzerland, training and awareness-raising in the area of human rights are integral to curricula for all levels of education. In addition, several projects to raise awareness of racism and of human rights in the school environment have been launched. The Service for combating racism (SLR) gives funding to projects of this kind; follow-up and assessment are carried out by the "Education21" foundation. Where awareness-raising among children of trafficking in human beings is concerned, please see the reply to question 8b.

Contributing to human rights education is one of the functions of the Swiss Centre of Expertise in Human Rights (CSDH), which has organised various information days and training sessions related to human rights education, including for teaching staff; it has prepared material for teachers and, in

2015, published a study on human rights education in schools, particularly for the curriculum in French-speaking Switzerland.

- b) The information campaign "Pas de travail au noir. Tout le monde y gagne." (Saying no to undeclared work pays for everyone) raised public awareness of this topic when the law banning undeclared work entered into force on 1 January 2008. On the pas-de-travail-au-noir.ch campaign website, the State Secretariat for Economic Affairs (SECO) manages the information section entitled "Pas de travail au noir. Annoncer correctement une activité lucrative", which encourages the proper declaration of work.

On 18 October 2017, European Anti-trafficking day was marked by the inauguration of a touring bus for raising public awareness of action against trafficking in human beings, with a press release notifying the media²². The project received a grant from Fedpol (50% of the budget) on the basis of the Order of 23 October 2013 on measures to prevent offences linked to trafficking in human beings (RS 311.039.3). See also the reply to question 2.

- c) In the process of public tender awards by the Confederation, bidders must comply with stipulations regarding the protection of workers and working conditions and guarantee equal pay for women and men. There are also provisions of this type in cantonal laws. The Order on public tenders states among other things that if the service is provided abroad, the tenderer shall comply with at least the basic conventions of the International Labour Organisation, which include action against forced labour (Art. 7 para. 2 OMP, RS 172.056.11).
- d) In line with action 6 of the National plan of action against trafficking in human beings 2017-2020, the topic will be tackled with umbrella associations representing the business sector and big companies at events focusing on business and human rights.

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.

A. Integration of the cantonal authorities responsible for supervising the labour market in mechanisms for anti-trafficking co-operation

The integration of the services tasked with inspecting the labour market in cantonal mechanisms for action against trafficking in human beings is one of the good practices recommended by the KSMM. All the cantonal mechanisms in French-speaking Switzerland and Ticino have done this. The situation can vary from one canton to another in German-speaking Switzerland. The exploratory study on the exploitation of labour in Switzerland commissioned by Fedpol and published in 2016 (see question 19) also calls for this measure. However the setting up and composition of cantonal mechanisms for anti-trafficking co-operation are a matter for the cantons concerned. In order to promote good practices at cantonal level, the 2017-2020 national action plan provides for an external study of the measures taken by the cantons to combat trafficking in human beings (Action no. 25).

B. Workers Posted from Foreign Countries

Support measures were introduced on 1 June 2004 to protect workers from the risks of undercutting Swiss pay rates and working conditions and are also intended to guarantee that Swiss and foreign companies compete on the same terms.

The support measures essentially comprise the following rules:

Under the **Federal Law on support measures applicable to workers posted from foreign countries (Law on Workers Posted from Foreign Countries; RS 823.20²³)** foreign employers posting workers to Switzerland must comply with Swiss minimum pay and working conditions.

²² Link to press release. <https://www.fedpol.admin.ch/fedpol/fr/home/aktuell/news/2017/2017-10-18.html>
²³ <https://www.admin.ch/opc/fr/classified-compilation/19994599/index.html>

In the event of abusive and repeated undercutting of wages, then the provisions of a collective agreement, minimum wages, working time, joint implementation and sanctions may be extended under a facilitated procedure. Accordingly, all the companies active in this sector must comply with the extended provisions.

Special rules for the construction, civil engineering and finishings sector:

During discussion of the revision of the law in 2012, the National Council's Committee on economic affairs and taxation decided to reinforce the existing level of joint liability in the Law on workers posted from foreign countries for the construction, civil engineering and finishings sector. The new Article 5 of the law stipulates that the contractor bears civil liability for subcontractors' failure to comply with minimum pay-rates and working conditions. This shared liability extends to all subcontractors following one another in the contractual chain. The aims of joint liability are three-fold. Firstly, these regulations were intended to have a preventive effect, making contractors select their subcontractors with care. A second aim was to better combat abuses regarding working conditions and pay within the subcontracting chain in the construction industry, an area at risk in respect of trafficking in human beings. Thirdly, it was sought to enhance the competitiveness of companies complying with the stipulations of the law, by preventing unfair competition from companies not paying the minimum wage. In line with a decision by Parliament, a report has been drawn up to evaluate the effectiveness of the joint liability rule, five years after its entry into force on 15 July 2013. The evaluation report, made public on 20 June 2018, shows that this rule has achieved its aims²⁴: when contractor companies award construction jobs to subcontractors, they check that the latter comply with pay and working conditions. This reinforced joint liability has made companies take greater care when subcontracting work and is above all a deterrent to infringing provisions on wages on Swiss worksites.

In the sectors where there is no collective agreement, standard work contracts laying down mandatory minimum wages may be imposed in the event of abusive and repeated undercutting of wages. This measure is applicable to all the firms in the sector concerned.

Tripartite committees monitor the Swiss labour market as a whole and, in this connection, carry out checks on Swiss and foreign companies. If they find any abusive and repeated undercutting of normal wage levels in a given location and sector, they may propose that minimum wages be imposed for a limited period. In the sectors covered by an extended collective agreement, parity committees check that the provisions of the collective agreement are honoured by Swiss and foreign companies. At national level, there is a federal tripartite committee to monitor the labour market.

Employers who infringe the mandatory provisions of the Law on workers posted from foreign countries will have sanctions imposed against them. The aim of such sanctions is to ensure compliance with the wage levels and working conditions applicable in Switzerland. Sanctions range from warnings through administrative fines to a ban on the company from offering its services.

C. Illegal labour

The Federal Law of 17 June 2005 on Measures to Combat Illegal Labour (Law against illegal labour, LTN) and the order pertaining to that law (OTN) provide for various measures to help ensure that obligations of declaration and authorisation related to labour arising under social insurance law, legislation on foreigners and fiscal law, particularly taxation at source, are correctly fulfilled.

In particular, the law lays down the following measures:

- administrative relief for declarations to social insurance bodies and the tax authorities through the introduction of the simplified calculation procedure for very small-scale salaried activities;
- creation of cantonal monitoring bodies for combating illegal labour;
- communication of findings of checks between the authorities and the bodies concerned;
- creation of additional sanctions: exclusion from public tenders and a cut in public financial aid.

When the Law against illegal labour entered into force, the cantons created cantonal monitoring bodies for combating illegal labour, which receive reports and check whether companies and works comply with

²⁴ Link to the Federal Council report: <https://www.news.admin.ch/newsd/message/attachments/52789.pdf>

their obligations of declaration and authorisation coming under social insurance law, legislation on foreigners and law governing taxation at source. They report any infringements they find to the authorities competent for matters regarding foreigners, social insurance and tax.

The activities of recruitment and temporary work agencies are regulated by the law on employment services and services hiring (LSE) and the related orders and are subject to licensing.

D. Private placement

Placement agencies and those responsible for managing them must meet certain requirements to obtain a licence to practice. In particular, the company must be entered in the Swiss Register of trade, have suitable premises and not exercise any other professional activity that could be harmful to the interests of job seekers or employers. Their managers must have Swiss nationality or hold an operating licence, provide a placement service complying with the rules of the profession and enjoy a good reputation.

Furthermore, the amounts of the enrolment fee and placement commission to be paid by the job seeker are capped by law. In addition, allowances for the provision of special services, such as transport costs, must be billed at the actual cost.

For infringements, placing agents are liable to a maximum fine of CHF 40,000 (Art. 39 para. 2 indent d of the LSE) and their licence is withdrawn if they repeatedly or seriously infringe the legal requirements (Art. 5 para. 1 indent b of the LSE). If they procure work for a person without having the necessary authorisation or place foreigners in work without complying with the stipulations of the law governing foreign labour, the placing agent will be punished with a maximum fine of CHF 100,000 (Art. 39 para. 1 of the LSE). A client using the services of an unlicensed placing agent is liable to a maximum fine of CHF 40,000 (Art. 39 para. 2 indent a of the LSE).

It should be noted that directly placing someone from abroad in work in Switzerland is illegal and therefore punishable in criminal law, both for the foreign placing agent and their client in Switzerland. This means that a foreign placing agent recruiting workers for an employer in Switzerland must work with a placing agent licensed in Switzerland, in which case the partner licensed in Switzerland must guarantee a placement service complying with the rules of the profession. By making the end customer and the licensed partner placing agent liable, Swiss legislation on work placement also seeks to provide effective protection for job-seekers recruited abroad.

E. Hiring of services

For hiring of services it is also the case that the lessor providing the services and the person responsible for its management must meet certain requirements (Art. 13 of the LSE, the same as for private work placement).

Furthermore, the lessor of services is under obligation to provide collateral to guarantee the salary requirements of their service hire activity (Art. 14 of the LSE), amounting to at least CHF 50,000 but possibly as much as CHF 150,000 if the service hire agency has provided hiring companies with more than 60,000 hours of work in a calendar year and is also engaged in hiring out services to foreign companies (Art. 6 of the OEmol-LSE).

Moreover, the work contract between the lessor of services and the worker and also the service hire contract between the lessor of services and the hiring company must be concluded in writing. The law lists the points that must be stipulated in writing (Arts. 19 and 22 of the LSE). The model contracts are checked by the competent authority when authorisation is applied for.

When a hiring company is subject to a collective labour agreement with a declaration of extension, the lessor of services is bound to comply with the provisions of that agreement regarding wages and the duration of work (Art. 20 of the LSE).

For infringements, the lessor of services is liable to a fine of up to CHF 40,000 (Art. 39 para. 2 indent c of the LSE) and their licence is withdrawn if they repeatedly or seriously infringe the mandatory legal requirements relating to the protection of workers or other legal requirements (Art. 16 para. 1 indent b of the LSE). If they hire out services without having the necessary authorisation or if they take on foreigners in order to hire out their services without complying with the stipulations of the law governing foreign labour, the lessor of services will be punished with a fine of up to CHF 100,000 (Art. 39 para. 1 of the LSE). A client using the services of an unlicensed lessor is liable to a fine of up to CHF 40,000 (Art. 39 para. 2 indent a of the LSE).

Finally, the hiring of services of staff recruited abroad is not allowed in Switzerland (Art. 12, para. 2 of the LSE). The prohibition of the hiring of services of staff recruited abroad in Switzerland comprises prohibitions on a lessor of services domiciled abroad from hiring out workers to Swiss companies and also on a lessor of services domiciled abroad from hiring out workers to foreign companies providing services in Switzerland.

F Political initiative for responsible companies

Carried by a coalition of 98 organisations involved in social support, human rights, women's rights, environmental protection, church affairs, trade unions and unions of shareholding employees, a popular initiative for responsible companies²⁵ was lodged on 10 October 2016 with the Federal Chancellery and was successful.

The initiative called for companies to be under obligation to protect human rights and the environment in all of their business dealings, this duty of due diligence also being applicable to their activities abroad and the companies they control.

In the process of the revision of the law governing limited companies, the National Council's Committee on legal affairs proposed an indirect counter-project to the initiative in the form of legal measures against human rights violations and breaches of international environmental standards committed by companies with a head office in Switzerland.

The question of whether the amended counter-project adopted by the committee makes it possible to withdraw the initiative remains open. On 14 June 2018, the National Council decided to accept the counter-project. The second chamber of parliament (Council of States) is yet to state its position however.

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.**

- a)** Generally speaking, it should firstly be pointed out that the possibilities of identifying the victims or perpetrators of trafficking in human beings at the border are very limited, partly because it is legal to enter Switzerland in order to engage in prostitution and partly because the potential victims may not yet be in a situation of exploitation when crossing the border or do not yet know what awaits them. Furthermore, identification requires efforts to gain the victims' trust and this cannot be done at the

²⁵ For further information on the initiative, please consult the following link: <http://konzern-initiative.ch/?lang=fr>

border, when they enter Switzerland. Even so, we can report that the following measures have been taken:

Zurich cantonal police officers at the Schengen external border at the airport are specially and regularly trained to spot unusual or suspect behaviour.

The replies given by people entering Swiss territory at the window (1st line of checks) are checked for plausibility. Where there are inconsistencies, the individual passes to the second line of checks for in-depth clarification. In addition, police officials have access to the post operated by the specialised trafficking in human beings/migrant smuggling unit of the Zurich criminal investigations police.

- b)** Generally speaking, perpetrators can be identified through entries made in the different computerised search systems (RIPOL/SIS) or the internal system (Greko NG). In addition, special actions may be undertaken, depending on the situation and risk analysis. Finally, the Swiss authorities also participate in FRONTEX transfrontier operations.

Profiling and risk analysis: a specialised airport police unit analyses passenger data before planes land. If there are anomalies or anything pointing to illegal migration, migrant smuggling, trafficking in human beings or drug trafficking, additional checks or surveillance measures are put in place.

- c)** As pointed out above, identification requires efforts to gain the victims' trust, and this cannot be done at the border, when they enter Switzerland. Consequently, measures are often limited to making entries in the various security systems in order to support future investigations rather than taking direct steps immediately.

See also replies a and b. Where necessary, back-up for clarification questioning can be provided by the specialised trafficking in human beings/migrant smuggling unit of the Zurich criminal investigations police.

- d)** See replies a and b. Where necessary, back-up for clarification questioning can be provided by the specialised trafficking in human beings/migrant smuggling unit of the Zurich criminal investigations police.

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?

On 27 June 2018, an international round table will be organised by the DFAE and the IOM in Bern together with cantonal and federal stakeholders to discuss the identification of victims by ground staff and airlines as well as adequate guidance for potential victims.²⁶

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.

The airport police have several communication channels. At strategic level, there is the border steering group which meets four times a year, two annual network meetings with the Border guard corps, as well as annual meetings for exchanging information with other airports (Munich, Vienna, Frankfurt). At operational level, there are regular exchanges with the SEM, the CGFR, FRONTEX, AIRPOL, Bupol (DE) and the Home Office (GB). Finally, the airport police regularly participate in FRONTEX operations.

²⁶ The programme of the round table is appended (Appendix 7)

This provided the Zurich airport police with information via the Airline Liaison Offices (ALO) on possible people smugglers and also via the SEM on possible people smugglers and victims of trafficking in human beings. These information channels work well, and there are no particular problems to report.

Measures taken at the southern border with Italy:

The entry into force of the police and customs co-operation agreement with Italy on 1 November 2016, defining the framework for co-operation, also covering trafficking in human beings and migrant smuggling and paving the way for numerous forms of co-operation, including in the sphere of passports and other travel documents, visas and entry and exit stamps in order to identify fake documents, is an important new development.

An Interforce Group for the repression of people smugglers ("Groupe interforce pour la repression des passeurs" - GIRP), made up of the Ticino Cantonal Police, the Federal Police, the Border Guards and officials from Germany and Italy, was set up in 2015. The GIRP was then adjusted in January 2018, owing to the sharp fall in migration flows. At present, 100% of the operational side of the GIRP is handled by Ticino Cantonal Police staff (TESEU-GIRP Section). The other agencies no longer have officials working permanently in the GIRP but may be called upon at any time. There is weekly communication by telephone and, if necessary, at special meetings focusing on problems that crop up. The TESEU Section is part of the Criminal Investigations Police and deals with trafficking in human beings for the purposes of sexual exploitation and exploitation of labour, as well as the smuggling of migrants, particularly at Chiasso. The section is also responsible for administrative checks and the prosecution of offences linked to the sphere of prostitution.

The Italian and Swiss authorities jointly present in the Chiasso police and customs co-operation centre, like the French and Swiss authorities in the Geneva police and customs co-operation centre, facilitate the exchange of police information on a day-to-day basis (365/7/24), support transfrontier operations and, through their activities, keep channels of communication open, including in the area of action against trafficking in human beings and migrant smuggling.

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.

A. Cantonal mechanisms for co-operation on action against trafficking in human beings

While legislation in the area of action against trafficking in human beings is a federal matter, the prosecution of criminals, protection of victims and, to a large extent, regulations governing stay fall within the competence of the cantons. For that reason the KSMM has been promoting the setting up of co-operation machinery at cantonal level since 2005. Detailed explanations were forwarded on this point to GRETA in connection with the first evaluation round (question 32 of the questionnaire for the first evaluation round, §21 and §52 of GRETA's evaluation report published on 14 October 2015).

GRETA's proposal no. 4²⁷ to associate smaller cantons without co-operation mechanisms with existing mechanisms in neighbouring cantons was examined in the specific context of the co-operation mechanism of Neuchâtel canton. The idea was to consider whether the cantonal services of Jura (neighbouring canton with no co-operation mechanism) could be associated with the Neuchâtel

²⁷ Cf Addendum to recommendation CP(2015)13 of the Committee of the Parties of the Council of Europe Convention on Action against Trafficking in Human Beings

mechanism. However, this solution did not seem practicable, given the number of departments and organisations to be brought together and cantonal prerogatives. Action no. 25 of the 2017-2020 national action plan on the assessment of action by cantons against trafficking in human beings will provide a means of highlighting good practices and therefore of convincing all the cantons that setting up mechanisms of this kind is a good idea.

B. National victim protection programme

To encourage uniform application of federal law instruments in the cantons, action no. 18 of the National plan of action against trafficking in human beings 2017-2020 provides for the drawing up of a reference document for 2019, describing all the instruments for granting assistance and protection to THB victims in Switzerland throughout the entire process beginning with identification and ending with integration or reintegration. This document will also highlight any strategic issues requiring improvement.

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?

Yes, a list of indicators for the identification of victims has been drawn up within the framework of the KSMM. It has been systematically distributed to all the cantonal anti-trafficking co-operation mechanisms and is also used by the federal services that may come into contact with trafficking victims (such as the SEM in connection with interviews of asylum seekers). It is a reference document that does not rule out others (some organisations also use other lists of indicators) and a means of assistance for identification that in no way prejudices decisions taken by the competent authorities.

This list of indicators is being revised in order to take greater account of the different forms of exploitation of and trafficking in minors (Measure no. 3 of the National plan of action against trafficking in human beings 2017-2020). The new list should be available in late 2018/early 2019.

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.

This is an individual assessment based on the KSMM's list of indicators. In training and awareness-raising exercises on action against trafficking in human beings, the professionals concerned are made aware that, if they have suspicions, they should refer the victims to the specialised assistance services and trigger the care process: granting of a recovery period, care and support for the victim from a specialised assistance service. These processes are managed within the framework of cantonal anti-trafficking co-operation mechanisms.

In Switzerland, there is no centralised official process or any single national body dealing with the formal identification of THB victims. It is the competent authorities concerned which consider whether the conditions are met for the granting of assistance to victims of offences, assistance for a return or welfare assistance, as well as for the legalisation of the stay of THB victims in Switzerland and their participation in the proceedings against the alleged perpetrator as the injured party. The detailed information of the victim and the facts established are decisive in this respect. In this context, co-operation and exchange between the competent authorities play an important role, which is why training and cantonal co-operation mechanisms are so important. As mentioned in the reply to question 27, the national victim protection programme will provide the cantons with a reference document so that federal law instruments are uniformly applied.

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

In Geneva a cantonal information campaign publicising the cantonal telephone support-line for victims and witnesses of trafficking in human beings was run in 2014 and 2017-2018 (9 months) with a view to helping potential trafficking victims present on the territory of Geneva Canton to identify themselves and inform them of the assistance available. The support line has been promoted through various means (notably by flyers, posters in public areas and on public transport in Geneva, and announcements on the free information website "20 minutes"). The Protestant Social Centre in Geneva runs both the support line and the information campaign. Work is co-ordinated with the other Geneva Canton stakeholders within the framework of the cantonal anti-trafficking co-operation mechanism.

Some cantonal police forces have units specially tasked with preventing and analysing prostitution activities (Milieuaufklärung). The specialists of these units provide prostitutes with information on the various types of assistance available to them, which may be advice from specialised NGOs, access to specialised investigation authorities or offers of assistance for escaping prostitution. Where the situation allows it, targeted efforts are made to speak to vulnerable individuals to inform them of the possibilities that exist as regards assistance for victims and criminal prosecution. In some cantons, this task is contractually assigned to NGOs specialising in assistance and information for prostitutes and victims of trafficking in human beings.

Under bilateral co-operation projects with Romania and Hungary and during special action weeks in Switzerland, joint police teams (Swiss-Romanian or Swiss-Bulgarian) engage in non-punitive surveillance of the prostitution scene in order to build dialogue and trust with sex workers and enable them to communicate in their own language. For a description of these projects, please see the reply to question 56.

In addition, some cantons have introduced compulsory interviews with the authorities (police and/or migration services) for people wishing to engage in prostitution. The interviewees are informed of their rights and the points of contact where they can obtain assistance. In Ticino, when people make their official declaration to the Police in order to be able to start working in prostitution, an interview with the specialised NGOs recognised by the State for the prevention of trafficking in human beings and preventive public health care (MaDay and Primis) is organised on separate premises.

Finally, information material (flyers, quick reference cards) is regularly distributed, and staff who are in contact with potential victims (particularly within the asylum procedure) are under instructions to properly inform potential victims of their rights.

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?

In case that the asylum seeker gives his consent during an interview that a prosecution against his potential offender is initiated, a summary of the material facts of the case including the hearing minutes are sent to the commissariat against human trafficking/human smuggling (fedpol), in order that latter can coordinate the penalty cases on international and national level with the cantonal or international penalty authorities.

SEM also informs the cantons three days before an asylum seeker is transferred to their canton, that the asylum seeker can be a potential victim of human trafficking and the concerned canton is advised to grant the asylum seeker the rights according to Article 2 OHG, in case the conditions are fulfilled.

If new elements or indications for human trafficking come forward during the return procedure (i.e. procurement of travel documents), the case will be re-examined. If necessary, the potential victim will be invited for another interview at the SEM and the return process will be suspended until a final

decision has been taken on the case. The cantonal authorities are informed via focal point at the SEM on further measures to be applied (i.e. protection measures).

Anyone coming under the asylum procedure may apply for State Secretariat for Migration (SEM) assistance for return to the return advisory services located in the cantons or in the SEM's registration and procedure centres. Assistance for return is intended to facilitate the return of asylum seekers to the country of origin (or to a third country), whether voluntary or resulting from an obligation to leave Switzerland, and can make their reintegration easier. The SEM has offered victims and witnesses of trafficking in human beings specialised assistance for return since 2008, which is implemented in collaboration with the International Organisation for Migration (IOM). In the registration and procedure centres, the return advisory services are managed by the IOM and, in the cantons, either by an administrative authority (eg the office dealing with migration or foreigners) or a non-governmental organisation (eg Red Cross or Caritas). The staff giving advice on return are trained on the topic of trafficking in human beings and made aware of the need to spot indications of trafficking, with the aim, where those indications are borne out, of providing assistance for return tailored to the victims' needs. If the individual accepts this specialised assistance for return, the return advisory service sends the application for assistance for return to the SEM. Once the application has been approved, the SEM mandates the IOM to organise the return and reintegration. The IOM and the return advisory service then organise the return, handling co-ordination with all the players concerned.

As part of its return advisory work in the registration and procedure centres, IOM Bern may have the task of preparing voluntary returns in the sphere of asylum. It is for the SEM to take the decision on whether to identify a person as a victim of trafficking with a view to their participation in the scheme providing assistance for the voluntary return and reintegration of trafficking victims. IOM staff providing advice on returns have all been trained in respect of trafficking in human beings and should be capable of detecting potential victims. Where there are doubts, they will mention any potential situations to the SEM focal point. If the SEM has not yet broached the aspect of trafficking within the asylum procedure for the individual in question, an extended hearing may be arranged in order to obtain further information. In a number of cases, the SEM has already identified individuals being advised on returns by an IOM adviser as potential victims.

If the person in Switzerland claims to have been a victim of trafficking, and after the case-by-case examination, the SEM concludes that it is initiating a Dublin procedure, Switzerland will inform the Dublin Partner State fully responding to the Dublin request that the person is a potential victim of trafficking. Prior to the Dublin transfer, the Dublin destination state is again explicitly indicated that the person is a potential victim of trafficking. All Dublin countries have ratified the Council of Europe Convention on Action against Trafficking in Human Beings, which entered into force on 1 February 2008. The aim of the Convention is to combat human trafficking, protect victims, prosecute trafficker, coordinate national efforts to combat human trafficking and strengthen international cooperation.

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?

Professional secrecy and the data protection regulations (federal law for federal bodies and private individuals) and cantonal laws for cantonal administrative services are applicable to all the professionals concerned by trafficking in human beings.

With regard to services advising victims of offences and pursuant to Article 11 of the Federal Law on Assistance to Victims of Crimes, no information concerning a victim may be passed on without their consent. The sole exception provided for in law relates to the passing on of information to the

guardianship authority and/or prosecution authorities where the physical, mental or sexual integrity of a minor victim or another minor is seriously in jeopardy.

Where the authorities competent for criminal law are concerned, the Code of Criminal Procedure governs the processing of personal data gathered during criminal proceedings (cf section 8, Art. 95ff), as well as the information that may be made public (cf section 3, Article 74).

In all cases, the legal rules on the protection of general data apply:

- all processing must be legal;
- all processing must be carried out in accordance with the principles of good faith and proportionality;
- personal data must be processed solely for the purpose indicated when they are gathered, which is provided for in law or made necessary by the circumstances;
- anyone believing that their personal data are being processed in a database may check this by making an information request to the data controller;
- if this proves to be the case, the individual concerned may request rectification if the data processed in respect of them are incorrect;
- they may also request the competent data protection official (cantonal or federal official) to check the processing of data if they suspect that the data are being processed incorrectly.

In our opinion, therefore, there is no conflict between professional ethics and the obligation to report an offence.

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?**

Temporary Shelters for accommodating and helping the victims of human trafficking are operated from state funds by an NGO. The Ministry of Human Capacities enters into a grant agreement with the organisation every year, ensuring the continuity of the performance of tasks. The victims' safety and protection and the high standard of assistance are ensured by a technical protocol conforming to international standards and binding on the NGO operating in Temporary Shelters. The protocol includes the scope of services to be mandatorily provided by the Temporary Shelters, such as access to medical care, psychological support, legal counselling and assistance with social work tools. The protocol requires that each of these services be provided for all persons cared for. During the provision of care, emphasis is laid on the provision of appropriate information to the victims; this is borne in mind by all the staff and helpers working in the institutions.

One of the important principles of the provision of care is to ensure equal access and, therefore, institutional leaders arrange for interpreting, where necessary.

As regards the provision of child protection services for unaccompanied minors, it is generally a public task, which cannot, however, be provided by a non-governmental (church, civil) organization based on a supply contract concluded with the public service provider (DGSCP). Non-governmental institutions are granted central budget support as defined in the central budget law and operate on the basis of the professional standards as the state-owned institutions, as defined in the Child Protection Act and its

implementing regulations. Currently, only state-run institutions provide child protection services for unaccompanied minors.

a) Legal mandate given by the cantons to the crime victims support centres (LAVI centres) pursuant to the Federal Law on Assistance to Victims of Crimes (LAVI). Furthermore, the cantonal authorities in charge of assisting victims which work with specialised NGOs have concluded service or collaboration agreements with them, guaranteeing funding for the assistance provided. The funding for assistance comes from the LAVI system and welfare services, in accordance with rules laid down by each canton.

b) This falls within the responsibility of the cantons and the mission of cantonal police forces to protect the lives and physical integrity of victims. The implementation of protection measures is arranged within the cantonal anti-trafficking co-operation mechanisms. The LAVI system guarantees the protection of victims by collaborating with secure shelters, which work with the police.

c) This falls within the responsibility of the cantons. These standards are governed by the Federal Law on Assistance to Victims of Crimes and cantonal directives. The contracts concluded with the NGOs ensure that these standards are complied with when services and the assistance required are provided (advice specifically tailored to the needs, assistance including the provision of information). The medical and psychological assistance required from third parties (doctors, psychiatrists, psychologists, spouses etc) is provided by the NGOs and funded in principle by the sickness insurance funds and secondarily by the cantonal authorities providing assistance to victims.

d) Access to medical treatment, psychological assistance, counselling and information;

This is expressly provided for in the Federal Law on Assistance to Victims of Crimes. The cantons are responsible for correctly applying the law in practice (see also the reply under letter c above).

e) If necessary, interpreters and translators are hired by the victim assistance service.

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?

Any person having suffered a direct violation of his/her physical, mental or sexual integrity as a result of a crime is a victim who is entitled to support provided for in the Federal Law on Assistance to Victims of Crimes. The victim's right to assistance exists regardless of whether or not criminal proceedings are instituted, on condition that it may be established in an appropriate manner that the person qualifies as a victim.

When the recovery and reflection period expires, an application to stay on humanitarian grounds may be lodged at any time in an individual case of extreme seriousness within the meaning of Art. 30 para. 1 indent B of the Law on Foreigners read in conjunction with Art. 31 of the Federal Council Order on Admission, Stay and Exercise of Gainful Activity (OASA). This rule is applicable regardless of whether or not the victim is willing to co-operate with the prosecution authorities.

When assessing the level of distress of the person concerned, account should be taken of the specific circumstances of victims or witnesses of trafficking in human beings, and that should be done regardless of their desire to co-operate with the prosecution authorities (Art. 3 para. 6 of the OASA).

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

There are various solutions. An individual analysis of the situation and the needs is carried out by the services responsible for assistance to victims or specialised NGOs, particularly as regards their needs for protection and support. The institutions providing protection are either those which specialise in the protection of and care for victims of trafficking in human beings or those which are responsible for providing protection against physical, sexual or psychological violence and care for minors.

In German-speaking Switzerland, there are 40 or so places available in specialised institutions for people who have been victims of trafficking in human beings or incited to prostitution. Some of these also take in men and accompanied minors:

FIZ (Zürich): 24 places in a shelter for women and transgender persons. Men are admitted only on an exceptional basis. Victims are advised by specialised and qualified staff in line with the requirements of the Law on Assistance to Victims of Crimes.

Teen Challenge (Glaris):

3 to 10 places in a shelter for women and men. Victims are advised partly by specialised and qualified staff in line with the requirements of the Law on Assistance to Victims of Crimes.

Fortis (Bern canton):

10 places in a shelter and 3 places in a flat for women and men. Victims are advised by a person brought in from outside who is trained in victim assistance.

In French-speaking Switzerland, there are two specialised centres for receiving women and child trafficking victims in Lausanne (Astrée, 6 to 10 places) and Geneva (le Cœur des Grottes, with a capacity of 40 places, but not solely for THB victims). A specialised reception centre open to male trafficking victims also exists in Lyss, near Biel (Fortis, in Bern canton, see above). In the other cantons of Latin Switzerland, male and female victims are accommodated chiefly in institutions for female victims of domestic violence and reception centres for adults in difficulty. Depending on their age, children are generally placed by the child protection authorities (see reply to question 7 and following) in homes for children and teenagers.

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

In accordance with Articles 8 of the Federal Law on Assistance to Victims of Crimes (LAVI) and 305 of the Code of Criminal Procedure, victims are provided with full information on their rights and the assistance services available. They are free to decide whether they wish to benefit from assistance for victims. No measures or services are implemented without the consent of the victim, who may terminate them at any time. The staff tasked with advising them are subject to strict confidentiality.

However, this also means that the victim may decide to put an end to the recovery and reflection period before the 30 days are up, and neither the victim assistance organisations nor the authorities are entitled to keep them in Switzerland against their will.

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?

The right to assistance for victims is not limited in time, and assistance may therefore be sought after the completion of criminal proceedings, as long as the assistance sought is directly linked to the consequences of the offence and the other requirements of the law on assistance to victims are met. The services available include appropriate medical, psychological, social, material and legal assistance in

Switzerland (Article 14, paragraph 1 of the LAVI). A foreigner domiciled abroad but having been a victim of a criminal offence in Switzerland is also entitled to receive a contribution to the costs incurred by curative treatment in their place of residence (Article 14 paragraph 2 of the LAVI).

When the measures taken to assist victims come to an end (because the consequences of the offence have been eliminated or compensated), the victim may receive welfare assistance as long as their stay in Switzerland has been legalised. The purpose of welfare assistance is to safeguard the existence of people in need, foster their financial and personal independence and ensure their social and professional integration. The cantons - and, in certain cantons, the municipalities - are competent to grant welfare assistance. Following the entry into force of the revised Law on Assistance to Victims of Crimes on 1 January 2009, the Conference of Swiss Liaison Offices for the Law on Victim Assistance (CSOL-LAVI) adopted recommendations on 21 January 2010 regarding the question of the relationship between assistance to victims and welfare assistance (see point 5 of the recommendations)²⁸. However, given the issues of demarcation that sometimes arise in practice, action no. 23 of the National plan of action against trafficking in human beings 2017-2020 envisages the drawing up of new recommendations by the CSOL-LAVI and the CDAS for 2019.

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.

As a preliminary remark, it should be pointed out that the granting of assistance to victims under the LAVI is not linked to the regulations on stay. A foreigner who is illegally present on Swiss territory is entitled to victim assistance from the moment they become a victim of an offence in Switzerland. The staff tasked with providing advice to victims are bound by strict confidentiality and cannot inform the migration authorities without the victim's express consent.

The directives relating to the Federal Law on Foreigners (LEtr)²⁹, in section 5.6.8.2.3, describe the recovery and reflection period (Art. 30 para.1 indent e of the LEtr in conjunction with Art. 35 of the Federal Council Order on Admission, Stay and Exercise of Gainful Activity - OASA):

If there is reason to believe that a foreigner who is illegally present on Swiss territory is a victim or witness of a case of trafficking in human beings (cf. appendix "Checklist for the identification of victims of trafficking in human beings), the competent migration authorities grant them a recovery and reflection period during which they can rest and must decide whether they are willing to continue co-operating with the authorities (Art. 35 of the OASA). Once identified and removed from the context of exploitation, THB victims are in a precarious situation. A request for a recovery and reflection period may be made by victims themselves or by the prosecution authorities, a victim assistance service or a consultation centre on condition that the victim or witness has signed a document empowering them to do so. Where there are founded suspicions of trafficking in human beings, the request is approved without prejudice to a further ruling on stay. The competent migration authorities confirm in writing that a recovery and reflection period of at least 30 days has been granted. Where there are justifiable indications that more than 30 days will be needed for the victim's recovery, a longer period may be granted from the outset. Furthermore, the period may be extended in duly justified cases. The victim assistance services are notified of these measures. On the other hand, no recovery and reflection period is needed when the decision to co-operate with the authorities has already been taken and, in this case, a short-term stay permit may be granted directly, in accordance with Art. 36 of the OASA. A recovery

²⁸ Link to the CSOL-LAVI recommendations:

http://www.sodk.ch/fileadmin/user_upload/Fachbereiche/Opferhilfe/SODK_Empf_Opferhilfe_f_Web_def.pdf

²⁹ Link to the directives:

<https://www.sem.admin.ch/content/dam/data/sem/rechtsgrundlagen/weisungen/auslaender/weisungen-aug-f.pdf>

and reflection period may be revoked if the person concerned states that they are not willing to cooperate with the authorities, they have deliberately resumed contact with the presumed perpetrators of the offence, they are found, in the light of new information, not to be a victim or witness of a case of trafficking in human beings or they are a serious threat to public security and order (Art. 35, para. 3 of the OASA). The person concerned must leave Switzerland when the recovery and reflection period granted has expired (Art. 36, para. 5 of the OASA).

It is not necessary to issue a formal stay permit. Written confirmation of the recovery and reflection period is sufficient in the event of any checks. In order to safeguard victims' interests, this attestation will not mention where they are staying and on what grounds.

If the victim is obliged to leave Switzerland at the end of the recovery and reflection period, a departure preparation period is granted (eg to complete medical treatment, clarify the risks in the country of origin or make necessary preparations in connection with an assisted return).

As the articles of the Swiss Federal Law on Foreigners are not directly applicable to the asylum procedure (see Article 14 of the Swiss law on asylum), the aforementioned directives do not apply to asylum seekers. In accordance with the 2017-2020 national action plan (measure no. 19) the SEM has set up a group of experts to discuss this question, as well as other unresolved matters relating to trafficking in human beings within the asylum procedure. Recommendations will be drawn up and made public.

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.

Domestic law provides for the possibility of a stay on humanitarian grounds (Art. 30 para. 1 indent b of the LEtr in conjunction with Art. 31 of the OASA), and this provision is developed in the LEtr directives (cf. 5.6.8.2.5):

When the recovery and reflection period expires, an application to stay on humanitarian grounds may be lodged at any time in an individual case of extreme seriousness within the meaning of Art. 30 para. 1 indent b of the LEtr read in conjunction with Art. 31 of the OASA. **This rule is applicable regardless of whether or not the victim is willing to co-operate with the prosecution authorities.** The application must be lodged with the migration authorities with jurisdiction for the victim's place of residence either by victims themselves or, by proxy, by a victim assistance service or a consultation centre. It is recommended that the application should document, exhaustively and fully transparently, the elements constituting an individual case of extreme seriousness within the meaning of Art. 31 of the OASA. If they have not committed any serious or repeated public order and security offences, the applicant may await the decision in Switzerland.

In the context of trafficking in human beings, a case may be deemed extremely serious if a return to the country of origin cannot reasonably be imposed owing to the risk of re-victimisation, a lack of prospects of social integration or the impossibility of adequately treating a health problem. If consideration of the elements constituting an individual case of extreme seriousness reveals that a return cannot reasonably be imposed, the application to stay on humanitarian grounds may be approved, even if the individual is considered to be not sufficiently integrated in Switzerland.

When assessing the distress of the person concerned, the specific circumstances of victims or witnesses of trafficking in human beings should be taken into account, and regardless of their willingness to cooperate with the prosecution authorities (Art. 36 para. 6 of the OASA). When examining and weighing up the criteria provided for in Art. 31 of the OASA, special attention will be paid to such circumstances. Account will be taken, for example, of serious harm to health which cannot be adequately treated in the country of origin (the victim's health is in jeopardy), obstacles to reintegration in the country of origin or the risk of the victim falling back into the clutches of traffickers. Where minor victims are concerned, there will be a special focus on the protection and assistance needed by them. In the case of a witness, since they will be called to testify in criminal proceedings, they may be exposed, in their country of

origin, to serious threats by the perpetrators of the offence if they are not properly protected by the State.

For the granting or renewal of a stay permit in an individual case of extreme seriousness within the meaning of Art. 31 of the OASA, the reports and other documents used must cover the following points among others:

- context, situation in the country of origin and risk of being exploited;
- family circumstances, reports by specialised services;
- dangerous situations, threats in the event of return;
- state of health, medical certificate;
- level of integration and efforts to integrate in the light of personal circumstances;
- any reports on the circumstances of the person concerned and police reports providing insights into the dangers to which they are exposed;
- any criminal complaints and convictions of the perpetrators of the offence if this point is important for the assessment of the application;
- any reports from other departments on the situation in the country of origin;
- valid travel document;
- other relevant documents.

In the approval procedure, the files submitted to the SEM must be as full and detailed as possible so that it can take decisions swiftly without having to initiate further investigation measures.

Remark concerning data protection and statistics:

In the interests of protecting the people concerned, cases of trafficking in human beings are not logged individually with a specific code in the central system for information on migration (SYMIC). Consequently, it is not possible to filter given cases and obtain an automated statistical count.

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?

The practice of granting a short-term stay permit (Art. 30 para. 1 indent e of the LEtr in conjunction with Art. 36 of the OASA) to enable victims or witnesses to co-operate with the competent authorities is described in the LEtr directives (cf. 5.6.8.2.54).

If the victim or witness is willing to co-operate with the prosecution authorities, whether from the outset or after a recovery and reflection period has been granted, their stay must be legalised for the duration of the proceedings. The point of this is to guarantee prosecution, by making it possible to carry out the necessary investigations on the basis of the victim's statements and gather testimony admissible before the courts. The length of the permit depends on the needs of the prosecution authorities. The victim is initially issued with a short-term stay permit, and if the prosecution authorities consider that the victim must be available to them for a longer period, the permit may be extended. The authorities tasked with authorisation and declaration of arrival procedures must take account of the specific circumstances of victims and witnesses of trafficking in human beings. In particular, they must take the necessary steps to guarantee the protection and anonymity of those concerned. For security reasons, the address of the THB victim/witness will not be shown on the stay permit, which instead is more likely to indicate a postbox or protected address.

During this period, the individual concerned may in principle take up employment if an application has been made by an employer, wage and working conditions are fulfilled and the individual is suitably housed (Art. 36 para. 4 of the OASA). As a rule, it is the cantonal authority responsible for labour which

issues the work permit. It is important that the services and authorities concerned carefully assess the danger to which the victim is exposed. The victim assistance services or consultation centres notify the migration authorities of any change in the victim's circumstances.

The likelihood of encounters between the victim and the perpetrators must be kept to a minimum too. In order to protect the victim from the perpetrators and provide them with assistance services, it may be necessary to accommodate the victim in another canton. However, the canton where the victim was exploited retains jurisdiction for granting the recovery and reflection period and issuing the short-term stay permit for the probable duration of the police investigation or the judicial procedure (Art. 36 para. 2 and 68 para. 2 of the OASA). In such an instance, the notion of residence set out in Art. 36 para. 2 (2nd sentence) of the OASA must be interpreted as meaning that the victim's place of residence is identical to the last location where the offence was committed. Were that not to be the case however, the notion of residence set out in Art 36 para. 2 (2nd sentence) of the OASA must be taken to mean the location where the last offence was committed (last place where the victim was exploited).

However, when police investigations have been carried out in several cantons and the prosecution authorities of one of those cantons takes over the management of operations, that canton is also competent to issue the short-term stay permit.

To protect victims or make up for the lack of suitable institutions appropriate in the competent canton, they may be placed in another canton with the agreement of the cantonal authorities concerned (migration service and social services). Even so, the first canton remains in charge of the temporary stay in the other canton (reflection period, stay during the procedure, hardship case).

If the foreigner stays outside the canton which granted them short-term stay permission, they will not be deemed to have changed canton, regardless of the duration of the stay (Art. 68 para. 2 of the OASA).

The person concerned must leave Switzerland when their stay is no longer necessary for the needs of the investigation and judicial procedure (Art. 36 para. 5 of the OASA).

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?

A. Granting of a stay permit:

When the recovery and reflection period expires, an application to stay on humanitarian grounds may be lodged, at any time, in an individual case of extreme seriousness within the meaning of Art. 30 para. 1 indent b of the LEtr taken in conjunction with Art. 31 of the OASA. This rule applies regardless of whether or not the victim was willing to co-operate with the prosecution authorities.

When assessing the distress suffered by the individual concerned, account should be taken of the special circumstances of victims or witnesses of trafficking in human beings, regardless of their willingness to co-operate with the prosecution authorities (Art. 36 para. 6 of the OASA).

However, once the reflection period has expired, if the victims do not intend to co-operate with the prosecution authorities and if no stay permission can be granted on hardship grounds, they must leave Switzerland (see also point 34).

B. Granting of assistance to victims:

The granting of assistance to victims under the Federal Law on Assistance to Victims of Crimes (LAVI) is not linked to the rules governing stay. A foreigner illegally present on Swiss territory is entitled to assistance granted to victims as of the time they were a victim of an offence in Switzerland. However, while entitlement to assistance for victims is not linked to the regularisation of the victim's stay, leaving Switzerland once the recovery and reflection period has expired (if no other permission to stay can be granted on personal grounds – cf question 39 – or for co-operating with the prosecution authorities – cf question 40) will *de facto* put an end to assistance. That is why, under measure no. 21 of the National

plan of action against trafficking in human beings 2017-2020, the SEM is tasked with preparing a proposal for the Federal Council for devising a positive law rule in the Federal Council Order on Admission, Stay and Exercise of Gainful Activity (OASA) making it possible to grant a temporary stay for as long as it is necessary for victim assistance needs.

With regard to foreign victims of trafficking in human beings who are domiciled abroad, have allegedly been victims of trafficking abroad and have entered Swiss territory to seek protection there, the provisions of the LAVI are not applicable. Under measure no. 22 of the National plan of action against trafficking in human beings 2017-2020, the Conference of cantonal directors of social affairs (CDAS) is tasked with proposing solutions regarding this question.

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.**

a) No change since the last evaluation as the legal provisions already exist.

b) No change since the last evaluation as the legal provisions already exist.

c) No change since the last evaluation as the legal provisions already exist.

d) No change since the last evaluation as the legal provisions already exist.

e) No change since the last evaluation as the legal provisions already exist.

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)?

The legal bases exist. Articles 70, 71, 72 and 73 of the Swiss Criminal Code regulate the confiscation of assets and their allocation to the person wronged. Article 73 states that:

If a crime or misdemeanour has caused damage to a person that is not covered by any insurance and if there are grounds to fear that the perpetrator will not pay damages or satisfaction, the judge shall award the person harmed, at their request, a sum of money up to the amount of damages or satisfaction set by a judgment or agreed in settlement, obtained from:

- a. the pecuniary penalty or fine paid by the person convicted;
- b. items and assets confiscated or the proceeds of their sale, after deduction of costs;
- c. compensatory claims;
- d. the amount of the bail money.

Furthermore, the cantonal prosecution authorities have prosecutors specifically assigned to this task. Substantial assets (including real estate) have already been confiscated in the past in connection with criminal proceedings instituted for trafficking in human beings in Brazil and also in Hungary.

However, it should be pointed out that perpetrators of trafficking in human beings very frequently do not retain the proceeds of trafficking and tend to spend them immediately on luxury goods, services or gambling.

It should also be borne in mind that the assets generated by offenders of foreign origin are often sent back to the country of origin. These transfers are made on a regular basis, not only via the usual channels (bank accounts, Western Union, Moneygram, Ria Money etc) but also in cash. It is not unusual for front-men or –women to be used for on-line or cash transactions, which are obviously very difficult to track. Furthermore, it is very difficult to confiscate proceeds outside Switzerland but there are a number of means of support for implementing the corresponding requests from cantonal prosecution authorities for judicial assistance in countries of origin, including Swiss police attachés on the spot, as well as the Swiss liaison prosecutor at Eurojust or police attachés operating within Europol or the Unit on Trafficking in human beings/migrant smuggling of the Federal Criminal Police (Fedpol).

It should further be pointed out that, in Switzerland, it is also possible to confiscate assets not associated with criminal activity for procedural costs, penalties, fines and compensation (Art. 263 paragraph 1 sub-para b) and Art. 268 paragraph 1 sub-paras. a and b of the Swiss Code of Criminal Procedure). This option is also utilised if such assets are available.

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.

Yes, Articles 24 and following of the Federal Law on Assistance to Victims of Crimes lay down the conditions. The victims must lodge their applications for compensation and damages within five years from the date of the offence or the time when they became aware of the offence. Damages may be reduced in cases where the beneficiary is domiciled abroad and they would be disproportionate to the cost of living there. According to case-law on this point, a reduction of this kind would be made only if there was a substantial difference in the cost of living between Switzerland and the country of origin.

The real problem hinges on the issue of credibility. The victim must be able to prove that an offence has taken place. For that reason it is preferable to lodge the application when the perpetrator is prosecuted in Switzerland.

In addition, a person domiciled abroad who has been a victim of an offence in Switzerland is entitled, in their place of domicile, to contributions to the costs of treatment (Art. 14 para. 2 of the LAVI).

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?

The aim of assistance for return for THB victims offered by the State Secretariat for Migration (SEM) is to encourage the voluntary return of trafficking victims to their country of origin (or a third country) and support them during their reintegration. To reach its intended audience, this offer must be publicised and easily accessible. Work to provide information on assistance for return and to establish networks is the task of cantonal return advisory services, which ensure that cantonal authorities and third-party bodies in contact with the target audience have the necessary information on this specialised assistance for returns. The SEM, the International Organisation for Migration (IOM) and Advocacy and Support for

Migrant Women and Victims of Trafficking (FIZ) also play a role in information and networking efforts. Trafficking victims can seek assistance for a return from the return advisory services in the cantons or in the SEM's registration and procedure centres. The interview with the return advisory service is free of charge, confidential and without obligation. There is a special procedure for victims assisted by the FIZ, which provides specialised advice for returns, prepares the application for assistance and sends it to the return advisory service, making it unnecessary for the victim to contact that service. The return advisory service sends applications for assistance for returns to the SEM for approval. After approving an application, the SEM mandates IOM Bern to organise the return of the person concerned to their country of origin and their reintegration within the assistance framework. The preparation of a victim's return by the IOM necessarily includes an assessment of any risks to their safety, based on the information provided by the victims and individuals in contact with them. Where their safety may be at risk, the IOM will propose safety measures that could be deployed in co-operation with the police or local partners (no measure may be taken without the victim's consent). IOM Bern prepares the victim's return and reintegration with the IOM office in the country of origin, liaising with all the players concerned, both governmental and non-governmental.

Clarification by IOM Bern:

Victims of trafficking in human beings often express the desire to return home as quickly as possible. However, their journey and reintegration do take a little time to prepare. In addition to the usual points requiring clarification, above all the risks must be assessed: when organising a return, it is important to ensure that all steps are taken to prevent the victim from falling back into the clutches of the traffickers. The aim is to reduce or alter the greatest possible number of factors that resulted in this individual being targeted by traffickers.

Various points are clarified by the IOM for optimal return preparation. The aim is to forge a situation with improved prospects for reintegration and reduced risks to personal safety for returning victims.

• Information regarding the circumstances of trafficking

It is important to gather as much information as possible on the circumstances in which the individual fell victim to trafficking. This information helps to provide an overall picture of the situation and identify the potential risks faced by the victim after their return. It is passed on to the IOM in the destination country and, where applicable, to the partner organisation, so that those responsible in the destination country will be aware of the victim's background and will not need to interview them again. The department holding this information is asked to fill in the necessary forms (IOM Risk Assessment).

• Information regarding safety in the destination country

Victims of trafficking in human beings are potentially exposed to grave dangers. The "capital" they represented for the traffickers is lost and they could also take proceedings against the traffickers, who will seek to protect their own interests. Accordingly, prior to their return, a risk assessment must be carried out.

The individual concerned must be informed of the risks they face so that they can opt for a voluntary return with full knowledge of the facts. Measures may be proposed to enhance their safety after their return (such as contact with the police in the destination country, choice of another region in the destination country, accommodation in a shelter etc). They are free to refuse these measures. If a return to the country of origin is considered to be too dangerous, migration to another State may be envisaged, in which case, it must be accurately established whether this is possible and if so, under what conditions.

If the risks are too high, accommodation in a rehabilitation centre is another possible temporary arrangement until the victim is able to return to their family.

If a trafficking victim does not wish to take up this return assistance programme, they are invited to an additional interview/advice session at the SEM.

The staff who assist trafficking victims are specially instructed in preventive measures. THB victims are always escorted by someone of the same sex and dealt with separately (from other groups). Depending on the case, other steps may be taken (personal escort by additional qualified migration staff, notification of airline staff etc). If the victim changes their mind about returning, the planned trip will be cancelled.

Measures taken under the principle of non-refoulement – involuntary returns

The SEM consults the information on the country of origin to assess the true situation of the asylum seeker in the country of origin, contacts a specialist on the internal affairs of the country of origin to gauge the situation or launches other investigative measures in order to assess the risks faced by asylum seekers if sent back to their country of origin (see also the reply to question 61 below).

Where foreigners not having applied for asylum are concerned, it is for the competent cantonal migration authorities to ensure that sending them back to the country of origin is lawful and possible and may be enforced. Where necessary, the opinion of the SEM may be sought, notably where a specific situation requires investigative measures to be carried out in the country of origin.

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?

No, no known cases. However, these victims would be entitled to victim assistance (Art. 17 of the LAVI).

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.

No developments. Corporate entities are punishable under Art. 102 of the Criminal Code. See also the replies to question 23.

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.

No, no cases.

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.

Swiss criminal law is based on the principle of fault, meaning that no conviction is possible in a situation of necessity arising from constraint. Accordingly, a victim is not culpable if they were constrained to commit an illegal act while being exploited. If a victim is convicted notwithstanding this, it is because they have not been identified as such; it is not a lack of knowledge of the legal situation that is the problem. Measures 16 (training of prosecution authorities in the sphere of trafficking in human beings) and 17 (networking between public ministries) of the National Action Plan 2017-2020 are helping to

improve identification of victims and prevent convictions, usually handed down for infringements of the legislation on foreigners.

The Criminal Code states:

Art. 17 3. Legitimate acts and guilt / Legitimate situation of necessity

Legitimate act in a situation of necessity

Any person who carries out an act that carries a criminal penalty in order to save their own or another person's lawful interest from imminent and not otherwise avertable danger, acts lawfully if by doing so they safeguard interests of higher value.

Art. 18 3. Legitimate acts and guilt / mitigatory situation of necessity

Mitigatory act in a situation of necessity

- 1) Any person who carries out an act that carries a criminal penalty in order to save him or herself or another person from imminent and not otherwise avertable danger to life or limb, freedom, honour, property or other vital interests shall receive a reduced penalty if they could reasonably have been expected to abandon the endangered interest.
- 2) If the person concerned could not have been reasonably expected to abandon the endangered interest, they have not committed an offence.

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.

Yes. Where they have jurisdiction, the Swiss prosecution authorities must prosecute such offences. The principle of lawfulness (Art. 7 para. 1 of the Code of Criminal Procedure) requires the prosecution authorities to open and conduct proceedings, within the limits of their competence, where they are aware of offences or of grounds for presuming that offences have been committed, even if the complaint was lodged abroad. In concrete terms, they must nevertheless have knowledge of the content of the complaint or the facts.

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).**
- a) The repression of trafficking in human beings almost always falls within the competence of the cantonal prosecution authorities. Regarding structures and staffing, the situation varies from one canton to another. This is because not all the cantons are affected to the same extent by trafficking in human beings and nor are the cantons similar in terms of size, population and available resources.

In the cantons most affected by trafficking in human beings, the police have specialised investigation units. This is the case, for example, in Zurich (municipal police and cantonal police), Geneva, Bern, Ticino and Vaud. In the other cantons, the police mostly have specialists trained in action against trafficking in human beings but no investigation unit solely dedicated to this area. This is the case in the cantons of Solothurn, St Gallen, Thurgau, Lucerne, Schwyz, Fribourg, Neuchâtel and Valais for example.

- b)** Under Art. 67a of the Federal law on International Co-operation on Criminal Matters of 20 March 1981 (EIMP, RS 351.1), Switzerland may spontaneously forward information or proof it has gathered within the framework of criminal proceedings opened in Switzerland to a foreign authority if it considers that this may make it possible to open prosecution proceedings or help an ongoing investigation to progress. The information passed on enables the recipient State to draw up a request for international legal assistance. Switzerland has spontaneously forwarded information in THB cases on five occasions.

The Federal criminal investigations police also co-ordinate inter-cantonal and international investigation procedures and run central criminal investigations offices. It handles exchanges of criminal investigations information with the cantons, prosecution authorities in other countries, INTERPOL and Europol.

- c)** Indication of how the use of these techniques is regulated and whether they can also be applied in cases not related to organised crime: trafficking in human beings is on the list of offences for which covert surveillance measures may be used. The legal bases governing the use of those measures are to be found in the Code of Criminal Procedure (Code of Criminal Procedure; RS 312.0), in the Federal Law on the surveillance of postal correspondence and telecommunications (LSCPT; RS 780.1), in the Order on covert investigations (OISec; RS 312.81) and in the cantonal laws governing the police. When criminal proceedings have been opened, the prosecutor may request that covert surveillance measures be approved by the competent court. This is also applicable to cases not involving organised crime.

- d)** Where the Internet is concerned, the emphasis is on combating paedophile crime and illicit pornography. For that reasons, the National Service for co-ordinating action against Internet-based crime (Service national de coordination de la lutte contre la criminalité sur Internet - SCOCI) comes under the Federal criminal investigations police. The cantons contribute to funding for the SCOCI and, via the steering committee, define the thrusts of its work. The SCOCI covers the following areas:

Monitoring: research carried out on the Internet to detect wrong-doing and perform initial processing of reports of suspicious activity.

Clearing: legal examination of suspected criminal content, co-ordination with procedures in progress and forwarding of files to the competent prosecution authorities (in terms of location and of content) in Switzerland and abroad.

Analysis: analyses at national level of the phenomenon of Internet-based crime, overview of criminal actions and means used to commit offences, statistics and trends.

So far, the cases of trafficking in human beings involving use of the Internet encountered by the police have been exceptionally rare. The police have no technical means of blocking websites, which can be done only on a voluntary basis by the provider or by judicial decision. If necessary, it can be ordered by the prosecutor or a court order.

- e)** Assets constituting the proceeds or resulting from an offence, the equivalent value or even the benefit illegally gained from an offence can be blocked if in Switzerland and recovered for the competent foreign authority. Recovery is governed by Art. 74a of the EIMP. There has been one case of international judicial assistance involving the blocking and recovery of assets in connection with a THB offence.

In most cantons it is specialised investigation groups that handle financial investigations and the confiscation of the proceeds of crime. As far as possible, the proceeds of crime are systematically confiscated in the course of criminal proceedings (Art. 69 ff of the Criminal Code).

- f) Joint investigation teams are currently governed by Art. 20 of the Second additional Protocol to the European Convention on Mutual Assistance in Criminal Matters. This Protocol entered into force in respect of Switzerland on 1 February 2005, enabling Switzerland to set up JITs with the other States parties to the Protocol, including for THB-related offences. One aim of an ongoing revision of legislation is to introduce the setting up of joint investigation teams in Swiss domestic law. In practice, the use of joint investigation teams is possible as long as it is considered to be relevant, and this is assessed on a case-by-case basis. One case of mutual legal assistance resulted in a joint investigation team being established with Bulgaria.

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?

There has been one known attempt to date, in the canton of Geneva. Clarifications carried out at the Geneva university hospitals made it possible to foil this attempt before the organ was "donated". This case highlighted the fundamental importance of having completely reliable interpreters as the attempt was foiled after a change of interpreter. A complaint was lodged with the Public prosecutor's office in Geneva. The perpetrator is currently on the run and has left Swiss territory.

Any further information regarding this case can be requested from the Public prosecutor's office in Geneva and the Au Cœur des Grottes association during the evaluation visit to Switzerland.

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.

Protection measures are taken in the light of the analysis of threats presented by the specific case, which vary. Victims can be accommodated in specialised shelters or flats whose location is known only to a select group of individuals. The victims are assisted on a day-to-day basis by specialised staff (FIZ, Astrée, Coeur des Grottes) and telephone and internet access may be restricted to avoid any intimidation attempts from outside.

Where necessary, where the situation lends itself and if the prosecution authorities request it and the victim accepts all the consequences, a witness protection programme can be set up by Fedpol:

Switzerland introduced a law on the protection of witnesses in 2013, which guarantees that witnesses involved in an investigation or criminal proceedings can be protected from possible reprisals or intimidation. They are admitted to the Fedpol protection programme once all other possibilities of protection to be considered by the cantonal prosecution authorities have been exhausted. The witness must also show willing to participate in the programme and to assume the ensuing obligations. The witness protection programme may be deployed even if the criminal prosecution has been completed. Protection measures can range from merely moving someone to a new address to giving them a new identity. As this is a sensitive area, no figures regarding witness protection cases can be communicated. Witnesses in protection programmes have a whole host of instructions to follow. Usually, they must

cease regular contact with their families, friends and normal environment. For badly traumatised witnesses, this is often an obstacle that is particularly difficult to overcome.

In the absence of witness protection measures within the meaning of the aforementioned law, the police have a duty to safeguard the life and integrity of victims in the event of a specific threat, in consultation with the NGOs specialising in providing assistance to this type of victim.

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?

Victims of offences may be assisted by a person of trust, in addition to their legal counsel, at every stage of the proceedings (Art. 152 para. 2 of the Code of Criminal Procedure). This may be an NGO representative, psychologist or social worker.

As indicated for question 30, some cantonal police forces have units specially tasked with preventing and analysing prostitution activities (Milieuaufklärung). One function of these specialists is to provide individuals involved in prostitution and above all vulnerable individuals with information on the possibilities that exist for lodging complaints and also on what will happen when they do and how criminal proceedings work. Furthermore, presumed victims of trafficking in human beings have all the rights conferred on them by the Federal Law on Assistance to Victims of Crimes (LAVI) and receive support through victim assistance arrangements or from specialised NGOs during the proceedings. In particular, presumed victims are clearly and transparently informed of their rights and obligations, as well as the opportunities and risks inherent in criminal proceedings. This assistance is decisive as regards victims' willingness to testify and has paved the way for a significant increase in testimony by victims.

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).

Under the Criminal Code, Swiss prosecution authorities may also be competent for offences committed abroad in the following cases:

- when a Swiss national commits a crime or misdemeanour abroad, including if the act is also punishable in the State where it was committed and the perpetrator is in Switzerland (active personality principle, Art. 7 para. 1 indent a of the Criminal Code).
- when a Swiss national is a victim of a crime or misdemeanour, including if the act is also punishable in the State where it was committed and the perpetrator is in Switzerland (passive personality principle, Art. 7 para. 1 indent b of the Criminal Code).
- when a crime or misdemeanour which Switzerland is under obligation to prosecute under an international agreement is committed abroad, including if the act is also punishable in the State where it was committed and the perpetrator is in Switzerland (crimes or misdemeanours committed abroad, prosecuted under an international agreement, Art. 6 of the Criminal Code).

On the other hand, the double jeopardy requirement is not applicable when a victim of trafficking in human beings is under the age of 18 years. In this case, Art. 5 of the Criminal Code applies (offences

committed abroad against minors) and the perpetrator may be prosecuted without taking account of foreign law. The *lex mitior* principle is not applicable either.

By way of example, we have appended a judgment handed down in March 2018 by Bulle district court (Fribourg canton), which also illustrates the possibility for victims to receive compensation in their country of origin (question 44).³⁰

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.

A) International co-operation in the legal sphere

In Switzerland, international co-operation with other States in preventing and combating trafficking in human beings is an integral component of treaty policy in the area of international legal co-operation in criminal law matters, as Switzerland does not incorporate lists of offences in its treaties but devises instruments applicable to all criminal offences, including trafficking in human beings. Co-operation follows the usual procedures.

Consequently, in Swiss law the legal basis for international co-operation in criminal law matters, and therefore in the area of trafficking in human beings, is the Federal law on International Co-operation on Criminal Matters (EIMP; RS 351.1), as well as the Federal Order on International Co-operation in Criminal Matters of 24 February 1982 (OEIMP, RS 351.11). The EIMP and the OEIMP are applicable *erga omnes* and therefore to all foreign States. Swiss legislation allows a broad spectrum of co-operation, covering extradition, mutual legal assistance, the transfer of individuals and the delegation of procedures. The law stipulates that a treaty is not needed for Switzerland to co-operate in the provision of legal assistance and extradition.

Switzerland has also ratified the following Council of Europe conventions governing mutual legal assistance: the European Convention on Extradition and its four protocols and the European Convention on Mutual Assistance in Criminal Matters and its second protocol. Accordingly, these instruments are applicable. The 3rd and 4th Protocols to the European Convention on Extradition have been ratified since the 1st evaluation cycle (in force since 1 November 2016).

Furthermore, Switzerland follows the principle that the EIMP should be applicable if it is more favourable than a treaty. Where a treaty exists but is based on a list of offences not including trafficking in human beings, for example, the EIMP will be applicable and mutual legal assistance will also be possible as regards THB.

Extradition is possible in Switzerland in the same way as other States, as long as the double jeopardy principle is complied with and the maximum sentence incurred is a prison sentence of at least one year (Art. 35 para. 1 indent a of the EIMP; Switzerland is less severe than some other States regarding the proportion of the sentence). Trafficking in human beings as provided for in the Swiss Criminal Code fits this definition and may therefore serve as grounds for extradition, as long as it is punishable in the other State. In mutual assistance, the double jeopardy principle must also be complied with if coercive measures are requested. Trafficking in human beings is punished by Art. 182 of the Criminal Code in Switzerland, and mutual assistance is also possible.

³⁰ See appendix 8.

There are also several bilateral treaties concluded by Switzerland both on mutual assistance and extradition that are applicable in cases of trafficking in human beings.

One noteworthy instrument in the area of international mutual assistance between police is the Agreement between the Swiss Confederation, the Republic of Austria and the Principality of Liechtenstein on transfrontier police co-operation (RS 0.360.163.1) which entered into force on 1 July 2017, after the 1st evaluation cycle, and mentions trafficking in human beings in its preamble.

Switzerland regularly receives requests for assistance and makes such requests to other countries with regard to THB offences. These requests mostly concern the interviewing of victims but other measures may be requested, such as the interviewing of defendants, house searches, the transmission of documents or transfrontier surveillance. Mutual assistance is usually problem-free.

Where statistics are concerned, the following table summarises the different co-operation measures relating to THB offences:

Request category	Request type	April-Dec 2014	2015	2016	2017
Assistance request to Switzerland	obtaining proof	11	7	3	3
Assistance request to Switzerland	obtaining proof: surveillance	5	5	2	2
Assistance request to Switzerland	recovery of assets				
Assistance request to another country	obtaining proof	10	15	5	4
Spontaneous assistance	to another country (Art. 67a of the IRSG)		3	1	1
Request for notification to Switzerland	in a criminal law matter		1		
Request for extradition to another country		1	5	2	
Request for extradition to Switzerland		6	1	3	3
Extradition/asylum co-ordination		1			
Search request to another country		5	2	3	1
Search request to Switzerland					
Request to delegate prosecution to another country			4	4	6

B) International police co-operation

Switzerland participates in all the relevant working groups and initiatives of INTERPOL and EUROPOL. Its involvement in these operational groups makes it possible to develop transnational analyses or, in addition to exchanging information, to implement operational measures such as joint action days or co-operation within the framework of Joint Investigation Teams (JITs). Switzerland participates in the corresponding EMPOL work of EUROPOL and its European Migrant Smuggling Centre (EMSC) for example and, where INTERPOL is concerned, is a member of the Human Trafficking Expert Group (HTEG).

This experience has been positive, and Switzerland has not encountered any issues to date. In parallel to operational co-operation, Switzerland constantly strives to develop its networks of bilateral and multilateral contracts and police attachés. There are bilateral police contracts in particular with all the neighbouring States. The treaties contain central co-operation instruments for preventing or combating trafficking, and the police attachés support local co-operation. Among other countries, Switzerland has police attachés in Turkey and Tunisia. Where international agreements have not been concluded with a foreign State, co-operation based on Swiss law is still an option. The most important legal basis is the EIMP (mentioned above).

C) Co-operation with the main countries of origin of persons trafficked to Switzerland

Since the last evaluation, Switzerland has stepped up co-operation with the main countries of origin for trafficking in human beings through police co-operation projects with Romania and Bulgaria and an interdisciplinary project with Hungary (see descriptions below). These joint activities have made it possible to forge contacts, instil mutual trust and gain insight into working conditions and the challenges of detecting and combating trafficking in human beings in Switzerland and in the country of origin. Thanks to these projects, exchanges of information have significantly increased between criminal investigations police, boosting the number of investigative activities.

Romania:

The "**Improving Police Co-operation in the Field of Countering Trafficking in Human Beings between Switzerland and Romania**" police co-operation project was devised at the request of the Romanian Inspectorate general and implemented in close collaboration with Fedpol and the cantons. The project was launched in summer 2015. By the end of 2017, all the planned activities had been carried out, leaving only a closing conference scheduled for 2018.

The aim of the project was to step up police co-operation between Switzerland and Romania to improve identification of trafficking cases and the investigations of those cases. This was achieved through various activities: notably study visits in both directions for Romanian and Swiss specialists from the ranks of the police and from NGOs to exchange good practices, undergo training on Roma culture at Slatina police college (Romania) and implement action weeks in Switzerland.

In 2017, three study visits (one in Switzerland and two in Romania) and an action week in Switzerland were organised. During the 2015-2017 phase of the project, a total of 13 project activities - including 4 action weeks, 3 Roma culture training sessions and 6 study visits - were successfully carried out. Thanks to the action weeks implemented in Switzerland, during which joint teams of Romanian and Swiss inspectors and NGO representatives toured districts known for prostitution and were able to communicate with Romanian sex workers in their own language and obtain information on any cases of exploitation and also potential victims. At the same time, Romanian women engaging in prostitution in Switzerland were offered support by the police or a specialised NGO if they were in situations of exploitation. Various study visits were carried out in Switzerland and Romania, in the regions of origin of sex workers and at the investigation units involved.

These joint activities provided an opportunity to forge contacts and gain insight into working conditions and the challenges of detecting and combating trafficking in human beings in both countries. Co-operation and information exchange were substantially boosted by the project, and many more investigation activities are now under way.

Bulgaria:

As Bulgaria is also one of the major countries of origin of THB victims in Switzerland, projects were launched in Sofia in February 2016 as part of the Swiss contribution to the enlargement to the EU, geared to fostering direct co-operation between the two countries in action against trafficking in human beings.

The overall aim of the "**Improving Police Co-operation in the Field of Countering Trafficking in Human Beings between Switzerland and Romania**" project is to get different partners working together at various levels to combat trafficking in human beings and protect the victims. Fedpol is running a sub-project aimed at improving detection of victims and co-operation between the competent authorities and organisations in action against trafficking in human beings. The Fedpol-run project entails various activities such as study visits or action weeks, which have proven their worth in the project run in Romania (see above). In February 2017, a workshop was organised for twenty or so Swiss experts, with 4 or 5 lecturers from Switzerland and Bulgaria presenting specific topics. The aim of the workshop was, among other things, to understand the structures and possibilities of the players involved in action against trafficking in human beings in the two countries, exchange ideas and experience and step up co-operation between the authorities. On the Bulgarian side, case studies were presented on the situation of Roma and the specific characteristics of their culture. In addition, Fedpol organised a study visit to Bulgaria in June 2017 for representatives of the cantonal police of Vaud and Bern cantons, Zurich municipal police and prosecutors from Solothurn and Zurich. The visit focused on exchanges of experience with the Bulgarian police services and NGOs in Varna. Meetings with the Roma communities were also organised during the visit, providing valuable insight into the conditions in which victims are exploited. An action week in Switzerland and a closing conference are yet to take place.

Hungary:

An interdisciplinary project to strengthen co-operation between Switzerland and Hungary in anti-trafficking efforts ("Swiss-Hungarian Transnational Co-operation on the Referral of Victims of Trafficking", duration from April 2017 to February/March 2018) was launched by IOM Budapest. The KSMM/Fedpol co-ordinated the project with the partners on the Swiss side. The aim of the project was to improve identification of, support for and the return and reintegration of Hungarian victims of trafficking who are exploited in Switzerland by describing the procedures that exist in Switzerland and Hungary, as well as the functioning of the "transnational referral mechanism" on a website. Three study visits have been organised in this connection (two in Hungary and one in Switzerland) involving experts from the competent authorities and organisations of both States.

Working with IOM Bern, Fedpol has organised activities in Switzerland and substantially contributed to the forging of important contacts for the prosecution authorities and services or organisations responsible for assistance to victims and their reintegration. There were also opportunities to discuss certain aspects of co-operation requiring improvement, including the much-needed use of Joint Investigation Teams (JITs). Following Hungary's ratification of the Second additional Protocol to the European Convention on Mutual Assistance in Criminal Matters and its entry into force on 1 May 2018 in Hungary, it is now possible to deploy JITs. The transnational referral mechanism is to go on-line in summer 2018.

D) Projects supported by the Directorate of Development and Co-operation (DDC) of the Federal Department of Foreign Affairs:

The FDFA/ Swiss Agency for Development and Cooperation (SDC)

SDC finances anti-trafficking comprehensive projects in the framework of the Swiss contribution to the new EU member states – mainly in Bulgaria and Romania. In these two partner countries, the topic of human trafficking has been included into the Thematic Funds Security and the identification of projects was closed end of 2014. The overall budget dedicated specifically to human trafficking in Bulgaria and Romania in the frame of the Swiss contribution amounts 5.3 mio of CHF for the period 2009 -2019.

Examples of projects funded in the frame of the Swiss contribution to the new EU member states:

Bulgaria: Prevention of Trafficking in Human Beings and the Identification, Protection, Support, Return & Reintegration of Victims of Trafficking, 01.07.2014 – 31.12.2018, Swiss Grant of CHF 1'971'130

The project aims at making more effective the collaboration between Switzerland and Bulgaria in combating human trafficking. It undertakes activities to improve the prevention of trafficking, the identification of victims, the provision of protection and assistance to victims and the reintegration of victims in their country of origin. The project is implemented by the Bulgarian National Commission for Combating THB which develops subsequent annual Bulgarian National Programs for Combating THB, IOM Bulgaria and ANIMUS, a local NGO. Switzerland is providing expertise guidance to the Bulgarian partners (through Coginta and DCAF, fedpol, IOM Bern, FIZ). The expected results are:

- A bilateral guideline to facilitate and formalize the collaboration between the two countries in combatting trafficking;
- An improved monitoring and evaluation mechanism of the National Referral Mechanism;
- Three targeted vulnerable groups to human trafficking made aware of the risks of human trafficking (via annual campaign, a helpline and workshops targeting vulnerable groups);
- An improvement of the identification of victims (via better knowledge of Swiss authorities, on modus operandi of traffickers, training of Bulgarian state stakeholders in victim identification, the participation of one Bulgarian police officer and one Bulgarian social worker in joint action weeks with Swiss cantonal police);
- Increased capacity of the witness protection system;

- Higher numbers of victims having access to quality state-of-the art services in crisis and longer-term shelters (Transit Center accessible 24/7 in Sofia, one crisis center and one shelter with 10 beds established);
- Return and reintegration of up to 90 victims of human trafficking in Bulgaria.

Romania: Tandem with NGOs to support victims of trafficking in human beings (VoT) - TaNGO, 01.10.2017 – 31.08.2019, Swiss grant of CHF 499'609.-.

Implementation of victim assistance in Romania is carried out by NGOs, IOM and local administrations responsible for Social Assistance and Child Protection. However, NGOs lack external and internal funding and the current national legislation prevents funding distribution through NGOs from the consolidated budget. This challenging situation has a direct impact on the identification, return and reintegration of the VoTs in Romania, but also on the THB situation in Switzerland and in other EU countries. The current project, implemented by IOM Romania in close cooperation with three local NGOs, seeks to bridge the gap in assistance needed to ensure that the lives of vulnerable VoTs are protected. Its main overall goal aims to strengthen assistance and protection of Romanian VoTs according to national and international standards. By ensuring direct assistance and return to VoTs, the project is willing to strengthen the capacity of the key actors in the national referral mechanism. The expected results are:

- 100 referral through governmental and non-governmental structures in the frame of the NRM and TRM;
- 100 VoTs provided with individual counselling, protection and tailor made assistance (including housing, social, medical, legal, psychological, rehabilitation support);
- 25 VoTs benefitting from counselling and assisted return, pre-arrival risk assessment and reintegration assistance;
- At least 10 Consulates, IOM offices and NGOs in countries of destination better informed about return & reintegration potentialities in Romania

Other countries:

Bosnia and Herzegovina: State government financed NGOs supporting protection and assistance of the victims of trafficking in the amount of EUR 70'000: the Ministry of Security provided EUR 35'000 for foreign victims and the Ministry of Human Rights and Refugees provided EUR 33'000 for domestic victims.

Kosovo: There has been an increased attention on the assistance services and funding for trafficking victims. The government spent EUR 181'068 as an annual budget for the trafficking victims' social, psychological and health rehabilitation as well as their reintegration into society. The scope and quality of services provided to victims of trafficking have been improved.

Serbia: The national government supports the Center for identification and protection of victims of human trafficking that is an integral part of the Ministry of Labor <http://www.centarzztlj.rs/>. The yearly budget of the center is EUR 170'000. In 2017, the Center also received support from Prosecutors' Fund (opportunity fund) in the amount close to EUR 9'000. In 2017, through the Center, 142 reports on human trafficking were done, of whom 43 were confirmed as actual victims of human trafficking.

Application of Migration Policy for Decent Work of Migrant Workers, ILO, April 2016 – March 2018, Swiss contribution: CHF 3,3 million.

This contribution is a follow-up of a previous Swiss contribution to the ILO program, in which the Overseas Employment Policy and Migrants' Act was prepared with support of the project and both were eventually approved by the Parliament. However, to operationalize the policy and act, there is need for revision of the existing rules and development of new rules (such as licensing of recruitment agencies and migrant workers welfare). In this current phase, the project will assist these agencies to improve their services according to the findings of the review (such as assisting BMET to obtain certification of quality) for delivery of services. By the end of the current phase, Bangladeshi men and women who opt for migrating abroad in search of employment will benefit from better protection (pre-departure

orientation, international standard contracts, etc.) as the project will improve the overall migration policy and migration governance framework of Bangladesh. The project will also strengthen institutions responsible for managing migration, by building the capacity of the government and private sector to expand and improve services for migrant workers. The primary target beneficiaries of the project are the Bangladeshi migrants in the countries of destination as well as the potential Bangladeshi migrants who will emigrate from Bangladesh. It is expected that at least 2 million Bangladeshis will depart from the country in the project period, and at least 50% (i.e. 1 million migrants) will enjoy better protection of human and labour rights, once the policy is operational and the relevant institutions strengthened. Officials from public and private offices (related to labour migration) are also targeted through this project

E) Projects supported by the SEM:

The State Secretariat for Migration (SEM) financed a project in Nigeria (implemented by UNODC from 2015-2017, overall budget of CHF 550'000) aiming at improving the capacities of law enforcement officers, counsellors and social workers to deal with victims of trafficking in persons and smuggling of migrants in Nigeria. The overall objective of the project "**Support and Capacity Building to NAPTIP (Nigerian National Agency for the Prohibition of Traffic in Persons and Other Related Matters) on Strengthening Law Enforcement Response and Victim Support**" is to pilot a four-pronged approach to TIP victim empowerment, consisting psychosocial support, life skills training, technical/entrepreneurship training, and access to justice. The project specifically meets the following objectives: 1. Guaranteed funding to provide comprehensive rehabilitation, empowerment, care and support for 40 victims; 2. Increase capacity of counselors and social workers to provide professional victim care and support; 3. Increase capacity of Law Enforcement to investigate and prosecute TIP and SOM cases.

Since 2012, the State Secretariat for Migration (SEM) has been supporting **UNHCR and IOM in the fight against Human Trafficking in Sudan**. Within the framework of the common strategy 2015-2017 of UNHCR, IOM, UNFPA, UNODC and UNICEF, SEM has been supporting the project "Strengthening Protection Responses for Victims of Trafficking and Others at Risk in the East of Sudan and Khartoum" since December 2015 until March 2017. Through this project, referral mechanisms for victims of trafficking have been improved and a new safe house in particular for witnesses of cases of Human Trafficking has been established in the East of Sudan. In parallel, IOM has been supporting two existing safe houses in Khartoum through SEM funding from June 2015 to August 2017. Furthermore, victims of trafficking continue being supported with legal assistance, emergency care and psychosocial support.

Building Regional and National capacities for improved Migration Governance in the IGAD Region" (1.5.2014 - 31.3.2017 - Single Phase). The project is jointly supported by the GPMD and SEM and supports IGAD addressing its framework for Regional Migration Policy (RMPF) that is derived from the continental AU framework on Migration adopted in Banjul in 2006. The framework provides a comprehensive policy approach that addresses the thematic, institutional and other challenges related to migration governance. The ultimate objective of the RMPF is to realize the well-being and protection of migrants including IDPs and refugees and the realisation of the developmental potential of migration. Improved migration governance at the national level will strengthen regional integration with development benefits for both individuals and society. Furthermore improving appropriate migration governance mechanisms and a comprehensive approach to regional mobile populations' dynamics will counteract destabilizing factors to the IGAD region as evidenced by transnational crimes including terrorism, drug trafficking, people smuggling and trafficking amongst others.

F) Swiss initiatives at multilateral level:

Switzerland engages on bi- and multilateral activities to counter trafficking. One of the priority themes for the current negotiations of the Global Compact on Safe, Orderly and Regular Migration is trafficking in persons.

Switzerland is engaged in the frame of the UNTOC States Parties Conference in the clarification of the definition of trafficking in the Palermo Protocol and supports the revision of the Model Law and Guidelines to the Trafficking Protocol. This piece of standard development work fosters effective implementation of the Palermo Convention.

- OSZE: Prevention of Trafficking in Human Beings in Supply Chains Through Government Practice and Measures"; 1.1.2016 – 31.12.2019 (EUR 90'000): The MFA supports the Office of the OSCE Special Representative and Coordinator to Combat Trafficking in Human Beings in the multi-year project "Prevention of trafficking in human beings in supply chains through government practices and measures". The aim of the project is the development of model guidelines for the prevention of labour exploitation and THB in public procurement and supply chains of governments in the OSCE region. In 2018 measures will also target the procurement in international organisations.
- Model Guidelines - <https://www.osce.org/secretariat/371771>
- Compendium of Resources - <https://www.osce.org/secretariat/375910>

Switzerland supports an initiative by the Special Rapporteur on Trafficking in Persons, especially Women and Children that – in cooperation with private companies - aims at the prevention of trafficking in supply chains.

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.

The prosecution authorities can initiate and co-ordinate measures in Switzerland or abroad with the competent authorities via the Operations Centre at any time (round the clock). The network of contacts and direct contact via the Europol collaborative platform for facilitating investigations co-operation and Interpol's group of experts, which forms part of Fedpol and its specialised commissariat, are also useful tools. Measures may involve outreach, dialogue or preventive interviews but may also entail access to care or shelter via NGOs or local victim protection agencies, or possibly operational matters such as the carrying out of specific checks.

Moreover, the police have a duty to protect the life and integrity of persons under threat in Switzerland.

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?

Since the beginning of 2010, the Swiss police have had a national alert system enabling them to publish information on child abductions immediately throughout the country.

The cantonal prosecution authorities decide whether to trigger the alert and are responsible for both the content of the announcement and the timing of its publication. Cantonal police forces can decide to trigger an alert at any time. They pass on the information to be sent out to Fedpol's Operations Centre (CE Fedpol), which deploys its internal joint command staff and implements the operational phases. CE Fedpol drafts the text of the alert in German, French, Italian and English and forwards it to the different convention partners: television, radio, railways, airports, the Federal Roads Office (OFROU) and press

agencies. At the same time CE Fedpol has the task of launching police searches at international level, while the Fedpol call centre is set up to receive information passed on by the public.

The following conditions must all be met for an alarm to be triggered:

- it is concretely established that a minor has been abducted or there is well-founded suspicion that an abduction has taken place;
- there are grounds for assuming that there is a serious danger to the abducted person's physical, sexual or mental integrity;
- there is sufficient reliable information to suppose that the perpetrators and/or the victim can be found after the alarm has been triggered.

Further information may be obtained by prior request during the evaluation visit.

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.

At the level of national co-ordination, three NGOs (FIZ, Cœur des Grottes and ECPAT Switzerland) participate in the co-ordination platform. All the measures in the National Action Plan 2017-2020 were devised and discussed within the framework of this platform, with the active involvement of the three NGOs. The IOM office in Bern also takes part in the co-ordination platform.

At cantonal level, most of the anti-trafficking cantonal round tables – which steer the cantonal anti-trafficking co-operation mechanisms - incorporate the local NGOs specialising in or directly concerned by action against trafficking in human beings. The KSMM recommends incorporating public and private victim assistance bodies which actually care for trafficking victims in the canton, as well as specialised victim assistance bodies and trade unions. However, it is for the cantons concerned to decide on the composition of their round tables.

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

A) Bilateral agreements:

Bilateral agreements on police co-operation: Certain agreements on police co-operation entered into by Switzerland contain clauses on trafficking in human beings as a form of crime. The following agreements contain such clauses:

- Agreement of 21 September 2005 between the Swiss Federal Council and the Council of Ministers of the Republic of Albania on police co-operation in combating crime (RS 0.360.123.1), Art. 2 para. 1 indent c;
- Agreement of 24 April 2007 between the Swiss Confederation and Bosnia and Herzegovina on police co-operation in combating crime (RS 0.360.191.1), Art. 2 para. 1 indent c;
- Agreement of 9 October 2007 between the Swiss Federal Council and the Government of the French Republic on transfrontier co-operation in the judicial, police and customs spheres (RS 0.360.349.1), appendices 1 and 2;
- Agreement of 5 February 1999 between the Swiss Federal Council and the Government of the Republic of Hungary on co-operation in combating crime (RS 0.360.418.1), Art. 1 para. 1 indent e;

- Agreement of 23 May 2005 between the Swiss Confederation and the Republic of Latvia on police co-operation in combating crime (RS 0.360.487.1), Art.2 indent c;
- Agreement of 20 September 2005 between the Swiss Confederation and the Republic of Macedonia on police co-operation in combating crime (RS 0.360.520.1), Art. 2 indent c;
- Agreement of 19 September 2005 between the Swiss Confederation and Romania on co-operation in combating terrorism, organised crime, illegal trafficking in drugs, psychotropic substances and precursors, and other transnational offences (RS 0.360.663.1), Art. 2 para. 1 indent d;
- Agreement of 30 June 2009 between the Swiss Confederation and the Republic of Serbia on police co-operation in combating crime (RS 0.360.682.1), Art. 2 para. 1 indent c;
- Agreement of 27 July 2004 between the Swiss Confederation and the Republic of Slovenia on co-operation in combating crime (RS 0.360.691.1), Art. 2 indent f;
- Agreement of 31 May 2005 between the Swiss Confederation and the Czech Republic on police co-operation in combating criminal offences (RS 0.360.743.1), Art. 2 indent d;
- Agreement of 14 October 2013 on police and customs co-operation between the Swiss Federal Council and the Government of the Republic of Italy (RS 0.360.454.1), Art. 5 para. 1 indent e;
- Agreement of 6 November 2013 between the Swiss Federal Council and the Government of the Republic of Kosovo on police co-operation in combating crime (RS 0.360.475.1), Art. 3.

In addition to these legal bases, Fedpol has a network of ten police attachés stationed abroad. Where their stationing is not expressly mentioned in an agreement on police co-operation, it is based on an ad hoc stationing agreement. They support the Swiss prosecution authorities in combating transfrontier crime, including trafficking in human beings. It should also be pointed out that twenty foreign law enforcement agencies have police and customs attachés stationed in Switzerland, through primary and secondary accreditations, further facilitating bilateral co-operation in action against trafficking in human beings. Finally, reinforced collaboration with the Federal Customs Administration (AFD) has been ongoing since 1 January 2017, with police attachés authorised to process cases normally coming under customs and border police and, inversely, Fedpol may request AFD attachés, of whom there are four stationed abroad, to handle criminal investigations cases. This operational synergy of the Fedpol-AFD attaché networks enables federal and cantonal prosecution and security authorities to benefit from a larger network of contacts abroad and, therefore, to combat trafficking in human beings more effectively.

B) Multilateral agreements:

Europe:

- Council of Europe:

Council of Europe Convention on Action against Trafficking in Human Beings (Convention on Action against Trafficking in Human Beings; RS 0.311.543), concluded in Warsaw on 16 May 2005, with entry into force in respect of Switzerland on 1 April 2013.

Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (RS 0.311.40), concluded in Lanzarote on 25 October 2007, with entry into force in respect of Switzerland on 1 July 2014

- European Police Office (Europol): Agreement of 24 September 2004 between the Swiss Confederation and the European Police Office (RS 0.362.2) Art. 3 para. 1 indent d.

- European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and its Second additional Protocol;

- European Convention on Extradition and its two additional Protocols.

Worldwide:

United Nations:

United Nations Convention against Transnational Organised Crime (RS 0.311.54), concluded in New York on 15 November 2000, with entry into force in respect of Switzerland on 26 November 2006

Additional Protocol to the United Nations Convention against Transnational Organised Crime to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, with entry into force in respect of Switzerland on 26 November 2006 (RS 0.311.542).

Convention concerning Forced or Compulsory Labour (No.29), (RS 0.822.713.9), adopted in Geneva on 28 June 1930, with entry into force in respect of Switzerland on 23 May 1941

P029 - Protocol of 2014 to the Forced Labour Convention, 1930, ratified on 28 September 2017 (entry into force in respect of Switzerland on 28 September 2018)

Convention on the Rights of the Child (RS 0.107), concluded in New York on 20 November 1989, with entry into force in respect of Switzerland on 26 March 1997, particularly Art. 35

Optional Protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography (RS 0.107.2), concluded in New York on 25 May 2000, with entry into force in respect of Switzerland on 19 October 2006

In addition, Switzerland is bound by other international conventions containing provisions against THB, exploitation or slavery (eg **Convention for the protection of human rights and fundamental freedoms** (ECHR, RS 0.101), **International Covenant on civil and political rights** (PIDCP, RS 0.103.2), **Convention on the elimination of all forms of discrimination against women** (CEDEF, RS 0.108) etc.

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

The State Secretariat for Migration (SEM) follows an established practice in cases of sexual exploitation. Where the asylum seeker cumulatively meets the criteria for being regarded as a refugee as set out in Art. 3 of the Swiss law on asylum, the SEM must consider why the country of origin is unable and/or refuses to protect the asylum seeker. If protection is not granted in the country of origin for social or traditional reasons or owing to customs and on a discriminatory basis (on grounds of gender), refugee status is granted. If the State of origin does not protect the asylum seeker because the State has no interest in prosecuting trafficking in human beings in general, refugee status is not granted and the asylum request is turned down. If the aforementioned refugee status criteria are not fulfilled and there are other reasons hampering enforcement in the country of origin (medical reasons, social or financial reintegration etc), subsidiary protection is granted:

If a person's case is not extremely serious but their removal cannot be reasonably demanded because of the threat from the perpetrators of the trafficking offence in the country of origin or because there are other obstacles to them being sent back, the SEM may order temporary admission at the request of the competent migration service (Art. 83 of the Federal Law on Foreigners (LEtr) and Art. 36 para. 6 of the OASA). The foreigner is not entitled to lodge such an application.

Under Art. 83 of the LEtr, enforcement is not possible when the foreigner cannot be sent back to their own State of origin, the State they travelled from or a third State (para. 2); enforcement is not permitted if sending them back to their own State of origin, the State they travelled from or a third State is contrary to Switzerland's obligations under international law (para. 3 of Art. 3 of the ECHR; see also

ATF 121 II 300). Furthermore, enforcement cannot be reasonably demanded where removal or expulsion of the foreigner specifically puts them in danger (para. 4).

D. Final questions

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

A) Confederation

Federal Department of Economic Affairs, Education and Research (DEFR):

- State Secretariat for Economic Affairs (SECO)

Federal Department of Foreign Affairs (DFAE):

- Consular Directorate (DC)
- Directorate of Development and Co-operation (DDC)
- Directorate of Political Affairs, Human Security Division (DSH)

Federal Department of Finance (DFF):

- Border guard corps (CGFR)

Federal Department of the Interior (DFI):

- Federal Office of Equality between women and men – BFEG
- Federal Office of Public Health (OFSP)
- Federal Office of Statistics (OFS)

Federal Department of Justice and Police (DFJP):

- Federal Office of Police (Fedpol)
- Federal Office of Justice (OFJ)
- State Secretariat for Migration (SEM)

B) Cantons

- Association of Cantonal Migration Authorities (ASM)
- Conference of Swiss Cantonal Police Commanders (CCPCS)
- Conference of Cantonal Directors of Social Affairs (CDAS)
- Conference for the Protection of Minors and Adults (COPMA)
- Swiss Conference of Contact Persons of the LAVI (CSOL-LAVI)
- Latin Switzerland Mission against THB

- Co-operation mechanism of Bern canton
- Co-operation mechanism of Geneva canton
- Co-operation mechanism of Ticino canton
- Co-operation mechanism of Vaud canton

- Public prosecutor's office of Basel-Country canton
- Public prosecutor's office of Bern canton
- Public prosecutor's office of St-Gallen canton
- Public prosecutor's office of Zurich canton

C) Organisations

- International Organization for Migration (IOM)

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

Executive Secretariat of the Swiss Co-ordination Unit against Trafficking in Persons and Smuggling of Migrants (KSMM), Federal Office of Police (Fedpol)

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

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 (with breakdown by sex, age, nationality, form of exploitation, internal or transnational trafficking, and body which identified them).

Number of victims logged by police in connection with trafficking in human beings offences (Art. 182 of the Criminal Code) - Police statistics on crime:

YEAR	Tot Victims	AGE													Sex				Statut					
		<10	10-14	15-17	18-19	20-24	25-29	30-34	35-39	40-49	50-59	60-69	70-99	N/A	M	F	Per mor	N/A	Tot	PR F	Asile I	Asile II	D	SN
2010	46	0	1	5	7	15	10	7	0	1	0	0	0	0	6	40	0	0	46	6	1	0	34	5
2011	36	0	0	1	4	9	11	9	2	0	0	0	0	0	3	33	0	0	36	6	0	0	28	2
2012	60	0	0	1	7	12	15	16	6	3	0	0	0	0	2	58	0	0	60	6	2	0	50	2
2013	42	0	1	2	1	10	13	5	6	3	1	0	0	0	5	37	0	0	42	5	2	0	29	6
2014	35	1	0	1	2	9	8	6	5	3	0	0	0	0	9	26	0	0	34	1	4	0	28	1
2015	47	0	1	1	6	15	10	11	3	0	0	0	0	0	2	45	0	0	46	4	2	1	39	0
2016	90	0	0	3	8	15	26	15	9	12	2	0	0	0	26	54	0	0	90	6	4	1	79	0
2017	108	0	1	3	9	29	26	19	13	7	1	0	0	0	29	79	0	0	108	10	2	1	95	0

Note on status of foreigners:

Population of permanently resident foreigners (Etr. résid.): – stay permit (register B) – residence permission (register C) – stay permit allowing professional activity (diplomats, international civil servants, register Ci);

Asylum seekers (Etr. Asile I): – foreigners admitted temporarily (register F) – asylum seekers (register N) – persons requiring protection (register S);

Other foreigners (Etr. Divers): – short-stay permit (register L) – border worker permit (register G) – tourist/lawful presence without stay permit or permission – asylum seeker with decision of non-consideration of application and refused asylum seeker with removal of welfare assistance (Etr. Asile II) – refoulement – unlawful presence – under registration procedure.

Number of presumed victims whom the competent authorities had “reasonable grounds” to believe were victims of THB (with breakdown by sex, age, nationality, form of exploitation, internal or transnational trafficking, and body which identified them). Please clarify whether this number includes victims who were formally identified or is an additional number.

N/A

The police crime statistics data (SPC) are provided in response to the previous paragraph on the understanding that these are the data that have been recorded by the police (beware of unreported figures).

Number of victims granted a recovery and reflection period (if possible, disaggregated by sex, age, nationality, form of exploitation).

For statistical reasons, the SEM needs annual data on the number of tolerated cases /confirmations and the number of permits issued to THB victims. For that reason, at the beginning of each calendar year, the relevant department asks the cantonal migration authorities to forward the figures. The cases are anonymised in the interests of victim protection, and this is why we are unable to provide details.

	2012	2013	2014	2015	2016	2017
Number of cases tolerated / confirmations (reflection period)	14	23	27	45	48	55

Number of victims who received assistance (if possible, disaggregated by sex, age, nationality, form of exploitation, internal or transnational trafficking).

GREATA: Assistance from a public authority

Year	Assistance	Sex			Age					Nationality			
		M	F	N/A	<18	18-29	30-64	65+	N/A	CHE	EU	OTHER	N/A
2010	169	4	164	1	12	111	46	0	0	6	110	43	10

2011	81	6	74	1	2	42	36	0	1	6	27	43	5
2012	116	5	100	11	15	57	43	0	1	8	46	45	17
2013	190	16	173	1	32	91	64	2	1	47	62	66	15
2014	145	12	130	3	7	59	73	1	5	35	48	51	11
2015	111	7	103	1	2	59	48	0	2	10	51	43	7
2016	158	13	144	1	6	77	72	2	1	11	86	54	7

Records dated: 16.05.2017

Source: OFS - Statistique de l'aide aux victimes

Number of victims who were granted a residence permit, with an indication of the type of the permit and its duration (if possible, disaggregated by sex, age, nationality, form of exploitation).

	2012	2013	2014	2015	2016	2017
Number of short-stay permits issued to victims for the duration of the judicial proceedings	54	44	52	54	85	90
Number of stay permits issued in emergencies to victims at the end of the judicial proceedings	2	12	19	15	21	14

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

[Statistics analysis](#)

Number of victims who claimed compensation and who received compensation (if possible, disaggregated by sex, age, nationality, form of exploitation), with an indication of whether the compensation was provided by the perpetrator or the state, and the amount awarded.

GRETA: Compensation and moral reparation benefits – Trafficking in human beings

Year	N° of claims received	Positive Decisions	Sex		Age					Nationality		
			M	F	<18	18-29	30-44	45+	N/A	EU	Others	N/A
2010	6	1	1	5	0	3	2	1	0	4	0	2
2011	15	8	0	15	0	12	3	0	0	8	5	2
2012	13	12	0	13	0	8	4	0	1	9	3	1
2013	10	8	0	10	0	4	5	1	0	6	3	1
2014	16	14	0	16	0	9	7	0	0	16	0	0
2015	35	29	2	33	1	9	24	1	0	33	0	2
2016	23	19	1	22	0	9	13	0	1	21	0	2

Records dated: 16.05.2017

Source: OFS - Statistique de l'aide aux victimes

Number of victims repatriated to your country (if possible, disaggregated by sex, age, country of destination, form of exploitation).

Unfortunately, there is no information available from our side on this subject.

Number of victims repatriated from your country to another country (if possible, disaggregated by sex, age, nationality, form of exploitation).

Only the figures for victims who have voluntarily returned to the country of origin with assistance for their return are available: total 158 people (excluding 10 children accompanying the victims) for the years 2010 - 2017.

SEX	F	M
2010	10	
2011	19	1
2012	24	
2013	28	1
2014	14	
2015	20	1
2016	22	2
2017	14	2
total	151	7

AGE	0 – 17	18 - 30	31 – 40	41 - 60
2010	1	1	6	2
2011		13	7	
2012		14	7	3
2013	1	21	4	3
2014		10	4	
2015		14	3	4
2016	1	21	1	1
2017		10	2	4
total	3	104	34	17

Year	Nationality								
	Hungary	Thailand	Romania	Dominican Republic	Brazil	Bulgaria	Nigeria	Serbia	Other*
2010	3	1		1	3				2
2011	4	8	3	1	3				1
2012	6	2	1	6	3	1			5
2013	11	3	7	1	1	2			4
2014	3	6	1		1		1		2
2015	9	5	2		1	1	1		2
2016	4	3	3	1		1	7	2	3
2017	3	3	3	1		1	1	1	3
total	43	31	20	11	12	6	10	3	22

* Countries of origin with a total of 1 - 2 victims having returned (2010 - 2017)

Year	Form of exploitation*		
	Sex	Labour	Mixt (sex/labour)
2010	9		1
2011	15	2	2
2012	16	6	1
2013	24	4	1
2014	12	2	
2015	16	2	2
2016	13	2	4
2017	9	4	1
total	114	22	12

*no cases of organ removal/ excluding: 10 people having suffered a trafficking attempt (with no indication of the form of exploitation)

Number of investigations into THB cases.

Human trafficking offences (Art. 182 of the Criminal Code) logged by the police - Police crime statistics:

2010	52
2011	45
2012	78
2013	61
2014	46
2015	58

2016	125
2017	125

Number of prosecutions of THB cases.

N/A

Number of convictions for THB resulting in penalties involving deprivation of liberty, with an indication of the duration of the penalty and whether effectively enforced or suspended.

Convictions for trafficking in human beings (Art. 192 of the Criminal Code) with prison sentences, by type of service and duration

	Duration custodial sentence	Duration suspended sentence
Custodial sentence	365	0
Custodial sentence	365	0
Partially suspended sentence	456	548
Partially suspended sentence	305	791
Partially suspended sentence	334	670
Partially suspended sentence	457	639
Partially suspended sentence	548	548
Suspended sentence	0	730
Suspended sentence	0	365
Suspended sentence	0	609

Criminal records dated: 30.4.2017

Source: Federal Office of Statistics – Criminal conviction statistics

Information service: 058 463 62 40, crime@bfs.admin.ch

Number of judgments resulting in the confiscation of assets.

N/A

Number of judgments resulting in the closure of a business or an establishment which was being used to carry out THB.

N/A

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

N/A