



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

GRETA(2018)18

Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Luxembourg

SECOND EVALUATION ROUND

Adopted 13 July 2018

Published 6 November 2018

This document is a translation of the original French version and may be subject to editorial changes.

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Secretariat of the Council of Europe Convention
on Action against Trafficking in Human Beings
(GRETA and Committee of the Parties)
Council of Europe
F-67075 Strasbourg Cedex
France

trafficking@coe.int

www.coe.int/en/web/anti-human-trafficking

Table of contents

Preamble	4
I. Introduction	5
II. Main developments in the implementation of the Convention by Luxembourg	7
1. Emerging trends in trafficking in human beings.....	7
2. Developments in the legal framework.....	7
3. Developments in the institutional framework	8
4. National action plan.....	8
5. Training of relevant professionals	9
6. Data collection and research	10
III. Article-by-article findings	12
1. Prevention of trafficking in human beings.....	12
a. Measures to raise awareness of THB (Article 5).....	12
b. Measures to prevent trafficking for the purpose of labour exploitation (Article 5).....	13
c. Measures to prevent trafficking in children (Article 5).....	14
d. Measures to prevent trafficking for the purpose of organ removal (Article 5).....	16
e. Measures to discourage demand (Article 6).....	17
f. Border measures (Article 7)	18
2. Measures to protect and promote the rights of victims, guaranteeing gender equality.....	18
a. Identification of victims of THB (Article 10)	18
b. Assistance measures (Article 12).....	21
c. Identification and assistance for child victims of THB (Articles 10 and 12).....	23
d. Protection of private life (Article 11)	26
e. Recovery and reflection period (Article 13).....	26
f. Residence permits (Article 14)	27
g. Compensation and legal redress (Article 15)	28
h. Repatriation and return of victims (Article 16)	29
3. Substantive criminal law	30
a. Criminalisation of trafficking in human beings (Article 18)	30
b. Criminalisation of the use of the services of a victim (Article 19)	33
c. Corporate liability (Article 22)	34
d. Non-punishment of victims of trafficking in human beings (Article 26).....	34
4. Investigation, prosecution and procedural law	35
a. Measures to ensure effective investigations (Articles 1, 27, 29).....	35
b. Protection of victims and witnesses (Article 28)	37
c. Jurisdiction (Article 31).....	39
5. International co-operation and co-operation with civil society.....	39
a. International co-operation (Articles 32 and 33).....	39
b. Co-operation with civil society (Article 35).....	40
IV. Conclusions	41
Appendix: List of public bodies, intergovernmental organisations non-governmental organisations and other civil society actors with which GRETA held consultations	46
Government's comments.....	47

Preamble

The Group of Experts on Action against Trafficking in Human Beings (GRETA) has been set up pursuant to Article 36 of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention"), which entered into force on 1 February 2008. GRETA is responsible for monitoring the implementation of the Convention by the parties and for drawing up reports evaluating the measures taken by each party.

GRETA is composed of 15 independent and impartial experts coming from a variety of backgrounds, who have been selected on the basis of their professional experience in the areas covered by the Convention. The term of office of GRETA members is four years, renewable once.

GRETA's country-by-country monitoring deals with all parties to the Convention on an equal footing. In accordance with Article 38, paragraph 1, of the Convention, GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions on which the evaluation procedure is to be based and defines the most appropriate means to carry out the evaluation. GRETA adopts a questionnaire for each evaluation round which serves as the basis for the evaluation and is addressed to all parties.

The first evaluation round was launched in February 2010 and the questionnaire for this round was sent to all parties according to a timetable adopted by GRETA, which reflected the time of entry into force of the Convention for each party. GRETA organised country visits to all parties in order to collect additional information and have direct meetings with relevant actors, both governmental and non-governmental. By the beginning of 2014, most of the parties had been or were being evaluated for the first time, whilst the number of parties to the Convention continues to grow.

GRETA decided to launch the second evaluation round of the Convention on 15 May 2014. Following the first round of monitoring, which provided an overview of the implementation of the Convention by each party, GRETA has decided to examine during this new 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 the second evaluation round. In addition, particular attention is paid to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking. 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.

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

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

I. Introduction

1. The first evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") by Luxembourg took place in 2012-2013. Following the receipt of Luxembourg's reply to GRETA's first questionnaire on 5 June 2012, a country evaluation visit was organised from 11 to 14 December 2012. The draft report on Luxembourg was examined at GRETA's 17th meeting (1 to 5 July 2013) and the final report was adopted at GRETA's 18th meeting (4 to 8 November 2013). Following the receipt of the Luxembourg authorities' comments, GRETA's final report was published on 15 January 2014.¹

2. In its first evaluation report on Luxembourg, GRETA noted that the Luxembourg authorities had established a legislative framework to prevent and combat trafficking in human beings. Nonetheless, GRETA called on the Luxembourg authorities to adopt a national action plan to tackle the different forms of trafficking and to place a stronger focus on trafficking for the purpose of labour exploitation. GRETA also considered that further measures were necessary to involve civil society in the framing and implementation of anti-trafficking policy, particularly where prevention measures were concerned. Furthermore, GRETA stressed the importance of adopting a multidisciplinary approach to identification, by involving stakeholders other than the police, in particular specialised NGOs and the Labour Inspectorate. GRETA also emphasised that victim status and assistance should not be dependent on the opening of criminal prosecutions. Moreover, GRETA urged the authorities to provide for specific assistance for child victims of trafficking. GRETA also urged the Luxembourg authorities to strengthen protection for trafficking victims returning to their country of origin, including through risk assessment.

3. On the basis of GRETA's report, the Committee of the Parties to the Convention adopted a recommendation to the Luxembourg authorities on 7 February 2014, requesting them to report back on the measures taken to comply with this recommendation by 7 February 2016.² The report submitted by the Luxembourg authorities was considered at the 18th meeting of the Committee of the Parties (23 May 2016). The Committee of the Parties decided to transmit the authorities' report to GRETA for consideration and to make it public.³

4. On 7 January 2016, GRETA launched the second round of evaluation of the Convention in respect of Luxembourg by sending the questionnaire for this round to the Luxembourg authorities. The deadline for replying to the questionnaire was 7 June 2016. The authorities submitted their reply on 13 June 2016.

5. When preparing the present report, GRETA used the reply to the questionnaire by the Luxembourg authorities, the above-mentioned report submitted by them to the Committee of the Parties and information received from civil society. An evaluation visit to Luxembourg took place from 2 to 5 October 2017, in order to hold meetings with relevant governmental and non-governmental actors, collect additional information and examine the practical implementation of adopted measures. The visit was carried out by a delegation composed of:

- Ms Alina Braşoveanu, member of GRETA;
- Ms Nathalie Martin, member of GRETA;
- Mr Markus Lehner, administrator in the Secretariat of the Convention.

¹ Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Luxembourg: <http://rm.coe.int/168078d263>

² Recommendation CP(2014)5 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Luxembourg: <http://rm.coe.int/1680631e40>

³ <http://rm.coe.int/168078fa22>

6. During the visit, the GRETA delegation met Mr Félix Braz, Minister of Justice, as well as representatives of the ministries of Justice and Interior Security, the Ministry of Equal Opportunities, the Ministry of National Education, Children and Youth, the Ministry of Foreign and European Affairs, the Ministry of Health, the Public Prosecution Service, the Criminal Investigations Police Department, the Mines and Labour Inspectorate, and the Reception and Integration Office. A meeting was also held with investigating judges at the Luxembourg District Court.
7. In addition, consultations were held with the Advisory Committee on Human Rights (*Commission consultative des Droits de l'Homme* - CCDH) and its President, Mr Gilbert Pregno, designated as National Rapporteur on trafficking in human beings, the Ombudsperson, Ms Claudia Monti, and the President of the Ombuds-committee for the Rights of the Child, Mr René Schlechter.
8. The delegation also met members of the Legal Affairs Committee of the Chamber of Deputies, chaired by Ms Viviane Loschetter, and members of the Delegation of the Chamber of Deputies to the Parliamentary Assembly of the Council of Europe, chaired by Ms Anne Brasseur.
9. During its visit, the GRETA delegation visited a reception centre for girls in a situation of distress managed by an NGO, which can take in trafficking victims, and an accommodation facility for male victims of trafficking. The delegation also visited the detention centre for foreigners in Findel, as well as a reception centre for asylum seekers and a shelter for unaccompanied children in the city of Luxembourg.
10. The GRETA delegation held separate meetings with representatives of non-governmental organisations, trade unions and lawyers. In addition, the delegation met representatives of the local branch of the International Organization for Migration (IOM).
11. The list of national authorities, NGOs and other organisations consulted by the delegation is appended to this report. GRETA is grateful for the information provided by them.
12. GRETA wishes to place on record the excellent co-operation provided by the Luxembourg authorities for the preparation of the second evaluation visit, and particularly by the contact person designated by the Luxembourg authorities to liaise with GRETA, Ms Claudine Konsbruck, Government Advisor 1st class in the Directorate for Criminal and Judicial Affairs of the Ministry of Justice, as well as Ms Tara Desorbay, Administrator in the same department.
13. The draft version of the present report was approved by GRETA at its 31st meeting (19-23 March 2017) and was submitted to the Luxembourg authorities for comment on 13 April 2018. The Luxembourg authorities' comments were received on 12 June 2018 and were taken into account by GRETA when adopting the final report at its 32nd meeting (9-13 July 2018). The report covers the situation up to 13 July 2018; developments since that date are not taken into account in the following analysis and conclusions. The conclusions summarise the progress made since the first report, the issues which require immediate action and the other areas where further action is needed (see pages 42-45).

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

1. Emerging trends in trafficking in human beings

14. Luxembourg continues to be country of destination and transit for people subjected to trafficking in human beings (THB). According to statistics provided by the authorities, the number of trafficking victims identified by the police and specialised NGOs was 65 in the period 2013-2017: 10 in 2013, 12 in 2014, 7 in 2015, 20 in 2016 and 16 in 2017. The majority of identified victims were women (42), followed by men (14) and children (9). In the period 2013-2017, most of the victims were subjected to trafficking for sexual exploitation (42); the second most common form of exploitation was labour exploitation (24). There were also cases of exploitation of forced begging (4) and forced criminality (2); further, two cases of sale of children were registered.

15. According to the statistics provided by the authorities, in the period 2013-2017 the largest numbers of victims were nationals of Romania (12), Brazil (9), and Albania (8), followed by China (4) and the Republic of Moldova (3). The authorities also identified a victim from Luxembourg.

16. The authorities have indicated that the most frequent forms of trafficking are sexual exploitation (in cabarets, champagne bars, street prostitution and prostitution in flats) and labour exploitation (restaurants, construction).

2. Developments in the legal framework

17. There have been a number of legislative developments relevant to action against trafficking in human beings since GRETA's first evaluation. The Law of 9 April 2014 Reinforcing the Rights of Victims of Trafficking in Human Beings, transposing European Union Directive 2011/36/EU into Luxembourg law, added forced begging to the list of forms of trafficking under the offence of trafficking stipulated in Article 382-1 of the Criminal Code (CC) and introduced the offence of the sale of children in a new paragraph 4 of that article.

18. The same law amended Article 92, paragraph 1, of the amended Law of 29 August 2008 on the Free Movement of Persons and Immigration in order to clarify that the granting of assistance is not subject to the victim's willingness to co-operate in the framework of the investigation and that the requirement of co-operation applies solely to formalities for issuing stay permits.

19. The Law of 9 April 2014 also amended Article 1 of the amended Law of 12 March 1984 on the Compensation of Certain Victims of Corporal Harm Resulting from an Offence. This amendment added Article 382-1 among the articles stipulating that damage to physical or mental integrity is presumed where the victim is a child.

20. Finally, the Grand-ducal Regulation of 11 September 2014 specified the conditions and procedures for the provision of assistance measures within the framework of the amended Law of 8 May 2009 on Assistance to and Protection and Security of Victims of Trafficking in Human Beings. It also introduced assistance services for THB victims into the amended Grand-ducal Regulation of 19 March 1999 concerning government-approved contracting of service management agencies working in the interests of gender equality.

21. The above-mentioned measures are examined in greater detail below (see paragraphs 133-135 and 143-148).

3. Developments in the institutional framework

22. There have also been developments in the institutional framework for action against trafficking in human beings since GRETA's first evaluation. In accordance with the Law of 8 May 2009 on Assistance to and Protection and Security of Victims of Trafficking in Human Beings, the Grand-ducal Regulation of 10 March 2014 on the composition, organisation and functioning of the Committee for monitoring action against trafficking in human beings established an Inter-ministerial Committee tasked with co-ordinating activities to prevent and evaluate the phenomenon of trafficking in human beings. It replaced the Inter-ministerial Committee previously responsible for co-ordinating anti-trafficking action on an informal basis. The Ministerial Order of 18 July 2014 appointing the members of the Committee was published in the Official Gazette Mémorial B No. 81 of 4 August 2014.

23. The Committee brings together both representatives of the state bodies concerned and representatives of the judicial and police authorities. Civil society is represented by the victim assistance services officially contracted by the Ministry of Equal Opportunities, namely the SAVTEH (*Service d'Assistance aux Victimes de la Traite des Êtres Humains*) of the NGO *Femmes en détresse* (FED) and the COTEH (Ozanam Centre for THB victims) of the Foundation *Maison de la Porte Ouverte* (FMPO), which are members of the Committee for monitoring action against trafficking in human beings, in accordance with the Ministerial Order of 18 July 2014.

24. The Committee for monitoring action against trafficking in human beings met six times in 2016 and twice in 2017. For 2018, it has its own annual budget set at 15 000 Euros.

25. Under the Law of 9 April 2014 Reinforcing the Rights of Victims of Trafficking in Human Beings, the Advisory Committee on Human Rights (CCDH) was designated National Rapporteur on trafficking in human beings.⁴ The National Rapporteur identifies trends in trafficking in human beings, assesses the results of initiatives to combat the phenomenon and collects national statistics in close collaboration with the ministries concerned as well as civil society. The National Rapporteur produces reports at least once every two years and submits them to the Chamber of Deputies to keep it up to date on the situation. In March 2017, the CCDH published its first national report on trafficking in human beings.⁵ As National Rapporteur on trafficking in human beings, the CCDH is invited to attend the proceedings of the Committee for monitoring action against trafficking in human beings on a regular basis. GRETA welcomes the fact that the mandate of National Rapporteur on trafficking in human beings has been assigned to an independent authority, namely the CCDH.

4. National Action Plan

26. The National Action Plan against Trafficking in Human Beings was drawn up by the Committee for monitoring action against trafficking and endorsed by the Government Council on 21 December 2016. Its implementation is co-ordinated by the Ministry of Justice and the bodies tasked with its implementation are mainly the members of the Committee for monitoring action against trafficking. According to the authorities, the action plan is based, *inter alia*, on a number of recommendations made by GRETA in the first evaluation round.

27. The activities provided for in the National Action Plan focus on three priority areas: detection and protection of victims; prosecution and punishment of the perpetrators; and an active, effective and efficient policy for action against trafficking. Among other things, the plan provides for the finalisation of a roadmap setting out the National Referral Mechanism, measures facilitating the identification process, strengthening of victim status, arrangements for the accommodation and assistance of male victims and child victims, adequate training for the stakeholders concerned, and awareness raising for the general public and for those at risk, for example through information campaigns.

⁴ <https://ccdh.public.lu/fr/commission.html>

⁵ Available at: <https://ccdh.public.lu/fr/actualites/2017/03/rapport-traite.html>

28. While welcoming the adoption of the National Action Plan, GRETA notes that it does not provide details of the initiatives envisaged. The measures planned are described in abstract terms, with no indication of expected outcomes or a timetable for attaining the objectives set. Moreover, the action plan itself has no implementation timeframe and makes no provision for assessing its results.⁶ According to the authorities, there are several resources available to implement the plan. In financial terms, the Committee for monitoring action against trafficking in human beings now has its own annual budget (see paragraph 24) with which, for example, the awareness-raising campaign launched at the end of 2016 was continued in 2017 and 2018. **GRETA invites the Luxembourg authorities to introduce a system of independent assessment of the National Action Plan implementation, in order to measure the impact of the activities carried out and plan future measures and policies for action against trafficking in human beings.**

5. Training of relevant professionals

29. In its first report, GRETA considered that the Luxembourg authorities should ensure that all the professionals concerned receive periodic training to improve the detection of presumed THB victims, the identification of victims and the assistance provided to them, as well as compensation procedures.

30. Since 2016, the Institute of Public Administration (INAP) has provided basic training on trafficking in human beings. The INAP provides basic and further training to the state and municipal administrations and services. The training is available to any interested official concerned by the topic as well as NGOs. The main aim of the basic training is to inform the target audience and build its awareness of the phenomenon of THB. The classes are taught by a representative of the Ministry of Justice and a representative of the Ministry of Equal Opportunities, together with a representative of the criminal investigation police and representatives of the two victim assistance services. The first training session took place on 9 December 2016, followed by four more in 2017, on 30 January, 13 March, 22 May and 19 and 20 June (one exclusively for the Refugees service of the Directorate of Immigration). A training session was provided on 27 March 2017 at the "DropIn" Service of the Luxembourg Red Cross, which is open to all sex workers. According to the authorities, the basic training is very popular and the sessions are always fully booked. Additional training sessions were held on 16-17 October 2017, 19-20 March 2018 and 18-19 June 2018.

31. The statistics supplied during the GRETA visit in October 2017 indicate that training participants have come from various administrative departments (78 participants), NGOs providing officially contracted services (26), municipalities (14), ministries (3) and the health sector. The administrative departments represented included the Directorate of Immigration (23), the detention centre for irregular migrants (14), the Luxembourg Reception and Integration Office (14), Customs (11), the Mines and Labour Inspectorate (7), the police (1) and other departments (8). The authorities noted that, as of June 2018, 25 officers of the Refugee Service (Immigration Directorate) had received basic training in human trafficking and five officers of the same service had received in-depth training (see paragraph 32). Four staff members of the Refugee Service have registered for the next basic training session. At the same time, with regard to the Labour and Mines Inspectorate, 18 labour inspectors participated in basic training in 2017 and all newly recruited trainee inspectors will also participate in such training.

⁶ See also the CCDH's report on trafficking in human beings in Luxembourg, 2014-2016, page 50: "The rapporteur nevertheless regrets that the measures listed in the action plan (...) are not accompanied by a programme of more tangible actions (...). Most of the measures are formulated in the conditional tense and, above all, none of them has an allocated timeframe. (...) It specifies neither the means nor the procedures for implementation to attain the objectives nor the manner in which the results will be evaluated."

32. Three training sessions on "Approaching and assisting victims of trafficking in human beings, the worker's attitude and understanding the phenomenon" were organised by the Ministry of Equal opportunities (MEGA) on 8-9 May 2017, 3-4 July 2017 and 6-7 November 2017. The 36 participants represented NGOs providing officially contracted services to victims of THB (23), ministries (5), the Directorate of Immigration (3) and the police (5). The authorities informed GRETA that INAP had integrated these training sessions into its training programme and that the next training would take place on 5-6 July 2018.

33. In addition, three training courses on THB for criminal investigations police officers were scheduled in 2017, on 4 May, 5 October and 19 October. The authorities stated that training for police officers is run every three to four years at the Police College or through specialisation training in trafficking organised by the German Federal Criminal Police Office (BKA). This training covers, *inter alia*, the definition of trafficking in human beings, the different forms of trafficking, the methods used by traffickers, the interactions between the different stakeholders, the identification of victims (detection indicators) and contact with victims. In addition, the investigators of the Organised Crime unit regularly participate in training sessions and conferences on this topic.

34. As Luxembourg has no training institute for the judiciary, agreements have been signed by the Ministry of Justice with the French National College for the Judiciary (ENM) and the Belgian Judicial Training Institute. According to the authorities, since 2014 practically all the specialised members of the judiciary concerned, including judges, have received specific training at the ENM in Paris.

35. According to the authorities, NGO staff providing services to victims of THB regularly undergo training abroad. Furthermore, the NGO *Femmes en détresse* organised training on identifying and assisting for trafficking victims in 2013 (run by the German NGO KOK, which co-ordinates the activities of counselling centres for victims of THB in Germany) and 2015 (run by the French NGO ALC, which co-ordinates the French national reception system).

36. Under Luxembourg's Presidency of the Benelux Union in 2016, two days of training were provided for the police, the judiciary, social and labour inspectorates and NGOs specialising in working with trafficking victims. The first of these, on receiving, assisting and protecting victims, took place on 29 September 2016. The second session was held on 17 October and focused on Benelux co-ordination and co-operation in the field of trafficking in human beings. In November 2018, the Belgian Presidency of the Benelux Union will organise a seminar geared to raising awareness among hospital staff.

37. GRETA welcomes the Luxembourg authorities' efforts to train officials specialising in the area of trafficking as well as NGOs providing assistance to victims of THB. **GRETA considers that the Luxembourg authorities should pursue and reinforce these efforts. The training should be aimed at members of law enforcement agencies, judges, prosecutors, labour inspectors, lawyers, staff working in shelters for trafficking victims, staff involved in children's welfare, social workers, staff working in refugee reception centres and the detention centre for irregular migrants, diplomatic and consular staff, health-care professionals and staff of trade union organisations. Training programmes should be devised with a view to building those professionals' knowledge and capacities, by enabling them to identify, assist and protect trafficking victims, to help victims obtain compensation and to ensure that offences linked to trafficking in human beings are effectively investigated and prosecuted.**

6. Data collection and research

38. In its first evaluation report, GRETA urged the Luxembourg authorities, to render operational, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical information from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination).

39. As already mentioned in GRETA's first report, statistical data on THB are gathered by the police, the Public Prosecutor's Office and the NGOs officially contracted to provide services to THB. Under Article 11 of the Law of 8 May 2009 on Assistance to and Protection and Security of Victims of Trafficking in Human Beings, the Committee for monitoring action against trafficking in human beings receives all relevant data on trafficking each year from the police, the Public Prosecutor's Office, the criminal courts, the assistance services, the officially contracted NGOs and the state bodies involved in preventing and combating trafficking in human beings.

40. In its reply to the Recommendation of the Committee of the Parties, the Luxembourg government stated that there was a problem of correlation between the statistics collected by the NGOs, the police and other bodies. GRETA refers in this context to the report prepared by the National Rapporteur, who stressed that "owing to gaps in statistics, the pool of data submitted provides only a partial and, therefore, inaccurate view of the real situation".⁷ GRETA notes that incomplete or inaccurate statistics provide only partial knowledge of the reality of trafficking on the national territory and action against it. Improved knowledge would help to devise a more relevant and effective national action strategy.

41. The Luxembourg authorities have referred to efforts being made to improve the collection of statistical data. An analyst has established a more comprehensive data collection system containing, as far as possible, all relevant data, in particular that requested by the National Rapporteur. Statistics are collected and updated more regularly and exchange between the different main stakeholders is systematic.

42. For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA considers that the Luxembourg authorities should continue their efforts to develop and manage a comprehensive and coherent statistical system on trafficking in human beings, compiling reliable statistical data on measures to protect and promote the rights of victims and on investigations, prosecutions and court decisions handed down in trafficking cases. The statistics on victims should be collected from all the main actors and allow disaggregation in terms of sex, age, type of exploitation and country of origin and/or destination. The setting up of this system should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including where NGOs working with trafficking victims are asked to provide information for the national database.

43. In its first evaluation report, GRETA considered that the Luxembourg authorities should carry out and fund research into THB issues, in order to use the research results to devise future anti-trafficking measures.

44. GRETA is concerned that no research into THB in Luxembourg has been carried out since the first evaluation. The National Action Plan envisages activities in this area, but the wording used in the plan remains very vague.⁸

45. GRETA considers that the Luxembourg authorities should carry out and fund research into issues related to trafficking in human beings as an evidence base for future policy measures. Areas in which research is needed include trafficking for the purpose of labour exploitation (particularly in the construction and catering sectors and domestic work) and trafficking in children, including children in street situations.

⁷ CCDH, *Rapport sur la traite des êtres humains au Luxembourg*, page 55. On this topic, see also pages 12, 17, 36 of the report.

⁸ See measure III C-1 of the National Action Plan: "consultations on the conducting of research work".

III. Article-by-article findings

1. Prevention of trafficking in human beings

a. Measures to raise awareness of THB (Article 5)

46. In its first report, GRETA invited the Luxembourg authorities to ensure that NGOs are granted without delay an official authorisation that would enable them to expand their awareness-raising efforts against trafficking. The authorities have indicated that all structures contracted to provide services to victims (SAVTEH, COTEH, facilities for women in situation of distress) can, at any time, carry out awareness-raising activities on THB without requiring specific approval.

47. An information and awareness-raising campaign for the general public on the phenomenon of trafficking in human beings was run during the month of December 2016.⁹ The campaign, which had a budget of 95 000 euros, was organised by the Committee for monitoring action against trafficking in human beings. The emphasis was on an audio-visual media campaign, including radio spots, screenings in cinemas¹⁰ and a poster campaign¹¹ highlighting the different aspects of trafficking in human beings. The campaign was also given an internet presence¹² and featured on social media. The aim was to raise awareness among the general public and inform it of the different forms that trafficking in human beings can take, in order to make people more conscious of the phenomenon of trafficking in their day-to-day lives. The campaign was re-launched in July 2017 and continued in December 2017 and in May/June 2018, thanks to the budget allocated to the Committee for monitoring action against trafficking in human beings.

48. GRETA notes that the campaign's impact was not assessed, although the public relations agency hired to run it provided some statistics on visits to the website and social media pages. NGOs and other stakeholders were not involved in devising the campaign and were only allowed to participate in the choice of proposals from the different public relations agencies within the Committee for monitoring action against trafficking in human beings.

49. In 2014 an information brochure on the problem of THB was prepared by the Ministry of Justice.¹³ It explains the different forms of trafficking, provides details of the criminal sanctions applicable and informs the public of potential and detectable signs of trafficking. The brochure also contains information on the authorities to contact if a case of human trafficking is suspected. The authorities said that the brochure has been widely circulated via state administration offices, the airport, the train station, police departments and charities.

50. In addition, an information brochure on Benelux co-operation in the reception of trafficking victims was published at the end of 2015. According to the authorities, it has been circulated to the Police, the NGOs, the Prosecution Service and the members of the Committee for monitoring action against trafficking.¹⁴ The Luxembourg National Contact Point for the European Migration Network (EMN) has also published a brochure on "Identification of victims of trafficking in human beings during international protection and forced return procedures". The brochure was updated in 2017.¹⁵

⁹ http://www.mj.public.lu/actualites/2016/12/Campagne_Traite/index.html

¹⁰ <https://www.youtube.com/watch?v=dR2qjhNVVgk>

¹¹ <https://police.public.lu/content/dam/police/fr/aide-victimes/stoptraite/minj-traite-affiche-a2-lr.pdf>

¹² www.stoptraite.lu

¹³ http://www.mj.public.lu/formulaires/Broschure_VictimesDeLaTraiteDesEtresHumains2014.pdf

¹⁴ <http://www.benelux.int/fr/publications/publications/cooperation-benelux-en-vue-de-laccueil-des-vistimes-de-la-traite-des-etres-humains>

¹⁵ <https://www.emnluxembourg.lu/?p=2329>

51. In 2014, the Service providing assistance to trafficking victims (SAVTEH) produced an information leaflet for professionals in the social sector. This service also worked with a theatre group in 2014 to stage a play on trafficking in human beings.¹⁶ A brochure was distributed to the members of the audience and a conference was organised, with representatives of the Police, the Ministry of Justice and NGOs replying to questions on the topic.

52. GRETA welcomes the steps taken to raise public awareness of trafficking in human beings and considers that the Luxembourg authorities should pursue their efforts in this area. In future, the authorities should plan impact studies to ensure that their information and awareness-raising activities are effective and should also involve civil society in their organisation.

b. Measures to prevent trafficking for the purpose of labour exploitation (Article 5)

53. Where the prevention of trafficking for the purpose of labour exploitation is concerned, the authorities referred to provisions prohibiting the employment of third-country nationals illegally present on the territory, stipulated in Articles 572-1 to 573-5 of the Labour Code. One component of these rules is Article 572-5, paragraph 4, which punishes an employer using the work or services of a third-country national illegally present on the territory with the knowledge that the person is a victim of THB.

54. Beyond those regulations, no specific measure aimed at preventing THB for the purposes of forced labour or services has been adopted by the Ministry of Labour, Employment and the Social and Solidarity Economy (MTEESS) or by the Mines and Labour Inspectorate (ITM) within the framework of supervision of recruitment and temporary work agencies and of the supply chain.

55. Temporary agency work is regulated by Articles L.131-1 et seq. of the Labour Code. To exercise the activity of temporary work contractor, an authorisation from the Ministry of Labour, Employment and the Social and Solidarity Economy and the Ministry of the Economy is required. The temporary employment agency must be registered with the Trade and Companies Register of the Grand Duchy of Luxembourg. The person who will manage the temporary work agency must fulfil the conditions of qualification and good repute as defined in the Grand-ducal Regulation of 14 December 1994 implementing the provisions of Article 2 of the Act of 19 May 1994, regulating temporary work and the temporary loan of labour. Authorisations from the Ministry of Labour are granted for a period not exceeding 12 months. Any violation of the applicable law may result in the application of the sanctions provided for by law, as well as the withdrawal of the authorisation. The latter may also be revoked if the company evades the social and tax charges payable by employers, including VAT.

56. The authorities have stated that companies, and especially those following a corporate social responsibility policy, are supposed to refrain from working with individuals or entities found guilty of trafficking in human beings. This recommendation is to be incorporated into the corporate social responsibility guidelines of each company and furthermore included in Luxembourg's future national corporate social responsibility plan which, according to the authorities, is being finalised. Moreover, one conviction for THB is enough to cause the loss of good repute that is required for the licensing of an establishment.

¹⁶

<http://www.maskenada.lu/index.php?section=archiveN&sec1=itfelt>

57. Where labour inspections are concerned, the body responsible is the Mines and Labour Inspectorate (ITM). The managers of the Mines and Labour Inspectorate and other stakeholders informed GRETA of understaffing at the ITM, which prevented it from committing more resources to the proactive identification of THB victims. Currently, 22 labour inspectors are actively present in the field, which corresponds to a ratio of one inspector for 18 500 employees (the authorities noted that this is lower than the ratio of one labour inspector for 8 000 employees recommended by the International Labour Office (ILO) for highly industrialised countries). According to its managers, the ITM has difficulties in recruiting staff.¹⁷

58. **GRETA considers that Luxembourg should intensify its efforts to prevent trafficking for the purpose of labour exploitation, in particular by:**

- **continuing to raise awareness of THB for the purpose of labour exploitation and victims' rights among the officials concerned;**
- **expanding the terms of reference and resources of works inspectors, so that they can be actively involved in preventing human trafficking;**
- **more closely monitoring recruitment and temporary work agencies, as well as the supply chains;**
- **working closely with trade unions, civil society and the private sector to prevent trafficking in supply chains and strengthen the social responsibility of companies, drawing on the Guiding Principles on Business and Human Rights¹⁸ and Recommendation CM/Rec(2016)3 on human rights and business.¹⁹**

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

59. To date, activities within the national education system to raise awareness among children of the dangers of trafficking in human beings have been limited and the topic does not feature among the training modules taught by the Institute of Training and National Education for professionals working with children. However, those professionals may take part in the training provided by the INAP (see paragraph 30). According to the authorities, it is envisaged to collaborate with NGOs, in order to develop an educational kit for high school teachers with the aim of making students aware of the subject. The authorities also noted that the "Oxygène" information service of the NGO *Femmes en détresse* organises workshops to prevent violence and sexual abuse in schools.

60. According to the statistics of the European Migration Network (EMN),²⁰ 45 unaccompanied children requested asylum in Luxembourg in 2013, 30 in 2014, 105 in 2015 and 50 in 2016. Unaccompanied children applying for international protection are placed in shelters for such children. There have been three facilities in existence since 2016: the MINA run by the Elisabeth foundation in Troisvierges, the St Martin Jeunes shelter run by the Maison de la Porte Ouverte Foundation in Luxembourg, and the Villa Nia Domo operated by the Red Cross in Strassen. According to the Ombuds-Committee for the rights of the child (ORK), young people aged over 16 years are initially in facilities run by the OLAI (see paragraph 62), under the Ministry of Family Affairs, Integration and the Greater Region. The authorities stated that the staff of the shelters did not have any THB-related training, but it would be ensured that they would have access to such training as a matter of priority. Furthermore, the authorities noted that the OLAI, in its co-operation agreements with its Red Cross and Caritas partners concerning the reception of applicants for international protection in 2018, makes training in the field of trafficking in human beings compulsory for the personnel in charge of reception, supervision (educational and psychological) and social follow-up.

¹⁷ See also 2016 Annual Report of the Mines and Labour Inspectorate, pages 17-21, 78-79, available at: <http://www.itm.lu/home/itm/rapport-annuel.html>

¹⁸ http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

¹⁹ [Recommendation CM/Rec\(2016\)3](#) of the Committee of Ministers to member States on human rights and business, adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies.

²⁰ European Migration Network (EMN), [Country Factsheet Luxembourg 2016](#), available at:

61. The GRETA delegation visited the Villa Nia Domo shelter for unaccompanied children in Strassen, which is managed by the Red Cross. It was opened in 2016 and has capacity to accommodate up to nine children, who are placed there by the National Office for Children (ONE). At the time of the visit, the centre housed nine boys, aged between 14 and 17 years, who were nationals of Afghanistan, Iraq, Syria and Albania. When the children arrive at the centre, the asylum procedure is already under way. They are sent to school and given pocket money by the shelter. The Red Cross is appointed as the children's guardian, with a lawyer appointed as ad hoc administrator. The shelter employs six social workers and a housekeeper. Four social workers underwent extensive training in the area of trafficking in beings in 2017. There have not been any cases where staff suspected that the children were trafficked. GRETA was informed that two children had gone missing from the shelter: a Moroccan boy, later found by the police in Bordeaux, and a Senegalese who was confirmed to be in fact an adult following an age assessment, and was reportedly returned to Italy under the Dublin procedure.

62. Several of the delegation's interlocutors expressed concerns over certain issues relating to unaccompanied children or children separated from their parents, which were also raised in the 2016 report by the Ombuds-Committee for the rights of the child.²¹ At the time of the visit, it could take several weeks or even months to appoint an ad hoc administrator by the judge supervising guardianships. In practice, this meant that children were accommodated and sent to school, but could not benefit from social security, pocket money or passes on public transport because, as the authorities explained, it is the ad hoc administrator who assesses whether or not it is in the best interests of the child to submit an application for international protection. The submission of the application gives entitlement to services provided for by the Law of 18 December 2015 on the Reception of Applicants for International Protection. Pending submission of the application, the child is taken in by the St Antoine reception centre with the agreement of the OLAI. During the period before the application is submitted, OLAI can only provide urgent assistance (accommodation, food, emergency medical care). In their comments on the draft GRETA report, the authorities have indicated that the deadline for the appointment of an ad hoc administrator has been shortened to a maximum of two weeks since the end of 2017. According to the Ombuds-Committee, the psycho-social supervision of unaccompanied children housed in the OLAI's shelters was inadequate and the educative teams needed to be bolstered. Furthermore, for unaccompanied children aged between 16 and 18 years, a guardian was not appointed. Another problem was the length of asylum procedures (see paragraph 113). Moreover, the Ombuds-Committee referred to cases in which applications to place unaccompanied children with foster families had been turned down by the public authorities because of a lack of foster families. There is no provision for support for foster families and unaccompanied children in Luxembourg. When an unaccompanied child reaches adulthood and leaves the shelter, there is a lack of adequate support.

63. GRETA was informed by IOM of two projects relating to unaccompanied children. An 18-month EU-funded programme, which is implemented in co-operation with the Red Cross with the approval of the Ministry of Education, is aimed at training Red Cross employees to in turn train foster families taking in unaccompanied children. In another project, the Immigration Directorate has concluded an agreement with IOM to search for the children's parents in their countries of origin. Contact with the family is arranged and a report is then submitted by IOM, containing information about the conditions under which the child would be received in his or her country of origin, the existence of family members and the relationship with the child and his or her prospects within the family environment. This new family assessment process began on 1 October 2017. The resulting report constitutes one of the elements of the file taken into account in the examination of the application to assess the best interests of the child in the context of a possible return. In addition, the authorities have indicated that a new collegial body has been established by the government and has met for the first time in April 2018. This body is known as the "Committee for the Evaluation of the Best Interests of the Child" and is composed of members of the Public Prosecutor's Office, the National Office for Children (ONE), the OLAI and the Immigration Department, which also serves as chair. The ad hoc administrator is invited to a meeting organised for the child s/he represents. An individual opinion assessing the best interests of the child, in the context of his or her return, is delivered for each child, on the basis of the elements in the file.

64. The authorities stated that, under Articles 55 to 62 of the Civil Code, declarations of birth are compulsory and must be made within five days to a local civil registry officer.

65. GRETA considers that the Luxembourg authorities should step up their efforts in the area of prevention of trafficking in children, by devoting more attention to unaccompanied or separated children arriving in Luxembourg and ensuring that the State fulfils its obligation to provide them with a protective environment, including by swiftly appointing a guardian for any unaccompanied child. The authorities should continue to raise awareness among and train front-line professionals working with children (including staff of centres receiving asylum seekers, of the OLAI and of the Directorate of Immigration and guardians), as well as foster families.

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

66. GRETA notes that, while trafficking in human beings for the purpose of organ removal as defined by the Convention and organ trafficking as defined by Articles 4 to 8 of the Council of Europe Convention against Trafficking in Human Organs²² are distinct crimes, they share similar root causes, such as the shortage of organs to meet demand for transplantation and poor economic and other conditions that put people in a vulnerable position. Therefore, measures to prevent organ trafficking can help prevent trafficking for the purpose of organ removal and vice versa²³. Among the necessary preventive measures, GRETA underlines the importance of a robust and transparent system for the removal and transplantation of human organs and the need for training of healthcare professionals. GRETA also stresses the importance of conducting a thorough investigation of each case where there is information on or suspicion of trafficking for the purpose of organ removal, paying special attention to the abuse of the vulnerability of the "donor" and ensuring that "donors" are treated as victims of trafficking in human beings.

67. In Luxembourg, the legislative framework for the removal and transplantation of organs is established by the Law of 25 November 1982 on Organs for Transplantation and the implementing regulations of 24 January 1984, 6 October 2009, 3 December 2009 and 27 August 2013.²⁴ The subject of trafficking in human beings for the purpose of organ removal is not addressed by those texts.

68. The authorities stated that the removal and transplantation of organs from living donors is not practised in Luxembourg. Only kidney transplants are carried out in Luxembourg (since 1980) while other types of transplant are carried out abroad, via a referral system run by Luxembourg-Transplant and Euro-Transplant, but the country's legislation is applicable. According to the authorities, prevention of trafficking in human beings for the purpose of organ removal and assistance for victims are not part of the training given to health-care professionals. Health-care professionals are not under obligation to notify the police if they spot signs of trafficking for the purpose of organ removal.

69. GRETA considers that the Luxembourg authorities should step up their efforts to ensure that the doctors participating in the transplantation of organs and other healthcare professionals are made aware of the issue of trafficking for the purpose of organ removal.

²² Opened for signature in Santiago de Compostela on 25 March 2015; entered into force 1 March 2018.

²³ See "[Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs](#)", [Joint Council of Europe/United Nations Study](#) (2009), in particular pages 55-56; "Trafficking in human beings for the purpose of organ removal in the OSCE region: Analysis and Finding", OSCE Occasional Paper No. 6 (2013).

²⁴ On the national co-ordination service for the removal of kidneys; determining the equipment to be available in hospitals where organs are removed from deceased persons for use in treatment; determining the procedures for confirming a person's death with a view to an organ removal; on the characterisation, transportation and exchange of organs for use in transplants.

70. Luxembourg signed the Council of Europe Convention against Trafficking in Human Organs on 25 March 2015. **GRETA encourages Luxembourg to ratify the Council of Europe Convention against Trafficking in Human Organs.**

e. Measures to discourage demand (Article 6)

71. In its first evaluation report, GRETA considered that the Luxembourg authorities should continue their efforts aimed at discouraging demand for services provided by victims of any type of human trafficking, in particular in high-risk sectors.

72. Under the National programme to promote sex education and emotional health implemented since July 2013, four ministries (Health, Equal Opportunities, Family and Integration, National Education, Children and Youth) undertook to promote measures to discourage demand. The stated aims include preventing and combating the root causes of violence in relationships in all its forms, including sexual violence, sexual exploitation in the context of trafficking in human beings, pimping and the sex trade and their devastating consequences, including through education from the earliest age on gender equality, mutual respect for the physical and mental integrity of every individual regardless of gender, equality of values in diversity and the combating of negative stereotypes. According to the authorities, the second National Action Plan on Sexual and Emotional Health, based on the results of the first action plan (2013-2016, extended until 2018), is being adopted by the Government Council. The National Reference Centre for the Promotion of Sexual and Emotional Health (CESAS), inaugurated in May 2018, will play a crucial role in achieving the above objectives and missions.

73. With the National action plan on prostitution,²⁵ the Luxembourg government decided to pursue five main objectives: discouraging and reducing prostitution through prevention measures; punishing the exploitation of prostitution; reinforcing medical, social and psycho-social services for the benefit of persons engaged in prostitution; protecting persons engaged in prostitution, both those engaged in prostitution and victims of exploitation of prostitution, pimping and trafficking in human beings for sexual purposes; and helping people to leave prostitution through an exit strategy.

74. Through the National action plan for gender equality,²⁶ the government undertakes to promote equality between women and men in all areas and in all strata of society. This means that, alongside *de jure* equality, there must be *de facto* equality realised in everyday life in all areas, *inter alia*, through numerous awareness-raising, training and education initiatives and through partnership and networking arrangements, particularly at the level of civil society.

75. The authorities have stated that, for the time being, no specific preventive measures have been adopted by the Ministry of Labour, Employment and the Social and Solidarity Economy or by the Mines and Labour Inspectorate to discourage demand fuelling different forms of exploitation.

76. **GRETA considers that the Luxembourg authorities should step up their efforts to discourage demand fuelling different forms of exploitation, including labour exploitation.**

²⁵ <http://www.mega.public.lu/fr/publications/publications-ministere/2016/plan-daction-national-prostitution/index.html>

²⁶ <http://www.mega.public.lu/fr/publications/publications-ministere/2015/pan-egalite-2015/index.html>

f. Border measures (Article 7)

77. In its first report, GRETA considered that the Luxembourg authorities should strengthen their efforts to detect possible victims of trafficking in human beings within the applications and visa processing procedure, in particular by introducing a checklist, by training the staff involved in issuing visas and residence permits and by providing relevant information to foreigners intending to travel to Luxembourg who belong to vulnerable groups, *inter alia*, domestic employees, including those working in diplomatic households, in a language they understand, in order to warn them of the risks of trafficking in human beings.

78. The authorities stated that a decision has been taken to create a group of specialised officers for trafficking in human beings within the Directorate of Immigration. This group will also be responsible for maintaining regular contact with embassies and foreign representations, in order to prevent possible cases of trafficking and to ensure close follow-up when a potential victim presents him- or herself at an embassy or at the Immigration Directorate. Furthermore, the staff controlling external borders are given training in the detection of trafficking in human beings, which includes the detection of potential victims. According to the authorities, the stakeholders concerned, notably representatives of the Foreign Affairs Ministry's Directorate of Immigration, have already taken part in training courses. Further training sessions are planned in the coming months. The Passports, Visas and Legalisations Office will organise training on human trafficking for posted diplomatic officials in the first quarter of 2019.

79. GRETA notes that part of the National Action Plan against THB entails providing information to foreigners intending to travel to Luxembourg who belong to vulnerable groups, *inter alia*, domestic employees, including those working in diplomatic households, in a language they understand, in order to warn them of the risks of trafficking in human beings, inform them of the services they can turn to for assistance and guidance and advise them of their rights. For this purpose, an information brochure has been made available to the public on the premises of the Directorate of Immigration. It is envisaged to put a link to the site launched as part of the information and awareness-raising campaign²⁷ (see paragraph 47) on the Visa and Immigration website of the Ministry of Foreign Affairs.

80. **GRETA considers that the Luxembourg authorities should pursue their efforts to build the capacity of border police to detect and identify trafficking victims.**

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

a. Identification of victims of THB (Article 10)

81. In its first report, GRETA urged the Luxembourg authorities to ensure that the identification of possible victims is not linked to criminal proceedings being initiated or continued, adopt a multidisciplinary approach, develop relevant tools (guides, indicators), formalise and co-ordinate efforts to improve detection and identification of trafficking victims, and pay specific attention to the identification of victims of trafficking for the purpose of labour exploitation, including by strengthening proactive detection by the labour inspectorate.

82. A roadmap entitled "Procedures for interdisciplinary co-operation on victims of trafficking in human beings" was initially drawn up by the police in collaboration with other key anti-trafficking players of the Committee for monitoring action against trafficking in human beings. This confidential roadmap is intended solely for the members of that Committee and aimed at specifying how trafficking victims are cared for and supported as soon as they are detected, so that they may be granted victim status. The main section describes the procedures in detail, including the identification of victims, the information to be given to the presumed victim and the support measures to be taken. The authorities have indicated that the roadmap has been finalised and will be updated regularly as the information contained in the document (contact persons, addresses, telephone numbers) changes. According to the authorities, the Committee for monitoring action against THB has decided to draw up an abridged version of the roadmap which could subsequently be distributed to a larger number of actors.

83. Although the procedures have now been formally laid down in the roadmap, they remain essentially unchanged since GRETA's first report. A THB victim may be detected by any authority, body or person, but the police are the sole authority competent to identify a victim. The presumed victim must be referred to the organised crime unit of the criminal investigations police in order to be given the status of a presumed victim or an identified victim. A victim is detected via the statements they make and/or the observation of signs suggesting that their situation corresponds to one of trafficking in human beings. It is not mandatory for the person detected to immediately make statements to be able to be considered as a victim. The observation of signs is sufficient. To establish the existence of such signs, the organised crime unit of the criminal investigations police refers to a list of indicators included in the roadmap.

84. Once the police have indications that a person is a victim of trafficking in human beings, they notify an assistance service, namely the SAVTEH or the COTEH, as soon as possible, providing it with the means to contact that person in the shortest possible time (see, however, paragraph 98). At night-time and weekends, when the assistance services are not on duty, the police immediately contact one of the reception centres listed in the roadmap. At the same time, they send a fax or e-mail notification to the SAVTEH or the COTEH, which, on the next working day, co-ordinate assistance for victims on a drop-in or live-in basis, ensuring that they are met and if necessary accommodated in a shelter. Prior to identification, a victim may be assisted informally by one of the assistance services and the associated reception centres, if he/she directly approaches the service or is sent to it by any individual or body involved in the detection process. The assistance services provide support, guidance and counselling. They help the victims to go to the police and make the statements required for their protection and the recognition of victim status and rights, including the right to lodge a complaint. However, GRETA notes that, according to information provided by NGOs, potential victims of trafficking are not always referred to them by the police.

85. The authorities indicated that the Police had established a Victim Protection and Search for Fugitives Unit, which is responsible for the implementation of the protection programme, including determining the degree of danger and supervision of victims. In order to ensure that victims actually meet the assistance services the next working day, personal contact and direct co-operation exist between this unit since its establishment in February 2018 and the assistance services. The Police confirms that all presumed victims are referred to NGOs, but sometimes the victim does not wish to be taken in charge by the assistance services.

86. GRETA notes that very few victims of trafficking for the purpose of labour exploitation were identified during the reporting period. As mentioned in paragraph 57, the Labour Inspectorate (ITM) has only limited resources and has not detected any victims of THB to date. Nevertheless, the ITM stressed that its inspectors are actively present in the field to carry out inspections. If indications of trafficking in human beings for the purpose of labour exploitation are detected, this information is communicated to the competent police department. The authorities have indicated that more regular checks, in particular on construction sites and in restaurants, are carried out by the Police, in collaboration with the ITM and the Customs and Excise Administration. GRETA considers that there should be a stronger focus on this phenomenon on the part of all the stakeholders, clearly assigning the roles to be played by them in the process of detection and identification and providing the training and instructions needed by the officials concerned.

87. Where the identification of asylum seekers is concerned, the authorities stated that, when an international protection application procedure reveals signs of trafficking in human beings, the Directorate of Immigration staff interviewing the applicants contact the police in writing and by telephone. Similarly, the roadmap stipulates that if the Luxembourg Reception and Integration Office (OLAI) or one of the institutions or shelters working with the OLAI to care for asylum seekers detects a victim of trafficking among those applying for international protection, the police and an assistance service are to be directly informed.

88. The GRETA delegation visited the St. Antoine asylum seekers centre in Luxembourg, which is managed by Caritas. The centre has a maximum capacity of 99 places, with 80 people staying on the day of the GRETA visit and an average occupancy of 80%. There are three full time staff in charge of reception, supervision and social follow-up (a social worker, a graduate educator and an educator). In addition, one person is an employee of the National Office for Children. The staff of the centre had not yet received any training on the issue of THB. The brochure on trafficking in human beings by the Ministry of Justice (see paragraph 49) was available in the centre. Staff indicated that they regularly and individually met everyone from the day of their arrival. An interview with a psychologist was arranged for every person one week after arrival. The centre did not have any cases of identified THB victims. According to the personnel, a number of the asylum seekers were in a traumatised state, and the centre organised consultations with a psychiatrist for them.

89. The GRETA delegation also visited the detention centre for irregular migrants in Findel, operating under the authority of the Minister for Immigration and Asylum, where persons were placed under the Law of 18 December 2015 on International Protection and Temporary Protection and the amended Law of 29 August 2008 on the Free Movement of Persons and Immigration. The centre opened in 2009.²⁸ It has a capacity of 88 places and is divided into four units, with men, women and families being held separately. Most of the detainees were illegally present on the country's territory and some have had requests for asylum turned down. At the time of the visit, about 30 men, mainly from North Africa (Tunisia, Algeria, Morocco) and Georgia, were held in the centre, as was a Serbian woman and her daughter. The average length of stay was said to be 30 days. The centre has a total of 46 staff, four of whom are assigned to individual psychosocial support. According to the centre's management, staff were about to receive training on THB and over a quarter had already been trained. Staff undergo the basic training provided by INAP (see paragraph 30), and the psychosocial staff receive further training. The medical personnel that come to the centre have not received specific training on THB. No THB victims have been detected at the centre. The centre's management had been issued with the roadmap and had informed the staff of it. The information brochure on THB of the Ministry of Justice (see paragraph 49) had not been distributed to the centre. According to staff, NGO representatives came only very rarely to the centre, despite the fact that 44 people had individual visitor's accreditation.

²⁸ Regarding detention conditions, see also the Report to the Government of the Grand Duchy of Luxembourg on the visit to Luxembourg carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 28 January to 2 February 2015: <http://rm.coe.int/16806973da>

90. Generally speaking, GRETA notes the lack of outreach work or activities aimed at proactive identification, whatever the form of trafficking involved, with the exception of the DropIn service run by the Red Cross, which focuses on people engaging in prostitution in the area around Luxembourg station.

91. GRETA also notes that stakeholders know little about THB for the purpose of forced begging. The report produced by the National Rapporteur mentions four victims identified in 2016. The National Action Plan makes a very vague reference to forced begging, saying that special vigilance is required for trafficking in human beings for the purpose of forced begging. The authorities have indicated that Luxembourg is not immune to the phenomenon of child begging, but has never had a proven case of trafficking of children for the purpose of forced begging with the participation of the family. According to the authorities, the Police carry out regular checks in the central railway station area with particular attention to people who beg.

92. Furthermore, the Ombudsperson of Luxembourg has informed GRETA that the phenomenon of young drug addicts who are forced to commit petty offences and sell drugs is an area requiring closer attention. In this context, GRETA notes that the National Rapporteur invited the authorities to consider, in the context of heightened action against drug abuse, whether the persons arrested might be victims of forced criminality.

93. **GRETA urges the Luxembourg authorities to take additional measures to ensure that all victims of trafficking in human beings are identified as such and able to benefit from the assistance and protection measures provided for in the Convention. In particular, the authorities should:**

- **ensure that all the stakeholders involved in identifying THB victims take a more proactive approach and step up their action on the ground to more effectively identify trafficking victims;**
- **update the indicators used to identify victims of trafficking, for example on the basis of the list of indicators developed under the EuroTrafGuID project;²⁹**
- **increase multi-service involvement in the identification of THB victims;**
- **step up efforts to identify trafficking victims subjected to labour and forced begging;**
- **continue to train staff working on the ground who are involved in the identification of victims of THB;**
- **pay greater attention to detecting trafficking victims among asylum seekers, foreign workers and people placed in the retention centre.**

b. Assistance measures (Article 12)

94. In its first report, GRETA urged the Luxembourg authorities to ensure that all victims detected have access to the assistance provided by the specialised NGOs, to not link the assistance provided to victims to criminal prosecutions being lodged or continued, to conclude contractual agreements specifically relating to trafficking in human beings with NGOs, and to grant access to the labour market and to training to victims who are lawfully resident.

²⁹ Prevention of and Fight against Crime (ISEC) programme HOME/2010/ISEC/AG/016, "Development of Common Guidelines and Procedures on Identification of Victims of Trafficking in Human Beings".

95. The assistance provided to trafficking victims is co-ordinated by two officially contracted assistance services, the SAVTEH of the NGO *Femmes en détresse* (FED) and the COTEH of the Foundation *Maison de la Porte Ouverte* (FMPO), which serve as points of contact with regard to THB issues for the other NGOs, and are in charge of co-ordinating arrangements for both roving/drop-in assistance and live-in assistance. According to the roadmap drawn up by the Committee for monitoring action against trafficking in human beings, when the police detect an adult trafficking victim, they contact an assistance service as quickly as possible (see, however, paragraph 98). When making initial contact with the victim, that assistance service informs the victim of their rights, the judicial and administrative procedures and the services available to them. It provides immediate drop-in assistance and delegates the provision of live-in assistance, under its co-ordination, to reception services.

96. In accordance with Article 2 of the Law of 8 May 2009 on Assistance to and Protection and Security of Victims of Trafficking in Human Beings, victims are provided with accommodation, welfare and socio-educative assistance, material and financial assistance and medical, psychological or therapeutic assistance, depending on their needs. They may also be granted legal and linguistic assistance. The assistance services find accommodation for the victim with the specialised NGOs appropriate to their gender, age and state of health. Adult female victims with or without children are accommodated alongside women in difficult circumstances in the shelters officially authorised by the Ministry of Equal Opportunities, namely the "Fraenhaus" run by the FED and the Foyer Paula Bové run by the FMPO. The services providing assistance to THB victims and the reception centres are entirely state-funded.

97. In 2017, the Ministry of Equal Opportunities officially contracted the InfoMann service to care for male victims of trafficking. InfoMann operates two flats reserved for male victims of THB. During the evaluation visit, the GRETA delegation visited one of those flats, located in a building together with other flats managed by the Red Cross, which rents out flats to various organisations, which in turn make them available to people in difficulty. InfoMann only provides the flats, all the other measures of assistance to male THB victims, including psycho-social support, are provided by the assistance services.

98. For all THB victims having obtained the residence permit referred to in Article 95 of the amended Law of 29 August 2008 on the Free Movement of Persons and Immigration, Article 97, paragraph, 1 of that law stipulates that the person concerned may engage in remunerated activity, if they possess the professional qualifications required for that activity and have a work contract for a post declared as vacant to the Agency for the development of employment. Paragraph 2 of that article stipulates that the conditions in which the beneficiary of such a residence permit may access adult education and vocational training courses shall be determined by a Grand-ducal regulation. The authorities indicated that such a regulation had not been adopted but, by analogy with asylum seekers, access to this kind of training should be possible.

99. The COTEH and SAVTEH assistance services are contracted by the government for 20 hours a week each, meaning that, on working days and during normal working hours, the police can call them in to take care of victims who have been found. A number of interlocutors from the assistance services and the police expressed concern as to this limited presence and stressed the need for 24/7 availability. Victims are often found during the night and at weekends, and all that the police can do is leave a message for the assistance services to contact the victim on the next working day. In such cases, the police must ensure that the potential victim is accommodated somewhere, often in a hotel. According to the assistance services, in some cases the victim's phone line was already deactivated when they tried to call back. The assistance services also emphasised that they face an ever-increasing demand to train other groups of professionals on THB, without any corresponding adjustment of their working hours. Consequently, these highly specialised services can only get involved to a certain extent in awareness-raising activities or proactive measures aimed at detecting possible trafficking victims.

100. As already noted in GRETA's first report, during second evaluation visit, GRETA was informed that police services apparently do not systematically refer victims to the assistance services. This point was also raised in the National Rapporteur's first report. The authorities pointed out that victims often did not want to co-operate or wished to return to their country of origin straightaway. GRETA reiterates the importance of referring all victims to the specialised NGOs, so that they can benefit from the assistance on offer. In this context, GRETA notes that it is stipulated in the roadmap that "even if a presumed victim refuses any help regardless of the information provided to them by the police, or wishes to return to their country of origin, the police must nevertheless notify the SAVTEH and the COTEH that a victim has been found in all cases and enable the victim to see them".

101. The authorities have stated that assistance for trafficking victims is not dependent on their co-operation with the investigation and prosecution. However, GRETA notes that, under Article 1, paragraph 1, of the Law of 8 May 2009 on Assistance to and Protection and Security of Victims of Trafficking in Human Beings, assistance measures commence on the day when the police possess indications that the person is a presumed victim of trafficking. In the event of victims not wishing to meet the police, this means that they cannot benefit from assistance measures. The roadmap states that if a victim refuses to see the police, owing to their particular situation (danger, threat, fear), the assistance services can only provide psycho-social support for a maximum period of one month.

102. **GRETA urges the Luxembourg authorities:**

- **not to link the assistance provided to their co-operation with the police and to systematically refer all potential, presumed and identified victims to specialised assistance services;**
- **to provide the services co-ordinating the assistance and accommodation for trafficking victims with the necessary human and financial resources, in order to guarantee that their services are available at any given moment, so that specialised assistance can be provided to presumed trafficking victims as swiftly as possible.**

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

103. In its first report, GRETA urged the Luxembourg authorities to adopt an identification procedure geared to the situation of child victims of human trafficking and provide for specific assistance taking account of their specific and complex circumstances, in accordance with the best interests of the child.

104. According to the roadmap for multidisciplinary co-operation with regard to trafficking victims, drawn up by the Committee for monitoring action against trafficking in human beings, the procedures relating to detection, identification, information, the reflection period and residence permits, assistance and protection are the same for a child as they are for adult victims, although the stakeholders differ to an extent. GRETA notes that nine children were identified during the period 2013-2017.

105. The roadmap foresees that if one of the services providing reception or consultation services for children in distress detects a trafficking victim among its users or a child makes direct contact with it, it notifies the police and the assistance services as soon as possible. Similarly, if a child victim of trafficking approaches the SAVTEH or the COTEH, or if those services detect a child victim, they must warn the police as quickly as possible.

106. Children detected as victims of THB are referred to the child protection section of the police. They are identified by the organised crime unit of the criminal investigations police, which performs the examination necessary to prove that they are children. If a doubt subsists as to their age, the victim is deemed to be a child, as indicated in Article 3 of the amended Law of 8 May 2009 on Assistance to and Protection and Security of Victims of Trafficking in Human Beings. In order to determine the age, experts rely on X-rays of the left hand, a panoramic radiology of the teeth (orthopantomogram), a CT analysis of the epiphyseal joints of the clavicle, and a body inspection of the person, among other things. As for the state of physical development, they check height, weight, sexual organs, pubic hair, body and facial hair, physique, voice and developmental disorders.³⁰ GRETA notes that these methods for determining age take no account of psychological, cognitive or behavioural factors and are therefore not reliable. The criminal investigations police inform the child protection section of the prosecution service that a child victim of trafficking has been found and identified. The prosecution service then contacts the judge for children, who takes safeguarding measures for the child where applicable. Child victims are safeguarded under the Law on Child Protection of 10 August 1992 and the amended Law of 8 May 2009 on Assistance to and Protection and Security of Victims of Trafficking in Human Beings. **GRETA invites the Luxembourg authorities to reconsider the procedures for determining age, ensuring that the best interests of the child are effectively protected and taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child.**³¹

107. The police notify the assistance services, the SAVTEH and the COTEH, during working hours or outside those hours by e-mail or fax, and those services then look into finding accommodation for children in distress. Outside office hours, the police directly contact a children's shelter or, if there is no room, the shelter "Refuge Péitrusshaus" run by *Solidarité Jeunes*, which provides emergency reception at any time for one to two days. If the victim is not already in a shelter for children in a situation of distress or unaccompanied children, they are referred, on the day when they are detected, to the "Refuge Péitrusshaus" so that they can be accommodated there.

108. GRETA was informed by NGOs that too many interviews are conducted by the police with children at the beginning of the identification procedure. According to the authorities, the police limit themselves to a single interview, but the victim is also interviewed by the assistance services. GRETA refers in this context to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, which recommend that, when more than one interview is necessary, they should preferably be carried out by the same person, in order to ensure coherence of approach and mutual trust. The number of interviews should be as limited as possible, and their length should be adapted to the child's age and attention span.³²

109. The shelters available for child victims of trafficking are the "Meederchershaus" run by the NGO *Femmes en Détresse* (FED), which is additionally contracted for in-facility assistance for THB victims by the Ministry of Equal Opportunities (for girls), the Saint Joseph shelter of the Foundation *Maison de la porte ouverte* officially contracted for children in distress (for boys) and, for long stays only, the Cales shelter of the Foundation Lëtzebuenger Kannerduerf, officially contracted for children in distress. If unaccompanied children seeking international protection declare themselves or are detected as trafficking victims, they must be transferred as swiftly as possible and in their own interest from the shelter for unaccompanied children to one of the shelters for children in distress.

³⁰ On the subject of institutions that could be tasked with implementing the procedure, the authorities referred by way of example to the forensic doctors of the LNS (National Health Laboratory) and the forensic institute of the hospital of Saarbrücken/Germany (REMAKS).

³¹ [General Comment No. 6 Treatment of unaccompanied and separated children outside their country of origin](#), Committee on the Rights of the Child, Thirty-ninth session, 17 May - 3 June 2005.

³² [Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice](#) (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies)

110. The costs of taking in and supervising child trafficking victims in the shelters for distressed children are covered through the official contractual agreement with the Ministry of National Education or the tariff system agreed with the National Office for Children (ONE).

111. The GRETA delegation visited the shelter for girls "Meederchershaus" managed by the NGO *Femmes en Détresse* (FED), located in a house in Luxembourg. It is designed to be an emergency short-stay shelter and has a capacity of 10 places. Girls aged between 12 and 21 years can stay there for three or four months before being transferred to a reception centre for children or supervised accommodation for women aged between 18 and 21. The National Office for Children (ONE) decides on the placement of children. There are nine staff (all women) working in the centre, four of them full-time, including a social worker and educators. The centre's manager has completed a day-long training course on trafficking in human beings. The shelter has housed two girls who were trafficking victims, one in 2011 and another one in 2017. Children who become adults can continue to benefit from assistance measures in the corresponding homes.

112. The authorities stated that the police, the officially contracted victim assistance services (the SAVTEH and the COTEH) and the reception services for children work in close collaboration to protect the child. If it transpires that a child victim needs specific protection, the victim can be placed in a secure facility. In all cases, it is the police which decide on the procedures to be followed regarding the safety and protection of children. However, according to NGOs, if children identified as THB victims must be accommodated and the specialised centres are full, they are placed in other non-specialised institutions and occasionally in youth detention centres, which may have harmful effects on these children, who are particularly vulnerable.

113. Where child asylum seekers are concerned, GRETA was informed by NGOs that, when they are placed in asylum centres, months go by without them being interviewed and even when an interview does eventually take place, there is no guarantee that efforts will be made to ascertain the full circumstances in which children have run away and arrived in Luxembourg, which might reveal signs of trafficking in human beings. One example cited related to a boy seeking asylum who had had to wait a year and a half for an interview. According to the authorities, the asylum procedure takes between six and 21 months. It can often happen that children reach adulthood during that period. The authorities have stressed that despite the fact that Luxembourg was faced with a large influx of asylum seekers in 2015 and 2016, the processing of unaccompanied children's files is, in principle, prioritised. GRETA stresses the importance of an early, in-depth interview conducted by a qualified official, which may help to detect potential child victims of trafficking, so that they can be referred for specialised assistance.

114. GRETA was told that the phenomenon of street children exists in Luxembourg, but there is little knowledge of it. The authorities have indicated that there has never been a proven case of child trafficking for forced begging with the participation of the family. The police services mentioned an investigation into begging involving children, which had been dropped.

115. **GRETA urges the Luxembourg authorities to make efforts to improve the identification of child victims of trafficking in human beings and the assistance provided to them and, in particular, to:**

- **establish a clear procedure for the identification of child victims of trafficking, taking into account the particular situation and needs of child victims of trafficking, involving child specialists, and making the best interests of the child a primary consideration;**
- **ensure that the competent stakeholders adopt a proactive approach and step up their work on the ground to identify child victims of trafficking, paying special attention to street children and unaccompanied foreign children;**
- **ensure that child victims of trafficking benefit from the assistance measures provided for in the Convention, including suitable accommodation;**

- **ensure that children seeking asylum are screened for indicators of trafficking in human beings at an early stage by specially trained staff;**
- **introduce procedures tailored to children when interviewing presumed child victims of trafficking, drawing on the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.**

d. Protection of private life (Article 11)

116. In Luxembourg, the processing and recording of personal data are governed by the Law of 2 August 2002 on the Protection of Persons with Regard to Automatic Processing of Personal Data.

117. Under Article 5 of the Law of 8 May 2009 on Assistance to and Protection and Security of Victims of Trafficking in Human Beings, anyone who participates in any manner whatsoever in the activities of an assistance service or obtains or receives communicated personal data is bound by professional secrecy, under the terms and subject to the sanctions set out in Article 458 of the Criminal Code. At the first interview, employees inform the victim that their work is confidential and explain that none of the information provided by the victim will be disclosed or passed on to a third party.

118. In judicial procedures, in summonses or applications for committal, the surnames of identified trafficking victims are given, but addresses are not given in summonses to appear as witnesses. Within the Directorate of Immigration, there are only two members of staff processing the files of identified and presumed THB victims, with exclusive access to those files.

e. Recovery and reflection period (Article 13)

119. In its first evaluation report, GRETA urged the Luxembourg authorities to ensure that all possible victims of trafficking are offered a recovery and reflection period and all the measures of protection and assistance envisaged in the Convention during that period, and that officers performing identification are issued with clear instructions stressing the need to offer the recovery and reflection period.

120. As GRETA has already pointed out in its first report, under Article 92, paragraph 1, of the amended Law on the Free Movement of Persons and Immigration, once the police have indications that a third-country national is a victim of THB, they must immediately notify the Minister of Foreign Affairs and inform the presumed victim of the possibility of being granted a reflection period. Under Article 93, paragraph 1, presumed trafficking victims are granted a 90-day reflection period, in order to escape the influence of the traffickers, recover and make an informed decision on whether to lodge a complaint or give statements regarding the individuals or networks behind the trafficking. Under Article 93, paragraph 2, no expulsion measure is possible during this period, and Article 93, paragraph 3 stipulates that an attestation authorising the victim to stay on Luxembourg's territory during this period shall be issued. Article 94 expressly stipulates that, during the reflection period, the person granted this period will have access to measures of security, protection and assistance.

121. According to the authorities, no reflection periods were granted in 2013, five were granted in 2014 and one in 2015. NGO representatives pointed out that the recovery and reflection period is not systematically granted to all presumed trafficking victims who are third-country nationals.

122. **GRETA urges the Luxembourg authorities to ensure, in compliance with the obligations under Article 13 of the Convention, that all presumed foreign victims of trafficking are offered a recovery and reflection period in practice, regardless of whether they co-operate with the authorities, and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period. Officers performing identification should be issued with clear instructions stressing the need to offer the recovery and reflection period as defined in the Convention, i.e. not making it conditional on the victim's co-operation and offering it to victims before formal statements are made to investigators.**

f. Residence permits (Article 14)

123. In its first report, GRETA urged the Luxembourg authorities to ensure that victims of trafficking can fully benefit from the right to obtain a residence permit.

124. As GRETA has already pointed out in its first report, Luxembourg's legislation stipulates that, upon expiry of the reflection period, the Minister of Foreign Affairs will issue a victim who is a third-country national with a residence permit valid for six months, which is renewable (Article 95, paragraph 1, of the amended Law on the Free Movement of Persons and Immigration) in cases where the victim has lodged a complaint or made statements with regard to presumed perpetrators of the offence of trafficking in human beings, or their presence on the territory is necessary for the purposes of the investigation or proceedings or justified by their personal circumstances.

125. Under Article 97, paragraphs 1 and 2, of that law, the residence permit entitles victims to measures of protection and assistance and enables them to engage in paid work. Article 97, paragraph 3, of the law stipulates that children holding this residence permit have access to the education system.

126. However, according to the information provided by the authorities, only two residence permits were issued to trafficking victims in 2014 and one in 2016. No residence permit was granted on the basis of the provisions relating to the personal circumstances of the person concerned. The authorities have stated that the number of permits was actually higher but the records of the permits were deleted from the statistics as a number of victims quickly received a residence permit enabling them to work. The authorities could not provide statistics on the number of residence permits for work granted to victims of trafficking. The National Rapporteur also pointed out that it had not been possible for the Advisory Committee on Human Rights to compile reliable statistics on residence permits issued to victims of THB as the data received had been incomplete.

127. According to NGOs, the issuing of residence permits to trafficking victims often takes too long because the file is held up in the Prosecutor's Office or at the Directorate of Immigration. The authorities confirmed that situations had sometimes arisen where a victim was still without a residence permit after the recovery and reflection period had expired. They explained that the Directorate of Immigration had a duty service that was keeping a close eye on this aspect and it was their expectation that difficult situations of this kind no longer arise.

128. **GRETA urges the Luxembourg authorities to ensure that residence permits are issued in good time and there are no gaps between the expiry of the reflection period and the issue of a residence permit.**

129. **Further, GRETA considers that the Luxembourg authorities should regularly review the practical application of the legal provisions relating to the issue of residence permits to victims of trafficking and to what extent residence permits are granted on grounds of the victim's personal circumstances. GRETA also considers that reliable data should be collected on the number of residence permits granted to trafficking victims and also on the reasons why they were granted.**

g. Compensation and legal redress (Article 15)

130. In its first report, GRETA urged the Luxembourg authorities to ensure that victims of human trafficking who are not EU nationals have access to compensation. Furthermore, GRETA considered that the Luxembourg authorities should ensure that victims and those assisting them are fully informed of the possibilities of compensation which exist in domestic law (including before the Compensation Committee) and that training in the sphere of human trafficking for the personnel concerned (police, prosecutors and judges) covers the compensation of victims.

131. As pointed out in the first report, it is stipulated in Article 6 of the Law on Assistance to and Protection and Security of Victims of THB that the police shall inform the victim of the different possibilities of lodging a civil lawsuit and the functioning of the criminal procedure. According to the authorities, victims of criminal offences are provided with information, from their first contact with an authority and in a language they understand, on the different procedures that exist. The police distribute a factsheet for that purpose. Victims of criminal offences have access to assistance from a lawyer and may request legal aid.

132. Where the compensation of victims is concerned, the victim can lodge a civil lawsuit within the framework of criminal proceedings brought against the presumed perpetrators of the offence of trafficking in human beings, with a view to claiming compensation from the defendants. The person filing the civil lawsuit can claim compensation after the final judgment. GRETA was informed of a case in which a perpetrator was sentenced at second instance to pay 5 000 euros each to three men from Pakistan, India and Bangladesh who had been victims of trafficking for the purpose of labour exploitation. According to the authorities, examples of compensation for victims of trafficking by the criminal courts are rare, as these victims, despite the fact that they are informed about their rights and the procedures, rarely seek compensation for the damage they have suffered in the criminal courts. The authorities mentioned four other cases where compensation was granted to victims of trafficking.³³

133. As stated in GRETA's first report, the amended Law of 12 March 1984 on Compensation for Certain Victims of Corporal Harm Resulting from an Offence and the repression of fraudulent insolvency establishes a right to compensation covered by the State, which may be claimed from the Compensation Committee of the Ministry of Justice. GRETA welcomes the fact that the Law of 9 April 2014 has amended Article 1 of the amended Law of 12 March 1984, so that victims of THB are now dispensed from the obligation to reside in the Grand Duchy on a habitual and regular basis in order to file a claim, meaning that all trafficking victims who are third-country nationals now have access to compensation by the State.

³³ Court of Appeal, judgment No 95/17 of 1 March 2017: EUR 5 000 to two victims (exploitation through labor); Court of Luxembourg No 3851/12 of 22 February 2012 and No 3737 of 18 December 2014: EUR 2 500 to a victim, judgment confirmed by the judgment of the Court of Appeal No. 356/16 of 14 June 2016; Court of Diekirch, judgment No. 249 of 24 April 2014: 5 000 euros to a victim; Court of Luxembourg No 510 of 7 February 13: 1 038 euros to a victim.

134. Furthermore, Article 1 of the amended Law of 12 March 1984 lays down three additional conditions: the acts must have caused bodily harm; the victims must have suffered damage entailing serious disruption to their living standards; and the injured party must be unable in any way to obtain any other damages or compensation whatsoever. In its first report, GRETA considered it important to add Article 382-1 of the CC to the list of provisions for which the first two of these conditions may be presumed, as was already the case for Articles 372-376.³⁴ This amendment was incorporated by the Law of 9 April 2014, to cover cases where the victim is a child.³⁵ The Ministry of Justice has not yet received such a request from a victim of trafficking.

135. Moreover, Article 15 of the Law of 12 March 1984, stipulating that this law is applicable even if the acts concerned were committed abroad, was also amended by the Law of 9 April 2014 and now specifies that, in the event of the acts being committed abroad, a trafficking victim is dispensed from the obligation to reside in Luxembourg on a habitual and regular basis.

136. The representatives of the Victims Assistance Service informed GRETA that they provide assistance to victims of violent crimes when they apply for compensation from the State, but they have not provided support for any trafficking victims.

137. Regarding unpaid salaries, the authorities stated that if an employer has employed a third-country national who was illegally present on the territory, the Mines and Labour Inspectorate (ITM) ensures that the employer pays the remuneration due for a period of employment presumed to have lasted at least three months, unless proven otherwise by the employer or the employee. In addition, the ITM ensures that, prior to the execution of any decision relating to a return, the employees are informed of their rights in connection with remuneration, including the possibility of free legal aid. The employer is under obligation to cover any costs arising from the sending of unpaid salaries to the country to which the employee has returned, as well as all the unpaid social security contributions and taxes, including, where applicable, administrative fines, together with legal costs and lawyers' fees. Finally, the employer has an obligation to pay the costs of return in the event of a return procedure being initiated.

138. GRETA welcomes the legislative amendments made to the Law of 12 March 1984 on Compensation for Certain Victims of Corporal Harm Resulting from an Offence and the repression of fraudulent insolvency following GRETA's recommendations. **GRETA considers that the Luxembourg authorities should make further efforts to facilitate and guarantee effective access to compensation for victims of trafficking, by ensuring that they are systematically informed of their right to claim compensation and of the procedures to follow, and by enabling trafficking victims to uphold their right to compensation through the guarantee of effective access to legal aid.**

h. Repatriation and return of victims (Article 16)

139. In its first report, GRETA urged the Luxembourg authorities to ensure that the return of trafficking victims is carried out with due regard for the rights, safety and dignity of the individuals concerned, which implies protection against reprisals and revictimisation. GRETA also urged the Luxembourg authorities to develop co-operation with trafficking victims' countries of origin to ensure that a reliable risk assessment is carried out, that their return is safe, and that their reintegration is effective.

³⁴ Articles 372 and 374 concern indecent assault, including against minors, and articles 375 and 376 concern rape. Article 373 has been repealed.

³⁵ The original draft law (No. 6562) contained no limitations. Following the opinion of the Council of State of 2 July 2013, the Legal Committee decided to follow the opinion issued by the Council of State which reads as follows: "(...) With regard to the second extension, which consists in dispensing with the obligation to prove harm (...), the Council of State wonders whether this extension should not be limited to the situation of the minor victim (...)".

140. According to the authorities, care for victims from third countries is governed by the Ministry of Foreign Affairs and the convention it has signed with the International Organization for Migration (IOM). The IOM can assist with the journey and provide assistance in the country of origin.

141. The costs of THB victims originating from EU countries can be covered by the Ministry of Equal Opportunities (MEGA) and this may be requested from the Ministry via the services providing assistance to trafficking victims. This would cover the ticket for the return journey and any aid for resettlement, which would be granted on a case-by-case basis following consultation with the association caring for the victims. The assistance services and the associated reception centres continually assess the needs of and risks or potential risks to THB victims or individuals who are not or are no longer recognised as trafficking victims by the authorities. Luxembourg NGOs liaise with partner NGOs in the victim's country of origin, which make contact with returning victims and provide them with support. In the event of a return to the country of origin still presenting a danger for a victim, the competent immigration services must explore all possibilities of an extended or definitive stay under another status. The authorities could not provide information on the number of assisted voluntary returns of victims of trafficking which took place during the reporting period. There were no involuntary returns of trafficking victims.

142. **GRETA considers that the Luxembourg authorities should ensure that the return of victims of trafficking is carried out with due regard for their rights, safety and dignity, including the obligation of *non-refoulement* (Article 40, paragraph 4, of the Convention), taking into account the UNHCR Guidelines on the application of the Convention relating to the status of refugees to victims of trafficking, and in the case of children, fully respecting the principle of the best interests of the child.**

3. Substantive criminal law

a. Criminalisation of trafficking in human beings (Article 18)

143. Luxembourg legislation on trafficking in human beings was amended by the Law of 9 April 2014 Reinforcing the Rights of Victims of Trafficking in Human Beings. The offence of trafficking in human beings, as amended, still appears in Article 382-1 of the Criminal Code and is worded as follows:

“(1) The offence of trafficking in human beings shall be constituted by the recruitment, transportation, transfer, harbouring or receipt of a person, or ceding or transferring control over that person, with a view to:

1. committing offences of pimping or sexual attack or assault against that person;
2. exploiting the labour or services of that person in the form of forced or compulsory work or services, servitude, slavery or practices similar thereto and in general in conditions contrary to human dignity;
3. having them engage in begging, exploiting their begging or placing them at the disposal of a beggar for use in order to arouse public compassion;
4. removing organs or tissues in contravention of the relevant legislation;
5. having that person commit a crime or misdemeanour, against their will.

(2) The offence provided for in paragraph 1 shall be punishable by three to five years' imprisonment and a fine of 10 000 to 50 000 euros.

(3) An attempt to commit the offence provided for in paragraph 1 shall be punishable by one to three years' imprisonment and a fine of 5 000 to 10 000 euros.

(4) The offence of selling children shall be constituted by any act or transaction whereby a child is handed over by any person or group of persons to another person or group of persons against remuneration or any other advantage.

The penalties stipulated in Article 382-2 (2) shall be applicable.”

144. As GRETA pointed out in its first report, under Luxembourg law, the basic offence of trafficking in human beings revolves around two constituent elements, the action and the purpose of exploitation.³⁶ The means are not a constituent element of the definition of trafficking in Luxembourg law but are considered as aggravating circumstances listed in Article 382-2 of the CC, which reads as follows:

“(1) The offence provided for in Article 382-1, paragraph 1, shall be punishable by imprisonment from five years to ten years and a fine of 50 000 to 100 000 euros in the following cases:

- 1) the offence deliberately or by gross negligence endangered the life of the victim; or
- 2) the offence was committed by abusing the particularly vulnerable situation in which a person finds him/herself, in particular because of his/her illegal or precarious administrative situation, his/her precarious social situation, a state of pregnancy, an illness, an infirmity, or a physical or mental disability; or
- 3) the offence was committed by the threat of use or the use of force or other forms of coercion, by kidnapping, fraud, deception; or
- 4) the offence was committed by offering or accepting payments or benefits to obtain the consent of a person having authority over the victim; or
- 5) the offence was committed by a legitimate, natural or adoptive ascendant of the victim or by a person who has authority over him/her or otherwise abuses the authority conferred by his/her functions; or
- 6) the offence was committed by an officer or a public official, a bailiff or a law enforcement officer acting in connection with the performance of his/her duties.

(2) The offence provided for in article 382-1, paragraph 1, is punishable by imprisonment from ten years to fifteen years and a fine of 100 000 to 150 000 euros in the following cases:

- 1) the offence was committed by means of violence; or
- 2) the offence was committed within the framework of a criminal association or criminal organisation within the meaning of Articles 322 to 326 of the Criminal Code; or
- 3) the offence was committed against a minor; or
- 4) the offence was committed with the use of torture; or
- 5) the offence caused the death of the victim without intent to give it.

(3) The consent of a victim of trafficking in human beings does not relieve the perpetrator or accomplice of criminal responsibility in any of the offences or attempted offences referred to in sections 382-1 and 382-2.

(4) The consent of a victim of trafficking in human beings can also not constitute a mitigating circumstance, in the cases of an offence or attempted infringement referred to in Articles 382-1 and 382-2.”

145. The authorities stated that aggravating circumstances, namely abuse of the particularly vulnerable situation of victims or the use of force or the threat thereof, have been prosecuted in different cases.

146. GRETA stresses once again that the Luxembourg authorities should keep under close and regular review the possibility that the fact that the means are not a constituent component of the legal definition of trafficking, but are considered as aggravating circumstances, may lead to confusion with other criminal offences. The same applies to possible difficulties when it comes to mutual assistance in the anti-trafficking field with countries which have incorporated the means in their own definition of THB or to the interpretation of Article 4(b) of the Convention on the consent of victims.

³⁶ See paragraph 38 of GRETA’s first report on Luxembourg.

147. The offence provided for in Article 382-1, paragraph 1, indent 3, of the CC now includes exploitation of begging among the purposes of exploitation. The Luxembourg authorities have pointed out that "forced begging" should be taken as meaning any form of forced work or service as defined in ILO Convention No. 29 of 1930 concerning forced or compulsory labour. Consequently, the exploitation of begging, including the use of a person to beg, falls within the definition of trafficking in human beings solely when all the criteria of forced labour or services are met. The validity of consent to provide such work or services would have to be assessed on a case-by-case basis. However, when a child is involved, no consent of any kind whatsoever should be considered valid.

148. The Law of 9 April 2014 introduced the offence of sale of children (Article 382-1, paragraph 4, of the Criminal Code). The authorities have stated that there is no case law in relation to this provision, but there have been cases that could be characterised as the sale of children. Forced marriage, criminalised by a law of 4 July 2014 (Article 389 of the CC), is not listed among the forms of exploitation mentioned in Article 382-1 of the CC.

149. In line with GRETA's recommendation in its first report,³⁷ the Law of 28 February Reinforcing Action against Exploitation of Prostitution, Pimping and Trafficking in Human Beings for Sexual Purposes and amending the Code of Criminal Procedure and the Criminal Code created an offence punishing the obtaining, procuring, destroying, concealing, disposing, confiscating, retaining, altering, reproducing or holding of another person's travel or identity document or facilitating its fraudulent use with a view to committing offences of sexual exploitation, pimping, trafficking in human beings or migrant smuggling. These acts are punishable by three to five years' imprisonment and a fine of 10 000 to 50 000 euros (Article 210-1 of the Criminal Code).

150. Several court decisions have clarified the definition of the criminal offence of trafficking in human beings. In judgment No. 497/13 V of 22 October 2013, the Appeal Court of Luxembourg confirmed that the text of Article 382-1 of the Criminal Code in respect of the offences of pimping, sexual assault or sexual abuse referred to the same act as that in Article 379bis 1° of the 1999 law (hiring a person with a view to committing pimping offences against that person), repealed by the 2009 law. Furthermore, the offence of trafficking in human beings has been applied against pimps acting alone in relation to their victims, as the act of having recruited and transported them to Luxembourg with a view to prostitution and therefore pimping offences was sufficient for those acts to be characterised as trafficking in human beings.³⁸

151. Concerning exploitation of labour, a Diekirch District Court judgment of 24 April 2014³⁹ pointed out that "notwithstanding the fact that the terms used to characterise this act as a criminal offence are not defined by legislation, it follows from the wording of this article that, for the offence to be established, there must first be an act of recruitment, transportation, transfer, harbouring or receipt of a person, and that that act was carried out with a view to, i.e. with the intention of, exploiting that person's work or services and that either the work or services in question constitute forced or compulsory labour or services or the exploitation took place in the form of slavery, servitude or similar practices, and in conditions contrary to human dignity in general". In this case, the court concluded that, in view of the victim's age (16 years at the time of the events), the fact that she had no means of resisting or refusing the work or escaping the influence of the perpetrators who were controlling or pressurising her was sufficient to conclude that this was compulsory labour within the meaning of Article 382-1, paragraph 1, indent 2 of the Criminal Code and apply the offence of trafficking in human beings.

³⁷ See GRETA's first evaluation report on Luxembourg, paragraph 144.

³⁸ Appeal Court judgment No. 172/15 of 6 May 2015.

³⁹ Case "L. and D.", judgment No. 249 of 24.04.14 of the Court of Diekirch (81/12/XD).

152. On the other hand, in a judgment of 30 June 2016,⁴⁰ Luxembourg District Court pointed out that “the definition of the offence of trafficking in human beings supposes that the victim has been deprived of their fundamental rights”. The court held in this case that the working and living conditions had been illegal and inadmissible, but there had nevertheless been no violation of human dignity. The court considered that there had been no relationship of virtual ownership by the employer and that the plaintiffs had not been in a situation of subjection and constraint. Consequently, the offence of trafficking for the purpose of labour exploitation was not retained.

153. In its report on trafficking in human beings in Luxembourg, the National Rapporteur (CCDH) stressed that “these two judgments illustrate the nuances that exist between the different forms of labour exploitation, on the one hand, and trafficking in human beings for the purpose of labour exploitation, on the other hand, as well as the difficulty of distinguishing between them”.⁴¹ The authorities have pointed out that in the “B.” case, the first instance judgment of the Luxembourg court of 30 June 2016 was changed on appeal.⁴² The Court of Appeal considers that the deprivation of the fundamental rights of the victims as found by the first judges results from a false interpretation of its judgment of 22 October 2013 and it holds that “it is wrong for the judges of first instance to have deduced from reading the case law of the Court, and more specifically judgment No. 497/13 V of 22 October 2013, that the definition of trafficking in human beings assumes that the victim has been deprived of their fundamental rights.”

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

154. In its first report, GRETA noted the absence of a criminal offence specifically relating to the prohibition of the use of services of a victim of THB with the knowledge that the person is a victim of THB. A general provision covering this aspect has not been introduced in the meantime. However, specific provisions for users of sexual services were introduced by the Law of 28 February 2018 Reinforcing Action against Exploitation of Prostitution, Pimping and Trafficking in Human Beings for Sexual Purposes. This law supplemented the Criminal Code with the new articles 382-6 to 382-8, which introduce the criminalisation of clients of a person engaging in prostitution if that person proves to be a child, a particularly vulnerable person (Article 382-7) or a victim of exploitation of prostitution, pimping or trafficking in human beings (Article 382-6) for sexual purposes. In the explanatory memorandum of the law, it was clarified that the offences are intentional. This supposes that the client is aware that the victim is a child or particularly vulnerable, or that their vulnerability is apparent.⁴³

155. If the person who committed one of the aforementioned offences, when heard as a witness, reveals to the competent authority, in relation to their use of the prostitution of others, facts that may constitute one of the listed offences, including trafficking, they will not be prosecuted (Articles 382-8 of the Criminal Code).

156. GRETA welcomes the criminalisation of the use of services of a victim of THB with the knowledge that the person is a victim of THB for the purpose of sexual exploitation, and invites the Luxembourg authorities to publicise this new provision and to ensure its application in practice. GRETA invites the Luxembourg authorities to consider also criminalising the use of services of a victim of THB that are based on labour exploitation and other forms of exploitation, with the knowledge that the person is a victim of THB.

⁴⁰ Case “B.”, judgment No. 2016 of 30.06.16 of the Luxembourg Court (15983/14/CD).

⁴¹ CCDH, Report on trafficking in human beings in Luxembourg, 2014-2016, page 16.

⁴² Judgment of the Court of Appeal No. 95/17 of 1 March 2017.

⁴³ See Law reinforcing action against exploitation of prostitution, pimping and trafficking in human beings for sexual purposes, page 19, available at: <https://www.chd.lu/wps/portal/public/Accueil/TravailALaChambre/Recherche/RoleDesAffaires?action=doDocpaDetails&id=7008>

c. Corporate liability (Article 22)

157. Article 34 of the Criminal Code stipulates that where a crime is committed on behalf or for the benefit of a legal person by one of its statutory bodies or by one or more of its *de jure* or *de facto* managers, that legal person may be declared criminally liable and incur the penalties provided for in Articles 35 to 38 of the CC (fines, confiscation, exclusion from participation in public tenders, dissolution). These provisions apply to all legal persons with the exception of the State and municipalities.

158. Convictions ordering the closure of an establishment or place pronounced by the courts are possible on the basis of Article 379septies of the CC, which stipulates that the court, when it receives the case file, may order the provisional or definitive closure any establishment or any place open to the public or used by the public, in which any of the offences referred to in Article 379bis (exploitation of prostitution and pimping) has been committed by the accused as a perpetrator or accomplice. Article 382-3 of the CC provides that Articles 379ter et seq apply by analogy to the offences of trafficking.

159. The authorities stated that, to date, there have been no convictions on the basis of Article 34 of the CC in respect of a legal person accused of acts of trafficking in human beings.

160. **GRETA considers that the Luxembourg authorities should continually assess the application of the legislative provisions regarding corporate liability for trafficking offences.**

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

161. In its first report, GRETA encouraged the Luxembourg authorities to draw attention within THB-related training programmes, particularly for the police, prosecutors and judges, to the Criminal Code provision stipulating the non-responsibility of trafficking victims for the illegal activities in which they were forced to participate.

162. The Luxembourg authorities stated that the training programmes under way take this aspect into account, specifying that the non-punishment principle is applied, as the judiciary follows the principle of discretionary prosecution.

163. As stated by GRETA in its first report, Article 71-2 of the CC provides that a victim of a crime of trafficking as defined in Articles 382-1 and 382-2 of the CC shall not be considered criminally responsible for the illegal activities in which they take part under duress. The Law of 6 February 2018 Reinforcing action against Exploitation of Prostitution, Pimping and Trafficking in Human Beings for Sexual Purposes and amending the Code of Criminal Procedure and the Criminal Code provides that victims of exploitation of prostitution, pimping and trafficking in human beings are not criminally responsible for a soliciting offence (Article 71-2, paragraph 3, of the CC).

164. **GRETA considers that the Luxembourg authorities should take additional measures to ensure compliance with the principle of non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so, as contained in Article 26 of the Convention, in particular concerning victims of trafficking for forced criminality (see paragraph 92).** Reference is made in this context to the recommendations on non-punishment for legislators and prosecutors contained in the paper issued by the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, in consultation with the Alliance against Trafficking in Persons Expert Co-ordination Team.⁴⁴

4. Investigation, prosecution and procedural law

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

165. In its first report, GRETA called on the authorities to ensure that offences characterised as human trafficking result in deterrent sentences proportionate to the crime and, to that end, ensure that training on THB for members of the judiciary (prosecutors and judges) is strengthened.

166. The organised crime unit of the criminal investigations police, comprising 12 investigators, is competent, *inter alia*, for investigations aimed at combating pimping and trafficking in human beings. The authorities have pointed out that staff have received special training for this purpose. For cases of labour exploitation, the criminal investigation police and also the regional special police service are in charge of this type of investigation. The Diekirch Prosecutor's Office has six judicial staff, including one contact person for trafficking in human beings. The Luxembourg Prosecutor's Office has 30 judicial staff, of whom four are specialised. The office of investigating judges has 13 judges, four of whom deal with cases of THB and pimping. The authorities reported that judges' mobility was a hindrance to specialisation.

167. The Luxembourg courts have jurisdiction for offences committed on the national territory, regardless of whether a complaint was lodged with the police or one of the two prosecutor's offices or the acts in question were reported by foreign authorities to Luxembourg's judicial authorities following a complaint lodged in another country. Under Article 7-2 of the Code of Criminal Investigation "any offence for which an act characterising one of its constituent elements was committed in the Grand Duchy of Luxembourg" is deemed to have been committed on the territory of the Grand Duchy of Luxembourg.

168. One example of this was the case against four defendants ruled on in a Luxembourg District Court judgment on 7 February 2013, where the initial complaint had been filed against the licensee of a cabaret bar by women of Estonian nationality in Estonia and transmitted by EUROJUST to Luxembourg's judicial authorities. Information was exchanged between investigators. The plaintiffs were heard in Estonia in the presence of the investigators from Luxembourg on the strength of an international rogatory commission, and the transcripts of the hearings were forwarded by the Estonian authorities. The accused were placed under arrest in July 2011.

169. In a similar vein, the authorities said that Luxembourg's Prosecution Service had officially reported acts of pimping, trafficking in human beings and money laundering (Articles 506-1 to 506-8 of the CC) to the Belgian authorities on 10 February 2016, after suspicions of money laundering had been reported to the Prosecution Service by the CRF⁴⁵ and an investigation had been carried out by the vice squad of Luxembourg's criminal search and investigation service into a Latvian citizen already prosecuted in Belgium on similar charges.

170. Where special investigation techniques are concerned, the authorities indicated that, in cases of trafficking in human beings, the prosecution service and the investigating judge make systematic use of surveillance measures, as well as phone tracking, phone-tapping, seizures of bank accounts for analysing transactions and seizures of credit card transaction data from card operators and data stored on servers. Acts of trafficking in human beings, pimping, prostitution and exploitation of human beings may provide grounds for an undercover operation (Articles 48-17 to 48-23 of the Code of Criminal Investigation). Police officers interviewed by GRETA reported that a recently adopted anti-terrorism law had introduced a wider scope of special investigative techniques. According to them, some of these techniques would be very useful for cases of trafficking in human beings and their investigative work would be greatly facilitated, but these techniques are not provided for in the current legislation.

⁴⁵ Financial Intelligence unit (CRF) of the Luxembourg Prosecution Services dealing with economic and financial crime.

171. The use of joint investigation teams is decided either by the Prosecution Service, if the case is at the preliminary inquiries stage, or by the investigating judge during the investigation (Article 2 of the Law of 21 March 2006 on Joint Investigation Teams, JITs). The authorities indicated that Luxembourg participated in one JIT on trafficking, namely with Belgium. As part of an investigation at the District Court of Diekirch concerning human trafficking, forgery, use of forged documents and money laundering against a transport company and its managers, a JIT was set up in 2017 by the investigating judge of Diekirch and one of his colleagues from the court of first instance of Liege. The investigators of the financial department and organised crime of the judicial police collaborated with their Belgian counterparts. The investigation is still on-going.

172. The specialised investigators of the Luxembourg police regularly exchange information with their foreign colleagues, including via Interpol or Europol communication networks.

173. Article 26-3 of the Code of Criminal Investigation stipulates that a complaint from a person residing in Luxembourg must be transmitted without delay by the Public Prosecutor to the competent authority of the State where the offence was committed, insofar as the Prosecutor does not have jurisdiction.

174. When THB offences are involved, the complaint is transmitted without delay to the parties to the Council of Europe Convention on action against trafficking in human beings on whose territory the offence was committed. Spontaneous exchanges of information and reporting occur either directly between the competent judicial authorities (from prosecutor's office to prosecutor's office) or via communication between justice ministries in accordance with Article 21 of the European Convention on mutual assistance in criminal matters of 20 April 1959.

175. With regard to trafficking cases, the authorities stated that the investigators focus strongly on the financial aspect and seek to determine the proceeds generated by illegal activities, enabling courts to confiscate specified or equivalent assets. The authorities pointed out that, even so, proof of the proceeds of crime was often difficult to establish in cases where legal trading activities (such as selling drinks) were exercised alongside illegal activities linked to trafficking in human beings and pimping (for example in "cabaret" bars).

176. Where criminal prosecutions are concerned, the statistics provided by the authorities indicate that, from 2010 to 2017, there were 37 decisions (rulings and judgments) relating to trafficking in human beings (first instance, appeal and cassation). The authorities pointed out that there is a dual referral of cases for both trafficking in human beings and pimping, and the Prosecutor's Office then considers whether or not Article 382-1 of the CC applies to the facts ascertained in the criminal case file.

177. At first instance there were seven convictions in 2012, imposing partially or fully suspended prison sentences ranging from one to four-and-a-half years and four confiscation orders; six convictions in 2013 imposing partially or fully suspended prison sentences ranging from 12 months to four years, one confiscation order and one order to confiscate equivalent assets, as well as one closure of establishment; nine convictions in 2014 imposing partially or fully suspended prison sentences ranging from two to three years, five confiscation orders and two closures of "cabaret" bars; three convictions in 2015 imposing suspended prison sentences ranging from one year to two years and one closure of establishment; eight convictions in 2016 imposing partially or fully suspended prison sentences ranging from 18 months to three-and-a-half years, three confiscation orders and two closures of establishment; and seven convictions in 2017 imposing partially or fully suspended prison sentences ranging from 12 months to three-and-a-half years, two confiscations and one closure of establishment⁴⁶. The authorities indicated that in 2018 there was one conviction at first instance concerning three Romanian defendants, with partially suspended prison sentences ranging from 36 months to 42 months and confiscation orders.

⁴⁶ Only convictions sanctioning the offence of trafficking in human beings are taken into account.

178. As GRETA noted in its first report, the sentences handed down are often less severe than those provided for in Articles 382-1 and following of the CC for trafficking offences with or without aggravating circumstances. The authorities pointed out that it was possible to take account of attenuating circumstances, such as not having a previous criminal record, and set sentences below the thresholds established by the CC. GRETA once again questions the deterrent effect of such sentences, particularly if they are entirely suspended, for an offence which, it should be borne in mind, results in a serious violation of the victim's fundamental rights.

179. **GRETA considers that the Luxembourg authorities should take further measures to ensure that cases of trafficking are investigated proactively and prosecuted, resulting in effective, proportionate and dissuasive sanctions, including by:**

- **strengthening the specialisation of investigators, prosecutors and judges;**
- **providing further training for police officers and prosecutors on the investigation and prosecution of THB cases for various exploitation purposes, including by co-operating with other relevant actors.**

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

180. In its first report, GRETA urged the Luxembourg authorities to take all necessary steps to provide victims and witnesses with efficient and adequate protection against possible reprisals or intimidation during and after investigations and prosecutions.

181. Article 3-7 of the Code of Criminal Procedure stipulates that the victims shall be informed without delay, in a language they understand, except where there is a duly recorded material impossibility of doing so, so that they can assert their rights, of the procedures and conditions for obtaining protection.

182. The Law of 8 May 2009 on Assistance to and Protection and Security of Victims of Trafficking in Human Beings and Amending the New Code of Civil Procedure (Articles 1017-13 and 1017-14 of the New Code) also states that, if someone attempts to intimidate a victim of trafficking in human beings, a witness, an employee of an assistance service or of an association mentioned in Article 1 of the Law of 8 May 2009, a member of the family or an acquaintance of the aforementioned persons or if they plan to commit an act of reprisal against one of those persons, the president of the district court shall, upon application by the person concerned, issue one or more of the following banning orders and injunctions:

- a ban on going to certain places;
- a ban on having any kind of contact whatsoever with the person to be protected;
- a ban on holding or carrying arms and an injunction to hand over any arms, against receipt, to a designated police department.

183. Some of GRETA's interlocutors said that, in practice, the principle of separate hearings for victims and perpetrators was not applied. The authorities have indicated that, pending the Law on hearings by video conference (draft Law No. 7152), prosecutors' offices and chief clerks try to prevent witnesses and victims in human trafficking cases being confronted with the accused or their families when they come to court. These people can be accommodated in a special room and will be brought into the courtroom only during their hearings.

184. The Victim Support Service (SAV) of the Central Social Assistance Service may accompany victims who have suffered psychological and/or physical harm as a result of a criminal offence before and even during the trial, in order to prepare them morally and psychologically for the proceedings (see also paragraph 136). All victims who contact or have contacted the SAV automatically benefit from this service. The authorities have stated that, for victims who have not contacted the SAV, but who, according to the assessment of a magistrate of the Public Prosecutor's Office, warrant such an assistance service, the magistrates have the possibility of applying directly to this service so that it offers its services to the victim who will always have the choice of accepting or refusing

185. Two types of protection programmes can be set up: a joint protection programme in which the police and assistance services work together, and a maximum protection programme, controlled and run by a police department.

186. In the joint protection programme, the police and assistance services work as a team to ensure efficient and adequate protection for victims against possible reprisals or intimidation, including during the reflection period and during investigations, prosecutions and judicial proceedings against the perpetrators. They exchange information in their possession to assess the level of danger to the victim. Protection measures are taken within the framework of a partnership between the police and the officially contracted assistance services, the SAVTEH and the COTEH, and the reception services involved in providing assistance to trafficking victims. The addresses of the assistance services and reception centres must be kept secret, and their staff ensure that their identities are not disclosed in the media.

187. Implementation of the maximum protection programme hinges on a set of admission criteria defined by the police, following consultation with the Prosecutor's Office: the seriousness of the crime on which the person concerned will be required to testify, the decisive nature of their testimony and the seriousness of the risks entailed by their decision to co-operate with justice. The victim must meet the criteria laid down in order to be afforded maximum protection. If the victim is admitted to the programme, all the protection measures taken thereafter will, in principle, be implemented by officials assigned to the programme, in keeping with the rules and practices governing it. The costs of the witness protection programme are covered by the Ministry of Justice.

188. The authorities stated that co-operation is on-going with neighbouring countries, with a view to placing victims and vulnerable witnesses in trafficking cases. Under Luxembourg's presidency of Benelux at the end of 2016, collaboration between the NGOs of the three Benelux countries was stepped up. Where urgent action is required, the Luxembourg police are supposed to contact Belgian and Luxembourg NGOs via the SAVTEH and the COTEH. However, it was noted that placements in another country on security grounds concerned solely adult victims and that the victim's written consent was required. For victims from third countries, a transit pass is issued by the Ministry of Foreign and International Affairs to enable them to stay on the territory of another member State. The authorities reported that three victims had been placed in other countries. In the absence of a witness protection programme in Luxembourg, the authorities stated that, given the size of the Grand Duchy, the decision to upgrade from simple victim status to the status of victim requiring protection will be taken in conjunction with foreign police authorities in the light of an assessment of the admission criteria.

189. In this respect, the National Action Plan provides for the continuation of conceptual work already begun "concerning the possibility of setting up a system of co-ordination between bordering States for the care of victims particularly at risk or requiring specific protection and safe and secret placement, preferably in another country, owing to the small size of the national territory".⁴⁷

190. In its first report, GRETA invited the Luxembourg authorities to consider the possibility of a change of identity as a protection measure for witnesses and victims. The authorities have pointed out that, given the small size of Luxembourg's territory, a new identity at national level would not be a guarantee that a victim or witness is perfectly protected.

191. GRETA notes that in its concluding observations on Luxembourg on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the Committee on the Rights of the Child expressed concern about the protection of child victims during criminal proceedings, as there is currently only one child-friendly interviewing room in Luxembourg, and recommended the establishment of additional child-friendly interviewing rooms.⁴⁸

⁴⁷ National Action Plan, page 17.

⁴⁸ CRC/C/OPSC/LUX/CO/1, para. 27.

192. While welcoming the development of Luxembourg's legislative framework for the protection of victims and witnesses, including in trafficking cases, **GRETA nevertheless considers that the Luxembourg authorities should make full use of the available measures to protect victims and witnesses of THB, including children, and to prevent intimidation during the investigation and during and after the court proceedings.** In this context, GRETA refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.⁴⁹

c. Jurisdiction (Article 31)

193. The international jurisdiction of Luxembourg courts in criminal law matters is governed by Articles 3 and 4 of the CC, as well as by Articles 5 to 7-4 of the Code of Criminal Investigation. Pursuant to Article 3 of the CC, offences committed on the territory of the Grand Duchy, by Luxembourg citizens or foreigners, are punished in conformity with the provisions of the legislation of Luxembourg.

194. Article 4 of the Criminal Code institutes the principle whereby "an offence committed outside the territory of the Grand Duchy by Luxembourg citizens or by foreigners may be punishable in the Grand Duchy only in the cases determined by the law".

195. There are exceptions to the principle of the territoriality of criminal law set out in Articles 5, 5-1 and 7 to 7-4 of the Code of Criminal Investigation. Where THB offences are concerned, Article 7-4 of the Code of Criminal Investigation as amended by the Law of 13 March 2009 stipulates that "where a person who perpetrates one of the offences provided for in Articles (...) 382-1, 382-2 (...) of the CC in another country, is not extradited, the case shall be submitted to the competent authorities for the purpose of prosecution pursuant to the rules in place".

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

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

196. In its first report, GRETA invited the Luxembourg authorities to further develop international co-operation, with a view to preventing trafficking, assisting victims of trafficking and prosecuting traffickers.

197. Under the Luxembourg Presidency of the Benelux Union in 2016, the three Benelux governments signed a declaration of intent on co-operation as concerns combating trafficking in human beings. In this declaration, they confirm their willingness to strengthen co-operation between, *inter alia*, reception and assistance centres for victims, judicial authorities, police, immigration and integration services and social and labour inspectorates.⁵⁰

198. Specialised police investigators can exchange information with their foreign colleagues, in particular through Interpol, Europol or Eurojust communication networks, when they wish to transmit information about a victim, witness or other person who co-operates with the judicial authorities in a trafficking case and whom the Luxembourg authorities consider to be in immediate danger.

199. Luxembourg participates in EMPACT activities aimed at identifying and disrupting organised criminal groups and high-value targets identified by individual Member States and combating Nigerian criminal networks operating in the EU for sexual and other forms of exploitation.

⁴⁹ [Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice](#) (adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies).

⁵⁰ Additional information is available at: <http://www.benelux.int/fr/nouvelles/jbs>

200. The Luxembourg authorities are funding international activities aiming at combating trafficking in human beings. For example, approximately 1 million euros per year have been allocated to ECPAT Luxembourg for programmes in Nepal, Mali, Benin, Burkina Faso, Niger, India and Senegal focusing on the prevention of sex tourism and child trafficking, as well as on the support of victims by providing education, training, and counselling. Furthermore, a voluntary contribution was made to the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery in 2016.

201. On 28 April 2016 Luxembourg signed a co-operation agreement for the setting up of the "Amber Alert" system in relation to the abduction of children, which has been operational since then. Amber Alert Luxembourg is a co-operation between the Ministry of Justice, the Ministry of Internal Security, the General Prosecutor's Office and public prosecution offices, the Grand Ducal Police and Amber Alert Europe. The Amber Alert Luxembourg system is provided free of charge by Amber Alert Europe, the European "Child Rescue" alert system and the Police Network for Missing Children. The alert is issued by the police, on the order of the competent public prosecutor's office.

202. GRETA welcomes Luxembourg's efforts in the field of international co-operation and invites the Luxembourg authorities to continue these efforts, in particular by using the co-operation within the Benelux Union when developing new anti-trafficking measures.

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

203. The representatives of the contracted services providing assistance to victims of trafficking and of the NGOs running these services are members of the Committee for monitoring action against trafficking in human beings. The co-operation between the responsible ministries and NGOs is governed in particular by the Law of 8 May 2009 on Assistance to and Protection and Security of Victims of Trafficking in Human Beings. The assistance provided to victims of trafficking is fully delegated to NGOs. The NGOs have agreements with the authorities and are therefore fully funded by the State for providing their services for victims of trafficking. The approvals granted to them define the terms and conditions for the implementation of the services they provide, but the NGOs remain responsible for and in control of the implementation of their services.

204. Furthermore, GRETA notes with satisfaction that NGOs are increasingly involved in training on THB for various professional groups, but underlines that additional tasks should be accompanied with additional resources. GRETA also notes that the existing specialised capabilities of NGOs are not widely used for the detection and identification of victims of trafficking, as well as for the development and implementation of awareness-raising activities. In addition, as regards the fight against labour exploitation, trade unions and employers have not yet been involved.

205. GRETA welcomes the co-operation established between public bodies and non-state actors in the field of action against trafficking and considers that the Luxembourg authorities should provide adequate funding for the specialised NGOs assisting trafficking victims and continue building strategic partnerships with a series of civil society actors, trade unions and the private sector.

IV. Conclusions

206. Since the adoption of GRETA's first report on Luxembourg in November 2013, progress has been made in a number of areas.

207. The Luxembourg authorities have further developed the legal framework for combating trafficking in human beings, by adding forced begging to the list of forms of exploitation. In addition, certain acts related to travel or identity documents, with a view to committing the offence of trafficking in human beings, have been criminalised, as stipulated by the Convention. The criminalisation of the use of services of a victim of THB, with the knowledge that the person is a victim of THB for the purpose of sexual exploitation is another welcome development.

208. Progress has also been made in developing the institutional anti-trafficking framework, by formalising the Inter-ministerial Committee tasked with co-ordinating activities to prevent and evaluate the phenomenon of trafficking in human beings, and by including in its composition representatives of the officially-contracted victim assistance services which are run by NGOs.

209. Furthermore, GRETA commends the designation of the Advisory Committee on Human Rights (CCDH) as independent National Rapporteur on trafficking in human beings.

210. Efforts have been made to train a wide range of officials, as well as staff of NGOs, in the contracted services sector. The Institute of Public Administration (INAP) has provided basic training on trafficking in human beings since 2016. This training takes a multi-stakeholder approach.

211. Under the new National Action Plan against Trafficking in Human Beings, adopted in December 2016, an information and awareness-raising campaign for the general public on the phenomenon of trafficking in human beings has been carried out, and a roadmap setting out the national identification and referral mechanism has been finalised.

212. Improvements have been made in the area of compensation for victims of trafficking. GRETA notes with satisfaction that, in line with the recommendations made in its first report, the legislative provisions on state compensation have been amended to allow access to compensation for trafficking victims who are third-country nationals.

213. GRETA also commends the Luxembourg authorities' efforts to improve the criminal policy response to human trafficking through training and specialisation of the competent stakeholders.

214. GRETA furthermore welcomes the efforts made by Luxembourg in the area of international co-operation and the co-operation established between public bodies and non-state actors in the field of action against human trafficking.

215. However, despite the progress achieved, some issues are still a cause for concern. In this report, GRETA requests the Luxembourg authorities to take further action in a number of areas. The numbers of the paragraphs containing the recommendations in the text of the report are referenced in brackets.

Issues for immediate action

- **GRETA urges the Luxembourg authorities to take additional measures to ensure that all victims of trafficking in human beings are identified as such and able to benefit from the assistance and protection measures provided for in the Convention. In particular, the authorities should:**
 - **ensure that all the stakeholders involved in identifying THB victims take a more proactive approach and step up their action on the ground to more effectively identify trafficking victims;**
 - **update the indicators used to identify victims of trafficking, for example on the basis of the list of indicators developed under the EuroTrafGuID project;**
 - **increase multi-service involvement in the identification of THB victims;**
 - **step up efforts to identify trafficking victims subjected to exploitation of labour and forced begging;**
 - **continue to train staff working on the ground who are involved in the identification of THB victims;**
 - **pay greater attention to detecting trafficking victims among asylum seekers, foreign workers and people placed in the retention centre (paragraph 93);**
- **GRETA urges the Luxembourg authorities:**
 - **not to link the assistance provided to their co-operation with the police and to systematically refer all potential, presumed and identified victims to specialised assistance services;**
 - **to provide the assistance services co-ordinating assistance and accommodation for trafficking victims with the necessary human and financial resources, in order to guarantee that their services are available at any given moment, so that specialised assistance can be provided to presumed trafficking victims as swiftly as possible (paragraph 102);**
- **GRETA urges the Luxembourg authorities to make efforts to improve the identification of child victims of trafficking in human beings and the assistance provided to them and, in particular, to:**
 - **establish a clear procedure for the identification of child victims of trafficking, taking into account the particular situation and needs of child victims of trafficking, involving child specialists, and making the best interests of the child a primary consideration;**
 - **ensure that the competent stakeholders adopt a proactive approach and step up their work on the ground to identify child victims of trafficking, paying special attention to street children and unaccompanied foreign children;**
 - **ensure that child victims of trafficking benefit from the assistance measures provided for in the Convention, including suitable accommodation;**
 - **ensure that children seeking asylum are screened for indicators of trafficking in human beings at an early stage by specially trained staff;**
 - **introduce procedures tailored to children when interviewing presumed child victims of trafficking, drawing on the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (paragraph 115);**

- **GRETA urges the Luxembourg authorities to ensure, in compliance with the obligations under Article 13 of the Convention, that all presumed foreign victims of trafficking are offered a recovery and reflection period in practice, regardless of whether the victim co-operates with the authorities, and all the measures of protection and assistance envisaged in Article 12 paragraphs 1 and 2, of the Convention during this period. Officers performing identification should be issued with clear instructions stressing the need to offer the recovery and reflection period as defined in the Convention, i.e. not making it conditional on the victim's co-operation and offering it to victims before formal statements are made to investigators** (paragraph 122);
- **GRETA urges the Luxembourg authorities to ensure that residence permits are issued in good time and there are no gaps between the expiry of the reflection period and the issue of a residence permit** (paragraph 128).

Further conclusions

- GRETA invites the Luxembourg authorities to introduce a system of independent assessment of National Action Plan implementation, in order to measure the impact of the activities carried out and plan future measures and policies for action against trafficking in human beings (paragraph 28);
- GRETA considers that the Luxembourg authorities should pursue and step up their efforts in the area of training. The training should be aimed at members of law enforcement agencies, members of the judiciary (judges and prosecutors), work inspectors, lawyers, staff working in shelters for trafficking victims, staff involved in children's welfare, social workers, staff working in refugee reception centres and the retention centre for migrants illegally present on the territory, diplomatic and consular staff, healthcare professionals and staff of trade union organisations. Training programmes should be devised with a view to building those professionals' knowledge and capacities, by enabling them to identify, assist and protect trafficking victims, to help victims obtain compensation and to ensure that offences linked to trafficking in human beings are effectively investigated and prosecuted (paragraph 37);
- For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA considers that the Luxembourg authorities should continue their efforts to develop and manage a comprehensive and coherent statistical system on trafficking in human beings, compiling reliable statistical data on measures to protect and promote the rights of victims and on investigations, prosecutions and court decisions handed down in trafficking cases. The statistics on victims should be collected from all the main actors and allow disaggregation in terms of sex, age, type of exploitation and country of origin and/or destination. The setting up of this system should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including where NGOs working with trafficking victims are asked to provide information for the national database (paragraph 42);
- GRETA considers that the Luxembourg authorities should carry out and provide backing for research into issues linked to trafficking in human beings, so that future policies can be based on validated knowledge. Areas in which in-depth research is deemed necessary include trafficking for the purpose of labour exploitation (particularly in the construction and catering sectors and domestic work) and trafficking in children, including children in street situations (paragraph 45);
- GRETA considers that the Luxembourg authorities should pursue their efforts in this area. In future, the authorities should plan impact studies to ensure that their information and awareness-raising activities are effective and should also involve civil society in their organisation (paragraph 52);

- GRETA considers that the efforts made by Luxembourg to prevent trafficking for the purpose of labour exploitation must be stepped up, in particular by:
 - continuing to raise awareness of trafficking for the purpose of labour exploitation and victims' rights among the officials concerned;
 - expanding the terms of reference and resources of works inspectors, so that they can be actively involved in preventing trafficking;
 - more closely monitoring recruitment and temporary work agencies, as well as the supply chain;
 - working closely with trade unions, civil society and the private sector to prevent trafficking in supply chains and strengthen the social responsibility of companies, drawing on the Guiding Principles on Business and Human Rights and Recommendation CM/Rec(2016)3 on human rights and business (paragraph 58);
- GRETA considers that the Luxembourg authorities should step up their efforts in the area of prevention of trafficking in children, by devoting more attention to unaccompanied or separated children arriving in Luxembourg and ensuring that the State fulfils its obligation to provide them with a protective environment, including by swiftly appointing a guardian for any unaccompanied child. The authorities should continue to raise awareness among and train front-line professionals working with children (including the staff of centres receiving asylum seekers, the staff of the OLAI and the Directorate of Immigration and guardians), as well as foster families (paragraph 65);
- GRETA considers that the Luxembourg authorities should step up their efforts to ensure that the doctors participating in the transplantation of organs and other health-care professionals are made aware of the issue of trafficking for the purpose of organ removal (paragraph 69);
- GRETA encourages Luxembourg to ratify the Council of Europe Convention against Trafficking in Human Organs (paragraph 70);
- GRETA considers that the Luxembourg authorities should step up their efforts to discourage demand fuelling the different forms of exploitation, including labour exploitation (paragraph 76);
- GRETA considers that the Luxembourg authorities should pursue their efforts to build the capacity of border police to detect and identify trafficking victims (paragraph 80);
- GRETA invites the Luxembourg authorities to reconsider the procedures for determining age, ensuring that the best interests of the child are effectively protected and taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child (paragraph 106);
- GRETA considers that the Luxembourg authorities should regularly review the practical application of the legal provisions relating to the issue of residence permits to trafficking victims and to what extent residence permits are granted on grounds of the victim's personal circumstances. GRETA also considers that reliable data should be collected on the number of residence permits granted to trafficking victims and also on the reasons why they were granted (paragraph 129);
- GRETA considers that the Luxembourg authorities should make further efforts to facilitate and guarantee effective access to compensation for victims of trafficking, by ensuring that they are systematically informed of their right to claim compensation and of the procedures to follow, and by enabling trafficking victims to uphold their right to compensation through the guarantee of effective access to legal aid (paragraph 138);

- GRETA considers that the Luxembourg authorities should ensure that the return of victims of trafficking is carried out with due regard for their rights, safety and dignity, including the obligation of *non-refoulement* (Article 40, paragraph 4, of the Convention), taking into account the UNHCR Guidelines on the application of the Convention relating to the status of refugees to victims of trafficking, and in the case of children, fully respecting the principle of the best interests of the child (paragraph 142);
- GRETA welcomes the criminalisation of the use of services of a victim of THB with the knowledge that the person is a victim of THB for the purpose of sexual exploitation and invites the Luxembourg authorities to publicise this new provision and to ensure its application in practice. GRETA invites the Luxembourg authorities to consider also criminalising the use of services of a victim of THB that are based on labour exploitation and other forms of exploitation, with the knowledge that the person is a victim of THB (paragraph 156);
- GRETA considers that the Luxembourg authorities should continually assess the application of the legislative provisions regarding corporate liability for trafficking offences (paragraph 160);
- GRETA considers that the Luxembourg authorities should take additional measures to ensure compliance with the principle of non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so, as contained in Article 26 of the Convention, in particular concerning victims of trafficking for forced criminality (paragraph 164);
- GRETA considers that the Luxembourg authorities should take further measures to ensure that cases of trafficking are investigated proactively and prosecuted, resulting in effective, proportionate and dissuasive sanctions, including by:
 - strengthening the specialisation of investigators, prosecutors and judges;
 - providing further training for police officers and prosecutors on the investigation and prosecution of THB cases for various exploitation purposes, including by co-operating with other relevant actors (paragraph 179);
- GRETA considers that the Luxembourg authorities should make full use of the available measures to protect victims and witnesses of THB, including children, and to prevent intimidation during the investigation and during and after the court proceedings (paragraph 192);
- GRETA welcomes Luxembourg's efforts in the field of international co-operation and invites the Luxembourg authorities to continue these efforts, in particular by using the co-operation within the Benelux Union when developing new anti-trafficking measures. (paragraph 202);
- GRETA considers that the Luxembourg authorities should provide adequate funding for the specialised NGOs assisting trafficking victims and continue building strategic partnerships with a series of civil society actors, trade unions and the private sector (paragraph 205).

Appendix

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

Public bodies

- Ministry of Justice
- Ministry of Equal Opportunities
- Ministry of Interior Security
- Criminal Investigations Police Department
- Ministry of Foreign Affairs (Migration Directorate)
- Ministry of National Education, Children and Youth
- Ministry of Health
- Public Prosecution Service (General Prosecutors' Office, public prosecution offices of Diekirch and Luxembourg, Victims Assistance Service)
- Luxembourg District Court
- Mines and Labour Inspectorate (ITM)
- Luxembourg Reception and Integration Office (OLAI)
- Ombudsperson
- Ombuds-committee for the Rights of the Child (ORK)
- Advisory Committee on Human Rights (CCDH)
- Members of the Chamber of Deputies (Legal Affairs Committee, Luxembourg Delegation to the Parliamentary Assembly of the Council of Europe)

Intergovernmental organisations

- International Organization for Migration (IOM)

Non-governmental organisations and other civil society organisations

- Acttogether asbl - Service infoMann
- Caritas - Solidarity & Integration department
- ECPAT Luxembourg
- Femmes en détresse (FED) asbl - Service providing assistance to trafficking victims (SAVTEH)
- Fondation Maison de la Porte Ouverte (FMPO) - Ozanam Centre for THB victims (COTEH)
- Lextrust Law Firm
- Luxembourg Confederation of Christian Trade Unions (LCBG)
- Luxembourg Red Cross DropIn Service
- Solidarité Jeunes asbl - Refuge Péitrusshaus shelter

Government's comments

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

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

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the authorities on 2 August 2018 and invited them to submit any final comments. The comments of the authorities, submitted on 28 September 2018 and only available in French, are reproduced hereafter.



LE GOUVERNEMENT
DU GRAND-DUCHÉ DE LUXEMBOURG
Ministère de la Justice

Conseil de l'Europe
Secrétariat Général
Direction Générale Droits de l'Homme et
Etat de Droit

Secrétaire exécutive de la Convention du
Conseil de l'Europe sur la lutte contre la
traite des êtres humains

F-67075 Strasbourg CEDEX

Luxembourg, le 28 septembre 2018

V.ref. : DG-II/PN/ML/mc

Madame Nestorova,

Je me réfère à votre courrier du 2 août 2018 valant transmission du rapport final rédigé par le Groupe d'experts sur la lutte contre la traite des êtres humains (GRETA) sur la mise en œuvre de la Convention par le Luxembourg.

Dans le prédit courrier vous nous avez accordé un délai jusqu'au 28 septembre 2018 afin de fournir des éventuels commentaires finaux.

Je tiens à vous remercier pour cette possibilité nous accordé et qui nous a permis de soumettre le rapport aux membres de notre comité inter-ministériel pour avis.

C'est à ce titre donc que je vous adresse par la présente les commentaires finaux du Luxembourg à publier ensemble avec le rapport final du GRETA.

Veuillez agréer, Madame Nestorova, l'assurance de mes sentiments distingués.

Pour le Ministre de la Justice

Luc REDING
Conseiller

Commentaires quant au rapport final concernant la mise en œuvre de la Convention du Conseil de l'Europe sur la lutte contre la traite des êtres humains par le Luxembourg

II. Constats article par article

2. Mesures visant à protéger et promouvoir les droits des victimes, en garantissant l'égalité entre les femmes et les hommes

a. Identification des victimes

§84 : Avant toute identification, une victime peut uniquement être prise en charge par les services d'assistance et non par les centres d'accueil.

§86 : Les services d'assistance indiquent que les victimes encadrées par leurs soins ont été majoritairement des victimes de traite aux fins d'exploitation par le travail.

§89 : Au courant des années 2017 et 2018 de nombreux salariés du Centre de rétention ont suivi la formation « La traite des êtres humains » organisée à l'INAP. Dans le cadre de cette formation ils font également connaissance avec les représentants des ONG. En cas de détection d'une victime de la traite, les ONG s'y déplacent pour les entretiens.

§90 : Le service DropIn a priori ne fait pas d'identification proactive mais le personnel est formé et peut détecter une victime.