



## **G R E T A**

Group of Experts on Action  
against Trafficking in Human Beings

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

## **Third evaluation round**

Thematic focus: Access to justice and effective remedies for victims of trafficking in human beings

**Reply submitted on 1 April 2019**

## Introduction

In accordance with Article 38, paragraph 1, of the Convention on Action against Trafficking in Human Beings ("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 based.

The first round of monitoring of the Convention provided an overview of its implementation by State Parties. The second evaluation round of the Convention examined the impact of legislative, policy and practical measures on the prevention of trafficking in human beings (THB), the protection of the rights of victims of trafficking, and the prosecution of traffickers, paying particular attention to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking.

GRETA has decided that the third evaluation round of the Convention will focus on trafficking victims' **access to justice and effective remedies**, which is essential for victims' rehabilitation and reinstatement of rights and reflects a victim-centred and human-rights based approach to the fight against human trafficking. A number of provisions of the Convention establishing substantive and procedural obligations are relevant to this topic. Moreover, victims of trafficking, by virtue of their status as victims of human rights violations, are entitled to effective remedies under the European Convention on Human Rights. Access to justice and effective remedies must be guaranteed, in a gender- and age-sensitive manner, to all victims of trafficking subject to the jurisdiction of State Parties, irrespective of their immigration status or presence on the national territory and notwithstanding their capacity or willingness to co-operate in any criminal investigation.

Access to justice and effective remedies is contingent on the fulfillment of a number of preconditions, including prompt and accurate identification of victims of trafficking, the provision of a recovery and reflection period, the availability of material, psychological, medical and legal assistance, regularisation of the victim's stay, the right to seek and enjoy asylum, and the application of the principle of *non-refoulement*. These preconditions, corresponding to different provisions of the Convention, have been examined at length during the first and second evaluation rounds of monitoring of the Convention. Consequently, GRETA has decided to ask each State Party for an update on the implementation of GRETA's previous recommendations on selected topics, through a separate country-specific part of the questionnaire, rather than including once again questions related to the same provisions in the general questionnaire for the third evaluation round.

States Parties are requested to transmit to GRETA a reply to this questionnaire **within four months** from the date it was sent. The reply to the questionnaire should be submitted in one of the official languages of the Council of Europe (English and French), and preferably also in the original language. Where appropriate, in order to avoid unnecessary repetition, the reply may refer to information contained in the report submitted by the national authorities on measures taken to comply with the Committee of the Parties' recommendation concerning the implementation of the proposals made in GRETA's second evaluation report. States Parties should provide links, copies or extracts of relevant legislation, regulations, national action plans and case law mentioned in the reply to the questionnaire, in the original language and, wherever possible, also in one of the official languages of the Council of Europe.

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

## Part I - Access to justice and effective remedies

### 1. Right to information (Articles 12 and 15)

1.1	How, at what stage and by whom are presumed victims and victims of THB informed of their rights, the relevant judicial and administrative proceedings, and the legal possibilities for obtaining compensation and other remedies, in a language that they can understand? Please provide copies of any information materials developed to inform victims of THB, including any materials specifically developed for child victims, in the languages in which they exist.
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When **victims of THB are identified by the police**, the police **will inform** them about **their rights** and **refer them to supporting NGOs** or by request the police will contact the NGO immediately and directly. This **information about their rights** is provided at the **beginning of an investigation**, as well as later on **during an investigation** by the public prosecutor and **during legal proceedings** by the court.

If a person applies for asylum, a first informal talk with a social worker is offered to each applicant at the **beginning of the reception process**. Presumed victims of human trafficking are also at this stage informed about the possibility of receiving professional support from specialised counselling services (e.g. Intervention Center for Trafficked Women (LEFÖ-IBF)).

#### **Legal Provisions dealing with the rights of victims**

According to § 70 para. 1 CCP (=Austrian Criminal Procedure Code) the **criminal investigation authority** or the **prosecution authority** has to **inform the victims about their fundamental rights** (§§ 66 to 67 CCP) as soon as investigation proceedings are conducted against a particular accused. This may only be omitted as long as this would jeopardize the purpose of the investigations.

Victims within the meaning of § 65 subpara. 1 lit. a or b CCP are to be **informed about the conditions for legal support during the proceedings** before their first interview. Victims with special protection needs have to be informed about their rights under § 66a CCP.

In addition, victims within the meaning of § 65 subpara. 1 CCP are to be informed no later than their questioning within the meaning of §§ 172 para. 4, 177 para. 5 and 181a about their **right to be notified**, upon request, about:

- **the escape and re-arrest of the escapee** and
- the **unsupervised exit** of the facility or
- the **imminent or recent discharge of the prisoner**.

The **instruction about rights** needs to **be given in a language that the victim can understand** and in a comprehensible manner, taking into account any special personal needs of the victim.

**During an ongoing asylum procedure** presumed victims and victims of THB are **interviewed by persons of the same sex** and also the **interpreter is of the same sex**. The employees of the Federal Office for Immigration and Asylum (BFA) provide presumed victims and victims of THB with information on the possibilities of getting in contact with counselling services (e.g. LEFÖ-IBF and another protection facility for male victims of THB, called "MEN VIA").

During a **complaint procedure** against a decision of the BFA, victims of THB always have the possibility **to get in contact with an assigned legal advice organisation**.

#### **Information for presumed female victims of THB:**

One of these supporting NGOs is the **Intervention Center for Trafficked Women** (LEFÖ-IBF) which is a recognized female victim protection facility as defined by Article 25 (3) of the Security Police Act (SPG). LEFÖ-IBF operates nationwide on behalf of the Federal Ministry of the Interior and the Federal Ministry of Education and Women's Affairs. Article 56 (1) and (3) SPG allows security authorities to transfer data to appropriate victim protection facilities, as long as it is necessary for the protection of the person at risk.

**If victims of THB are referred to LEFÖ-IBF**, LEFÖ-IBF provides them again with **information about their rights** including the **relevant judicial and administrative proceedings**. LEFÖ-IBF also offers **psychosocial and legal victim assistance services**, during and after the legal procedures, with focus on the possibility to obtain compensation and free psychosocial and legal aid. A trained psychosocial counsellor of LEFÖ-IBF is in charge of child victims.

**Information for presumed male victims of THB:**

Another supporting NGO is "MEN VIA" which is a recognized male victim protection facility. It **informs male victims of THB** about their **rights and legal possibilities** in the **phase of first contact**. This information is provided by members of the MEN VIA Team, in face to face contact or, if necessary/feasible also via telephone. MEN VIA makes sure that victims of THB understand their rights to enable them for further procedural steps (e.g. decision about cooperation with law enforcement) based on solid information.

Law enforcement authorities, LEFÖ-IBF and MEN VIA have been closely collaborating for several years and have established a mutual understanding and a mutual recognition of the other party's duties and responsibilities. For this reason, the cooperation in the fight against THB, which consistently aims to provide the victims with a maximum level of protection, has always been highly successful.

Additionally, many **federal counselling services, police detention centres and law enforcement units** display **information material** published by counselling services in **several languages** for potential victims of THB.

**Examples for information materials to inform victims of THB:**

**For further information material to inform sex workers, please see the following link:**

[http://www.lefoe.at/tl\\_files/lefoe/Sexwork-Info\\_Information\\_brochure\\_for\\_female\\_and\\_male\\_providers\\_of\\_sexual\\_services\\_\(Englisch\).pdf](http://www.lefoe.at/tl_files/lefoe/Sexwork-Info_Information_brochure_for_female_and_male_providers_of_sexual_services_(Englisch).pdf)

**For further information material to inform victims of child trafficking, please see the following link: (available in german):**

[https://www.bmeia.gv.at/fileadmin/user\\_upload/Zentrale/Aussenpolitik/Menschenrechte/Folder\\_Kinderhandel\\_Web.pdf](https://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Aussenpolitik/Menschenrechte/Folder_Kinderhandel_Web.pdf)

**For further information material to inform victims of THB of their general rights, please see the following link: (available in german):**

[https://www.bmeia.gv.at/fileadmin/user\\_upload/Zentrale/Aussenpolitik/Menschenrechte/Opferrecht\\_ebroschuere.pdf](https://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Aussenpolitik/Menschenrechte/Opferrecht_ebroschuere.pdf)

**For further information material to inform private domestic, staff please see:**

[https://www.bmeia.gv.at/fileadmin/user\\_upload/Zentrale/Aussenpolitik/Menschenrechte/Information\\_broschuere\\_fuer\\_private\\_Hausangestellte\\_EN.PDF](https://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Aussenpolitik/Menschenrechte/Information_broschuere_fuer_private_Hausangestellte_EN.PDF)

For further information material to inform migrant workers about their rights, please see the following link:

[www.postingofworkers.at](http://www.postingofworkers.at) and [www.migration.gv.at](http://www.migration.gv.at)

**Practical examples for information material provided for victims of THB:**

The Federal State of **Carinthia** offers **the flyer “You have a right to get help”** to women who are victims of forced prostitution and exploitation, which was issued by the department of women and equal treatment in cooperation with the **state office of criminal investigation of Carinthia** and the Institution of victim protection “**Caritas**”. This flyer explains at what point sex workers are considered to be victims of THB (because many of them are unaware of their plight). It contains **information** about what kind of help they might receive such as

- security and protection in an emergency,
- Safe accommodations free of charge or
- professional psychological advice.

The **most important information** of the flyer are the **contact details** of the organizations that provide help for sex workers. First of all there is a **24 hours hotline** of the state office of criminal investigation of Carinthia as well as the telephone numbers of the institutions of victim protection Caritas and LEFÖ-IBF. The flyer is offered **in five languages** – German, English, Romanian, Hungarian and Bulgarian.

The target group of the flyer are female sex workers who are prostitutes against their will because they are forced into prostitution, trafficking victims, lured under false promises about their job in Carinthia or prevented from giving up the sex work.

Furthermore, sex workers are obliged to undergo a medical check at the governmental health office every week. The **department of women and equal treatment of Carinthia** started an **information campaign** in cooperation with the **state office of criminal investigation** to **sensitize the employees** of these health offices who are in contact with the sex workers (they are provided with information about to react when they become suspicious about abuse, forced prostitution). These flyers are displayed at the health offices in a way that they can be taken by the sex workers anonymously. Also during the regular controls of the police at brothels, they distribute flyers to the sex workers.

1.2	How is the obligation to provide translation and interpretation services, when appropriate, met at different stages of the legal and administrative proceedings by different agencies?
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**During the initial reception phase,** material reception conditions are provided **by a private operator** (ORS GmbH) on a contractual basis with the Federal Ministry of the Interior (FMOI = reception authority). This contract includes **interpreting assistance** by multilingual social workers covering the most common languages as well as by interpreters where needed. In addition, **video interpretation is currently being tested** in selected reception centres and has proven to be very successful so far. LEFÖ-IBF offers interpretation assistance by its own interpreters.

**During an ongoing asylum procedure** at the BFA an **interpreter for the native language is present all the time and the interview is translated**. In case the **BFA issues a ruling**, this text contains the decision and the instructions on the right of appeal in the **native language** of the asylum seeker. This also applies to the rules of procedure on the assignment of a legal adviser. In the case of a complaint procedure before the Federal Administrative Court (BVwG), the presence of an interpreter is also obligatory.

**In criminal proceedings,** victims do have the **right to an interpreter** (§ 66 para. 1 subpara. 5 in connection with § 56 CCP). An interpreter has to **assist the victim** if the victim cannot communicate sufficiently in German. In particular, an interpreter has to **be appointed with regards to the information provided to the victim concerning his or her particular rights**. Upon request an interpreter for the victim may be appointed to **contact his or her lawyer**. In practice the psychosocial and legal assistance (please also see answer to question 2.1.) granted to victims in accordance with §

66 para. 2 CCP also includes an interpreter, if necessary, for the victims to contact the institution, which provides the assistance.

Beyond the **right to oral interpretation** during interrogations, victims can also request **written translation of the relevant parts of the file**. These include:

- the written confirmation of the report of the crime (§ 80 para. 1),
- notification of and the reasons for cessation of investigation proceedings (§ 194 para. 2)
- as well as copies of the verdict and the penal order;

According to § 56 para. 1 CCP, insofar as this is **necessary to preserve the rights to defence and ensure a fair trial**, the accused has the **right to obtain written translation** of essential documents. The same applies to victims (see § 66 para. 3 CCP) except that in this case it is of course not necessary to preserve the rights to defence, but it is necessary to preserve the rights and interests of the victim (§ 10 CCP)."

Additionally in **both administrative and criminal proceedings**, the **counselling services** (LEFÖ-IBF, MEN VIA) employ cultural and multilingual mediators who **support and counsel the victims**. In legal and administrative proceedings, the translator is chosen by court or other entities. LEFÖ-IBF and MEN VIA observed that these translators are not always sensitized enough to the issue of human trafficking. There is no right on objection concerning a specific translator in criminal proceedings.

**2. Legal assistance and free legal aid (Article 15)**

2.1	How, by whom and from what moment is legal assistance provided to victims of trafficking? How is legal assistance provided to children?
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**If the victim of THB is referred to a NGO**, the **right to legal assistance** exists **before and during criminal proceedings**, regardless of the residency status of a person. Due to CCP this assistance is provided by NGOs. LEFÖ-IBF and MEN VIA assess the case and subsequently commission specially trained lawyers to provide victims with legal victim assistance. **The procedure for children is the same**. Concerning criminal law, legal assistance is provided free of charge as soon as the victim decides to make a report to the police. This legal assistance is included within the legal framework of Austrian "Prozessbegleitung" which is a helpful **tool for intervention** in order to support victims during legal proceedings in penal law. MEN VIA also supports male minors with the tool "Prozessbegleitung".

**In administrative procedures**, **free legal assistance** is provided by **LEFÖ-IBF, MEN VIA** and in specific cases **lawyers** are employed. Concerning civil law, e.g. in order to **claim unpaid wages for victims of labor exploitation**, the victims get in some cases legal assistance for free by trade unions or by the Austrian chamber of labour ("Arbeiterkammer"). In other cases, victims can apply for a lawyer free of charge ("Verfahrenshilfe").

**During criminal proceedings**, victims within the meaning of § 65 subpara. 1 lit. a or b CCP are to be afforded **psycho-social and legal support** upon request, insofar as this is necessary to preserve the rights of the victim, taking into account their personal concerns (§ 66 para. 2 CCP). **Victims whose sexual integrity** might have been **violated** and who are **under the age of 14** are afforded psycho-social support for the proceedings in any case.

**Psycho-social support** for the criminal proceedings includes:

- **the preparation of the person** concerned **for the proceedings** and **for the emotional stress** associated with the proceedings as well as
- **accompanying the person** to questioning during investigation proceedings and at trial;

**Legal support** for the proceedings includes:

- **legal advice** and
- **representation by an attorney.**

**The Federal Minister for Constitution, Reforms, Deregulation and Justice** is authorized to **enter into agreements** with established, suitable institutions so that they, after assessing the statutory requirements, provide support for the proceedings to victims within the meaning of § 65 subpara. 1 lit. a or b CCP.

2.2 Do all presumed victims of THB have access to legal assistance, irrespective of immigration status or type of exploitation?

**All victims** within the meaning of § 65 subpara. 1 lit. a or b CCP, **irrespective of immigration status or type of exploitation**, are upon request to be **afforded psycho-social and legal** assistance for the proceedings that is free of charge, insofar as this is necessary to preserve the rights of the victim, taking into account their personal concerns.

Those victims, **who are not entitled to psycho-social and legal support** pursuant to § 66 subpara. 2 CCP and who have joined the proceedings as private parties, are to be **granted legal aid** for the proceedings by providing them with an **attorney free of charge.**

However, **this is only the case, if the representation by an attorney** is in the **interest of justice:**

- in particular, if this is necessary for a purposeful assertion of their claims in order to avoid further civil proceedings and
- if they are unable to meet the costs for legal representation without compromising their necessary livelihood (§ 67 subpara 7 CCP).

Again, this applies irrespective of immigration status or type of exploitation.

2.3 What are the **conditions** for access to free legal aid for victims of THB, including children? For which types of proceedings is free legal aid available? Is free legal aid available to help victims claim compensation and execute compensation orders? Please provide the text of the relevant provisions.

Please also see answers to questions 2.1. and 2.2.

In case of **psycho-social** and **legal support** pursuant to § 66 subpara. 2 CCP the **victims' support organisations** such as LEFÖ-IBF and MEN VIA are entrusted with the decision whether to grant the assistance or not. The reason for this is, that the assessment requires expertise of the victims' support organisations.

**Legal aid** pursuant to § 67 subpara. 7 CCP, however, is **granted by the court.**

In civil cases the **conditions for access to free legal aid** („Verfahrenshilfe“) for victims of THB, including children, are the same as for everyone else.

A party with **insufficient financial means** may apply for legal aid when **entering into litigation or at any time later** as long as the civil proceedings are still pending. The court can grant legal aid by (wholly or partially) **freeing the indigent party from court fees and other fees** and by **providing legal representation free of charge.**

Legal aid is **granted only if** the applicant (according to his income, assets and maintenance obligations) is **unable to bear** (any or part of) **the costs** of the proceedings which is the case when bearing the costs would **endanger the minimum subsistence level** that is necessary to allow a simple standard of living. Furthermore, legal aid is denied if the claim or defense of the applicant is manifestly unfounded or manifestly not brought in good faith.

Legal aid is available for all types of civil proceedings, therefore **free legal aid is also available** to help victims of THB **claim compensation** and **execute compensation orders**.

2.4 | Are there lawyers specialised to provide legal aid and represent victims of THB in court? What regulations, if any, are applicable to the provision of such legal aid/representation?

Please see answers to questions 2.1., 2.2. and 2.3.

**The victim support organisation chooses the lawyer** who provides legal assistance for the victim of THB. The Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice funds the provision of legal assistance and free legal aid for victims of THB.

2.5 | How is the provision of legal assistance and free legal aid for victims of THB funded? Do victims have to pay a fee to obtain legal assistance or start a procedure, or are there other financial barriers in place? If yes, please specify the amount(s).

Please also see answer to question 2.1. and 2.2.

The assistance pursuant to § 66 subpara. 2 CCP is provided free of charge, independent of the victim's financial situation. The costs are initially **borne by the victim support organisation** entrusted with the provision of the assistance and **refunded by the Federal Ministry for Constitution, Reforms, Deregulation and Justice**. When the **accused person is convicted**, he/she has to **replace the costs** of the proceedings including a lump sum for the court assistance of up to **€ 1.000,--** (§ 381 par. 1 subpar 9 CCP).

**In civil cases**, the provision of legal assistance and free legal aid for victims of THB is part of the general system of legal aid and **funded by the state**. Victims of THB – like everyone else – **do not have to pay a fee to obtain legal assistance** or **start a procedure** if they qualify for legal aid; no other financial barriers are in place.

### 3. Compensation from the perpetrators (Article 15)

3.1 | What measures are in place to enable courts to award compensation to victims of THB, including children, from the perpetrators as part of criminal proceedings? What is the role of prosecutors in this respect?

According to § 67 para. 1 CCP a victim may become a **private participant** ("Privatbeteiligter") to the criminal proceeding by declaration in order to request **compensation for the damages sustained** or the **infringement of the rights**. The declaration has to **specify the claims** and **can be filed at the police** or at the **prosecution service** during the preliminary investigation procedure or at court after the indictment. In any case, the declaration has to be filed before the end of the procedure of taking evidence.

Besides other rights a **private participant particularly**

- may request the taking of evidence,
- may, in case the public prosecutor withdraws the indictment, pursue the indictment as subsidiary prosecutor,
- may appeal against the court decision to dismiss the charges,
- has the right to be summoned to the trial and may give reasons for the claim,
- may appeal against the court decision in regard of his or her claims.



The 17th part of the CCP stipulates the procedure about civil claims within the criminal proceeding (see §§ 366 to 373b CCP). In case of an acquittal of the accused, the **private party is referred to civil proceedings to claim his or her compensation**. If the **defendant is convicted**, the court also has to **decide on claims of the private participants** (§ 366 para. 2 CCP).

In case the court is not in the position to decide on the full claim, the private participant may be referred to civil proceedings regarding the remaining part of his/her claim, unless evidence can be taken without significant delay.

The private participant has **the right to appeal against** the court's decision if he or she is referred to civil proceedings (§ 366 para. 3 CCP). The court's decision on claims of private participants is enforceable under the rules of the Austrian Enforcement Act. § 67 para. 1 CCP facilitates the assessment of the injuries caused by the criminal act in order to ease compensation as it is stipulated if an expert is appointed to examine the extent of injury or health damage that pain periods have to be determined.

3.2 | How is the amount of compensation calculated and are there specific criteria or models for calculating it? What types of injury/damage and costs are covered? Are there any circumstances/conditions that would lead to a reduction of the amount of compensation?

According to the **Supreme Court of Justice of the Republic of Austria**, in civil proceedings, the assessment of the compensation for personal suffering is to be **made according to the special circumstances of the individual case** under application of § 273 Code of Civil Procedure and consideration of the total effect of the injury. **Pain periods** can be used as a calculation aid. In particular, **the type and duration of the pain** conditions is decisive for the assessment of the pain (Supreme Court of Justice, 18.7.2017, 10 Ob 39/17h).

Please also see answers to question [3.1](#).

3.3 | How are compensation orders/verdicts enforced? What measures are in place to guarantee and ensure effective payment of compensation?

Decisions of criminal courts on civil claims as well as judgments of civil courts are **executory titles** within the meaning of the Austrian Enforcement Regulation and can therefore **become enforced according to their procedural provisions**.

The **creditor can choose** between **several measures** or **combine them**. Usually the following executive measures are requested:

- **Enforcement on movable goods:**  
On the seizable objects, the bailiff establishes a lien; the former are auctioned.
- **Enforcement on receivables, particularly enforcement on salary:**  
A right of lien is established on the claim. The debtor is forbidden to dispose of his claim or, in particular, to collect it. The claim, insofar as it is seizable, is surrendered to the creditor.
- **Forced sale of real estate by auction:**  
A right of lien is established on the property. From the moment that the commencement of the auction proceedings is recorded in the land register, legal actions by the debtor concerning the property and its accessories, which do not belong to the ordinary administration, are ineffective against the creditors and the bidder.

**Penal consequences** are provided when an **obligated party**:

- **conceals, disposes of, sells or damages** a part of its assets,
- or **creates a pretext** of
- **or recognises a non-existent liability,**

- or otherwise reduces or seems to **reduce his assets** and, **as a result, impedes or diminishes** the creditor's satisfaction through enforcement or a pending enforcement procedure.

Likewise, an **obligated party** is **punishable** if he **destroys, damages, defaces, renders unusable** or **withdraws**, in whole or in part, from involvement with an object which was officially seized or taken possession of.

3.4 | When foreign victims of THB are removed from or choose to leave the country where the exploitation took place, what measures are in place to enable them to obtain compensation and other remedies?

Even if victims of THB are removed or choose to leave the country, in Austria they **do not lose their status as a victim** and **still keep all of their rights** (§§ 66ff CCP) in criminal proceedings. The status and hence the rights of victims are independent of their place of residence (see definition of "victim" in sect. 65 CCP).

In accordance with § 57 (1) item 2 of the Asylum Act, the BFA (=Bundesamt für Fremdenwesen und Asyl) examines whether witnesses or victims of trafficking or cross-border prostitution are eligible to obtain the **residence permit on grounds of "Special Protection"**. The examination is initiated either upon application or ex officio.

If the application is not justified or the "Special Protection" status is not granted ex officio, the BFA will – as a rule – examine whether the person in question is to be returned to their country of origin.

3.5 | What procedures are in place to ensure effective access to compensation for victims of THB for the purpose of labour exploitation? Can such victims bring civil claims for compensation and/or recovery of unpaid wages and social contributions on the basis of tort, labour, employment or other laws? Please specify the relevant measures.  
Can victims of THB working in irregular employment or without a contract claim unpaid wages and other compensation and if yes, how is the amount of unpaid wages and other compensation established?

The **minimum wage level is not defined** by law in Austria but usually derives from the collective agreement applicable to a specific sector and a specific type of work (approx. 98 % of workers in Austria are covered by collective agreements). Undertakings that post or hire out workers to Austria are also obligated to pay at least the minimum wage applicable in Austria.

In **civil procedure** effective access to compensation for victims of THB for the purpose of labour exploitation is **ensured by the system of legal aid**.

Victims of THB can **bring claims** for **any civil right** they have under Austrian material law.

3.6 | What training is provided to build the capacity of relevant professionals, such as lawyers, law enforcement officers, prosecutors and judges, to enable victims of THB to obtain compensation and other remedies?

In 2018, the Ministry of Constitutional Affairs, Deregulation, Reforms and Justice organized together with the Ministry of the Interior an **interdisciplinary seminar on property-law orders in criminal proceedings**, which, among other topics, covered property-law orders in the **field of THB** for financial investigators and public prosecutors. In the same year, another **interdisciplinary seminar for prosecutors** and police officers took place, which focused on the strategies to **combat child pornography** and **sexual abuse of minors**.

For 2019, the Senior Public Prosecutor's Offices in Linz and Graz have already assured to provide **further specialized training on THB to their prosecutors**. In addition to that, the Higher Courts of Appeal

in Vienna, Graz, Linz and Innsbruck are planning to **include THB in the training of candidate judges.**

Also, the Intervention Center for Trafficked Women (LEFÖ-IBF) offers **trainings for the police** on a regular basis. It includes **identification of THB** and **access to compensation**. 2019 LEFÖ-IBF will offer a **seminar** to prosecutors and judges within the framework of **Justice at Last – an EU- project**. This seminar aims to raise awareness and advocates about the rights and the needs of victims of THB and the crucial importance of compensation. The **training curricula will also be offered to lawyers**. The Ministry of Constitutional Affairs, Deregulation, Reforms and Justice is going to **promote** this **seminar** among judges and prosecutors and will continue to enable judges and prosecutors to participate in international seminars on THB organized by the Academy of European Law (ERA) or the European Judicial Training Network (EJTN).

#### 4. State compensation (Article 15)

4.1 Do the eligibility criteria for State compensation schemes for victims of crimes exclude some victims of THB (e.g. due to irregular residence status, nationality, nature of the offence)? Does access to State compensation depend on the outcome of the criminal case and on failure to obtain compensation from the offenders?

Victims of THB as other victims of crime are entitled to **government support** under the **Victims of Crime Act** (BGBl. Nr. 288/1972) including **social, medical and psychological care**.

An amendment to the Victims of Crime Act (2013) provides for the possibility of including victims of THB whose stay in Austria has been illegal at the time of the crime - this only applies to victims of THB.

**All third country nationals** can receive **help by the Victims of Crime Act** when **their stay** at the time of the offence in Austria **was lawful**.

**Victims of THB** are **also included** in the Victims of Crime Act **when their unlawful stay** at the time of the offence in Austria was caused by THB as long as they have a residence permit and stay in Austria.

Access to State compensation does **not depend on the outcome of the criminal case** - persons **are entitled to assistance** under the Victims of Crime Act, when they have suffered:

- a physical injury or
  - a damage of health
- due to an intentional unlawful act liable to be punished by more than six months of imprisonment.

Moreover, access to State compensation **does not depend on failure** to obtain compensation from the offenders.

4.2 How is the amount of State compensation calculated so as to address the gravity of the harm endured by the victim?

The amount of State compensation depends on the **gravity of the harm** and the **personal situation** of the victim. There are **no fixed rates or lump sums**.

4.3 Is it possible for foreign victims of trafficking to submit claims for State compensation in your country after being returned or repatriated to their countries of origin? Please provide examples of any such cases and indicate the measures stipulating such a possibility.

It is indeed possible for EU-citizens and third-country nationals with a lawful stay at the time of the offence in Austria to submit claims for State compensation.

For the other victims of THB please see answers to question 4.1.

4.4 Are victims seeking State compensation liable for lawyers' costs and fees? Are State compensation awards subject to taxation? Does the receipt of compensation have consequences for access to social security or other benefits?

"The Victim of Crime Act" does **not cover lawyers' costs and fees**. Neither are State compensation awards subject to taxation. However, Victims can be provided with medical care by the Victims of Crime Act.

State compensation awards are not subject to taxation.

For broad rights to free legal assistance please see answer to question 4.1.

## 5. Sanctions and measures (Article 23)

5.1 Please describe the legislative and other measures adopted by your country which allow to: i) confiscate or otherwise deprive perpetrators of the proceeds of criminal offences, or property of an equivalent value to those proceeds; and ii) identify, trace, freeze or seize rapidly property which is liable to confiscation, in order to facilitate the enforcement of a later confiscation. Do these measures allow the identification, tracing and seizure of property into which the proceeds of illicit activities have been converted?

According to sect. 67 para. 1 of the Austrian Criminal Code of Procedure (CCP), **victims have the right to declare private participation during criminal proceedings:**

They **can seek restitution suffered through criminal offence** or they can seek for **compensation for infringements** of their legal interests protected by criminal law. This private participation, which has to be declared to court, is a prerequisite to seek compensation during the criminal proceedings and it **applies to victims of THB, too**. The reason behind this provision is to provide victims a **possibility to seek civil compensation already throughout the main trial**. Otherwise, they would have to claim their damages in a separate civil proceeding (with all the shortcomings, such as court fees and risk of litigation).

The Austrian Criminal Code also knows **several other measures to deprive perpetrators** permanently of their proceeds of crime or property of an equivalent value to those proceeds:

- **Securing** (sect. 110 para 1 CCP) or seizure (sect. 115 para 1 CCP) with the **aim to secure private law claims**
- **Securing or seizure** with the aim of serving to **secure a decision** by the court concerning confiscation (sect. 19a CC), (extended) forfeiture and seizure of assets under sect. 26 CC to secure the enforcement of which would otherwise be jeopardised or seriously impended.

These **measures also apply to properties**, which have been purchased with the proceeds of illicit activities.

Please find the relevant provisions of the Austrian Criminal Code in the Appendix.

Pursuant to § 110 para. 1 subpara. 3 CCP **a seizure is**, inter alia, **admissible**, if it is considered **necessary to secure:**

- confiscation (§ 19a Criminal Code),
- forfeiture (§ 20 Criminal Code),
- extended forfeiture (§ 20b Criminal Code),
- redemption (§ 26 Criminal Code)

- or any other offence-related property order.

In general, a **seizure is executed** by the **criminal police** upon an **order of the public prosecution office**. § 109 para. 1 CCP provides for two mechanisms how to effect a seizure:

- Either, the criminal police establishes **factual authority over an object**, or
- an order is issued that **prohibits to the current holder of the object/asset to pass on the object/asset, to sell it or pledge** it ("Drittverbot").

A "Drittverbot" is typically **issued to banks/financial institutions** in order to **freeze assets on bank accounts**. In case such "Drittverbot-order" is issued, the public prosecution office immediately has to **apply for sequestration** of the object/asset by the court.

Pursuant to § 115 para. 1 subpara. 3 CCP **sequestration is admissible**, if the object/asset seized shall secure:

- confiscation (§ 19a Criminal Code),
- forfeiture (§ 20 Criminal Code),
- extended forfeiture (§ 20b Criminal Code),
- redemption (§ 26 Criminal Code)
- or any other offence-related property order whose execution would otherwise be endangered or considerably more difficult.

In a **decision of sequestration** on the grounds to **secure a judicial decision of forfeiture** (§ 20 Criminal Code) or **extended forfeiture** (§ 20b Criminal Code), the **court** has to **determine an amount of money** that will cover the assets presumably subject to forfeiture (§ 115 para 5 CCP).

**Sequestration of the object/asset** has to be **cancelled**, if such **amount of money is deposited** with the court.

With respect to real estate, the **prohibition to transfer ownership** or to mortgage property can be registered with the Austrian land register. Such prohibition is **effected by a court-order** of sequestration pursuant to § 109 subpara. 2 lit. b CCP. If law enforcement authorities **intent to obtain banking information in order to determine** whether **assets can be seized** (see above), the public prosecutor can order the bank that it is obliged to keep secret all related facts and operations vis-à-vis its customers and third parties (§ 116 para. 5 CCP).

5.2	In what way do victims of THB benefit from seized and confiscated assets of perpetrators of THB? Do the confiscated assets go directly to victims, to a compensation fund or scheme for victims of trafficking or to other programmes for the assistance or support of victims of THB? Please provide information on seizures and confiscations of assets in THB cases and how they were used.
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**During criminal proceedings, victims of THB are entitled to compensation. The Financial Investigations and Asset Recovery Sub-Department of Criminal Intelligence Service Austria** is involved in all THB investigations. Any orders for seizing assets or granting compensation **are issued** by the **respective public prosecutor's office or court of justice**.

LEFÖ-IBF and MEN VIA have published a leaflet for victims of THB on the topic of compensation.

In cases of forfeiture under § 20 of the Criminal Code [Strafgesetzbuch (StGB)] or extended forfeiture under § 20b of the Criminal code, if compensation has been awarded to the victim, but has not yet been paid, the victim has the right to demand the settlement of the assets forfeited by the Republic of Austria (§ 373b CCP).

5.3	Is it possible to use plea bargaining or some other form of settlement in cases of THB? If yes, please provide the relevant provisions. What protections are in place for victims of THB to ensure
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that their right of access to justice and effective remedies is not compromised by the plea bargaining or settlement in the legal process?

**Plea bargaining** as seen in **Common Law systems**, where parties come to an agreement as to which offences are to be indicted or, indeed, an agreement as to the length of the prison sentence, **does not form part of the Austrian legal system.**

However, according to §§ 198ff CCP, in **certain cases** the **prosecution authority** and the **court** have to **offer the suspect a withdrawal of the prosecution** (so called "Diversion"). There are four forms of diversion measures:

- payment of a sum of money (§ 200 CCP),
- community service (§§ 201 and 202 CCP),
- probation with the assistance of a probation officer and obligations (§ 203 CCP),
- and victim-offender mediation (§ 204 CCP).

Diversion measures **require the consent of the suspect**. If the **diversion measure was completed** successfully, the **charges are dropped with final effect**.

In these cases it is paramount to **take into consideration the interests of victims** and to **support these to greatest extent possible**, especially their interests **concerning reparation** (§ 206 CCP).

If the prosecution authority ceased the investigation proceedings according to §§ 190 to 192 CCP, § 195 CCP **grants the victim a motion for continuation** of investigation proceedings.

As long as liability for the crime has not passed the statute of limitations, at the **request of the victim**, the **court has to order the continuation** by the prosecution authority of investigation proceedings that were ceased under §§ 190 to 192 if:

- the law was violated or applied incorrectly,
- there are serious concerns regarding the accuracy of the material facts on which the decision to close the proceedings was based or
- new material facts or pieces of evidences are provided, which, by themselves or in conjunction with the other outcomes of the proceedings, appear to be capable of sufficiently ascertaining the facts of the case in order to proceed pursuant to Chapters 11 or 12.

5.4 What is the average duration of court proceedings in THB cases? In which circumstances are such cases given priority? Do you have a system to fast-track human trafficking-related prosecutions in order to improve the trial process and reduce the burden on victims and witnesses, including children? What safeguards are in place to ensure that judges deal with cases of THB without undue delay?

The **average duration** of legal proceedings **can not be stated**. The duration **depends on the circumstances of the case**, in particular **on the number of accused and victims**. **Cases in which the accused is held in custody are given priority.**

Since the duration of the criminal proceedings also **entails an increased burden on all parties to the proceedings** (especially with regard to the outcome of the proceedings), the question of the **necessary acceleration of criminal proceedings** (in particular in matters of detention) is a **main principle of criminal proceedings** (§ 9 CCP) - in addition to the principle of truth-seeking (§ 3 CCP).

Of course, the duration of the proceedings always depends on the circumstances of the individual case, but in this context, it should be noted that there is a **constitutional obligation on the state**, derived from Art. 6 para. 1 ECHR, to organize its jurisdiction in a manner, which **allows termination of proceedings within a reasonable time**. Furthermore, according to § 232 para. 2 CCP the presiding judge has the **duty to promote the investigation of the truth** and **has to ensure that debates that would prolong the main trial without any use for the inquiry into the matter are avoided**.

If it is practicable, the heads of the public prosecutor's offices have to **combine public prosecutorial affairs** of a certain kind in one unit. Certain prosecutorial transactions like:

- criminal matters of juveniles,
- military,
- addictive substances,
- environment and economy,
- extradition,
- media as well as
- criminal matters under the Prohibition Act,
- criminal matters because of hate speech and extremist criminal cases because of terrorist association (§ 278b CC),
- terrorist offences (§ 278c CC),
- financing of terrorism (§ 278d CC),
- according to §§ 278e (training for the purpose of terrorism) and
- 278f CC (instructing to commit a terrorist offence) or
- § 282a CC (instigation and endorsement of terrorist offences)

should be assigned to one prosecutor.

**Only if** there is a **large extent of business** these **certain transaction should be assigned to several prosecutors** (§ 4 para. 3 Regulation of the Federal Minister of Justice of 16 June 1986 on the implementation of the Public Prosecution Act, DV-StAG). The expertise that is often required to handle certain cases should be bundled within the public prosecution office. Other public prosecutorial affairs may be combined in such a unit.

5.5 | How do you ensure that sanctions for THB offences are effective, proportionate and dissuasive?

In 2013 the penalties for THB in the Criminal Code were raised. The amendments comprise:

- an increase of the penalties for the basic offence in Sec. 104a para. 1 CC from up to three years of imprisonment to between six month and five years of imprisonment;
- an increase of the penalties for trafficking of children between the age of 14 and 18 from up to three years to one to ten years (Sec. 104a para. 5 CC).

Therefore the ranges of penalties for THB offences are **effective, proportionate** and **dissuasive**. The determination of the penalty in each specific case falls within the competence of the independent judiciary. Both the Public Prosecution Service and the defendant can appeal against the penalty imposed by the court in first instance.

**6. Ex parte and ex officio applications (Article 27)**

6.1 | What is the procedural position of a victim of THB in criminal proceedings? What steps are taken to assist victims of THB, including children, to enable their rights, interests and views to be presented and considered during the criminal proceedings against offenders? Who is entitled to assist victims of THB in court? Can victims of THB be represented by NGOs in criminal proceedings?

**A Victim of THB** has the right to **psychosocial and legal victim assistance** services and to be interviewed indirectly and in a very considerate manner during investigations and main proceedings. **Psychosocial victim assistance services** cover the **comprehensive preparation** of the trafficked person as well **accompanying him/her to police and court hearings**.

Interviews that have to be **conducted indirectly** and in a **very considerate manner**, also referred to as 'Adversary Examination' ('kontradiktorische Vernehmung'), are an anticipated part of the main

proceedings. These kinds of hearings are conducted in **order to protect trafficked persons** as much as possible **from stress caused by the confrontation** with the perpetrator/s and by repeated statements. In these cases the witness can be interviewed in a separate room by an examining magistrate, or – in cases of minors under 14 years of age who had their sexual integrity violated – by an official expert. A confidant is allowed to be present during the interrogation.

### **Procedural position of the victim:**

The **basic rights of victims** are laid down by law in §§ 66 et sqq Code of Criminal Procedure. **Victims of trafficking in human beings** – victims within the meaning of § 65 (1) (a) Code of Criminal Procedure – **are granted extended rights in this regard.**

### **Right to Legal Representation**

Victims have the right to **receive legal representation by lawyers**, specialized **victim protection facilities** or any other qualified person;

### **Right to Information about the progress of proceedings and Right to Participation and Control:**

- They have the right to receive a **written confirmation** of the **complaint**;
- Right to **earliest possible assessment** and **recognition** of their particular vulnerability;
- **Access to files**;
- They have to be **informed prior** to their hearing concerning the **subject of proceedings** and about **their basic rights during proceedings** as well as about the **possibility to receive compensation and support**;
- Victims have to be informed by the public prosecutor if **proceedings are going to be dropped** or **continued** and about the **possibility to request continuation** of proceedings;
- **Participation** in adversary **examinations** of other witnesses and perpetrators;
- Right to be **present at the main trial** and to question perpetrators, witnesses and official experts and to be heard about their claim;
- **Free translation.**

**Particularly Vulnerable victims** are victims within the meaning of § 66a Code of Criminal Procedure. Those are victims, who have been violated in their sexual integrity and self-determination or who have experienced violence in housing and underage victims.

### **Particularly vulnerable victims**

These victims have the right to:

- **Interrogation** by a person of the same sex;
- **Option to refuse to answer questions** which concern the most private sphere and details of the crime if the trafficked person considers such questions unacceptable;
- Interviews **conducted in a very considerate manner** ('Adversary Examination') during investigations and main proceedings;
- Option to **request a non-public trial**;
- Right to be informed ex officio about the **release** of the offender from custody immediately without exception; according to their application to be informed about the escape and arrest or release of the offender from the jail;
- Right to be **accompanied by a confidant** in investigation and court hearings.

### **Right to Appeal**



- **Appealing** to the court during investigations if **certain rights have been violated by the police** or the **public prosecutor** in case a victim claims a subjective right has been violated, because he/she was hindered to exercise a certain right or compulsory measures were conducted which violated legal regulations;
- **Appealing against court decisions:** if a decision **violated the rights** of a victim or **imposed obligations** or if the victim is affected by coercive measures or if the victim claims a subjective right has been violated by the court's collection of evidence.

### **Adhesive Procedure – Reparation of Damages in Criminal Proceedings**

Through adhesive or subsequent procedures, a victim **can claim and enforce** his/her right to become a **civil claimant during criminal proceedings**.

Based on the evidence collected during criminal proceedings the court should make a quick decision on a civil claimant's claims to guarantee cost-effectiveness and avoid subsequent civil court proceedings.

### **The Civil Claimant**

Conducting an adhesive procedure requires that a person harmed by criminal acts is **able to file a civil claim** and **can submit a declaration to join criminal proceedings** as a civil claimant. If a victim submits an informal declaration and joins criminal proceedings as a civil claimant, he/she can make use of additional rights.

### **In addition to the rights of every victim, civil claimants have the right to:**

- Request the **collection of evidence**;
- Request **continuation of proceedings** as a subsidiary prosecutor if the public prosecutor drops proceedings;
- Appeal against the **court's decision to close the case**;
- Apply for **legal representation** free of charge if victim assistance services are not granted;
- To be **present during the main proceedings**, make use of every victim's right to ask questions, and to have the opportunity to make and explain claims following the public prosecutor's closing speech;
- Appeal for **nullity**;
- Appeal **against the court's decision** on the **civil claim**.

**The victim can submit his/her declaration to become a civil claimant** to the **police** or to the **public prosecutor** during preliminary proceedings after the case is brought to court. The declaration **has to be submitted before the procedure of collecting evidence is closed**, and the amount of reparation of damages or compensation has to be determined. The victim can withdraw from this declaration at any time.

Generally, the **police**, the **public prosecutor** and the **court are obliged to inform victims about their basic rights in trial, including the possibility to join as a civil claimant and claim compensation**.

There is no need for the court to formally allow civil claimants to join. The public prosecutor or – after the case is brought to court – the **court itself is obliged to reject the declaration** if it is obviously **unjustified, submitted too late** (after the procedure of collecting evidence has been closed), or if the **amount of reparation of damages or compensation was not determined correctly**.

A subsequent civil court case regarding the same claims for reparation of damages or compensation does not conflict with joining criminal proceedings as a civil claimant as long as the civil court has not issued a final judgement.

## **Civil Claims Proceedings**

**Civil Claimants** are allowed to make **claims deriving from the criminal act against the defendant for payment, assessment or the formation of law.**

**Trafficked persons** can claim e.g. to **receive goods, compensation for pain and suffering and reimbursement of medical costs** in payments from the defendant.

A **declaratory judgement** is an **assessment** of the **liability of the accused person for harm** that may result from the criminal acts at a later time and cause a need for psychotherapy or other additional costs.

The civil claimant only has a conditional right to a court's decision.

If **legal proceedings are dropped** or the **defendant is declared not guilty**, the civil claimant's claims are **forwarded to a civil court**. The civil court's decision is not bound to an acquittal by the criminal court and can independently decide on civil claims.

If the defendant is convicted, the criminal court has to decide on the civil claimant's claims. The possibility still exists for the criminal court to forward the civil claims to a civil court, namely if the results of criminal proceedings do not present a sufficient basis for a decision on civil claims without leading to a significant time delay concerning the decision on the question of guilt and punishment.

In practice, the **victim often only joins criminal proceedings** as a **civil claimant** with claims for **small symbolic amounts**, due to the fact that an assessment of the real amount of damages is not possible yet. Exercising his/her procedural rights, the **victim supports the defendant's conviction** and is **able to obtain declarations** from the **criminal judgment**, which might support claims in a subsequent civil court case.

At any point **during main proceedings** the criminal **court can record a settlement** concerning civil claimant's claims. A settlement represents an **executory title** and the civil claimant loses his/her position as such for the remaining time of proceedings. The validity of the settlement does not depend on the outcome of criminal proceedings.

Please also see point 2.1. which explains the victim-support tool "Prozessbegleitung" and point 2.2. and 2.3.

6.2	If the authorities fail to discharge their obligation to effectively investigate and prosecute suspected cases of trafficking, what possibilities for redress exist for victims of THB and their families? To what extent have victims of trafficking, including children, access to complaint mechanisms, such as Ombudsman institutions and other national human rights institutions?
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The **Austrian authorities** are **responsible for all victims** if there is **sufficient reason to believe** that a **criminal offence** with ties to Austria has been committed and if **a police report has been filed abroad**.

In this area, Criminal Intelligence Service Austria closely collaborates with the victim protection establishments LEFÖ-IBF and MEN VIA.

Apart from **legal remedies** e.g. **against coercive measures** or at the **Austrian Constitutional Court**, the **Austrian Ombudsman Board** (AOB) **offers assistance** if they feel they have been treated unfairly by an Austrian authority – irrespective of their age, nationality or their place of residence. Therefore also **victims of trafficking, including children**, have access to this **complaint mechanism**.

The complaint may involve:

- inactivity of the authority,
- a legal opinion that does not comply with the respective laws or
- an act of gross negligence.

Complaints can only be made against Austrian administrative bodies. It is only possible to lodge a complaint against courts if the reason for the complaint relates to the excessive duration of the procedure.

The **AOB reviews every complaint** and **assesses** whether there has been dysfunction in the administration. However, lodging a complaint with the AOB doesn't always lead to investigative proceedings. This applies in particular if the Ombudsman board is not or not yet responsible for investigating a complaint. The employees of the AOB are happy to provide general information in these cases. It is possible to lodge a complaint at any time and there are no costs involved.

Furthermore, **state authorities** (officials) who are **found guilty of violating their professional and ethical duties** have to **face disciplinary** and possibly also **criminal law sanctions**.

Under civil law, state authorities are liable only to the State. Parties having suffered damages on account of an unlawful and culpable conduct by a state authority may assert their claims vis-à-vis the State pursuant to the provisions of the **law on official liability** (Amtshaftungsgesetz).

According to the law on official liability the **general requirements for compensation** have to be fulfilled:

- damage,
- causality,
- unlawfulness,
- culpability.

Possible **compensation** imposed by the court **is being replaced in money**. Regional courts are responsible to rule on these cases in first instance.

According to Article 80 para 1 of the Austrian Code on Criminal Procedure (CCP) any person who becomes **aware of the commission of a criminal offence** has the **right to report** this matter to any **criminal investigation authority or prosecution authority**. Victims (Article 65 para 1) who file a report must be furnished with a written confirmation of their report.

6.3 | What reporting and complaint mechanisms are in place for victims of trafficking who are in an irregular migration situation and/or in detention?

**Whether or not the victim of trafficking is in detention** (due to another offence) **has no direct impact** on the continuation of an asylum procedure at the BFA or an application made whilst in detention. All irregular migrants, who are in detention, can be interviewed with the assistance of an interpreter at the detention centre or the detainee is brought before the BFA. **Of course detained asylum seekers also have the possibility to file a complaint against the BFA's decision.**

All irregular migrants in federal care facilities are informed about the possibility of receiving professional support during the first informal talk with a social worker.

In addition, applicants have the opportunity to inform social workers and reception officers of THB-related incidents and/or request assistance at any time by addressing their concerns directly to the reception staff or anonymously entering them in complaint boxes.

6.4 | Can victims of THB bring claims against the State or its officials for: i) direct involvement in THB; ii) failure to prevent THB or protect them from THB? Have there been cases where State agents or persons acting on behalf, or at the direction, of the State were found responsible for engagement in THB and/or failure to prevent it or protect victims from THB by third parties? Please provide information on any prosecutions against diplomatic and consular staff for alleged involvement in THB.

Generally spoken, victims of THB **can bring claims against the State or its officials**, if the conditions for such claims **pointed out in answer 6.2., are fulfilled.**

There have been **no reports from the Public Prosecution Services** of any cases in this regard. Furthermore, in 2018 no case of trafficking in human beings against a State official of a foreign state or diplomatic and consular staff was reported.

The **Federal Ministry for Europe, Integration and Foreign Affairs offers trainings to diplomatic and consular staff on THB**, including on prevention of the exploitation of domestic staff in diplomatic households in the framework of the annual consular conference.

In 2018, the Federal Ministry for Europe, Integration and Foreign Affairs received **five complaints** from members of the private domestic staff of diplomats accredited in Austria. Three of these cases could be settled very quickly with the employers **paying due compensation** for overtime after mediation by the Ministry. The two other cases could be **considered borderline trafficking situations**. One of them has already been settled on the financial side, procedures are pending for the other.

Also, **no public allegations** have been brought **against Austrian diplomats**.

6.5 | What steps have been taken to strengthen and maintain the capacity of prosecutors to effectively prosecute trafficking cases?

As a **most recent example**, the NGO „LEFÖ-IBF“ has issued a brochure „Gemeinsam gegen Menschenhandel – Kompaktwissen für die Praxis: Strafverfahren, Entschädigung und Opferschutz“ - in cooperation with several other institutions including the Federal Ministry for Constitution, Reforms, Deregulation and Justice.

Its intent is to give **practical advice in dealing with victims of THB** in particular also to members of the prosecution authorities. The brochure will officially be presented in April 2019.

## 7. Non-punishment provision (Article 26)

7.1 | Please indicate what measures are taken to ensure that victims of THB, including children, are not punished for their involvement in unlawful activities (criminal, civil, administrative offences), to the extent they were compelled to do so, providing any concrete examples of their implementation.

In 2017, the **Austrian Ministry of Constitutional Affairs, Reforms, Deregulation and Justice** published a **decree concerning the non-punishment principle** in criminal law. The decree is available in German (see Appendix).

7.2 | Can persons who have breached national laws in the course, or as a consequence, of being trafficked have access to remedies for victims of trafficking, including State compensation?

Even if persons, who have been trafficked, breach the law and may become accused in criminal proceedings themselves, **they do not lose their status as a victim of THB** in their own trafficking case and therefore **keep their rights as a victim** (§§ 66ff CCP).

## 8. Protection of victims and witnesses (Articles 28 and 30)

8.1 | How are victims of THB protected in practice against potential retaliation or intimidation before, during and after legal proceedings? How is the assessment of the needs for protection performed and who recommends the application of the protection measures? Who is responsible of the implementation of the protection measures?

**Protection for female victims of THB:**

The **first step to victim's protection** is the **correct referral** to LEFÖ-IBF, as the officially recognized victim's protection facility. LEFÖ-IBF offers protection via psychosocial and legal court assistance in criminal proceedings. This means that **counsellors accompany trafficked women and girls to police interviews, court** but also LEFÖ-IBF organizes the accompaniment of police to court hearings. The close cooperation between LEFÖ-IBF and the police enables safety assessment. When there is **proof of threats towards the victim**, LEFÖ-IBF **informs the police** and the police keeps track on this information.

Additionally, the **police informs** LEFÖ-IBF **about any potential threats** and **supports** LEFÖ-IBF with a security plan. Nevertheless, threats occur via family members of the victim and/or social media. One of the missing link to victims' protection is the protection of family members.

Protection measures, which are performed by the Federal Criminal Police, can in some cases include new identities.

### **Certain protection for male victims of THB:**

**Protection by MEN VIA** is comprehensive, manifold and **addresses different levels**. One part is the **provision of secure accommodation** and MEN VIA's shelter for male victims.

**All events at court are thoroughly prepared by MEN VIA together with the victim**, the police and the court. The described tool of "Prozessbegleitung" includes **good practical forms of cooperation** between the Victim Support Services (MEN VIA), police and the court.

MEN VIA **accompanies** the Victim to the court **personally**, if necessary police does so as well.

MEN VIA makes sure that necessary protection measures are applied by the court.

Every male victim of THB that has been referred to MEN VIA gets support based on consent of the Victim. Almost 100 % of the Victims want support of MEN VIA, with few singular exceptions.

Concerning Secure Accommodation, MEN VIA **had only very restricted Shelter possibilities** from March 2017 to December 2017 (in this period, no new male victims could be taken into the shelter because **of the lack of further funding**). From January to August 2018, MEN VIA **could not provide Secure Accommodation for male victims** who would have needed it, at all. Consequently, in these critical periods, MEN VIA lost contact with a significant number of men, that were referred to MEN VIA as Victims. In August 2018, this gap in **providing secure accommodation** for male victims **was filled** successfully thanks to new funding by the Austrian Ministry of the Interior (BMI).

### **Provisions on the protection of the identity of the victims during legal proceedings:**

- § 10 para. 3 CCP **obliges all authorities** or other entities or persons acting in the criminal proceeding to respect the victim's highly private matters.
- According to § 161 para. 1 CCP a witness has to be **asked about personal data in a very discreet way** if any other person is present.
- According to § 162 CCP a **witness may be allowed to make a deposition** anonymously if there is a risk for the witness or a third person.
- According to § 229 para. 1 subpara. 3 CCP the **public may be excluded from the trial** in order to protect a witness giving an anonymous deposition in respect of § 162 CCP.
- § 54 CCP **obliges the defence lawyer** and the **defendant not to publish information** concerning personal data of other parties or third persons to the general public, if that information was not part of public proceedings or has not been yet published.
- In addition, § 228 para. 4 (TV and radio recording as well as taking pictures or film of the trial are inadmissible) and § 7a para. 1 subpara. 1 of the Law on the Media **protect the victim's privacy and photographic images** as well as from persons in a similar position.

In order to **avoid secondary victimisation** as well as the **direct contact of the witness and the defendant** § 165 CCP and § 250 CCP provide for the possibility of an **adversarial questioning** of a witness.

With regard to **particularly vulnerable victims** (§ 66a CCP) or other witnesses to whom the criteria mentioned in § 66a apply (i.e. **also minor witnesses**), the **participation at the interrogation** of other participants in the proceeding **may be limited**. This would be the case either on request by the public prosecutor or ex officio by the use of technical means of audio and visual transmission for following the interrogation and the right to ask questions being exercised without being present at the interrogation.

Especially if a **witness is particularly vulnerable**, it is possible to **appoint an expert to conduct the interrogation**.

In any case, **avoiding a possible encounter** of the witness with the accused person and other participants in the proceedings **should be guaranteed**.

Persons who **have not turned eighteen** and who could have been **victims of a sexual offence shall be interrogated in the aforementioned manner** (before 1 June 2016 this only applied to victims under the age of 14 years).

**All other particularly vulnerable victims** and **witnesses who are required to make a statement against a relative** may request to be **questioned in that particular manner** (§ 165 para. 4 CCP). Since 1 June 2016, in cases of sexual offences the accused person does not have the right to get a copy of a DVD of the questioning of the victim anymore (§ 165 para. 5a CCP). If an adversary questioning has taken place in accordance with the above mentioned provisions, the witness is released from the obligation to further testify and the protocol of the adversary questioning can be read in the main trial phase (§ 252 para. 1 subpara. 2a CCP). § 160 para. 1 CCP and § 247a CCP provide for the **possibility for a witness** to be **interrogated at home** or **at another place** if in respect of his or her ill health or frailty or due to other reasonable circumstances he or she cannot follow the summons and may be under the conditions of § 247a CCP conducted by technical means of audio- or visual transmission.

Furthermore, **victims of THB** are **protected by law enforcement authorities** in accordance with the **provisions of Austria's Security Police Act** (Sicherheitspolizeigesetz, SPG). High-risk victims have access to the High Risk Victim (HRV) **Protection Programme of Criminal Intelligence Service Austria/Austrian Ministry of the Interior**. The respective departments are in charge of evaluating, applying and implementing the protection measures.

Please also see answer to question 1.1.

8.2 | How do you ensure that victims are provided with realistic and practical information about the progress of the case and whether the perpetrator has been detained or released?

Please also see answer to question 1.1.

If the victim requests notification, it **must be notified** immediately **of the release of the accused** pursuant to this provision and by **stating the grounds for release** and the **more menial means imposed on the accused**.

**Victims** under § 65 para. 1 subpara. 1 lit. a and **victims with special protection needs** (§ 66a) **must be informed ex officio without delay**.

The prosecution authority **must make these notifications**, if the accused has been placed in a detention facility; in any other case the criminal investigation authority must make these notifications (§ 172 para. 4 CCP).

If the **accused is released**, the court must proceed pursuant to § 172 para. 4 first and second sentence CCP and **must notify the criminal investigation authority about this communication** (§ 177 para. 5 CCP).

According to § 181a CCP, the victim, if the **victim so requested, must be notified** immediately if an accused **held in remand has escaped** and **once the accused has been recaptured**. § 172 para. 4 second sentence CCP applies mutatis mutandis. The detention facility must notify the prosecution authority of the escape and the recapture without delay; the prosecution authority must then notify the victim.

**Information provided for female victims of THB by LEFÖ-IBF:**

LEFÖ-IBF coordinates the case, due to the mandate of **psychosocial and legal court assistance** on behalf of the Ministry of Constitutional Affairs, Reforms, Deregulation and Justice in close cooperation with their lawyers. Therefore, Victims of THB are informed about the progress of their case through LEFÖ-IBF. Importantly, as the role of psychosocial and legal court assistance, victims of THB are informed, **irrespective of their present living** place (e.g. victim returns to country of origin). The court, the prosecutors and the police are obliged to inform lawyers of victims of THB or/and LEFÖ-IBF or/and victims about detention, release or escape when applied.

**Information provided for male victims of THB by MEN VIA:**

Victims of THB have the right **to be informed about the progress** of their case- this is also part of the concept of "Prozessbegleitung" and the exertion of Victims Rights in Austria. In practical terms, the victim's lawyer provided by MEN VIA **has access to all the relevant information and files**, which he might copy and then **pass on to the victim**. Concerning release of the perpetrator: It is also a right of the victim to be informed by officials. In many cases, this also works via the lawyer, who performed the "Prozessbegleitung" during the proceedings.

8.3	How do you ensure respect for the victims' right to safety, privacy and confidentiality during court proceedings?
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Please see answer to question 8.1.

8.4	In how many cases were witness protection measures used for the protection of victims and witnesses of THB, including children? If witness protection measures/programmes are not applied to victims of trafficking, what are the reasons?
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The **provisions of the Security Police Act** were sufficient for implementing protection measures for the victims of THB. Protection measures as part of the "High Risk Victim (HRV) Protection Programme" of Criminal Intelligence Service Austria **were not necessary during the 2015-2018 reporting period**.

**Another Protection Programme such as "Witness Protection" also exists on Federal State Level:**

"The Witness Protection Program" is the responsibility of the Federal Criminal Police Office, Department - Witness Protection. Witness protection **can be granted to persons** who can provide information **about a dangerous attack** or a **criminal connection** and are therefore **particularly at risk** as well as vulnerable members of these persons. It is the responsibility of the Federal Criminal Police Office, to assess whether the conditions for granting witness protection measures have been met, after carrying out a corresponding risk analysis. In addition to the special risk situation, the explicit **consent of the persons to be protected** is an **essential prerequisite** for inclusion in the witness protection program.

**Difficulties with protection** measures can arise when **victims do not adhere to the rules**, e.g. by contacting or inviting family members or friends. However, there are no figures on witness protection measures.

8.5 When victim protection is provided by NGOs, how are NGOs resourced and supported to perform this function and how do the police and the prosecution co-operate with NGOs?

**Law enforcement authorities** (police, judicial authorities), **LEFÖ-IBF** and **MEN VIA** have been **closely collaborating** for several years and have **established a mutual understanding** and a **mutual recognition of the other party's duties and responsibilities**.

For this reason, the cooperation in the fight against THB, which consistently aims to provide the victims with a maximum level of protection, has always been highly successful.

Backed by legislation, the **Austrian Ministry of the Interior** and **the Federal Ministry for Constitution, Reforms, Deregulation and Justice** concluded **funding contracts** with the victim protection establishments **LEFÖ-IBF** and **MEN VIA**. These contracts form **the basis for the operation of anonymous safe housing** for victims of THB, for integration into the **country's social security system** and for **assistance in proceedings**.

In 2017, MEN VIA had to close down its former shelter due to lack of funding. In the second half of 2018 MEN VIA **was able to open the shelter again, thanks to new funding by the Austrian Ministry of the Interior**.

Moreover, the **Austrian Federal Ministry of Labour, Social Affairs, Health and Consumer Protection** continues the **financial support** of the victim protection facility **MEN VIA** for men who are affected by human trafficking as well as the drop-in **counselling center for undocumented employees UNDOK**. UNDOK is run by Austrian Trade Unions. There, persons working in Austria without a residence permit and/or a work permit that were deprived of the agreed wage or harmed by their employers in a different way, receive initial information and advice about issues of labour law, right of residence and social security, assistance with administrative procedures and long-time monitoring. Furthermore UNDOK is cooperating with THB counselling institutions.

The **Intervention Centre for Trafficked Women (LEFÖ-IBF)** offers **counselling and safe accommodation** to victims of trafficking in women (aged 16 and over) from all over Austria, regardless of the form of exploitation from the moment the authorities assume that a woman is a victim of trafficking.

The central facility in Vienna offers a **higher security potential** through **maximum anonymity** and facilitates continuous **cooperation** with the relevant authorities. The IBF is also involved in the Task Force against Trafficking in Human Beings.

A total of 28 care places (within 4 protective flats) are currently available. **Financing is provided by the Ministry of the Interior together with the Division for Women's Affairs and Equality** within the Federal Chancellery. The budget has been continuously increased since 2016. In 2018, the budget has been amounted to EUR 747,117.

In 2016 the **Working Group on Child Trafficking** under the **Task Force on Combating Human Trafficking** has established a **National Referral Mechanism** on **identifying and working** with potential victims of child trafficking, including guidance how to identify victims and how to help them ([National Referral Mechanism – NRM](#)). Distributed extensively to professionals possibly concerned by this issue, this publication aims to **coordinate the work of NGOs, victim protection organizations, the federal government and the provincial governments (Länder), law enforcement authorities, child and youth welfare services**.

Please see also answer to question 2.1.

8.6 How do you ensure that child victims of THB are treated in a child-sensitive way and are provided with protection before, during and after judicial proceedings in accordance with the Council of Europe Guidelines on Child Friendly Justice? Are interviews with children conducted in specially



	designated and adapted spaces by professionals trained to interview children? What measures are taken in order to ensure a limited number of interviews?
<p>Please also see answer to question 1.1., 6.1 and 8.1.</p> <p>According to § 66a para. 3 CCP the <b>public prosecution service</b> or the <b>criminal court</b> has to <b>initiate the appointment of a curator</b> (= special representative) for the minor victim. This is the case, if a <b>legal representative of the minor</b> victim is <b>suspected of having committed the criminal</b> offence or if there is otherwise the <b>risk of a conflict of interests</b> between the minor victim and his/her legal representative, or if <b>no legal representative can assist</b> the minor victim in criminal proceedings.</p> <p>Moreover, motions for continuation of investigation proceedings by victims who are minors, <b>no longer require approval</b> by the Guardianship Court (§ 195 para. 2 CCP). Flat-rate contributions must not be imposed on victims who are minors and on the Commissioner for Legal Protection (§ 196 para. 2 CCP).</p> <p>Furthermore, the <b>Criminal Investigation Department</b> has <b>trained officers</b> for <b>sensitive interrogation</b> of children. Even if the police do not have specially adapted rooms for such interrogations, it is possible to <b>use appropriate premises</b> of the Institute for Social Services also with the <b>assistance of experts</b> from the Institute for Social Services.</p> <p>Minors who could <b>have been injured</b> by the offense in <b>their sex sphere</b>, are <b>questioned by the court in the form of an adversarial hearing</b>, possibly even with the assistance of an expert. Care must be taken to ensure that there is <b>no encounter between the minor and the accused</b> or other party to the proceedings.</p>	

## 9. Specialised authorities and co-ordinating bodies (Article 29)

9.1	What budget, staff and resources, including technical means, are put at the disposal of law enforcement bodies specialised in combating and investigating THB?
<p>There are <b>ten special investigation departments</b> (one at Criminal Intelligence Service Austria and nine at the country's Provincial CIDs). Additionally, a <b>shared analysis database</b> is in use. As penalties for THB can range between 6 months and 10 years of imprisonment, all special investigation methods can be applied.</p> <p><b>The Financial Investigations and Asset Recovery Sub-Department is always involved.</b></p> <p>The annual budget for combating THB is <b>sufficient</b> and is <b>funded</b> by the <b>budget funds allocated to the Austrian Ministry of the Interior.</b></p>	
9.2	If your country has specialised units for financial investigations, financial intelligence units and asset and recovery units, please describe whether and how are they used in investigating and prosecuting THB cases, Which special investigation techniques do these units use? Which public and/or private bodies do these specialised financial investigation units co-operate with in relation to THB cases?
<p>The <b>Austrian Ministry of Finance</b> has established the <b>special unit Financial Police</b>, which closely <b>collaborates with Criminal Intelligence Service Austria</b> and immediately <b>reports suspected THB</b> cases.</p> <p>As part of their legal mandate (such as fiscal supervision, fight against social security fraud, investigation of illegal employment of foreign nationals), Criminal Intelligence Service Austria and the Financial Police <b>carry out joint action days (inspection measures) aimed at investigating cases of labour</b></p>	

**exploitation.** Investigations into THB always include the Financial Investigations and Asset Recovery Sub-Department.

## 10. International co-operation (Article 32)

10.1 How does your country co-operate with other countries to enable victims of THB to realise their right to redress and compensation, including recovery and transfer of unpaid wages after they leave the country in which the exploitation occurred?

On 4 May 2016, the Joint Operational Office was inaugurated by then-Austrian Interior Minister Wolfgang SOBOTKA, Head of Criminal Intelligence Service Austria Franz LANG, FRONTEX Deputy Executive Director Bernd KÖRNER and Head of the European Migrant Smuggling Centre at EUROPOL, Robert ČREPINKO.

The **Joint Operational Office (JOO) against Human Smuggling and Human Trafficking** considers itself an operational **link to EUROPOL**.

During critical investigation phases of an operation, the JOO aims to **involve international investigators** in order to **work collaboratively on a case**. Foreign investigators are being continuously deployed on an operational basis.

According to the **Police Cooperation Convention for South East Europe (PCC for SEE)**, officers from the **Balkan region** or **investigators from EU** countries can, in line with Austria's EU Police Cooperation Act, **conduct joint operations** with investigators of the JOO. The JOO is Sub-Department 3.4. of Criminal Investigation Service Austria.

10.2 Has your country co-operated with other countries in the investigation and prosecution of THB cases through financial investigations and/or Joint Investigation Teams? Please provide statistics on such cases and examples from practice.

On 25.01.2016 the **Netherlands, Bosnia and Herzegovina, and Austria** established an **international judicial investigation** team, the "**Joint Investigation Team (JIT) – exploitation by committing criminal offences**", which was extended twice and **ended in 2018**.

Based on a **suspicious transaction** report by Criminal Intelligence Service Austria (FIU), **international investigations were conducted with Romanian and German authorities** into a Romanian group of offenders over THB and sexual exploitation. The victims of THB were lured with the "**loverboy method**" and were trafficked into prostitution in the destination countries or their labour was exploited. In this case, a cleaning company was used for money laundering activities.

10.3 How many mutual legal assistance requests and/or European Investigation Order have you made in THB cases and what was their outcome?

In a **criminal case involving** a group of **offenders operating in Romania and Austria** and suspected of THB (exploitation in begging), a **European Investigation Order** was made via judicial channel to Romania. The proceedings against the five suspects and one victim are being **conducted by the Vienna Public Prosecutor's Office**.

Austria fulfilled:

- **mutual legal assistance requests by the Romanian judicial authorities** for conducting operational measures; Romanian group of offenders – suspected THB, sexual exploitation; findings were shared.

- Austria fulfilled **mutual legal assistance requests by the German judicial authorities** for conducting operational measures; German group of offenders – suspected THB, sexual exploitation; house searches and interviews.
- In a criminal case involving a group of offenders operating in Germany and Austria and suspected of THB (sexual exploitation), house searches and interviews were **conducted at the request of the German judicial authorities**. The suspects received prison sentences from the German judicial authorities.
- **mutual legal assistance requests by the Bulgarian judicial authorities** for conducting operational measures; Bulgarian group of offenders – suspected THB, sexual exploitation; findings were shared.
- Two **mutual legal assistance requests by Austria to the Romanian judicial authorities** for conducting operational investigations; Romanian group of offenders – suspected THB, sexual exploitation; findings were shared.
- Austria fulfilled two **mutual legal assistance requests by Swiss judicial authorities** for conducting operational investigations/covert investigations (observation); Romanian group of offenders – suspected THB, sexual exploitation; findings were shared.
- Austria fulfilled **mutual legal assistance requests by Hungarian judicial authorities** for conducting operational measures; Hungarian group of offenders – suspected THB, sexual exploitation; findings were shared.

Overall, seven (7) requests for mutual legal assistance with regard to trafficking in human beings according to Article 104a of the Austrian Criminal Code (CC) and ten (10) requests with regard to transnational prostitution trade according to Article 217 of the Austrian Criminal Code have been made by Austrian authorities, in 2018. There is no statistical data available of the outcome of the requests.

10.4 | What forms of international co-operation have proven to be particularly helpful in upholding the rights of victims of trafficking, including children, and prosecuting alleged traffickers?

**Criminal Intelligence Service Austria is a co-partner in "Prevention of and Fight against Crime" (ISEC) projects.**

- Austria is an **active member of the ETUTU** subproject (combating Nigerian THB within the EU), which is led by Germany and has been developed and supported within the framework of the EMPACT THB. The objective of the project, which is supported by 17 participating countries, is to comprehensively fight the Nigerian trafficking networks operating in the EU.
- Austria is an **active member of the CHINESE THB subproject** (combating Chinese THB within the EU), which has been developed and supported within the framework of the EMPACT THB. The objective of the project, which is supported by 10 participating countries, is to comprehensively fight the Chinese trafficking networks operating in the EU.
- Criminal Intelligence Service Austria is a **co-partner in the ISF project THB LIBERI** for combating THB and the exploitation of children, youths and young adults in Germany and Europe. Each year this project includes many strategic and operational meetings at home and abroad, which are attended by Criminal Intelligence Service Austria.
- Under the Austrian OSCE (Organization for Security and Co-operation in Europe) **chairmanship 2017, a THB conference was hosted in Vienna.**
- Criminal Intelligence Service Austria participates in a **UNODC project to assist Colombian authorities in implementing an integrated national strategy for fighting THC** and to **support the criminal justice system** in prevention, investigations and prosecution according to the standards laid out in the Palermo protocol.
- The **Austrian Ministry of the Interior participated** in the EU-funded **project On the Path Towards a Pan-European Monitoring System for THB** (under the auspices of the Portuguese Observatory on Trafficking in Human Beings) and in the EU-funded project for strengthening the fight against forced begging: a multidisciplinary approach, coordinated by Romania's Public Ministry.

- The coordination activities of **Eurojust** have been used by Austrian authorities in one case. Furthermore, in six (6) cases other EU-Member States used the help of Eurojust to request and coordinate mutual legal assistance from Austrian authorities.

International cooperation regarding the European Investigation Orders in criminal matters, have proven to be successful.

10.5 | What international co-operation measures are in place to ensure protection and assistance to victims on return from your country to their countries of origin following their participation in criminal proceedings?

The **Austrian Ministry of the Interior/Criminal Intelligence Service Austria supports the IOM Vienna Project "CARE: Coordinated Approach for the Reintegration of Victims of Trafficking"**.

The inaugural meeting was held on 6<sup>th</sup> of November 2013 in Paris.

The **beneficiaries of the project** are **male, female and underage victims of THB returning to a third country** (outside the European Union) on a voluntary basis.

The **project aims** to provide **flexible and tailored assistance** to trafficked persons from Austria **as they return to their homes, resettle** and become once again **active members of their home communities**. Specifically, the project **implements a coordinated and integrated approach** to the delivery of **pre-departure, post-arrival and reintegration assistance** for victims of THB.

10.6 | What international co-operation measures are in place to protect and assist victims of THB for the purpose of sexual exploitation through online streaming where the perpetrator is a national or habitual resident of your country and elements of the crime have occurred in your country's jurisdiction?

If an **offence is committed** in Austria, the Austrian Criminal law applies according to Article 62 of the Austrian Criminal Code.

Article 64 para 1 subpara 4a of the Austrian Criminal Code extends the application of Austrian criminal law also to the offence of trafficking in persons (Article 104a CC) and transnational prostitution trade (Article 217 CC) when committed abroad. This is irrespective of the laws of the place where these offences occurred, if:

- the perpetrator or the victim is an Austrian national or has his or her place of habitual residence in Austria,
- the offence has infringed on other Austrian interests, or
- the perpetrator was, at the time of the offence, a foreign national who is present in Austria and cannot be extradited.

In these cases, **Austrian jurisdiction is given** and **all measures of the Austrian legislation regarding the protection of victims are applicable**, such as foreseen in Article 66 and 66a of the Austrian Code on Criminal Procedure (CCP).

## 11. Cross-cutting questions

11.1 | What steps are taken to ensure that victims of THB have equal access to justice and effective remedies, irrespective of their immigration status and the form of exploitation?

In criminal proceedings, the CCP determines **a large number of victims' rights irrespective** of the **victims' immigration status** and **form of exploitation**. They only need to be victims according to the definition of § 65 CCP.

In line with **legal provisions, every asylum seeker** has the **possibility to file a complaint** against a **decision of the BFA**. In this case a legal advice organisation will be assigned.

**IOM’s “Asyl-Train” offers trainings** that helps staff of the Austrian Federal Office for Immigration and Asylum and staff of federal reception facilities **to identify trafficked persons** in the Austrian asylum process.

The training courses for detecting victims of THB are held in cooperation with Criminal Intelligence Service Austria, UNHCR, LEFÖ-IBF, MEN VIA, the children's crisis response centre “Drehscheibe” of the City of Vienna (Municipal Administration Department 11), and legal expert Mag. Ines Rössl. Participants pass on the acquired knowledge to staff of the regional offices of the Federal Office for Immigration and Asylum.

Criminal Intelligence Service Austria supports the IOM Vienna Project “CARE: Coordinated Approach for the Reintegration of Victims of Trafficking”.

11.2	What steps are taken to ensure that criminal, civil, labour and administrative proceedings concerning victims of THB are gender-sensitive?
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Particularly vulnerable victims (§ 66a CCP) have special rights during the criminal proceedings in addition to the general victims’ rights, for example to be **interviewed during the investigation proceedings by a person of the same sex if the victim so wishes and if possible**.

Moreover, in Austria there are two main organizations that provide support to victims of THB, namely LEFÖ-IBF (Intervention Center for **Trafficked Women**) and MEN VIA (provides support to **men who have been trafficked**).

In **civil procedural law** there are **no specific legislative** steps taken to ensure that civil proceedings concerning victims of THB are gender-sensitive, as a **“fair trial” for everyone** – including victims of THB - is **guaranteed by Art. 6 ECHR** and **judges have to observe any applicable** law that would stipulate gender-sensitivity.

Special seminars are offered to teach judges and prosecutors how to examine (minor) victims of criminal violence and sexual abuse.

As part of their training, candidate judges are assigned to a victim protection organisation or another welfare institution for several weeks.

11.3	What steps are taken to ensure that procedures for obtaining access to justice and remedies are child-sensitive, readily accessible to children and their representatives, and give weight to the child’s views?
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**In many provisions Austrian civil procedurals laws take into account the sensitive nature of involving children in (civil) court proceedings:**

As a case in point, Section 289a Code of Civil Procedure (CCivP – “Zivilprozessordnung (ZPO)”) as well as Section 20 Conflict Resolution Act (ConfResAct – “Außerstreitgesetz (AußSTrG)”) and Section 35 ConfResAct in conjunction with Section 289a CCivP **provide the option to have a minor testifying as party or as witness** in civil proceedings. The questioning is performed separately (i.e. in a room apart) from the other parties of the proceedings.

If the minor is victim of a criminal offence **not having reached the age of 14**, Section 289a CCivP postulates that a **suitable court-appointed expert should be assigned** to question the minor concerning the subject matter of the criminal proceedings.

**In addition, Section 289b CCivP is taking care of the special protection requirement of minors in a twofold manner:**

On the one hand, this provision makes it possible to **waive questioning minors altogether**, if such questioning per se would already endanger their wellbeing. On the other hand, if not the questioning per se, but the questioning in the **presence of the parties** or their representative **could endanger their wellbeing**, considerate questioning (i.e. in a separate room or else in the presence of a suitable court-appointed expert) of minors shall be provided also in civil proceedings (even if such minors were no crime victims).

Furthermore, Section 289b CCivP provides that a **confidential person shall always be called upon** during questioning minors, if such presence would be in their interest, regardless of whether the public is excluded from the proceedings and whether the minor is being questioned as party or as witness. This provision is intended to **provide psychological support to minors** during questioning and **contribute in this manner to reduce any mental stress** that might arise.

**Child legal advocates** („Kinderbeistand“) are intended to **assist the child** as **contact and confidential persons** and to be the **"voice of the child"**, inasmuch as the child can or will not articulate itself.

A child legal advocate is **not the representative of the child before the law, nor a party in proceedings, nor can he be compared** with a **court-appointed expert**.

The child legal advocate must attach special attention to creating a **basis of trust between him and the child**, so that the child – after many hours spent together – (for the first time) is capable of forming an own opinion. If needed, the child may then **request the legal advocate to read out a prepared statement** during the proceedings.

Experience has shown that this will produce a "shakeup effect" with the parents. Yet it is not the task of a child legal advocate to present his own opinion concerning the welfare of the child to the court, or to collect and present evidence for the court. Nor can he be questioned regarding the emotional condition of the child, its standard of care or developmental state or else concerning the relevant circumstances of family life (such as housing or income situation) etc. As a result of such particular tasks, **only psychosocial professionals may be appointed as child legal advocates** (and not lawyers). The court may only appoint persons as child legal advocates who have been nominated by the Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice or by the Judicial Support Agency on its behalf.

Section 104a Conflict Resolution Act provides the **key standards for the Child Legal Advocacy Act**. In a fundamental and comprehensive manner, this provision sets standards for the instruments of child legal advocacy.

It must be emphasised however, that the **child legal advocate is bound to keep all facts confidential**, which were entrusted on him or which he experienced while performing his function. Only in **agreement with the minor** may he **express the minor's opinion before the court** (Section 104a (2) Conflict Resolution Act). The **child legal advocate has the right to remain silent** pursuant to Section 321 (1) (3) CCivP (e.g. in parental divorce proceedings) and Section 157 (1) (3) CCrimP (e.g. in criminal proceedings against a parent).

Pursuant to Section 104 a (1) ConfResAct a child legal advocate **shall in principle be only appointed for minors under the age of 14 in custody proceedings or proceedings concerning the right to personal contacts**,

- if such appointment is deemed necessary in view of the intensity of the dispute among the other
- parties to support the minor, and

- suitable persons are available to the court.

The **child legal advocate is entitled to inspect files**. He shall be advised of all scheduled hearings. He shall be **authorised to participate in all court hearings** and to **accompany the minor** to all out-of court hearings of evidence when so requested by the minor. He shall **receive all applications by parties**; and shall be **informed about any other personal custody proceedings** by receiving the application initiating such proceedings (Section 104a (3) Conflict Resolution Act).

The **provisions for rejecting a court-appointed expert** shall also be **valid mutatis mutandis for rejecting a child legal advocate** (Section 104a (4) Conflict Resolution Act in conjunction with Section 355f CCivP). This means, he can be rejected for possible bias, if he previously counselled one of the parents in a family counselling centre.

In principle, the costs of child legal advocates have to be **borne by the parties in terms of a fixed court fee** (Section 28 (9) Court Fees Act). The child **shall not be obliged to pay any costs**, however.

These specific topics are dealt with in diverse seminars on criminal law and criminal procedural law which take place on a regular basis. In particular, special seminars are offered to teach judges and prosecutors how to examine (minor) victims of criminal violence and sexual abuse.

As part of their training, candidate judges are assigned to a victim protection organisation or another welfare institution for several weeks.

11.4	What steps are taken to ensure that private entities take steps to prevent and eradicate trafficking from their business or supply chains and to support the rehabilitation and recovery of victims? What options exist for victims of trafficking to access effective remedies from businesses implicated in human trafficking?
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As stated above (answer to question 3.1.), victims of THB have the right to seek restitution for any damages suffered by the criminal offence or compensation for infringements of their legal interests protected by criminal law. This applies to criminal proceedings against natural persons as well as to criminal proceedings against legal entities (§ 14 para. 1 of the Austrian Federal Statute on Responsibility of Entities for Criminal Offences). Thus, please see the answer to question 3.1 for further information.

The **Austrian Anti-Wage and Social Dumping Act** (“Lohn- und Sozialdumping-Bekämpfungsgesetz”) came into effect in 2011.

The **purpose of the law is to prevent any circumvention** of the Austrian minimum wages established by collective agreements, and thus to **guarantee Austrian wage levels for workers** employed in Austria. In 2017, a liability of clients as guarantor and payer has been introduced in the construction sector under specific conditions (“Auftraggeberhaftung”).

In 2019 and 2020, the **Working Group on Combating Human Trafficking for Labour Exploitation intends to discuss measures to better integrate the employer side/the private sector in combating labour exploitation** (keywords: fair economy, fair trade, corporate social responsibility, combating exploitation in supply chains, decent work for all, seal of quality “free from labour exploitation”).

The social partners, both employers’ as well as employees’ representatives, are active members of the Working Group on Human Trafficking for Labour Exploitation already.

The **current National Action Plan on Combating Human Trafficking** (for the period 2018-2020) **contains, for the first time, specific measures to tackle THB and labour exploitation in supply chains:**

In the context of the “Examination of a possible cooperation with existing quality seals (like Fair Trade) to prevent human trafficking in supply chains” (Action II.22), the Austrian Federal Ministry of Labour, Social Affairs, Health and Consumer Protection **finances a project** called **“Trafficking in Human**

**Beings in the supply chain - successfully combat labour exploitation**". The project is carried out by the "Network Social Responsibility", an Austrian network of NGOs and trade unions active in the fields of Corporate Social Responsibility and Business & Human Rights. The **project will analyze how existing quality seals and multi-stakeholder-initiatives could be used to combat and prevent** human trafficking and labour exploitation in international supply chains.

11.5 What legal, policy and practical measures are taken in your country to prevent and detect situations where corruption facilitates human trafficking and infringes the right of victims of THB of access to justice and effective remedies? Please provide information on any known or proven cases of corruption or related misconduct of public officials in THB cases and any sanctions issued.

In order **to coordinate and intensify anti-trafficking measures** in Austria, the **Task Force on Combating Human Trafficking** was set up in 2004 by the Austrian government. The Task Force is in charge of elaborating National Action Plans on combating human trafficking and of monitoring their implementation.

The fifth National Action Plan (2018-2020), passed by the Council of Ministers on 10.10.2018, was adapted to a situation that changed since the onset of the refugee and migration crisis, and it notably includes comprehensive training and awareness measures for staff of police, the Federal Office for Immigration and Asylum, reception centres, basic care facilities and police detention centres.

The Task Force also serves as equivalent mechanism, as defined by Article 19 of Directive 2011/36/EU, which requires member states to establish national rapporteurs or equivalent mechanisms.

Moreover, the **Austrian Ministry of the Interior established the Federal Bureau of Anti-Corruption, which aims to prevent and combat corruption.**

In the course of the last years, Austria has made **significant efforts in the fight against corruption.** Amongst other measures, Austria has especially **developed specific steps** in the field of **prevention** and **has established** the „Koordinationsgremium zur Korruptionsbekämpfung“, (**Co-ordinating Body on Combating Corruption**) in January 2013.

The committee is **composed of the following representatives:**

- representatives of all federal ministries,
- the "Länder",
- the Austrian Association of Towns,
- Cities and Municipalities, as well as
- the Federal Chamber of Economy,
- representatives of the public service union,
- the union of municipal employees,
- the Court of Auditors,
- the Central Office for Prosecuting Economic Crimes and Corruption (WKStA),
- the Federal Bureau of Anti-Corruption (BAK) and
- Transparency International - Austrian Chapter

The **body convenes four times a year to exchange latest developments** in national and international context as well as **best practices** in the field of combatting corruption. Moreover, it **aims to develop a national anti-corruption strategy** and the **update/review of the federal code of conduct for public service.**

This **national anti-corruption Strategy** was agreed upon on 16 January 2019 and laid down the **following prevention measures:**

- Integrity management – promoting conduct with integrity
- Compliance Management for the public service
- Minimizing structural risks of corruption
- enhancing concrete anti-corruption measures



- raising public awareness
- raising awareness within the public sector – trainings for specific target groups
- yearly convention of all stakeholders (“Austrian Anti-Corruption day”)
- issuing codes of conduct for the public sector

Currently, there are **no known or proven cases of corruption related to THB.**

## Part II – Country-specific follow-up questions

12.	Please provide information on new developments in your country since GRETA's second evaluation report concerning:
→	emerging trends of trafficking in human beings (new forms of exploitation, new recruitment methods, vulnerable groups, gender-specific aspects of trafficking, child trafficking);
<p>There is a <b>continued trend</b> amongst perpetrators <b>to use online infrastructure</b>.</p> <p>The internet is used, amongst others, for criminal acts such as:</p> <ul style="list-style-type: none"> <li>• advertising victims via social media, chat forums and other websites,</li> <li>• organising transport for victims through online purchase of flight or train tickets,</li> <li>• organising accommodation (online ads, chat forums and emails are used to find flats and "jobs" for exploitation),</li> <li>• monitoring victims through online video surveillance of flats and workplaces as well as through mobile phone location services,</li> <li>• placing ads in relevant web portals, in particular for sexual services,</li> <li>• threatening victims with the publication of nude images via the internet and/or with</li> <li>• denunciation via posts on various web pages, chat forums and social media platforms,</li> <li>• giving orders to victims via social media, chat forums and open-source messenger tools,</li> <li>• communication amongst perpetrators predominantly via open-source messenger tools,</li> <li>• transferring profits by use of Bitcoins, other virtual means of payment and prepaid credit cards.</li> </ul> <p>It has been observed in all Austrian Federal States, that there are hardly any Austrians providing sexual services – at least legally. In newly opened prostitution establishments, typically five to ten persons from EU Member States to the East and South East of Austria offer sex services. The number of conventional brothels with bars and rooms is <b>continuing to decline</b>. In the past years, <b>offering sex services via the internet as well as in walk-in brothels is, however, increasing</b>.</p> <p>Furthermore, the number of <b>sadomasochism</b> (SM) studios and/or prostitution establishments offering <b>rooms for sadomasochist practices</b> as well as <b>prostitution by transexual persons is increasing</b>. The demand for these two forms of prostitution is continuously growing and they generate especially high profits.</p> <p>The most difficult area to keep under control is prostitution through escort agencies and internet platforms. This is also the area, which has the largest mixture of legal and illegal prostitution. Officially, these agencies offer escort services, but in most cases they also provide sexual services.</p> <p>In all nine Austrian Federal States, it is prohibited to offer sexual services in private flats. Controlling this illegal form of prostitution is also very difficult and only possible through continuous observation of ads in print media and on the internet.</p>	
→	the legislation and regulations relevant to action against THB (e.g. criminalisation of THB, identification and assistance of victims of THB, recovery and reflection period, residence permit, supply chains, public procurement);
<p>In 2018 the <b>EU public procurement directives</b>:</p> <ul style="list-style-type: none"> <li>• Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts,</li> <li>• Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and</li> <li>• Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors were transposed into national law.</li> </ul>	

The new **Federal Law on Public Procurement** (BVerG 2018) and the **Federal Law on Public Procurement of Concessions** (BVerGGKonz 2018) entered into force in August 2018.

According to § 78 para 1 point 1 and § 249 para 1 BVerG 2018 and § 44 para 1 point 1 BVerGGKonz 2018 the **contracting authority or entity** has to **exclude an economic operator** from participation in the procurement procedure, if that economic operator (or a member of the administrative, management or supervisory body of that economic operator or a person which has powers of representation, decision or control in the economic operator) **has been convicted by final judgement** of - inter alia - **slavery, trafficking in human beings or cross-border prostitution trade**. This mandatory exclusion ground also applies to all subcontractors. In case a subcontractor has been convicted of any of the mentioned offences the economic operator has to be excluded from participation in the procurement procedure or the respective subcontractor has to be rejected (and the economic operator has to nominate another subcontractor).

The **Criminal Procedure Code Amendment Act I 2016** (Federal Law Gazette I No. 26/2016) which entered into force on 1 June 2016, further **strengthened the rights of victims**. With these amendments, Austria **fully complies with the EU Victims' Rights Directive 2012/29/EU**.

The **definition of victim** according to § 65 subpara. 1 lit. a CCP **was broadened** by also **including** persons whose **personal dependence was abused** by the criminal offence (e.g. child victims of THB, trafficked by their parents/other relatives, situations where a position of vulnerability of the victim is abused).

The main advantage of being a victim according to § 65 subpara. 1 lit. a CCP is, that these victims have the **right to psychosocial and legal assistance in criminal proceedings**.

Moreover, there is a **new category** of "**particularly vulnerable victims**":

Victims of sexual offences, of violence in residential dwellings as well as victims under the age of 18 years are considered to be particularly vulnerable in any event.

**All other victims can be granted the status of particular vulnerability** based on an evaluation of the individual case where the following factors are taken into account:

- the victim's age,
- mental and health status,
- as well as the type and specific circumstances of the criminal offence.

Particularly vulnerable victims have special rights during the criminal proceedings in addition to the general victims' rights (please see § 66a para. 2 CCP).

The right of particularly vulnerable victims shall help to ensure the victim's safety and comfort during the interrogation and avoid re-traumatization. For instance, the particularly vulnerable victims has to be interviewed during the investigation and the trial phase in a protecting manner (Sec. 165, 250 para. 3 CCP).

In this regard, informing the victim regarding the release of the accused person from custody and provisional custody during the investigation phase and the information on the escape and recapture or release of the prisoner is important to prepare for a possible encounter.

With the **Criminal Amendment Act 2015** a new provision Art. 106a CC was introduced. This Article criminalises forced marriage explicitly. It reads as follows (Copyright for the translation: Schloenhardt/Höpfel (HG./Eds.) Strafgesetzbuch Austrian Criminal Code NWV Verlag):

**"Forced Marriage"**

*§ 106a. (1) Any person who coerces another into entering a marriage or registered partnership by using force or dangerous threat or by threatening to sever or deprive the person of family contact is liable to imprisonment for six months to five years.*

*(2) The same penalty applies to any person who, for the purpose of forcing the other person to enter into a marriage or registered partnership (para. 1) in a country of which the other person is neither a national nor a habitual resident, entices the other person by deceiving him or her about that purpose or coerces the other person by using of force or making a dangerous threat or a threat to sever or deprive of family contact to enter another country or who brings the other person into another country by use of force by or abusing the other person's mistake about that purpose.*

*(3) § 106 para. 2 applies mutatis mutandis."*

The Federal Ministry of Labour, Social Affairs, Health and Consumer Protection **finances a project of the organization Network Social Responsibility (NeSoVe)** called "Trafficking in Human Beings in the supply chain - successfully combat labour exploitation", which has started in October 2018. The project analyses **how existing quality seals and multi-stakeholder-initiatives** could be used to **prevent and combat human trafficking and labour exploitation in supply chains**.

→ the institutional and policy framework for action against THB (bodies responsible for co-ordinating national action against THB, entities specialised in the fight against THB, national rapporteur or equivalent mechanism, involvement of civil society, public-private partnerships);

The policy framework is influenced by the fact that Austria is a **signatory to all relevant international legal instruments** to combat human trafficking. These include:

- the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN TIP Protocol),
- Supplementing the United Nations Convention Against Transnational Organized Crime (2000);
- the Council of Europe Convention on Action against Trafficking in Human Beings (2005);
- the UN Convention on the Rights of the Child (1989) and
- the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000);
- as well as the UN Convention on the Elimination of All Forms of Discrimination against Women.

In 2011, the EU adopted **directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims**, which **has been transposed by Austria**. Furthermore, the EU has implemented its own Strategy towards the Eradication of Trafficking in Human Beings (2012-2016), which was evaluated in 2017.

In order to **coordinate and intensify anti-trafficking measures in Austria**, the **Task Force on Combating Human Trafficking** was set up in 2004 by a decision of the Austrian government as an institutional coordination mechanism.

In this Task Force, **all relevant ministries, government bodies, the federal provinces, the social partners and specialized Non-Governmental organizations are represented**.

The Task Force is in charge of **elaborating National Action Plans on Combating Human Trafficking** and of **monitoring their implementation**. Currently, the fifth National Action Plan (2018-2020) is being implemented. The National Action Plans reflect a comprehensive approach to combating human trafficking and include measures for **national coordination, prevention, protection of victims, prosecution and international cooperation**.

Every three years, the Task Force **prepares reports on the implementation of Austria's measures** against trafficking in human beings to the government and the parliament. In addition to these three-year reports, **annual implementation reports are drawn up**.

In 2018, the new **National Action Plan was passed** (V. 2018-2020). It **acknowledges new challenges** concerning THB in relation to the migration crises such as enhanced trainings and awareness-raising measures for officers of police detention centers (“Personenanhaltezentren”), for staff of Federal Reception Centers as well as employees of the Federal Office for Immigration and Asylum have continued with a focus on victim identification.

In 2018, Ambassador Petra Schneebeauer was appointed new national coordinator, national rapporteur on combating human trafficking and chair of the Task Force on Combating Human Trafficking.

Important entities specialised in assisting victims of THB are **the Intervention Centre for Trafficked Women (LEFÖ-IBF)** and the victim support agency for male victims of THB **MEN VIA**.

LEFÖ is being financed by the Government since 1998 in order to offer comprehensive **support and counselling** as well as **emergency housing** for female victims of THB. The subsidy for the NGO was constantly raised and amounted to Euro 747.117 in 2018. Governmental funding for MEN VIA has also been secured until the end of 2019 by governmental funding.

The input of survivors/victims of THB is taken into consideration through the work of the victim support agencies in the Task Force on Combating Human Trafficking.

In 2016, the **Joint Operational Office – Central Service for Combating Human Smuggling and Human Trafficking** – was established at the Criminal Intelligence Service. It is responsible for **investigations in cases of human trafficking**. The JOO is intended to host and integrate foreign Law Enforcement Officers during criminal investigations and joint operational action days in the fight against human trafficking/human smuggling.

At the **Regional Criminal Court of Vienna**, **specialized judges and prosecutors** – integrated in the unit responsible for sex crimes – **argue and hear cases of human trafficking**.

The **working groups “Child Trafficking”, “Prostitution” and “Trafficking for the purpose of labour exploitation”, which are part of the Task Force on Combatting Human Trafficking** continued their work in 2018. Within the **working group on child trafficking** a concept for a nationwide protection facility of children who are victims of human trafficking has been drafted.

The Task Force has also convened an ad-hoc working group on data collection in order to improve the availability of data on human trafficking.

**Government Anti-Trafficking Leadership and Coordination:**

Annual **Public Event on the Occasion of the EU Anti-Trafficking Day**: The Task Force on Combating Human Trafficking **organizes a one-day public event** on the occasion of the “EU Anti-Trafficking Day” every year. The average attendance has risen to about 400 participants including diplomatic staff from embassies and missions in Vienna, employees of IO’s, NGO’s, experts and academia as well as interested members of the civil society. The event attracts a high level of media attention every year.

→	the current national strategy and/or action plan for combating trafficking in human beings (objectives and main activities, bodies responsible for its implementation, budget, monitoring and evaluation of results);
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**Current national action plan:**

The Task Force is in charge of **elaborating National Action Plans** on Combating Human Trafficking and of **monitoring their implementation**. Currently, the **fifth National Action Plan (2018-2020)** is being implemented.

The National Action Plans **reflect a comprehensive approach** to combating human trafficking and include **measures for national coordination, prevention, protection of victims, prosecution and international cooperation.**

The current National Action Plan on Combating Human Trafficking **provides for a high level of training activities**, both mandatory and optional. Police and immigration officers, military personnel, financial police and labor inspectors, the judiciary as well as consular staff are among the main target groups. Most trainings are carried out in cooperation with NGOs, in particular LEFÖ-IBF, MEN VIA and ECPAT and **aim at sensitizing the trainees to issues of THB, at raising awareness** about their own role in this context, **at clarifying the indicators for victims of THB** and **at discussing the specific regulatory processes.** Whenever possible, a multi-stakeholder approach is promoted.

Examples of **training activities** on a regular basis include:

- Courses on THB are mandatory for all law enforcement officials as part of their basic training as well as in training programs for senior officials (conducted by SIAK- the training department of the Austrian Ministry of the Interior)
- SIAK offers voluntary in-service-trainings with at least two 3-day seminars focusing on THB and on Victims' Rights every year. These seminars are conducted in cooperation with NGOs. 40 to 50 officers participate yearly.
- SIAK also funds international training activities, e.g. the Central European Police Academy's trainings for middle and higher police management fighting organized crime, including THB. CEPA consists of 7 Member States (Austria, Germany, Slovakia, Slovenia, Czech Republic, Hungary and Switzerland).
- Trainings for officers of police detention centers ("Personenanhaltezentren"). In 2018 a total of 12 training sessions were carried out.
- Trainings for staff of Federal Reception Centers as well as employees of the Federal Office for Immigration and Asylum have continued with a focus on victim identification. These trainings will be further expanded and institutionalized under the new NAP (2018-2020).
- In the course of the continuous training of judges and prosecutors, the Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice offers seminars on the subject of THB.
- Apart from national trainings, judges, prosecutors as well as trainee judges/prosecutors are regularly given the opportunity to participate in seminars organized by European institutions, such as ERA (Academy of European Law), DRA (German Judicial Academy), and EJTN (European Judicial Training Network). These training programs are actively promoted by the Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice.
- Annual pre deployment trainings for military personnel are conducted by ECPAT Austria on THB and child trafficking.
- In 2015, the Federal Ministry for Labor, Social Affairs and Consumer Protection started annual trainings for labor inspectors on THB and labor exploitation. The main objective of the trainings is the sensitization for THB and labor exploitation.
- The Federal Ministry for Europe, Integration and Foreign Affairs offers training to diplomatic and consular staff on THB, including prevention of the exploitation of domestic staff in diplomatic households in the framework of the annual consular conference (voluntary).
- Employees (mainly social workers) of the youth welfare authorities of the federal provinces receive optional training by ECPAT and the CCIS on trafficking in children.
- Trainings are also provided to NGOs which might come across victims of THB, among others for example Caritas or the Protection Center for Victims of Violence (Gewaltschutzzentrum). Trainings are usually requested by the NGOs themselves and last from one to three days. The demand is steadily increasing.

**The current National Action Plan contains, for the first time, specific measures to tackle THB and labour exploitation in supply chains:**

In the context of the "Examination of a possible cooperation with existing quality seals (like Fair Trade) to prevent human trafficking in supply chains" (Action II.22) the Austrian Federal Ministry of Labour, Social Affairs, Health and Consumer Protection finances a project called "Trafficking in Human Beings in the supply chain - successfully combat labour exploitation". This project is carried out by the "Network Social Responsibility", an Austrian network of NGOs and trade unions active in the fields of Corporate Social Responsibility and Business & Human Rights. The project will analyze how existing quality seals and multi-stakeholder-initiatives could be used to combat and prevent human trafficking and labour exploitation in international supply chains.

**Main accomplishments:**

In October 2018, the **5th NAP (National Action Plan)** as well as the Report on the 4th NAP was approved by the government and implementation of the new NAP is already under way.

The NRM (National Referral Mechanism) for victims of child trafficking, which was published in 2016, aims **to foster the identification** of child victims, and **provides guidelines for the support** of victims of child trafficking in now available in English.

**A general NRM** was developed and put into force by the Federal Ministry of the Interior in November 2018. As of now, this is still an **internal document** of the Federal Criminal Investigation Service, but a document meant for distribution will soon be published.

In December 2018 – during the EU Council Presidency – Austria co-chaired the meeting of the National Rapporteurs and Equivalent Mechanisms in Brussels.

Also in 2018, the Criminal Intelligence Service published a "Situation Picture on Begging" and a "Tactical Concept and Guideline for Combating organized and exploitative begging", which is available in English.

**Male victims as well as female victims** of THB also **receive support** at the drop-in counselling center for undocumented employees called "UNDOK", run by Austrian Trade Unions. Persons working in Austria without a residence permit and/or a work permit that were deprived of the agreed wage or harmed by their employers in a different way, receive initial information and advice about issues of labour law, right of residence and social security, assistance with administrative procedures and long-time monitoring. Furthermore, UNDOK is cooperating with THB counselling institutions. In 2017/2018 approximately 190 clients received assistance. The Austrian Federal Ministry of Labour, Social Affairs, Health and Consumer Protection continues to financially support both counselling centers MEN VIA and UNDOK. For the period March 2017 to Mai 2018, € 415.000,- had been and for the period June 2018 to December 2019 € 410.000,- will be disbursed to these mentioned counselling centers.

**Monitoring:**

Once a year a report on the **implementation of the National Action Plan** is drafted for all members of the Task Force and a more comprehensive report is taken note by the Ministerial Council as well as the Parliament every three years. This report is subsequently published on various homepages of members of the Task Force.

For more information referring bodies responsible for implementing the current national action plan, please see the answer to the prior question.

→ recent case-law concerning THB for different forms of exploitation.

The jurisprudence **subsumes the exploitation of the prostitution of the victim both as sexual exploitation and labour exploitation** (e.g. Supreme Court Rulings of 25.11.2014, 11 Os 94/14d; of 16.12.2014, 14 Os 78/14y and of 12.10.2016, 15 Os 85/16p).

13. Please provide information on measures taken in your country in respect to the following recommendations made in GRETA's second evaluation report:

→ develop and maintain a comprehensive and coherent statistical system on THB by compiling reliable statistical data from all main actors on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of human trafficking cases, allowing disaggregation by sex, age, type of exploitation, country of origin and/or destination;

Austria is **aware of the importance to develop and maintain** a comprehensive and coherent **statistical system on THB** by compiling reliable statistical data. Austria is also aware of the fact that due to the shared national competences in fighting THB, statistical data of various shareholders are in need of streamlining to ensure victim's rights. In some cases, certain statistical data are also not yet available.

As a result, the fifth National Action Plan on Combatting Human Trafficking **includes the task to develop a comprehensive annual statistic** on Human Trafficking. The Task Force on Combatting Human Trafficking therefore created an **ad-hoc working group** on Statistics. First results should be available in the second half of 2019.

→ strengthen efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society and the private sector, and keep under review the regulation of brothels, paying particular attention to border areas;

As of January 1 2016 a new offense "**violation of sexual self - determination**" was introduced in **Article 205a of the Criminal Code**. Sexual intercourse or similar sexual acts (oral / anal sex) against the will of a person is put under penalty – so no application of force or violence is requested as is the case with the criminal offence „Rape“ (section 201 of the Criminal Code). Hence cases where the victim expresses a lack of willingness, such as by crying, freezing et cetera are punishable under section 205a. It also includes cases in which the consent was attained by intimidation or by taking advantage of an intimidating and/or exploitative situation (e.g. as is the case with victims of trafficking into sexual exploitation).

**"Violation of the right to sexual self-determination**

*§ 205a. (1) Any person who engages in sexual intercourse or conduct equivalent to sexual intercourse with another person by taking advantage of a predicament, after prior intimidation or against that person's will is liable to imprisonment for up to two years unless the offence is punishable with a higher penalty under another provision.*

*(2) The same penalty applies to any person who leads another in the manner set out in para. 1 to engage in or acquiesce to sexual intercourse or conduct equivalent to sexual intercourse with a third person or to perform an act equivalent to sexual intercourse involuntarily on himself or herself in order to sexually arouse or satisfy the perpetrator or a third person."*

On one hand, these legal provisions have **created demand-side preventive measures**. On the other, clients of prostitutes **can already be punished if they act with conditional intent**, i.e. if clients seriously think it is possible that the prostitute is in distress (therefore making the prostitute a potential victim of THB) but carry on nevertheless.



Law enforcement activities dealing with the regulation of brothels or individuals working in prostitution are regularly set but are not considered efforts to reduce the demand for legal sex work. The reason is that prostitution – under certain limitations – is legal in most parts of Austria.

Concerning the question of discouragement for services of trafficked persons in the area of sexual exploitation, **Austria's position remains unchanged: Reduction of the measured demand is not considered a convincing indicator for reduction of trafficking** for two main reasons:

One, it is almost **impossible to measure reduction in demand**. In the field of sexual exploitation, having less legal brothels is no proof that demand has actually gone down, it might just as well only have gone underground - and to give numbers on **illegal prostitution always stays pure guesswork**.

Second, even **if there was a reduction of demand**, this would not necessarily **mean a reduction of trafficking**. This would only hold true if every woman (and man) working in prostitution was a victim of trafficking, which definitely is not the case.

A clear concept for voluntary sexwork and a clear division between **voluntary sexwork** and **trafficking** is considered necessary to also **ensure better identification** of victims of THB and their support.

Hence, on the one hand the issue is to avoid that women and men are trafficked into prostitution (as well as into other areas of work, such as households, the building sector,...) and are identified if it nevertheless happens. On the other hand, women and men working in prostitution voluntarily should meet good and safe working conditions.

In 2009 the Human Trafficking Task Force appointed an interdisciplinary group of experts chaired by the Federal Chancellery - division Women and Equality, which is commissioned to develop comprehensive policies for improving the situation of sexworkers in Austria ([https://www.women-families-youth.bka.gv.at/women\\_and\\_equality/prostitution.html](https://www.women-families-youth.bka.gv.at/women_and_equality/prostitution.html) ).

It's findings are summarized in reports, the latest being as of May 2018 and includes recommendations concerning clients.

Furthermore, exhibitions titled "Menschenhandel – Sklaverei des 21. Jahrhunderts" ("THB – slavery in the 21st century") are **staged for Austrian schools and universities**, and some of the exhibitions are also available on the Internet, for free (web exhibitions).

Through press conferences and press releases, the Austrian Ministry of the Interior **raises awareness** of THB and the possibilities to identify victims.

GRETA's recommendations were taken very seriously. **National and international Joint Action Days (JAD) were organised**, thanks to the coordination and guidance of Criminal Intelligence Service Austria.

→	increase efforts to proactively identify victims of trafficking for the purpose of labour exploitation, including among irregular migrant workers;
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In 2015, an **annual training** (1,5-days-seminar) has been launched by the Central Labour Inspectorate. Participants of different regional offices of the labour inspection are trained on:

- **how to identify labour exploitation,**
- **what should be done** in case of suspicion,
- how to **inform the police** (Hotline of the Federal Office of Criminal Investigation; "Menschenhandels-Hotline des Bundeskriminalamts") and
- how to **support a potential** victim.

In 2018, the topic "human trafficking and labour exploitation" was integrated into the **basic training for all new labour inspectors**.

	<p>In 2017, the existing <b>internal decree</b> ("Erlass") was adapted in a user-friendly manner. The decree informs <b>all labour inspectors on how they have to proceed in case of suspicion</b> of human trafficking for labour exploitation.</p> <p>In October 2019, <b>two workshops on labour exploitation</b> are planned during the Labour Inspectorate Conference in Vienna.</p>
<p>→</p>	<p>pay increased attention to detecting victims of trafficking among asylum seekers and persons placed in immigration detention centres;</p>
	<p>Together with LEFÖ-IBF, the BFA provides trainings for <b>officials of the Federal Office for Immigration and Asylum</b> and <b>employees of the Federal Reception Centers</b> (Bundesbetreuungsstellen) to <b>instruct and sensitize</b> them regarding trafficking in human beings.</p> <p>It is almost impossible to identify victims, if there was no evidence found during the reception-procedure in an asylum case (by LEFÖ-IBF, Police, parties, etc.).</p>
<p>→</p>	<p>adopt minimum support service standards for victims of THB and the provision of adequate funding to maintain them;</p>
	<p><b>LEFÖ-IBF</b>, which celebrated its <b>20th anniversary in 2018</b>, is Austria's <b>largest victim protection establishment</b> for women and girls older than 15 years.</p> <p>LEFÖ-IBF has been assigned to <b>offer comprehensive help and care to female victims</b> of THB by the Federal Ministry for Interior Affairs and the Division for Women's Affairs and Equality within the Federal Chancellery based on a procurement by tender. The contract ensures the compliance with high standards concerning support for victims of THB and the necessary funding which has been continuously increased since 2016 and amounted to EUR 747,117 in 2018.</p> <p>Male victims of THB are taken care of by <b>MEN VIA</b>. The victim protection facility for men MEN VIA, was established on the basis of a study on male victims of THB in Austria carried out by the Men's Health Centre on behalf of the Austrian Federal Ministry of Labour, Social Affairs, Health and Consumer Protection. In this study, service standards for male victims of THB were elaborated due to their needs. In 2018 MEN VIA signed a funding contract valid until the end of 2019 with the Austrian Ministry of the Interior and the Austrian Ministry of Labour, Social Affairs and Consumer Protection.</p> <p>Both victim protection establishments are <b>subject to public review for meeting quality standards</b>. For security reasons, both facilities <b>provide safe housing for victims of THB only in Vienna</b> (being a large city, Vienna ensures a certain level of anonymity).</p> <p>In regions beyond a reasonable distance from Vienna or if the victims cannot or do not want to be taken to Vienna, LEFÖ-IBF and MEN VIA <b>cooperate with other facilities or offer expert advice</b>.</p> <p>Irrespective of their nationality, victims of THB have <b>access to medical care</b>. Third-country nationals may receive <b>basic social benefits</b> and <b>receive pocket money</b>.</p> <p><b>EU citizens</b> require a document confirming registration for <b>receiving access to Austria's healthcare system</b>. For the provision of assistance in proceedings, ongoing funding agreements with the Austrian Ministry of Constitutional Affairs, Reforms, Deregulation and Justice are in place.</p>
<p>→</p>	<p>ensuring that assistance is adapted to the specific needs of male victims of THB and giving an official intervention status to MEN VIA;</p>
	<p>Please also see answer to question 8.5.</p>

**MEN VIA is part** of the “Men’s Health Center Vienna”, shortly: “M.E.N.”, where specific psycho-social services for men are continuously developed and provided, with special regard to the needs of men and the implications of male socialization patterns. **M.E.N. is a well-known psychosocial organisation with excellent professional reputations.** The clients are provided with **safe accommodation, psycho-social support**, including during judicial proceedings, **medical aid** and **other services**.

In August 2018, MEN VIA got continued funding by **the Austrian Federal Ministry of Labour, Social Affairs, Health and Consumer Protection** und **the Federal Ministry of Interior**. Funding is guaranteed until December 2019 and serious efforts must be taken in order to avoid a situation of uncertainty whether of not funding will be granted again. This has negative effects for the supported victims, but also on health and stability of the staff. In 2017, MEN VIA had to close down its former shelter, in the second half of 2018 we could build it up again.

The aim is to have **longer funding-periods**, with more planing-stability and time and resources assured by secure funding situations. The aim is also to get the status of an **Intervention Center**, which includes a more profound legal basis for MEN VIA’s victim support activity.

→ guarantee access to health care as soon as a person is identified as a victim of THB, regardless of the trafficked person’s citizenship or legal status.

Austria has a system of **compulsory insurance** that is **based on employment**. Once one enters employment in Austria he/she will be **medically insured automatically**, assumed that he/she has a job with an income above the so-called “**marginal earnings threshold**” (“Geringfügigkeitsgrenze”; 2019: € 446.81 per month). Furthermore, any person who receives, for example, unemployment benefits, benefits of the needs-based minimum benefit system (“Bedarfsorientierte Mindestsicherung”) or a pension is medically insured. **Asylum seekers and vulnerable foreigners** are **also covered** by the health insurance scheme (regulation to § 9 ASVG). If one is not compulsorily insured, there is the possibility to make an application for a self-insurance. In case of medical emergency, every person has to be treated regardless of whether he/she is insured or not.

→ ensure that child victims of THB across the country benefit from the assistance measures provided for under the Convention, including appropriate accommodation; has a specialised shelter for child victims of THB been set up?

The “Drehscheibe”, part of the **Vienna Child and Youth Welfare system** offers a residential group for **unaccompanied aliens**, as well as child victims of THB in general.

The staff has been trained to **identify cases of child trafficking**.

**Drehscheibe works closely** with the **police**; when a police officer suspects a case of child trafficking, the child is taken to the Drehscheibe. The Working Group on Child Trafficking is currently developing a protection concept for child victims of THB, which will also include recommendations on the establishment of a specialized shelter.

However, in many federal states of Austria, specialized institution for protection and specially trained personnel does not exist. Child victims of THB however can be offered housing and if necessary treatment at the child and youth welfare institutions. They are not held in any institution against their will. Outpatient assistance for these children / adolescents can also be offered and organized at any time.

→	ensure that decisions to grant residence permits victims of THB are taken in compliance with the time-limit specified in law.
<p>The statutory time-frame for decisions at the BFA is up to six months. However, it always depends on the individual case. (Pending proceedings, investigative procedures, etc.)</p>	

### Part III - Statistics on THB

14.	Please provide the following statistics, <b>per year starting with 2015</b> , where available disaggregated as indicated below:
→	Number of presumed victims and identified victims of THB in the sense of having been recognised by a state institution or mandated NGO as bearers of rights to services provided for by the Convention (with breakdown by sex, age, nationality, form of exploitation, internal or transnational trafficking, and body which identified them).

Number of <b>presumed victims</b> and <b>identified victims</b> of THB as recognised by the NGO's "Intervention Center for Trafficked Women" (LEFÖ-IBF) and the protection facility for male victims of THB "MEN VIA":				
	2015	2016	2017	2018
<b>Female Victims<sup>1</sup></b>	<b>271</b>	<b>288</b>	<b>327</b>	<b>339</b>
Age (<18/18>)	29 / 242	24 / 264	28 / 299	28 / 311
Nationality	Rumania: 22% Bulgaria: 15% Hungary: 13% Philippines: 10% Nigeria: 6% Others: 34%	Rumania: 19% Bulgaria: 11% Nigeria: 11% Hungary: 10% Philippines: 9% Others: 40%	Nigeria: 30% Rumania: 13% China: 9% Bulgaria: 11% Philippines: 8% Others: 29%	Nigeria: 37% China: 10% Philippines: 8% Hungary: 6% Rumania: 5% Others: 34%
<b>Form of exploitation:</b>				
sexual exploitation	66%	62%	65%	71%
domestic servitude	17%	16%	16%	14%
labour exploitation	7%	8%	6%	6%
marriage	1%	5%	5%	3%
other forms of exploitation	9%	9%	8%	6%
<b>Male<sup>2</sup> Victims</b>	<b>30</b>	<b>60</b>	<b>62</b>	<b>46</b>
Age (<18/18>)	All 18+	All 18+	All 18+	All 18+
Nationality	Romania: 50% Bulgaria: 17% Hungary: 10%	Romania: 57% Bulgaria: 12% Serbia: 10%	Romania: 42% Bulgaria: 19% Serbia: 10%	Romania: 37% Asian C.: 20% Bulgaria: 13%

<sup>1</sup> Assisted women by LEFÖ IBF. LEFÖ-IBF, as the officially recognized victim protection facility, offers services to (potential) trafficked women and girls unconditionally. As part of the national system, LEFÖ-IBF can identify VOT. LEFÖ-IBF assists female VOT only. All data is victim-centred, since LEFÖ-IBF's field of work is the assistance and support of trafficked women and girls.

<sup>2</sup> Assisted men by MEN VIA.

	Slovakia: 7% Other: 16%	Other: 21%	Other European: 10% African Countries: 10% Asian Countries: 9%	African C.: 11% Serbia: 9% Other European: 11%
<b>Form of exploitation:</b>				
sexual exploitation	10%	-	-	16%
domestic servitude	-	-	6%	10%
labour exploitation	80%	74%	72%	64%
marriage	-	-	-	-
other forms of exploitation	10%	26%	22%	10%
<b>Total</b>	<b>301</b>	<b>348</b>	<b>389</b>	<b>385</b>

(Source: LEFÖ-IBF, MEN VIA)

Number of **presumed victims** and **identified victims** of THB in criminal proceedings as recognised by the Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice:

<b>2015</b>					
	<b>§ 104 CC</b> Slavery	<b>§ 104a CC</b> Trafficking in Persons	<b>§ 217 CC</b> Transnational Prostitution Trade	<b>§ 116 FPG</b> Exploitation of Foreigner <sup>a</sup>	<b>Sum</b>
<b>Male Victims</b>	2	47	11	8	
<b>Female Victims</b>	1	55	75	8	
Unknown	0	6	8	0	
<b>Age &lt;18/18&gt;</b>	0/3	8/100	2/92	0/16	
<b>Nationality</b>	n.a.	n.a.	n.a.	n.a.	
<b>Total</b>	<b>3</b>	<b>108</b>	<b>94</b>	<b>16</b>	<b>221</b>

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

<b>2016</b>					
	<b>§ 104 CC</b> Slavery	<b>§ 104a CC</b> Trafficking in Persons	<b>§ 217 CC</b> Transnational Prostitution Trade	<b>§ 116 FPG</b> Exploitation of Foreigner <sup>a</sup>	<b>Sum</b>
<b>Male Victims</b>	0	46	11	7	
<b>Female Victims</b>	0	80	72	4	

Unknown	0	12	10	0	
<b>Age &lt;18/18&gt;</b>	0/0	7/131	3/90	0/11	
<b>Nationality</b>	n.a.	n.a.	n.a.	n.a.	
<b>Total</b>	0	138	93	11	<b>242</b>

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

<b>2017</b>					
	<b>§ 104 CC Slavery</b>	<b>§ 104a CC Trafficking in Persons</b>	<b>§ 217 CC Transnational Prostitution Trade</b>	<b>§ 116 FPG Exploitation of Foreigner<sup>a</sup></b>	<b>Sum</b>
<b>Male Victims</b>	6	38	7	55	
<b>Female Victims</b>	4	102	97	21	
Unknown	1	33	22	4	
<b>Age &lt;18/18&gt;</b>	1/10	11/162	2/124	14/66	
<b>Nationality</b>	n.a.	n.a.	n.a.	n.a.	
<b>Total</b>	11	173	126	80	<b>390</b>

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

<b>2018</b>					
	<b>§ 104 CC Slavery</b>	<b>§ 104a CC Trafficking in Persons</b>	<b>§ 217 CC Transnational Prostitution Trade</b>	<b>§ 116 FPG Exploitation of Foreigner<sup>a</sup></b>	<b>Sum</b>
<b>Male Victims</b>	0	24	5	6	
<b>Female Victims</b>	1	110	140	39	
Unknown	1	20	17	10	
<b>Age &lt;18/18&gt;</b>	0/2	5/149	3/159	8/47	
<b>Nationality</b>	n.a.	n.a.	n.a.	n.a.	
<b>Total</b>	2	154	162	55	<b>373</b>

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

- Number of victims of THB identified as part of the asylum procedure (disaggregated by sex, age, nationality, form of exploitation).  
Austria does not collect statistical data on this question.
- Number of victims of THB who received assistance<sup>3</sup> (disaggregated by sex, age, nationality, form of exploitation, internal or transnational trafficking).

<sup>3</sup> Psycho-social and legal support pursuant to § 66 subpara. 2 CCP

<b>Female Victims of THB who received assistance</b>					
	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>Sum</b>
<b>Minors</b>	<b>8</b>	<b>8</b>	<b>19</b>	<b>17</b>	<b>52</b>
0-3 years	1	0	0	0	1
4-6 years	0	0	0	0	0
7-9 years	0	0	0	0	0
10-13 years	0	1	2	0	3
14-17 years	7	7	17	17	48
<b>Adults</b>	<b>125</b>	<b>92</b>	<b>112</b>	<b>128</b>	<b>457</b>
<b>Total</b>	<b>133</b>	<b>100</b>	<b>131</b>	<b>145</b>	<b>509</b>

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

<b>Male Victims of THB who received assistance</b>					
	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>Sum</b>
<b>Minors</b>	<b>3</b>	<b>5</b>	<b>4</b>	<b>1</b>	<b>13</b>
0-3 years	0	0	0	0	0
4-6 years	0	0	0	0	0
7-9 years	0	1	1	0	2
10-13 years	0	0	0	0	0
14-17 years	3	4	3	1	11
<b>Adults</b>	<b>4</b>	<b>31</b>	<b>47</b>	<b>25</b>	<b>107</b>
<b>Total</b>	<b>7</b>	<b>36</b>	<b>51</b>	<b>26</b>	<b>120</b>

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

<b>Total Victims of THB who received assistance</b>					
	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>Sum</b>
<b>Minors</b>	<b>11</b>	<b>13</b>	<b>23</b>	<b>18</b>	<b>65</b>
0-3 years	1	0	0	0	0
4-6 years	0	0	0	0	0
7-9 years	0	1	1	0	2
10-13 years	0	1	2	0	3
14-17 years	10	11	20	18	59
<b>Adults</b>	<b>129</b>	<b>123</b>	<b>159</b>	<b>153</b>	<b>564</b>
<b>Total</b>	<b>140</b>	<b>136</b>	<b>182</b>	<b>171</b>	<b>629</b>

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

→ Number of child victims of THB who were appointed legal guardians.

Austria does not collect data on this question.





Ethiopia					2	2	2
Indonesia					1	1	1
Philippines					2	2	2
Serbia					1	1	1
<b>Form of exploitation</b>							<b>n.a.</b>
<b>total</b>	0	2	2	2	21	23	25

\* under 18 years

\*\* above 18 years

(Source: BMI- Federal Ministry of the Interior)

<b>2018</b>							
	male			female			total
	<18*	>18**	number	<18*	>18**	number	
<b>Residence permit „special protection“ (§ 57 Asylum Act)</b>							
<b>Victims of THB</b>	0	4	4	1	30	31	35
Bosnia-Herzegovina		2	2				2
China					3	3	3
Cote d'Ivoire					1	1	1
Indonesia					1	1	1
Kosovo					1	1	1
Cuba		2	2				2
Moldova					1	1	1
Nigeria				1	12	13	13
Philippines					3	3	3
Serbia					1	1	1
Venezuela					7	7	7
<b>Form of exploitation</b>							<b>n.a.</b>
<b>Prolongation of residence permit „special protection“ (§ 59 Asylum Act)</b>							
<b>Victims of THB</b>	0	1	1	1	8	9	10
<b>Nationality:</b>							
Albania				1	1	2	2
Indonesia					1	1	1
Colombia					1	1	1
Kosovo		1	1				1
Nigeria					1	1	1
Philippines					3	3	3
Serbia					1	1	1
<b>Form of exploitation</b>							<b>na</b>
<b>total</b>	0	5	5	2	38	40	45

\* under 18 years

\*\* above 18 years

(Source: BMI- Federal Ministry of the Interior)

→ Number of persons given refugee status or subsidiary/complementary protection on the grounds of being victims of THB (disaggregated by sex, age, nationality, form of exploitation).

Austrian state institutions do not collect data on this question.

According to LEFÖ-IBF the following number of female victims of THB were given refugee status:

<b>2018<sup>4</sup></b>							
	<b>male</b>			<b>female</b>			<b>total</b>
	<b>&lt;18*</b>	<b>&gt;18**</b>	<b>number</b>	<b>&lt;18</b>	<b>&gt;18</b>	<b>number</b>	
Victims of THB <sup>5</sup>						<b>132</b>	
Nationality	n.a.	n.a.	<b>n.a.</b>	n.a.	n.a.		
Form of exploitation							
<b>Received Asylum</b>						<b>9</b>	<b>9</b>
<b>total</b>							<b>9</b>

(Source: LEFÖ-IBF)

→ Number of victims of THB who claimed compensation, who were granted compensation and who effectively received compensation (disaggregated by sex, age, nationality, form of exploitation, with an indication of whether the compensation was provided by the perpetrator or the State, and the amount awarded).

Number of **victims of sexual exploitation** who **claimed** compensation, who were **granted** compensation and who effectively **received** compensation<sup>6</sup>:

	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
<b>Number of Claimants</b>	5	0	1	6
Of these Nationality	Serbia 1, Hungary 1, Romania 1, Philippines 1, Bulgaria 1	-	Colombia	Hungary 1, Cuba 2, Venezuela 3
Of these female/male	4/1	-	1/-	4/2
Of these Age	n.a.	-	n.a.	n.a.
<b>Number of victims who were granted compensation</b>	2	-	-	1
Of these Nationality	Hungary 1, Romania 1		n.a.	Hungary 1
Of these female/male	2/0			1/0
Of these Age	n.a.	-	-	n.a.

<sup>4</sup> LEFÖ-IBF started to statistically evaluate this in 2018.

<sup>5</sup> Number of trafficked women and girls in the Asylum procedure

<sup>6</sup> Granting Psychotherapy by the "Victims of Crime Act" (Verbrechensopfergesetz - VOG) for damage of health caused by an intentional crime (provided by the State).

<b>Number of victims who received compensation</b>	2	-	-	1
<b>Amount awarded</b>	8.288,40 €			695,20 €
Of these Nationality	Hungary 1, Romania 1			Hungary 1
Of these female/male	2/0			1/0
Of these Age	n.a.			n.a.

(Source: BMASGK- Federal Ministry of Labour, Social Affairs, Health and Consumer Protection)

Number of **victims of THB** who **claimed** compensation, who were **granted** compensation and who effectively **received** compensation from the perpetrator as a private party in the criminal proceedings according to § 67 CCP:

<b>2015</b>				
	<b>§ 104 CC</b> Slavery	<b>§ 104a CC</b> Trafficking in Persons	<b>§ 217 CC</b> Transnational Prostitution Trade	<b>§ 116 FPG</b> Exploitation of a Foreigner
<b>Number of Claimants</b>	<b>0</b>	<b>16</b>	<b>20</b>	<b>0</b>
<b>Number of victims who were granted compensation</b>	<b>0</b>	<b>2</b>	<b>7</b>	<b>0</b>
<b>Number of victims who received compensation</b>	<b>n.a.</b>	<b>n.a.</b>	<b>n.a.</b>	<b>n.a.</b>
<b>Total</b>	<b>9</b>			

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

<b>2016</b>				
	<b>§ 104 CC</b> Slavery	<b>§ 104a CC</b> Trafficking in Persons	<b>§ 217 CC</b> Transnational Prostitution Trade	<b>§ 116 FPG</b> Exploitation of a Foreigner
<b>Number of Claimants</b>	<b>0</b>	<b>22</b>	<b>12</b>	<b>2</b>
<b>Number of victims who were granted compensation</b>	<b>0</b>	<b>2</b>	<b>7</b>	<b>0</b>
<b>Number of victims who</b>	<b>n.a.</b>	<b>n.a.</b>	<b>n.a.</b>	<b>n.a.</b>

<b>received compensation</b>				
<b>Total</b>	<b>9</b>			

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

<b>2017</b>				
	<b>§ 104 CC</b> Slavery	<b>§ 104a CC</b> Trafficking in Persons	<b>§ 217 CC</b> Transnational Prostitution Trade	<b>§ 116 FPG</b> Exploitation of a Foreigner
<b>Number of Claimants</b>	<b>7</b>	<b>16</b>	<b>14</b>	<b>4</b>
<b>Number of victims who were granted compensation</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>0</b>
<b>Number of victims who received compensation</b>	<b>n.a.</b>	<b>n.a.</b>	<b>n.a.</b>	<b>n.a.</b>
<b>Total</b>	<b>4</b>			

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

<b>2018</b>				
	<b>§ 104 CC</b> Slavery	<b>§ 104a CC</b> Trafficking in Persons	<b>§ 217 CC</b> Transnational Prostitution Trade	<b>§ 116 FPG</b> Exploitation of a Foreigner
<b>Number of Claimants</b>	<b>0</b>	<b>23</b>	<b>24</b>	<b>5</b>
<b>Number of victims who were granted compensation</b>	<b>0</b>	<b>4</b>	<b>2</b>	<b>0</b>
<b>Number of victims who received compensation</b>	<b>n.a.</b>	<b>n.a.</b>	<b>n.a.</b>	<b>n.a.</b>
<b>Total</b>	<b>6</b>			

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

As far as compensation is concerned, the data collection of the Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice cannot be further disaggregated by sex, age, nationality.

→ Number of victims of THB who received another form of financial support from the State, with the indication of the amount received.

Austrian state institutions do not collect data on this question.

**According to MEN VIA the following number of victims of THB have received another form of financial support from the state:**

	2015	2016	2017	2018
Care allowance	1	-	-	-
Financial Support in Special Times of Need	5	5	3	-
Guaranteed Minimum Social Benefit	-	-	-	4
<b>Total</b>	<b>6</b>	<b>5</b>	<b>3</b>	<b>4</b>

(Source: MEN VIA)

→ Number of victims of THB who received free legal aid.

According to Austrian standards and definitions, every victim of THB that is referred to LEFÖ-IBF or MEN VIA receives free legal aid. Please also see answer to question 1.

→ Number of victims of THB who were returned or repatriated to/from your country (disaggregated by sex, age, country of destination, form of exploitation).

Austria does not collect data on this question.

→ Number of investigations into THB cases (disaggregated by type of exploitation, with an indication of the number of victims concerned).

**Number of investigations as defined by the Federal Ministry of the Interior:**

2015				
	§ 104 CC Slavery	§ 104a CC Trafficking in Persons	§ 217 CC Transnational Prostitution Trade	§ 116 FPG Exploitation of a Foreigner
<b>Investigation</b>		61	42	
Type of exploitation	n.a.	n.a.	n.a.	n.a.
Number of victims concerned	n.a.	n.a.	n.a.	n.a.
<b>Total</b>	<b>103</b>			

(Source: BMI- Federal Ministry of the Interior)

2016				
	§ 104 CC Slavery	§ 104a CC Trafficking in Persons	§ 217 CC Transnational Prostitution Trade	§ 116 FPG Exploitation of a Foreigner
<b>Investigation</b>		23	28	
Type of exploitation	n.a.	n.a.	n.a.	n.a.
Number of victims concerned	n.a.	n.a.	n.a.	n.a.

<b>Total</b>	<b>51</b>
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(Source: BMI- Federal Ministry of the Interior)

<b>2017</b>				
	<b>§ 104 CC</b> Slavery	<b>§ 104a CC</b> Trafficking in Persons	<b>§ 217 CC</b> Transnational Prostitution Trade	<b>§ 116 FPG</b> Exploitation of a Foreigner
<b>Investigation</b>		34	23	
Type of exploitation	n.a.	n.a.	n.a.	n.a.
Number of victims concerned	n.a.	n.a.	n.a.	n.a.
<b>Total</b>	<b>57</b>			

(Source: BMI- Federal Ministry of the Interior)

<b>2018</b>				
	<b>§ 104 CC</b> Slavery	<b>§ 104a CC</b> Trafficking in Persons	<b>§ 217 CC</b> Transnational Prostitution Trade	<b>§ 116 FPG</b> Exploitation of a Foreigner
<b>Investigation</b>		71	27	
Type of exploitation	n.a.	n.a.	n.a.	n.a.
Number of victims concerned	n.a.	n.a.	n.a.	n.a.
<b>Total</b>	<b>98</b>			

(Source: BMI- Federal Ministry of the Interior)

**Number of investigations as defined by the Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice:**

<b>2015</b>				
	<b>§ 104 CC</b> Slavery	<b>§ 104a CC</b> Trafficking in Persons	<b>§ 217 CC</b> Transnational Prostitution Trade	<b>§ 116 FPG</b> Exploitation of a Foreigner
<b>Investigation (case-related) [UP<sup>7</sup>]</b>	5 + [1]	46 + [11]	50 + [5]	7
Type of exploitation	n.a.	n.a.	n.a.	n.a.
Number of victims concerned	n.a.	n.a.	n.a.	n.a.
<b>Total</b>	<b>125</b>			

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

<b>2016</b>
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<sup>7</sup> UP= unidentified perpetrator

	<b>§ 104 CC</b> Slavery	<b>§ 104a CC</b> Trafficking in Persons	<b>§ 217 CC</b> Transnational Prostitution Trade	<b>§ 116 FPG</b> Exploitation of a Foreigner
<b>Investigation (case-related) [UP<sup>8</sup>]</b>	1	56 + [21]	52 + [9]	6
Type of exploitation	n.a.	n.a.	n.a.	n.a.
Number of victims concerned	n.a.	n.a.	n.a.	n.a.
<b>Total</b>	<b>145</b>			

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

<b>2017</b>				
	<b>§ 104 CC</b> Slavery	<b>§ 104a CC</b> Trafficking in Persons	<b>§ 217 CC</b> Transnational Prostitution Trade	<b>§ 116 FPG</b> Exploitation of a Foreigner
<b>Investigation (case-related) [UP<sup>9</sup>]</b>	3 + [3]	53 + [41]	51 + [10]	6
Type of exploitation	n.a.	n.a.	n.a.	n.a.
Number of victims concerned	n.a.	n.a.	n.a.	n.a.
<b>Total</b>	<b>167</b>			

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

<b>2018</b>				
	<b>§ 104 CC</b> Slavery	<b>§ 104a CC</b> Trafficking in Persons	<b>§ 217 CC</b> Transnational Prostitution Trade	<b>§ 116 FPG</b> Exploitation of a Foreigner
<b>Investigation (case-related) [UP<sup>10</sup>]</b>	1 + [1]	55 + [16]	56 + [10]	13
Type of exploitation	n.a.	n.a.	n.a.	n.a.
Number of victims concerned	n.a.	n.a.	n.a.	n.a.
<b>Total</b>	<b>152</b>			

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

→ Number of prosecutions in THB cases (disaggregated by type of exploitation, with an indication of the number of victims and defendants concerned).

<b>2015</b>				
	<b>§ 104 CC</b> Slavery	<b>§ 104a CC</b> Trafficking in Persons	<b>§ 217 CC</b> Transnational Prostitution Trade	<b>§ 116 FPG</b> Exploitation of a Foreigner

<sup>8</sup> UP= unidentified perpetrator

<sup>9</sup> UP= unidentified perpetrator

<sup>10</sup> UP= unidentified perpetrator



<a href="#">Complaint</a> (person-related) [UP <sup>11</sup> ]	14 + [1]	136 + [11]	116 + [5]	17
<b>Prosecution of these cases before 1.1.2015</b>	<b>0</b>	<b>10</b>	<b>25</b>	<b>0</b>
Diversion	0	2	1	0
<a href="#">Dismissal</a> [UP]	2	37 + [2]	57 + [2]	5
<a href="#">Acquittal</a>	0	6	5	0
<b>Total Victims concerned</b>	<b>3</b>	<b>108</b>	<b>94</b>	<b>16</b>
Female Victims	1	55	75	8
Male Victims	2	47	11	8
Unkown	0	6	8	0

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

<b>2016</b>				
	<b>§ 104 CC</b> Slavery	<b>§ 104a CC</b> Trafficking in Persons	<b>§ 217 CC</b> Transnational Prostitution Trade	<b>§ 116 FPG</b> Exploitation of a Foreigner
<a href="#">Complaint</a> (person-related) [UP <sup>12</sup> ]	1	114 + [21]	92 + [9]	8
<b>Prosecution of these cases before 1.1.2016</b>	<b>0</b>	<b>19</b>	<b>20</b>	<b>0</b>
Diversion	0	1	0	0
<a href="#">Dismissal</a> [UP]	0	44 + [3]	55 + [1]	12
<a href="#">Acquittal</a>	0	4	0	0
<b>Total Victims concerned</b>	<b>0</b>	<b>138</b>	<b>93</b>	<b>11</b>
Female Victims	0	80	72	4
Male Victims	0	46	11	7
Unknown	0	12	10	0

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

<b>2017</b>				
	<b>§ 104 CC</b> Slavery	<b>§ 104a CC</b> Trafficking in Persons	<b>§ 217 CC</b> Transnational Prostitution Trade	<b>§ 116 FPG</b> Exploitation of a Foreigner
<a href="#">Complaint</a> (person-related) [UP <sup>13</sup> ]	3 + [4]	103 + [41]	93 + [10]	6

<sup>11</sup> UP= unidentified perpetrator

<sup>12</sup> UP= unidentified perpetrator

<sup>13</sup> UP= unidentified perpetrator

<b>Prosecution of these cases before 1.1.2017</b>	<b>1</b>	<b>31</b>	<b>20</b>	<b>6</b>
Diversion	0	0	0	0
<a href="#">Dismissal</a> [UP]	6 + [1]	67 + [10]	58	6
<a href="#">Acquittal</a>	0	2	3	0
<b>Total Victims concerned</b>	<b>11</b>	<b>173</b>	<b>126</b>	<b>80</b>
Female Victims	4	102	97	21
Male Victims	6	38	7	55
Unknown	1	33	22	4

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

  

<b>2018</b>				
	<b>§ 104 CC</b> Slavery	<b>§ 104a CC</b> Trafficking in Persons	<b>§ 217 CC</b> Transnational Prostitution Trade	<b>§ 116 FPG</b> Exploitation of a Foreigner
<a href="#">Complaint</a> (person-related) [UP <sup>14</sup> ]	3 + [1]	113 + [16]	140 + [10]	29
<b>Prosecution of these cases before 1.1.2018</b>	<b>0</b>	<b>16</b>	<b>8</b>	<b>3</b>
Diversion	0	1	0	0
<a href="#">Dismissal</a> [UP]	0	58 + [5]	78 + [8]	27
<a href="#">Acquittal</a>	4	8	7	8
<b>Total Victims concerned</b>	<b>2</b>	<b>154</b>	<b>162</b>	<b>55</b>
Female Victims	1	110	140	39
Male Victims	0	24	5	6
Unknown	1	20	17	10

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

  

→ Number of convicted perpetrators of THB (disaggregated by sex, age, nationality, form of exploitation).

The number of convicted perpetrators is equal to the number of convictions. Please see the statistic in the following question.

  

→ Number of convictions for THB, with an indication of the form of exploitation, whether the victim was an adult or a child, the type and duration of the penalties, and whether they were effectively enforced or suspended.

<b>2015</b>				
	<b>§ 104 CC</b> Slavery	<b>§ 104a CC</b> Trafficking in Persons	<b>§ 217 CC</b> Transnational Prostitution Trade	<b>§ 116 FPG</b> Exploitation of a Foreigner
<b>Conviction</b>	0	2	13	0
For labour exploitation	0	2	0	0

<sup>14</sup> UP= unidentified perpetrator

For sexual exploitation	0	0	13	0
For child sexual exploitation	0	0	0	0
For not defined	0	0	0	0
<b>Total</b>	<b>15</b>			

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

<b>2016</b>				
	<b>§ 104 CC</b> Slavery	<b>§ 104a CC</b> Trafficking in Persons	<b>§ 217 CC</b> Transnational Prostitution Trade	<b>§ 116 FPG</b> Exploitation of a Foreigner
<b>Conviction</b>	0	10	16	0
For labour exploitation	0	2	0	0
For sexual exploitation	0	6	15	0
For child sexual exploitation	0	0	0	0
For not defined	0	2	1	0
<b>Total</b>	<b>26</b>			

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

<b>2017</b>				
	<b>§ 104 CC</b> Slavery	<b>§ 104a CC</b> Trafficking in Persons	<b>§ 217 CC</b> Transnational Prostitution Trade	<b>§ 116 FPG</b> Exploitation of a Foreigner
<b>Conviction</b>	0	3	7	0
For labour exploitation	0	0	0	0
For sexual exploitation	0	2	5	0
For child sexual exploitation	0	0	0	0
For not defined	0	1	2	0
<b>Total</b>	<b>10</b>			

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

<b>2018</b>				
	<b>§ 104 CC</b> Slavery	<b>§ 104a CC</b> Trafficking in Persons	<b>§ 217 CC</b> Transnational Prostitution Trade	<b>§ 116 FPG</b> Exploitation of a Foreigner
<b>Conviction</b>	0	9	5	3
for labour exploitation	0	3	1	1
for sexual exploitation	0	2	3	0
For child labour exploitation	0	1	0	0
for child sexual exploitation	0	0	0	0
For not defined	0	3	1	2
<b>Total</b>	<b>17</b>			

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

	2015	2016	2017	2018
Open proceedings	76	65	74	101
<b>Convictions</b>	<b>23</b>	<b>28</b>	<b>24</b>	<b>24</b>
Proceedings interrupted	15	36	40	36
Proceedings closed	13	95	60	24
Acquittal	4	14	14	18
Other	2	10	11	5
<b>Total<sup>15</sup></b>	<b>133</b>	<b>248</b>	<b>223</b>	<b>208</b>

(Source: LEFÖ-IBF)

→ Number of judgments in THB cases resulting in the confiscation of assets.

Property Measures					Total
	§ 104 CC Slavery	§ 104a CC Trafficking in Persons	§ 217 CC Transnational Prostitution Trade	§ 116 FPG Exploitation of Foreigner <sup>a</sup>	
<b>2015</b>			<b>6</b>		<b>6</b>
Seizure			3		3
Forfeiture			3		3
<b>2016</b>		<b>16</b>	<b>20</b>		<b>36</b>
Confiscation		6	6		12
Forfeiture		10	14		24
<b>2017</b>		<b>11</b>	<b>5</b>		<b>16</b>
Seizure		2	1		3
Confiscation		5			5
Forfeiture		4	4		8
<b>2018</b>	<b>8</b>	<b>16</b>	<b>10</b>	<b>12</b>	<b>46</b>
Seizure		2			2
Forfeiture	8	14	10	12	44
<b>Total</b>	<b>8</b>	<b>43</b>	<b>41</b>	<b>12</b>	<b>104</b>

(Source: BMVRDJ- Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice)

→ Number of convictions of legal entities for THB.

No cases are known from 2015 to 2018.

<sup>15</sup> This number is based on victims assisted by LEFÖ-IBF in criminal proceedings.