



## **G R E T A**

Group of Experts on Action  
against Trafficking in Human Beings

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# **Reply from the Slovak Republic 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 20 March 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.

Pursuant to § 2 par. 21 of Act no. 301/2005 Coll. the Criminal Procedure Code as amended (hereinafter referred to as CPC), which defines the basic principles of criminal proceedings, are " The law enforcement authorities and the court are obliged, throughout the criminal proceedings, to make it possible for the victim to fully exercise their rights of which the victim shall be instructed in a due, appropriate and comprehensible manner. The criminal proceedings must be conducted with necessary tactfulness towards the victim. It is necessary to take account of their personal situation and immediate needs, age, sex, disability, if any, and their maturity, and to fully respect their physical, mental and moral integrity. Therefore, the provisions of the Special Act on the Rights of Victims of Crime are not affected. "

Pursuant to § 49 of the CPC, the criminal prosecution body and the court are obliged to inform injured party about his / her rights under this Act and give him / her a full opportunity to to fully exercise them.

The guidance usually takes place before the process, most often before the injured person's hearing. Part of information instruction/guidance in the scope of § 46 of the CPC, which regulates the rights of the injured party and claims for damages in criminal proceedings.

In the context of criminal proceedings after identifying the victim and declaring that he / she feels a victim of trafficking in human beings and intends to cooperate with law enforcement authorities, he / she will be informed about the Program of support and protection of victims of trafficking in human beings (hereinafter referred to as "the Program"), and about the resulting rights and obligations. In this case, it is proposed to be enrolled in the program (the victim then fill in the entry declaration and the identification form), then informs the information center with the announcement where the victim will be located. Victims are provided with all the statements in criminal proceedings in their native language, which they understand and, if necessary, interpreted by the translator. All processes are carried out in accordance with CPC and Coll. the Criminal Code as amended and amending other acts (hereinafter referred to as the "CC") and the Regulation of the Ministry of the Interior on securing the program of support and protection of victims of human trafficking no. 144/2018.

In connection with the Act no. 274/2017 Coll. on the Victims of Crime and on Amendments to Certain Rules (hereinafter referred to as the "Victims Act"), which entered into force on 01.01.2018, the Prosecutor General's Office drafted a methodical aid for subordinate prosecutors to provide comprehensive information to victims of crime, including victims of trafficking including the right to information, the right to indemnity, and others, including the provision of advice on the right to professional assistance, the right to protection against secondary or repeated injury. These facts must be provided for the victims of the offense in the framework of its legal instruction in the first contact with the prosecution authorities.

In case, that the victim is a foreign national, translation and interpretation services are provided by certified interpreters listed in the lists of experts and interpreters authorized to carry out this activity.

Pursuant to § 7c (1) of Act no. 82/2005 Coll. on illegal work and illegal employment and on amending and supplementing certain acts, as amended (the "Act no. 82/2005 Coll."), the controlling body which are aimed to control illegal work and illegal employment (the inspection bodies) during the inspection

have the duty to inform a third country that has been illegally employed by performing dependent work and illegally present on the territory of the Slovak Republic (without authorization) of its right to report the labor Inspectorate and comply. In cases, that the agreed salary was not paid, workers are entitled to claim the agreed salary, and the outstanding wages should be delivered to the country to which they return or be deported at the expense of the legal entity or natural person that illegally employed the person (hereinafter "information obligation").

In addition to the above-mentioned specific provision concerning third-country nationals, all employees (including EU citizens) have the right to file a complaint to the competent labor inspectorate, in accordance with § 150 of the Act no. 311/2001 Coll. Labour Code as amended (hereinafter referred to as the Labour Code), if they are injured as a result of a breach of obligations arising from labor relations. This also applies to posted and guest employees who temporarily work in the territory of the Slovak Republic under § 5 of the Labor Code.

The Constitution of the Slovak Republic (art. 47) gives everyone the right to legal assistance in proceedings before courts, other State bodies or public authorities from the beginning of the procedure, under the conditions laid down by law. At the same time confers the right to an interpreter to everyone who declares that he does not know the language in which the proceedings are conducted.

Act no. 160/2015 Coll. The Civil Dispute Settlement in his § 155 confers everyone the right to act in court in the mother language or in a language they understand. Taking into account the nature and circumstances of the case, the interpreter or a translator will be invited. The costs incurred by the party acting in the mother tongue or in a language they understand are borne by the state.

The Ministry of the Interior of the Slovak Republic (hereinafter "MV SR") in cooperation with several entities like the General Prosecutors Office of the Slovak Republic (hereinafter "GP SR"), National Unit for combating illegal migration of the The Office of the Border and Alien Police of the Presidium of the Police Force (hereinafter "National Unit"), the Ministry of Justice of the SR (hereinafter "MS SR") and a professional consultation with Caritas Slovakia prepared a working version of the information leaflet on victims' rights in criminal proceedings, which will serve as a basic aid to inform victims, in the course of the criminal proceedings. A special note on the admission of victims into the program was added to the minutes of the hearing of the witness - the victim, and the guidance contains a lesson on their rights in criminal proceedings.

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?

Pursuant to § 2 (20) of the CPC, which defines the basic principles of criminal proceedings, "If the accused, his legal guardian, suspected person, victim, witness, or a participating person declares that he does not speak the language of the proceedings, he shall have the right to be assigned an interpreter or a translator."

If it is necessary to interpret the contents of a testimony, or if the person referred to in § 2 (20) declares that they do not understand the language in which proceeding is held or that he does not speak the language, an interpreter shall be assigned by ruling. The recording clerk may also act as interpreter in exceptional circumstances. If the convicted exercises their right under § 2 (20), the invited interpreter shall also interpret, at the request of the convicted, any consultation between the convicted and the defence counsel in the course of, or in direct connection with, a procedural act, with filing an appeal or with other procedural submissions.

The injured party is entitled to a translated judgment, the criminal order, the decision on the appeal, the decision on the conditional suspension of the prosecution and the notice of the main hearing. If the notifier of the offense is injured, a written confirmation of the receipt of the criminal notice shall be filed in writing at his / her request. Translation of the decision and the letter of acknowledgement of the

receipt of the notification and service of the crime thereof provide the authority whose decision is or has received a criminal notification.

At the request of the injured person or without such request, the authority before the proceedings shall decide that a document other than the abovementioned decisions shall be written in writing, if necessary for the proper application of the rights of the injured party in criminal proceedings to the extent determined by that authority. Instead of a written translation, such a document or its essential content may be transcribed if it does not affect the fairness of the process.

Where the physical presence of the interpreter is not required to guarantee a fair trial and fails to provide an interpreter for the language to which the person referred to in § 2 (20) can reasonably be understood, it is also possible to provide interpretation, in justified cases, by means of technical equipment for image and sound transmission (videoconferencing).

## **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?

The issue of providing legal aid to victims of crime is generally dealt with by the Victims Act, with effect from 1 January 2018. Victims of trafficking in human beings (hereinafter "victims of THB") have the status of a particularly vulnerable person §2 (1) (c) of the Victims act in point 4 of the Act) and are entitled to the provision of professional assistance. Forms of professional assistance are: general assistance and specialized assistance to a particularly vulnerable victim. A subject who provides assistance to an especially vulnerable victim is obliged to provide specialized expert assistance on request without undue delay and free of charge. Specialized professional assistance includes, among other things, legal assistance for the exercise of the rights of victims under the Victims Act and legal assistance to exercise the rights of the victim who has the status of a victim or witness in criminal proceedings. The victim has the right to be provided with professional assistance in accordance with his / her special needs and to the extent that he / she is adequately taken into account by the criminal offense. The right to provide professional assistance is guaranteed to the victim regardless of the submission of the criminal notification or its active participation in criminal proceedings.

Pursuant to § 7 of the Victims Act, "Legal assistance is provided by Legal Aid under the conditions and to the extent stipulated in a special regulation, the Victims Assistance Facility and the Attorney under the conditions and to the extent prescribed by the CPC."

Pursuant to § 3 of the Victims Act, which regulates the basic principles of protection and support of victims, any person claiming to be a victim is deemed to be a victim until proven otherwise or if there is no apparent abuse of the victim's status under this Act, irrespective of whether the offender has been identified, prosecuted or convicted.

This applies equally to child victims, ie people who have not reached 18 years of age. At the same time, pursuant to § 3 (8) of the Victims Act, law enforcement bodies, courts and victims providing assistance to victims are obliged, in the case of a particularly vulnerable victim, to be the child, to take into account the best interests of the child.

In the first phase after the identification of the victims by law enforcement authorities, the victim is informed of the rights and duties of the victim within the meaning of the CPC. Once the victim is enrolled in the Program, legal aid is provided by the facility in which the victim is located, for example, nowadays it is based on the outcome of the public procurement, Charitas Slovakia. The legal assistance provided to children is provided through the Children's Social Protection and Social Protection Department of the relevant Offices of Labor, Social Affairs and Family (hereinafter "ÚPSVaR").

In September 2018, the MV SR based on the outcome of the public procurement concluded a contract with a non-governmental organization, which is to provide professional assistance and support to the THB victims enrolled in the Program. Under the Program, victims are provided with legal advice in the area of criminal law, civil law, as well as legal advice on matters of enforcement, ie related acts (consultation, provision of information, preparation and preparation of proposals, extradition, filing, appeals, appeals, claims, complaints, claims for damages, advice on labor law, representation in court (criminal, civil), as well as participation in investigative and other ancillary services. Legal advice is provided to each victim in the Program, to the extent and where appropriate on the basis of an individual aid plan.

For example In the year 2018 was Legal advice provided for 30 victims, including 13 newly enrolled in the Program, in the amount of 825 hours and covered a total of 8808.2 euros from the Program.

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

Yes, all supposed victims of the THB have access to legal aid regardless of immigration status or type of exploitation.

Pursuant to § 3 of the Victims Act, which governs the basic principles of the protection and support of victims, the rights granted to victims by this Act shall apply without discrimination based on sex, religion or belief, race, nationality or ethnic group, state of health, age, sexual orientation, marital status, color, language, political or other opinion, national or social origin, property or other status.

Legal aid is provided to victims of THB, including children, from the initial acts of criminal proceedings since they have the status of injured and at the same time the victim of the offense, and this process is not dependent on the kind of exploitation or, irrespective of immigration status.

Comprehensive care is provided in the sense of the principle of equality and non-discrimination, with due regard to the individual needs of individual victims.

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.

Under the Victims Act, legal aid means providing legal information and legal representation of victims in criminal proceedings and in civil proceedings if the victim claims a claim for damages in criminal proceedings and his/her claim has not been decided.

See also 2.1.

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?

Under the terms of the legislation of the Slovak Republic, there are no lawyers specialized in the provision of legal assistance and representation of victims of trafficking in court proceedings.

In September 2018, the MV SR based on the outcome of the public procurement concluded a contract with a non-governmental organization, which is to provide professional assistance and support to the THB victims included in the program.

All acts are carried out in accordance with Criminal Procedure Code no. 301/2005 Coll., And Criminal Code no. 300/2005 Coll.

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).

Victims of crime, according to the provisions of § 1 (c) of the Victims Act victims have the status of particularly vulnerable victims. The financing of these services is solved in the form of a grant to the accredited entities provided by the MS SR upon their request.

See. Also the answer from 2.1-2.4.

### **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?

In criminal proceedings, everyone injured has the right to claim for compensation from the offender, and he/she must be informed of this right. Pursuant to § 46 par. 3 of the CPC, " A victim who, under the law, is entitled to compensation against the accused for the damages caused by the criminal offence is also entitled to propose to the court to order the defendant an obligation to cover the damages in the convicting judgment. The petition needs to be applied no later than during the completion of the investigation or the reduced investigation. It must be clear from the proposal why, and for what amounts, the claimant is entitled to compensation. At the same time, such a proposal can not be filed if the claim has already been decided in civil proceedings or in any other appropriate proceeding."

The injured party who claims damages and does not have sufficient means to cover the costs associated with him may, in the preparatory proceedings, after the charge has been filed on the proposal of the prosecutor's, judge, for the preparatory proceedings and in the proceedings before the court, the chairman of the panel may appoint a representative from the counsel considers it necessary to protect the interests of the injured party.

Claims for damages caused by a criminal offense can be secured against the property of the accused, in cases where there is reasonable concern that the satisfaction of the claimant's claim for compensation for the damage caused by the offense will be excessive or complained. The court decides to secure a claim for damages for damages on the property of the accused, on the proposal of a prosecutor or injured person.

In the context of plea bargaining (Agreement on Guilt and Punishment), the prosecutor is required to take care of the injured party's interest in the damages settlement. If the injured party fails to come to a negotiation of plea bargaining agreement, the extent and manner of damages can be discussed by the prosecutor with the accused. In the absence of agreement on damages, the prosecutor in the proposal for approval of plea bargaining agreement shall notify the court and suggest that the court of the injured party remit the claim for damages or part of it to civil proceedings or other proceedings.

Pursuant to §557 of the CPC, "If the victim was at least partially granted a claim for the damages, the convicted person, whom the obligation for the payment of damages was imposed upon, is obligated to reimburse the costs necessary for the purposeful application of their claim in the criminal proceedings to them, including costs incurred by taking on a proxy.

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?

The claim for damages in the criminal proceedings is submitted by the injured party himself. It must be clear from the proposal why, and for what amounts, the claimant is entitled to compensation. Assessing

the eligibility of a claim is a matter for the court. The claim for damages is part of the judgment ruling the defendant's guilt. The injured may appeal against the claim for damages.

If the defendant acknowledges the basis and amount of the damage sustained in a timely and well-founded claim for damages, additional proof of the amount of the damage is carried out only exceptionally, especially if there are reasonable grounds for doubt or is necessary to conclude the legal assessment of the deed.

Conditions for compensation of victims of violent crimes under Victims act.

The victim of a violent crime, according to Victims act means the natural person to whom:

1. intentional violent crime resulting in bodily harm; if the person died as a result of the act, the victim of a violent crime is also a surviving spouse of the deceased and a surviving child of the deceased, and if there is no, than also surviving parent of the deceased, if there is no, the person to whom of the deceased had the obligation (with the exception of persons, that caused the death to the deceased),
2. the moral damage caused by the criminal offence of THB, rape, sexual assault or sexual abuse.

The victim of a violent crime but cannot be awarded if:

1. the damage was fully compensated by other means,
2. a victim of a violent crime, according to § 2. 1 (d) of the first part behind the semicolon of the point is also the perpetrator of an offence in respect of which is considered to be the victim of a violent crime,
3. has not consented to a prosecution under § 211 of the CPC, or
4. can not exercise the right of the injured party under § 47 (1) of the CPC.

Entitlement to Compensation to Victims of Violent Offense under Victims act occurs if:

1. in criminal proceedings, a judgment or an order, that the offender is guilty of a crime, which has been the victim of a violent crime resulting in bodily harm,
2. in the criminal proceedings, the conviction that the defendant has been acquitted from the prosecution has become enforceable because he is not criminally responsible for the lack of age or inaccuracy and harm to the victim has not been fully compensated for the victim of the violent crime,
3. there is an interruption of the prosecution on the grounds under § 228 (2) (a) to (e) of the CPC, the termination of the criminal prosecution on the grounds referred to in § 215 (1) (d) to (f) of the CPC or due to §215 (2)(a) of the CPC, or to postponement of the case because on the grounds of §215 (2) (a) of the CPC and the results of investigations or short-term investigations by law enforcement bodies do not raise reasonable grounds for believing that a crime has been committed to injure the victim of a violent crime.

The victim of a sexual abuse offense is not entitled to compensation under Victims act, if the accused is released from the indictment or the prosecution is stopped because the accused is not criminally liable for lack of age.

The condition of the right to compensation under Victims act is the right to claim damages arising from the personal injury suffered by a victim of a violent crime in criminal proceedings. This does not apply when it comes to personal injury caused by a crime of THB, rape, sexual violence or sexual abuse.

The total amount of compensation granted under Victims act may not in any case exceed fifty times the minimum wage.

For the calculation of compensation in respect of injury to any person, shall apply mutatis mutandis the provisions of Act No. 437/2004 Coll. on compensation for the pain and on compensation for loss of social standing and on the amendment of the Act of the National Council of the Slovak Republic No. 273/1994 Coll. on health insurance, financing of health insurance, on the establishment of the General health insurance company and on the establishment of sectoral, corporate and civil health insurance companies as amended; compensation for loss of social standing but cannot be increased. The most common case



for determining the amount of compensation is the expert's report prepared for the purposes of criminal proceedings (with a rating according to the above-mentioned law), if not available, a medical report prepared according to the above-mentioned law.

If a crime has been the cause of death, the victim of a violent crime is entitled to a refund of fifty times the minimum wage. If there are more victims of a violent crime (in the case of death), the amount of the compensation is divided among them by the same amount. Compensation to victims of a violent crime but must apply separately, thus each of the survivors by the specific application.

In the case of a THB offense, a rape, a sexual violence offense and a sexual abuse, the victim of a violent crime is also entitled to compensation for the amount of moral damages in the amount of ten times the minimum wage.

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

Denouncing decision, which is binding the convict to pay damages, constitutes an enforcement order. This means that the victim can claim damages awarded in criminal proceedings to recover in enforcement proceedings under Act No. 233/1995 Coll. on Executors and Enforcement Activities (Enforcement Order), as amended.

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?

Foreign victims of human trafficking can claim their damages from the offender in criminal proceedings. According to § 46 (3) of the CPC "A victim who, under the law, is entitled to compensation against the accused for the damages caused by the criminal offence is also entitled to propose to the court to order the defendant an obligation to cover the damages in the convicting judgment. The petition needs to be applied no later than during the completion of the investigation or the reduced investigation. The petition must be clear on what grounds and to what extent the claim for damages applies. "The victim may do so in the short term from the beginning of the criminal proceedings after the end of the investigation phase (preparatory action).

If a foreign victim of human trafficking does not claim compensation in criminal proceedings, he may request compensation from the state under the Victim act. Within the meaning of the marked Act on compensation in criminal proceedings the victim of a violent crime that is a citizen of the Slovak Republic, a citizen of another Member State, or is a stateless person, which has permanent residence in the territory of the Slovak Republic or in the territory of another the Member State, or a foreign national, under the conditions and to the extent stipulated by an international treaty, which was ratified and proclaimed in the manner established by the law , if the bodily harm occurred in the territory of the Slovak Republic.

General condition of entitlement to State compensation based on a prior application to a claim for damages suffered as a result of injury to the health of the victims of violent crime in criminal proceedings in the case of personal injury caused by the crime of human trafficking, rape, sexual assault or sexual abuse is excluded directly in §11 (4) of the Victims act.

From the point of view of the labor inspection, the mechanism of payment of the debt is regulated by Act no. 82/2005 Coll. An illegally employed third-country national is, pursuant to § 7a (1) a) of Act no. 82/2005 Coll. is entitled to be paid and a legal person or a natural person who illegally employed him by using his dependent work and he was illegally staying on the territory of the Slovak Republic is obliged to pay the agreed wage bill. Together with the payroll, it is also mandatory under letter c) of the same provision to pay the costs of delivering the debt to the country to which the illegally employed third-country national returned or was expelled. A third-country national is informed about the claim by

the supervisory authorities (information obligation under § 7c (1) of Act No. 82/2005 Coll.) prior to the administrative expulsion of a third-country national from the territory of the Slovak Republic, always before the decision to return.

Similarly to the answer to question 1.1, it is true that under § 150 of the Labor Code, Employees aggrieved by breach of obligations arising out of employment relationships as well as employee representatives who are employed by an employer at which they ascertained breach of labour regulations while performing their control activity under §239 may file a motion with the competent labour inspection body. Labor inspection may also result in the regulation eliminating the identified shortcoming (eg, pay a salary to the employee).

In general, §14 of the Labor Code provides "Disputes between an employee and the employer regarding claims arising from the employment relationship shall be heard and decided by courts".

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?

In this respect, we state that a third country national is entitled under § 150 of the Labor Code to initiate the complaint to the Labor Inspectorate if he was not paid the agreed salary and the supervisory authority pursuant to §7c (1) of Act no. 82/2005 Coll. is obliged to inform him about this right. On a procedural point, national law allows each employee (and a third country national) to turn to an employer who is which has its registered office in the Slovak Republic with his claim to the Slovak court. In this respect, national law does not impose any disadvantages in relation to third-country nationals. Specificities favoring the applicant may be determined by an international treaty or EU law.

Act no. 82/2005 Coll. (Article 7c (2)) expressly provides for the possibility of representing a third-country national in civil proceedings in the matter of the protection of his rights in by a legal person incorporated or established under a specific rule (ie a non-governmental organization) whose purpose of the activity is to protect the rights and interests of third-country nationals.

In the case of the unpaid payment of the outstanding wages cost of its delivery, this responsibility is transferred from an employer to the beneficiary of the illegal work, goods or services received directly or through an intermediary, if it can be shown that the recipient knew about illegal employment (§7b (2), (3) of the law No. 82/2005 Coll.).

The amount of unpaid wages is, pursuant to § 7a, (2) and (3) of the Act no. 82/2005 Coll. lays down so that "the agreed due wage" is monthly minimum wage or the wage rate agreed in the collective agreement for the comparable employee, if it is more favourable, assuming that the employment relationship lasted for three months. This is only valid if the illegall employer or illegally employed third-country national does not prove otherwise.

Protection is also ensured in the context of § 214 of the CC, according to which " Any person who, as an authorized representative of a legal entity or a natural person who is an employer or their corporate agent, fails to pay, on a due date, to his employee wages, salary or other remuneration for work performed, wage compensation or redundancy payment that the employee is entitled to, despite the fact that on this particular day he has financial means to do so, which he does not necessarily need for running the business of the legal entity or the activities of an employer who is a natural person, or he takes measures to frustrate the above-described payments, shall be liable to a term of imprisonment of up to three years."

In the fight against trafficking in human beings, it is necessary to bring the attention to the provisions of the law No. 125/2006 Coll. on Labor inspection and on the amendment of Act No. 82/2005 Coll. and on amendments to certain laws, as amended. In particular, from the point of view of the regulation contained in § 7 (10), according to which: "The Labor Inspectorate is required to notify law enforcement authorities of the fact found in the exercise of labour inspection, which suggests that the offence was committed, according to § 7 (3) n) to report the cases of undeclared work and illegal employment, including the facts ascertained in the protocol on the result of the Labor Inspection (hereinafter referred to as "the Protocol") of the Social Insurance Agency, the Labor Office, Social Affairs and Family, the competent Labor Office, Social Affairs and Family, and, in the case of a non-EU Member State other Contracting State to the Agreement on the European Economic Area or the Swiss Confederation or a stateless person, and to the Police Corps, and notify the competent Labor, Social Affairs and Family Office the imposition of a fine for breach of the conditions of employment for the purposes of revoking the certificate of vacancy or for the purpose of withdrawing a work permit for the purpose of seasonal employment".

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?

Within the framework of the National Program for Combating Trafficking in Human Beings for the years 2015-2018, the trainings of employees of the Labor Inspection System were carried out during the said period, resulting from the task entitled "Increasing the expertise and sensitivity of representatives of state and non-state actors working with" endangered " with people: Make follow-up training for selected employees of the Labor, Social Affairs and Family Labor Offices as well as labor inspectorates. " The Information Center for Combating Trafficking in Human Beings and Crime Prevention of the Ministry of the Interior (hereinafter referred to as "IC MV SR") organized two-day trainings for employees of the National Labor Inspectorate and Labor Inspectors on "Identification of trafficking in human beings and co-operative control of business subjects". The aim of the training was to increase the expertise and capability of early identification of victims of THB, to promote the dissemination of preventive information on the phenomenon of THB as well as on possible ways to assist victims in the Program. Last but not least, the training was enhanced by the cooperation of the authorities involved in the cooperative controls of business entities.

Lecturers were representatives of the MV SR, representatives of the National Labor Inspectorate and the Center for the Work of Social Affairs and Family, as well as members of the Border and Alien Police of the Presidium of the Police (hereinafter referred to as "ÚHCP P PZ ") and the employees of the National Unit. The training was attended by 62 employees of the labor inspectorate system in 2016, 56 employees in 2017, and 51 employees of the labor inspectorates in 2018. In 2015, labor inspectorate staff did not participate in training to increase expertise and sensitivity to THB as they participated in education in that area in 2012 and 2014.

In the framework of the specialized training of labor inspectors during 2018, the National Labor Inspectorate trained and extended the knowledge together for 27 new experts from the Labor Inspection in the field of Posting of Workers, Temporary Allocation and Agency Employment. As part of this training, the members of the National Unit presented the issues of illegal employment and illegal residence of third-country nationals on the territory of the SR, including also the relation to the issue of THB.

In the year 2018, 3 trainings on identification of THB for 55 members of ÚHCP P PZ were carried out, specifically in Bratislava, Banská Bystrica and in Sobrance also for the 50 employees of the district directorates of the police force, who regularly go to schools to give lectures to children on various prevention topics. The staff of the individual directorates of the border and alien police are those who: come in contact with third-country nationals in the course of their employment, are able to identify the victims of the THB and are obliged to inform them of the possibilities of assistance if they were suspected of having become victims of the THB and of the procedures that are necessary in connection

with suspicion on the occurrence of the THB victim. In 2018, Sobrance Training Department conducted training for 13 newly-arrived police officers, and also for 310 police officers in service in the individual departments within Sobrance.

#### **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?

The conditions for compensation are set out in §10 and §11 of the Victims Act, which state:

##### **§ 10**

(1) Compensation may be requested by a victim of a violent crime who is a citizen of the Slovak Republic, a citizen of another Member State or a stateless person having permanent residence in the territory of the Slovak Republic or in another Member State or a foreign national under the conditions and to the extent stipulated by an international treaty, which has been ratified and proclaimed in the manner prescribed by law, if the bodily harm occurred in the territory of the Slovak Republic. Compensation can also be requested by the victim of a violent crime granted asylum, supplementary protection, temporary shelter, stay or tolerated stay in the Slovak Republic if the bodily harm occurred in the territory of the Slovak Republic.

(2) The victim of a violent crime but cannot be awarded if:

1. the damage was fully compensated by other means,
2. a victim of a violent crime, according to § 2 . 1 (d) of the first part behind the semicolon of the point is also the perpetrator of an offence in respect of which is considered to be the victim of a violent crime,
3. has not consented to a prosecution under § 211 of the CPC, or
4. can not exercise the right of the injured party under § 47 (1) of the CPC.

##### **§ 11**

(1) Entitlement to compensation of a victim of a violent crime under this Act arises if, in criminal proceedings, a judgment or a criminal conviction by which the offender is found guilty of committing a criminal offense to a victim, and a crime has caused personal injury to a victim of a violent offense, or a judgment, by which the accused has been acquitted of the indictment, because it is not criminally responsible or for lack of age or impartiality and the victim has not been fully compensated as the victim of the violent crime.

(2) Entitlement to compensation, except in the cases referred to in paragraph 1, shall also arise if: there is an interruption of the prosecution on the grounds under § 228 (2) (a) to (e) of the CPC, the termination of the criminal prosecution on the grounds referred to in § 215 (1) (d) to (f) of the CPC or due to §215 (2)(a) of the CPC, or to postponement of the case because on the grounds of §215 (2) (a) of the CPC and the results of investigations or short-term investigations by law enforcement bodies do not raise reasonable grounds for believing that a crime has been committed to injure the victim of a violent crime.

(3) The victim of a sexual abuse offense is not entitled to compensation under Victims act, If the accused is released from the indictment or the prosecution is stopped because the accused is not criminally liable for lack of age.

(4) The condition of the right to compensation under Victims act is the right to claim damages arising from the personal injury suffered by a victim of a violent crime in criminal proceedings. This does not apply when it comes to personal injury caused by a crime of THB, rape, sexual violence or sexual abuse.

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

Pursuant to §12 of the Victims Act, the provisions of a special regulation governing the provision of pain relief and compensation for the burden of social application shall apply mutatis mutandis to the calculation of compensation for damage to health. In the case of a trafficking offense, a rape, a sexual violence offense or a sexual offense, the victim of a violent crime is also entitled to compensation for damages of 10 times the minimum wage (approximately 10x500, -EUR).

The special regulation governing the provision of compensation for pain and compensation for the burden of social standing is Act no. 437/2004 Coll. on the compensation for pain and compensation for the burden of social standing, according to which pain relief as well as compensation for the burden of social standing must be proportionate to the health damage identified, the course of treatment or the elimination of its consequences, and the nature of the consequences and their foreseeable development, in which the possibilities of the injured are limited in life and in society.

Compensation for pain and compensation for the burden of social standing is provided on the basis of a medical opinion, followed by the application of the point assessment rates according to the Annex of the marked law.

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.

4.3 Je možné, aby sa zahraničné obeť obchodovania s ľuďmi podali žiadosti o náhradu škody/kompenzáciu vo vašej krajine po návrate alebo repatriácii do svojich krajín pôvodu? Uved'te príklady takýchto prípadov a uved'te opatrenia, ktoré takúto možnosť stanovujú.

Yes, such a procedure is possible and is regulated in § 19 of the Victims Act, which states:

"§ 19

(1) The victim of a violent crime who is a citizen of a Member State with permanent residence on the territory of a Member State other than the Slovak Republic and who has been injured in the territory of the Slovak Republic as a result of a criminal offense may, in accordance with the procedural procedure laid down by the law of the Member the State in whose territory he / she has his / her permanent residence, apply for compensation provided under this Act.

(2) The application submitted pursuant to (1) shall be decided by the decision-making body of the Slovak Republic.

(3) The decision-making body of the Slovak Republic shall, without delay upon receipt of the application under (1), confirm the victims of the violent crime and the assisting authority that sent the request, accepting the application, and also inform the person responsible for the equipment and the estimated time needed to decide on the application.

(4) If necessary, the decision-making body of the Slovak Republic shall be entitled to request the assistance body that sent the request to hear the victim of the violent crime or any other person whose denunciation is necessary for the decision on the application. Hearing will take place

(a) the decision-making body of the Slovak Republic in accordance with the legal order of the Slovak Republic, in particular through technical facilities intended for the transmission of sound and images,

(b) an assisting authority in accordance with its law, which shall send the minutes to the decision-making body of the Slovak Republic.

(5) The victim of a violent crime or any other person may not be compelled to be heard pursuant to (4).

(6) The decision-making body of the Slovak Republic shall without delay send the decision on the application under (1) using the appropriate standard form of the victim of the violent crime and the assistance body which sent the request. "

The decision-making body of the Slovak Republic, in the sense of the law, is the MS SR.

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?

In the context of criminal proceedings, the question of compensation for the costs of the injured is dealt with in the CPC as follows:

“§ 557 Obligation to Pay the Costs of the Victim”

(1) If the victim was at least partially granted a claim for the damages, the convicted person, whom the obligation for the payment of damages was imposed upon, is obligated to reimburse the costs necessary for the purposeful application of their claim in the criminal proceedings to them, including costs incurred by taking on a proxy.

(2) The court may, depending on the circumstances of the case, decide upon the petition of the victim that the convicted person shall have an obligation imposed upon them to reimburse the victim the total costs or part thereof, which are associated with the participation of the victim in the criminal proceedings, even if the victim was not granted an entitlement to damages, even partially.

As regards the mechanism of compensation from the State under Victims act, victims of a violent crime may be represented in a compensation action by a lawyer, the Legal Aid Center, accredited entities, victim assistance organizations, or a close person. The victim in this proceeding is not entitled to reimbursement of these costs if they were incurred.

Act no. 595/2003 Coll. on Income Tax as amended (hereinafter referred to as "ITA") regulates the taxation of the damages received. According to § 9 (2) I) ITA are exempt from these tax refunds. As compensation for the remuneration of lawyers of the ITA does not directly address, for tax purposes it is necessary to approach each case individually, based on the court's decision on the award of damages, respectively of the legal costs associated with the legal process (provision of legal assistance to victims).

## **5. Sanctions and measures (Article 23)**

5.5 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?

The offense of trafficking in persons under § 179 of the Criminal Code is one of the criminal offenses for which the court shall order the forfeiture of property under § 58 (2) where the offender has acquired property at least to a large extent in criminal activity or in proceeds of crime. A punishment for the forfeiture of property affects all property of the convicted person and is executed through insolvency laws. The owner of the property becomes a state. If there is concern that enforcement of this punishment will be impaired or aggravated, the court and the Prosecutor's Office may secure the property of the accused (§ 425 (1) CPC). Equivalent legislation also applies to the forfeiture of the property.

Pursuant to § 119 CPC in criminal proceedings, it is necessary to prove, inter alia, the personal circumstances of the offender to the extent necessary to determine the type and penalty, and the imposition of protective measures and other decisions and the imposition of a protective measure and other decisions, as well as the proceeds of crime and the means of committing it, their location, nature, status and cost.

The CPC allows for the possibility pursuant to § 91 Seizure of Items and pursuant to § 95 to Seizure of Funds. However, legislative measures are not used to the extent that would be needed. Unlike some Member States, in the Slovak Republic, criminal prosecution bodies have the burden of proving the acquisition of the property of the suspected person by committing criminal activity rather than suspecting satisfactorily explaining this income.

5.6 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.

According to the law of the Slovak Republic, the victim of THB has the right to compensation from the offender, and the victim can apply directly in the criminal proceedings. He also has the right to compensation under the Victims Act. The proceeds of the punishment of the forfeiture of the property, the forfeiture of the thing, or the money-giving punishment come from the law of the state, not the victims.

MS SR does not have information on specific criminal cases; in general it is true that the proceeds from the imposed criminal sanctions fall on the state.

For the sake of completeness, we would like to point out that, in the event of a conciliation between the accused and the injured party (§ 220 CPC), the accused is obliged to deposit a monetary sum to the bank account of the court and the Ministry of Justice for the protection and support of the victims of crime, on behalf of the court and in the preparatory proceedings. The amount of the pecuniary sum is determined by the prosecutor, and for his determination it is also based on the personal and property accusations.

5.7 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 that their right of access to justice and effective remedies is not compromised by the plea bargaining or settlement in the legal process?

Yes, Plea bargaining procedure can also be concluded in criminal proceedings on trafficking offenses. The conditions for its conclusion are governed by the CPC as follows:

Plea bargaining procedure/ Proceedings on an Agreement on Guilt and Punishment  
§ 232

(1) If the results of investigation or summary investigation give reasonable grounds to conclude that the act constitutes a criminal offence and that it was committed by the accused who confessed to having committed it, admitted the guilt, and the evidence supports the truthfulness of his confession, the prosecutor may initiate a plea bargaining procedure on an application from the accused or of his own motion.

(2) The prosecutor shall summon to attend the plea bargain hearing the accused person and the victim who filed a claim for damages in a due and timely manner; the public prosecutor shall inform the defence counsel of the accused person about the time and place of the hearing.. The provision of Section 340 shall also apply, as appropriate, to the accused who is a juvenile at the time of the proceedings; however, the plea bargain agreement may only be concluded with the consent of the legal guardian or defence counsel of the juvenile.

(3) As part of the proceedings on a plea bargain agreement, the public prosecutor is obliged to respect the interest of the victim in the agreement on damages. If the victim is present at the proceedings on a plea bargain agreement, they shall express their opinion on the extent and method of damages, in particular. The plea bargain agreement may also be concluded without the presence of the victim who failed to appear for the proceedings on a plea bargain agreement without an excuse despite being duly summoned. In such case, the public prosecutor may agree with the accused person, on behalf of the victim, on the extent and method of damages up to the amount of the filed claim for damages.

(4) After a plea bargain agreement has been reached concerning the guilt, punishment and other verdicts, the prosecutor shall file a motion asking the court to accept the plea bargain agreement as concluded; the plea bargain agreement shall also imply the agreement on the waiver of punishment and, in case of a juvenile, on the conditional waiver of punishment and of educational measures if there are statutory reasons to impose them. In the absence of damage settlement agreement the prosecutor shall

move the court to recommend the victim to seek the settlement of his damage claim or part thereof through civil or other proceedings.

(5) If the accused admits his guilt for the commission of the act subject to prosecution in its entirety during the plea bargaining procedure, but no plea bargain agreement has been reached, the prosecutor shall bring the indictment in which he shall specify the act admitted to by the accused, its legal qualification, admission of guilt, and request the court to hold the main trial, decide on the punishment and adopt other verdicts based on the admission of guilt.

(6) If the accused admits his guilt in the plea bargaining procedure only in part, the prosecutor shall bring an indictment in which he shall specify the act admitted to by the accused, its legal qualification, extent of the admission of guilt, the act that the accused did not admit to and its legal classification, and shall request the court to hold the main trial in respect of the act which the accused did not admit to and other matters as necessary, and to decide on the guilt, the punishment and adopt other verdicts based on the admission of guilt.

(7) If no agreement has been reached on protective treatment, protective education, protective supervision or seizure of an item, the prosecutor shall proceed pursuant to Section 236 paragraph 1.

(8) The plea bargain agreement shall contain

- a) the names of the parties to the agreement, the date, place and time of the agreement,
- b) the description of the act, the place, time, or other circumstances under which it occurred to prevent mistaking it for another act, and the legal classification of the criminal offence constituted by the act, including the relevant provision of the Criminal Code,
- c) the type, degree and execution of punishment,
- d) the amount and manner of the compensation for damage caused by the act, and
- e) the protective measure, where relevant.

(9) The plea bargain agreement shall be signed, in witness of consent, by the prosecutor, the accused, the defence counsel and the victim who has successfully claimed the damage compensation and took part in the procedure.

10) If no plea bargain agreement has been reached, the prosecutor shall enter that fact in the file.

### §233

(1) If the persons mentioned in § 232 par. (2) have concluded the plea bargain agreement or other statements, the prosecutor shall submit to the court a proposal for the approval of this agreement.

(2) The proposal under paragraph 1 includes

- a) identification of the persons mentioned in § 232 par. 2, the date and place of the design,
- (b) the draft of the judgment agreed in accordance with § 163 (1) (c) and (e) and 2 and 3 and § 164.

(3) The Prosecutor with a proposal under paragraph 1 submits to the court a veto and punishment agreement, the entire file, its annexes and a list of material evidence. "

If the plea bargain agreement is approved by a court, the court will issue a judgment. The appeal against the decision the judgment of the Court of First Instance is an appeal. The judgment may be appealed by the injured party for the misstatement of the claim for damages. Under § 321 of the CPC, the Court of Appeal will set aside the judgment under appeal if the decision on the claim for damages is contrary to the law. According to § 329 of the CPC, the Court of Appeal will annul the judgment appealed against only in the statement of damages and, if it does not decide on the case itself, refer the injured person to the civil proceedings or to the other competent authorities.

5.8 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 length of proceedings can not be determined; it is depending on the circumstances of the case. A special system for speeding up criminal proceedings for these offenses is not established, but it is based on general criteria for the speed of proceedings (§2 (6) and §7 (7) of the CC). The effective effect of sanctions is ensured by the means of redress, both by the prosecutor and the injured in relation to the claim for damages.



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

Setting a sanction for committing an offense of trafficking in human beings is a manifestation of the criminal policy of the state, which deals with human trafficking among crimes against freedom and human dignity, for which the punishment of deprivation of liberty in the basic facts is between 4 and 10 years imprisonment. In qualifying forms of the offense, a life sentence of imprisonment may be imposed.

### §179

#### Trafficking in Human Beings

(1) Any person who, by using fraudulent practices, a trick, restriction of personal freedom, violence, threatened violence, threat of grievous bodily harm or other forms of coercion, by accepting or offering monetary payment or other benefits in order to get approval of a person on whom another person depends, or by misusing his powers, or abusing of defencelessness or other vulnerable position, entices, transports, harbours, hands over or takes over another person, even upon his consent, for the purposes of his prostitution or another form of sexual exploitation, including pornography, forced labour or domestic slavery, slavery or practices similar to slavery, bondage, taking of organs, tissues or cells or other forms of exploitation, shall be liable to a term of imprisonment of four to ten years.

(2) The same sentence as referred to in paragraph 1 shall be imposed on any person who entices, transports, harbours, hands over or takes over a person under eighteen years of age, even upon his consent, for the purposes of his prostitution or other form of sexual exploitation, including pornography, forced labour or domestic slavery, slavery or practices similar to slavery, bondage, taking of organs, tissues or cells or other forms of exploitation.

3) The offender shall be liable to a term of imprisonment of seven to twelve years if he commits the offence referred to in paragraphs 1 or 2,

- a) and obtains larger benefit for himself or another through its commission,
- b) against a protected person,
- c) by reason of specific motivation, or
- d) acting in a more serious manner.

(4) The offender shall be liable to term of imprisonment of twelve to twenty years if he commits the offence referred to in paragraphs 1 or 2,

- a) and obtains substantial benefit
- b) and causes grievous bodily harm or death, or other particularly serious consequence through its commission, or
- c) as a member of a dangerous grouping.

(5) The offender shall be liable to a term of imprisonment of twenty to twenty-five years or to life imprisonment if he commits the offence referred to in paragraphs 1 or 2,

- a) and obtains large-scale benefit for himself or another through its commission, or
- b) and causes grievous bodily harm or death to several persons through its commission.

In addition to the custodial sentence, the court may also impose other criminal sanctions for the commission of the crime of trafficking in human beings, namely:

- the financial penalty,
- punishment of property forfeiture,
- the punishment of the things,
- the ban on a service providing,
- the ban on residence,
- punishment of expulsion.

At the same time, according to § 34 par. (6) of the CC, The courts shall have to impose custodial sentences for every criminal offence which, according to the Special Part of this Act, carries a maximum custodial penalty of at least five years.

On this point, it is appropriate to assume that in every particular criminal case the legal conditions are examined for the possible adoption of measures for the securing and subsequent confiscation of

property, the proceeds of crime. In criminal proceedings, it is possible to secure money on the account (Sec. 95 et seq.) to secure the claim of the injured party. When imposing penalties, one of the punishments mentioned in letters d), e), f) of the § 32 of the CC. May be imposed on the perpetrator in addition to a custodial sentence. (financial penalty, punishment of forfeiture of property, punishment of assets) or one of the types of protective measure (§ 33 of the CC). Legitimate arrangements make it possible to identify, monitor and subsequently seize property acquired through criminal activity.

## **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?

The victim of THB has the status of injured in the criminal proceedings, respectively. witness. Under § 2 (21) of the CPC, which defines the basic principles of criminal proceedings " The law enforcement authorities and the court are obliged, throughout the criminal proceedings, to make it possible for the victim to fully exercise their rights of which the victim shall be instructed in a due, appropriate and comprehensible manner. The criminal proceedings must be conducted with necessary tactfulness towards the victim. It is necessary to take account of their personal situation and immediate needs, age, sex, disability, if any, and their maturity, and to fully respect their physical, mental and moral integrity. The provisions of the special Act on the rights of victims of criminal offences shall not be thereby affected.

The victim of THB may be represented in a criminal proceeding by a lawyer.

A victim of trafficking in human beings is in terms of its procedural status of ordinary participant in criminal proceedings and can use all the provisions contained in the CPC (e.g., a claim for damages, to make proposals for the implementation of the evidence seen in the file, administered remedies, at any time during the investigation, the Prosecutor's request to remove delays in investigations, or defects in the procedure of the hearing officer or an authorized member of a police force and others). The question of who has the right to assist the victims of THB in criminal proceedings, we would describe rather than an obligation to State organizations such as the police, prosecution, judiciary, social authorities, on non-State non-governmental organisations such as. charity and other entities that have entered into a contract with the State for the provision of such assistance for the funds.

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?

A THB victim who has reservations about the activities of law enforcement agencies is entitled:

Pursuant to § 46 (3) of the CPC, injured has the right to be informed at any time during the criminal proceedings about the state of the criminal proceedings. Information will be provided to him by the law enforcement authority or the court in the case. Information on the state of the proceedings will not be provided if the purpose of the criminal proceedings could be impaired by providing such information.

Last but not least, Article 127 (1) of the Constitution of the Slovak Republic, The Constitutional Court shall decide on complaints of natural persons or legal persons if they are pleading the infringement of their fundamental rights or freedoms, or human rights and fundamental freedoms resulting from the international treaty which has been ratified by the Slovak Republic and promulgated in the manner laid down by a law, save another court shall decide on protection of these rights and freedoms.

In the event that law enforcement agencies do not properly fulfill their roles in documenting trafficking in human beings, the victims may file a complaint with the public prosecutor's office or with the ombudsman of the Slovak Republic. In terms of children, the complaint is filed by a legal counselor appointed by the court, who is entrusted to them.

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?

In the course of the cooperative joint controls of business entities, foreigners who are inspected during the operative harvesting are informed about the possibilities of providing assistance and tolerated residence if they were victims of THB.

In 2017 training courses for the members of the police forces staff in the Sobrance were organised with the aim to strengthen the ability of the staff to identify possible victims among asylum seekers or migrants. During the whole year of 2017 Charitas Slovakia carried out preventive lectures at the asylum seekers facility in Humenné, where participants were foreigners coming from Afghanistan, Syria, Iran, Egypt, Vietnam, India, Pakistan, China, Libya, Iraq and Macedonia.

In 2018, 12 NGO visits were held in detention camps to inform and identify potential victims of THB. 32 visitors from the following countries attended: Afghanistan, China, Iraq, Vietnam, Turkey, Libya, Pakistan, Russia, Iran, Serbia. These visits are held on a monthly basis.

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.

The possibility of filing a criminal complaint is not limited in the legal order of the Slovak Republic as to the number of persons to whom it may be directed. Pursuant to § 196 (1) CPC – “A criminal complaint must be submitted to a public prosecutor or a police officer. The public prosecutor and police officer shall notify the Office of Special Prosecution of the filed criminal complaint without undue delay, if it relates to the jurisdiction of the Specialised Criminal Court. The public prosecutor or police officer shall issue a written confirmation of receipt of the criminal complaint filed by the victim, and such confirmation must contain the time and place of filing, identification of the authority that received the criminal complaint, and the basic facts of the criminal complaint. Where an oral criminal complaint was made by the victim, the public prosecutor or police officer shall provide a copy of the transcript of the complaint if requested by the victim.”

Victims of trafficking, in criminal proceedings, have the procedural position of the injured party (§ 46 of the CPC). The injured party in criminal proceedings may be represented by a proxy holder (§ 53 of the CPC).

Last but not least, Article 127 (1) of the Constitution of the Slovak Republic, The Constitutional Court shall decide on complaints of natural persons or legal persons if they are pleading the infringement of their fundamental rights or freedoms, or human rights and fundamental freedoms resulting from the international treaty which has been ratified by the Slovak Republic and promulgated in the manner laid down by a law, save another court shall decide on protection of these rights and freedoms.

In the event that law enforcement agencies do not properly fulfill their roles in documenting trafficking in human beings, the victims may file a complaint with the public prosecutor's office or with the ombudsman of the Slovak Republic.

Injured party - victims may also complain to government representatives for potential involvement in trafficking in human beings, or for failure to protect the victim against third parties. The case mentioned under 6.4 has not been recorded yet.

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

All criminal cases with the issue of trafficking in persons are registered at the General prosecutor's office, and the Senior Prosecutor, based on the complaint or on its own initiative may take measures to eliminate the possible failures in the process and decision making by the law enforcement entities active in criminal proceedings.

During the evaluation period, members of Police force participated in international courses organized by CEPOL, prosecutors were involved in international workshops organized by EUROJUST and the Council of Europe. Member of National unit attended a study stay at the Federal Investigation Office of the FBI in the United States in 2016.

The judges, prosecutors, court officers and other judicial staff will have access to specialized training needed for the quality of their profession. The National Project of the Judicial Academy of the Slovak Republic entitled "Development of a system of specialized training for judges and judicial staff" focuses on education. For the project, the amount of € 4,263,153.84 allocated through the Effective Public Administration (OP EVS). The call for the project was announced by the Ministry of the Interior of the Slovak Republic, which is the managing authority for the OP EVS.

The target of the national project is to educate 3 600 people working in the justice and prosecution sector. The main objective of the project is to streamline judicial proceedings and thereby increase the quality of court decisions by improving the educational activities and the system of training of judges, prosecutors and judicial staff. Quality education will subsequently increase the enforceability of law, the expertise of judges and other workers as well as the possibility of career growth. The project will also contribute to the long-term planned recruitment of lecturers from abroad, as well as to their continuous professional testing. A key approach is the modernization and innovation of judicial education, and the introduction of the so- specialized education.

The judges and other staff of the department and the prosecution service will be divided into smaller groups according to the judicial agenda. Within the framework of lifelong learning, the Judicial academy of the Slovak Republic will provide 60 three-day specialized family law training events for 600 participants, 139 two-day events for a planned number of 5 560 participants and 60 one-day specialized events for 2,400 judges, prosecutors and judicial staff. Specialized two-day annual conferences, preparatory trainings for higher court officials and prosecutors candidates will also be organized through the project. Language training events in professional legal terminology in English and French will also be organized. The Academy also organizes both internship and individual internships for judges and judicial staff.

The results of the project foresee the increase of credibility law enforcement and of the judiciary in Slovakia on the basis of specialized trainings. Judges, prosecutors and judicial staff will gain better expertise in different areas of law and will also increase their ability to take advantage of orientation in a foreign legal environment.

More information here: <http://www.reformuj.sk/aktualita/cez-operacny-program-efektivna-verejna-sprava-sa-dostanu-sudcovia-a-justicni-zamestnanci-ku-kvalitnemu-vzdelavaniu/>

Preliminary results and measurable indicators so far: <http://www.reformuj.sk/projekt/rozvoj-systemu-specializovaneho-vzdelavania-pre-sudcov-a-justicnych-zamestnancov/>

The project should last until April 2021.

## 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.

§ 40 (2). 1 (a) and (b) of the CC contain a provision to waive/terminate the punishment of the perpetrator of a minor offence that did not result in death or grievous bodily injury, if such a crime has been committed by a person of coercion with the fact that her crime was committed in direct connection with human trafficking under § 179, the offence of sexual abuse or a criminal offence of child pornography.

Pursuant to § 215 (2) of the CPC, a prosecutor may terminate a criminal prosecution if

- a) The punishment to which the prosecution may lead is completely negligible compared to a punishment already finally imposed to the indicted for another act, or
- b) The act of the indicted has already been finally decided in a disciplinary manner by another body or by an authority competent to act on minor offences and/or other administrative delinquencies, by a foreign court or by other foreign body competent to act in the case of the crime, minor offence, or other administrative delinquency, and the decision can be considered sufficient,
- c) The act submitted to criminal prosecution to abroad was finally decided by a foreign court or another foreign body competent to act in the case of the crime, minor offence, or other administrative delinquency, and the decision can be considered sufficient,
- d) The act is a minor offence and it was committed by the person under pressure in direct relation to being a victim of the criminal offence of trafficking in humans, criminal offence of sexual abuse, or the criminal offence of production of child pornography.

If the Prosecutor does not terminate the prosecution, respectively in all other cases not falling within the scope of § 215 (2) of the CPC, it is necessary to assess the responsibility for the infringement in particular in the light of all the circumstances of the case. However, in general, committing a crime under threat or pressure, if he was acting as a result of an emergency that he did not do, it is a mitigating circumstance in the criminal proceedings.

Pursuant to Act no. 82/2005 Coll. (§7b (8)) and Act No. 125/2006 Coll. on Labor Inspection and on Amendments to Act No. 82/2005 Coll. (§ 19 (2) (a) (1)), the supervisory authorities are obliged to impose fine for illegal employment (or co-responsibility for illegal employment) on the illegal employer). The fine for illegal work, eg. a fine for a third-country national who has been illegally employed and engaged in illegal work is not required to impose by the control body (and is the sole authority of the control body) and does not normally impose it. In addition, fines for illegal work (§ 7 (2) of Act No. 82/2005 Coll.) are significantly lower (up to EUR 331) than in the case of a fine for illegal employment (minimum of EUR 2 000). However, the abovementioned modification of the possibility to impose or not a fine in the case of illegal work has been in force since 2005, respectively since the adoption of Act No. 82/2005 Coll.

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?

Yes, the legislation relating to claims for damages in criminal proceedings as well as the right to compensation of victims of violent crimes is not limited in this respect.

An individual approach should be taken into the account to the mode of infringement (eg the difference in enforced prostitution or voluntary implementation).

There are no specific measures on this issue. Issues of access to remedies are assessed individually and depend on a specific breach of national law.

See also 7.1.

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

### **8. Ochrana obětí a svedkov (články 28 a 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?

Pursuant to Victims act, the law enforcement authority, the court and the victim assisting subject with regard to the seriousness of the offense commit individual assessment of the victim to determine whether it is a particularly vulnerable victim for the purpose of preventing repeated victimization (§ 3 (7) ). Under § 8 of the Act, a law enforcement authority, a court and a victim assistance body proceed so that its activities do not cause victims of secondary victimization and take effective measures to prevent repeated victimization. For this purpose, a law enforcement and court body shall use appropriately adapted office rooms if their space capabilities allow. In order to protect victims from repeated victimization or threatening danger, the competent authority is entitled to decide on the imposition of special measures under a specific regulation (eg to impose an appropriate restriction consisting of the prohibition of contact with persons or the prohibition to deliberately approach a person at a distance of less than five meters, prohibiting or restricting contact with a designated person in any form, including contact by electronic communication service or other similar means, or a prohibition to stay near the dwelling of the designated person or in the designated place where such a person is staying or visiting. the authority that imposed them, in the case of courts, their compliance will be checked by probation officers and intermediaries.

In addition, it is generally the case that the act/threat against witnesses, experts, co-defendants, or other breach to clarify matters of importance for criminal prosecution is a reason for imprisonment.

In case of intimidation of the victim or the threat of retaliation in the course of criminal proceedings by suspected or accused persons, the investigator shall evaluate the real situation and take appropriate measures to prevent such activities, for example, by placing the victim in the appropriate and safe accommodation provided under the program.

In the provisions of § 46 (8) of the CPC is guaranteed the right of the victim if the law enforcement authority or the court finds that the injured person is at risk of the stay of the accused or convicted of being informed that the accused has been released from, or has been detained from, or has been released from, or has been deprived of, a custodial sentence.

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?

The right of the victim to information on the course of criminal proceedings is regulated in § 46 (1) of the CPC as follows: "The injured party has the right at any time during the criminal proceedings to be informed of the state of the criminal proceedings. Information shall be provided by the law enforcement authority or court in the case; for this purpose, the injured person will provide the necessary contact details. Information on the state of the proceedings shall not be given if the purpose of the criminal proceedings could be misconceived by providing such information. "

Pursuant to § 46 (8) and (9) of the CPC

(8) Where the victim is in danger in relation to the stay of the accused or convicted person at liberty, the victim shall have the right to request for the provision of information about

- a) the release or escape of the accused person from custody,
- b) the release or escape of the convicted person from serving the prison sentence,
- c) an interruption in serving the prison sentence,
- d) the release or escape of the convicted person from the performance of protective treatment from an institutional medical care facility,
- e) a change of the form of the performance of protective treatment from institutional treatment to outpatient treatment, or
- f) the release or escape of the convicted person from the execution of detention.

Pursuant to § 46 (9) of the CPC

(9) Without a request of the victim, the law enforcement authority or court shall provide the victim with information under (8) if it finds out that the victim is in danger in relation to the stay of the accused or convicted person at liberty. The victim may change their decision on the right to be informed about the facts stated in (8); the change of the victim's decision shall be taken into account.

Pursuant to § 4 (1) of the Victims act, victims of crime have the right to access, to the extent laid down by law, information relating to the victim's case. The victim's information is provided in a clear and written form.

In practice, victims of THB are provided with information about the course of the criminal proceedings and about the fact that the perpetrator was detained or released according to his intelligence level and the circumstances of the case.

8.3 How do you ensure respect for the victims' right to safety, privacy and confidentiality during court proceedings?

Pursuant to §2 of the CPC Basic Principles of Criminal Procedure

The fundamental rights and freedoms of persons in cases permitted by law may only be intervened with to the extent necessary to achieve the purpose of the criminal proceedings, while it is necessary to observe their human dignity and privacy. The law enforcement authorities and the court are obliged, throughout the criminal proceedings, to make it possible for the victim to fully exercise their rights of which the victim shall be instructed in a due, appropriate and comprehensible manner. The criminal proceedings must be conducted with necessary tactfulness towards the victim. The criminal proceedings must be conducted with necessary tactfulness towards the victim. It is necessary to take account of their personal situation and immediate needs, age, sex, disability, if any, and their maturity, and to fully respect their physical, mental and moral integrity

At the same time, pursuant to § 8 (2) of the Victims Act, the law enforcement authority and the victim assisting party shall ensure that its activities do not cause victimization of secondary victimization and take effective measures to prevent repeated victimization. For this purpose, a law enforcement and court body shall use appropriately adapted office rooms if their space capabilities allow.

Pursuant to the §134 of the CPC, "if a person who is a particularly vulnerable victim under a special regulation serves as a witness in criminal proceedings, the examination must be carried out in a meaningful and substantive manner so that the examination in the future proceedings does not have to be repeated; the law enforcement authority shall ensure that the same person conducts examinations in the pre-trial proceedings if this does not interfere with the course of the criminal proceedings. If a particularly vulnerable victim serves as a witness under a special regulation on matters whose recovery in memory would, due to his/her personal characteristics, relationship to the perpetrator or dependence on the perpetrator and the nature and circumstances of the offence could adversely affect his or her bodily integrity or mental integrity, with the risk of secondary victimisation, a psychologist or an expert who, in view of the subject matter of the examination of the witness, will contribute to the proper conduct of the examination; the law enforcement officer shall consult the method of conducting a hearing with the psychologist or expert who will be interviewed to ensure that the examination is properly conducted and that secondary victimisation is avoided."

Pursuant to §136 (1) of the CPC, "If there is a justified concern that the witness or a person close to them will be put at risk by stating the residence of the witness, the witness may be permitted to state their place of work or another address instead of their residence where the summons could be served." Pursuant to §136 (2) of the CPC, "If there is a justified concern that the disclosure of the identity, residence or place of residence of the witness will put their life, health or physical integrity at risk, or if there is such a risk to persons close to them, the witness may be permitted not to state their personal data. However, during the main trial, they must state how they became familiar with the facts that they testified on. Materials that enable the identification of such witness shall be deposited with the public prosecution and, in proceedings before the court, with the presiding judge. They shall be entered into the file only once the threat has expired. The witness, if necessary, may even be asked questions about the circumstances relating to their credibility and also questions about their relationship to the accused or the victim."

It is possible to request for measures to be taken to ensure that a witness who has been harmed does not meet the defendant before the main hearing. Upon entering the court building, a law enforcement officer who is notified will say that he is a witness-injured person and should not meet with the defendant before the main hearing. The Judicial Officer will provide assistance to a witness-injured to a will accompany the witness to a specially designated room.

The proposal to hear a witness-witnessed in the absence of the defendant - The procedure for the hearing of the witness - injured in the absence of the defendants is determined by main trial. §262, §262a of the CPC

If it is necessary for the purposes of the court, the information on the witness-damaged address is included in the file in a sealed envelope and does not appear at the hearing.

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?

The Institute for the Protection of Witnesses in the Crime of Trafficking in Human Beings has not yet been used by the investigators of the National Unit.

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?

The financing of non-governmental organizations providing assistance to victims of crime is implemented through a grant scheme of the MS SR under the Victims act. Under §31 of the Victims act, the MS SR may provide an accredited entity with a grant for general professional assistance or specialized professional assistance under the conditions of a special regulation, 302/2016 on the provision of subsidies within the competence of the MS SR. Submission may be granted to a subject who has been granted accreditation of a victim support program (hereinafter referred to as "accreditation"), which is the state verification of the competence of the victim providing assistance to the victim to provide professional assistance under the conditions laid down by §32 (1) of the Victims act., The MS SR maintains and publishes in its web site the Register of Victims Support Bodies (hereinafter referred to as "the Register"), in which the accredited bodies pursuant to this Act and bodies under a special regulation (eg Act No. 448/2008 Coll. on social services as amended), if they provide assistance to victims.

In the evaluated years, the assistance and support for the victims of THB enrolled in the program, was realized through non-governmental organizations. Funding to ensure the fulfilment of the tasks deriving from the National programme for the fight against trafficking in human beings for the years 2015 to 2018, was realized through the budget of the MV SR in total amount 1.404.250,00 eur. The funds were intended for the financing of non-governmental organizations participating in the implementation of the program, preventive activities, preventive materials as well as promoting European Anti-trafficking day,



flyers, training activities, or other duties in accordance with the tasks set out in the national action plan, as well as funds spent on projects aimed at the fight against THB in the context of MV SR calls: (subsidies).

In September 2018, the MV SR based on the outcome of the public procurement concluded a contract with a non-governmental organization, which is to provide professional assistance and support to the thb victims enrolled in the Program. Under the Program, victims are provided with legal advice in the area of criminal law, civil law, as well as legal advice on matters of enforcement, ie related acts (consultation, provision of information, preparation and preparation of proposals, extradition, filing, appeals, claims, complaints, claims for damages, advice on labor law, representation in court (criminal, civil), as well as participation in investigative and other ancillary services. Legal advice is provided to each victim in the Program, to the extent and where appropriate on the basis of an individual aid plan.

Investigators of the Operations Unit and Investigation of the National Unit intensively cooperate with non-governmental organizations providing programs to support and protect victims of human trafficking, The Slovak Catholic Charity through personal contacts, agreeing on the legal purpose and method of assistance (eg securing the injured person to act in the framework of the ongoing criminal proceedings in order to protect him against the accused, etc.)

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?

Pursuant to § 3 of the Victims Act, which defines the basic principles of protection and support for victims of the rights granted to victims by this law, they shall apply without discrimination based on sex, religion or belief, race, nationality or ethnic group, health status, sexual orientation, marital status, color, language, political or other opinion, national or social origin, property or other status. At the same time, according to §3 (8) of this Act, law enforcement authorities, courts and victim assistance bodies are obliged to take into account the best interests of the child in the case of a particularly vulnerable child being a child.

The details and procedural issues of the child / child victim's conduct are governed by the § 135 of the CPC as follows:

(1) If a person under 18 years of age is examined about matters whose recovery from the memory due to his or her age, relationship to the offender or dependence on the offender and the nature and circumstances of the offence could adversely affect his or her mental and moral development or expose him/her to the risk of secondary victimisation, or if it is a criminal offence against human dignity, the examination must be carried out in a particularly respectful and substantive manner so that the examination in the next hearing does not have to be repeated. Where the guardian referred to in § 48 (2) is not present at the interrogation, a psychologist or expert who is to contribute to the proper conduct of the interrogation with regard to the subject matter of the interrogation and the level of intellectual development of the interrogated person shall be invited for the interrogation, as well as a representative of the body of social-legal protection of children and social curatorship. If they can contribute to the correct performance of the interrogation, the legal representative or a pedagogue shall also be invited for the interrogation. Before interrogating a witness under the first sentence, the law enforcement authority shall discuss the manner of conducting the interrogation with a psychologist or expert who shall be invited for the interrogation and, if necessary, also with a body of the social and legal protection of children and social curatorship, a legal representative or teacher so as to secure appropriate conduct of the interrogation and to prevent secondary victimisation.

(2) The same person should be interrogated in further proceedings only if necessary, in the preliminary hearing only upon the consent of the public prosecutor. In proceedings before the court, based on the

decision of the court, evidence may be performed by reading the transcript, even without meeting any of the terms referred to in § 263. Where appropriate and required, a person who was invited for interrogation shall be interrogated on the correctness and completeness of the transcript or the manner in which the interrogation was performed, as well the method in which the interrogated person testified.

(3) If a person under the age of 18 years is being interrogated as a witness and if it is a criminal offence against a close person or entrusted person, or if it is clear from the circumstances of the case that the repeated testimony of the person younger than 18 years of age may be influenced, or there is a reasonable assumption that the interrogation could affect the mental or moral development of the person younger than 18 years of age, the interrogation shall be conducted in such a manner that the person younger than 18 years of age could be interrogated in the subsequent proceedings only in exceptional cases. Additional interrogation of a person younger than 18 years of age may be conducted in the preliminary hearing only with the consent of their legal representative, and in the cases under § 48 (2) with the consent of their guardian.

(4) If a person younger than 18 years of age is interrogated under (3), in proceedings before the court, the performance of such evidence shall be in compliance with Section 270 Subsection 2; the interrogation of such witness may be performed in the proceedings before the court only in exceptional cases.

(5) The provisions of (1) through (4) shall also apply in relation to a witness whose age is not known and who may reasonably be believed to be a person below 18 years of age, until the contrary is proven.

According to §135 of the CPC, if a person under 18 years of age is heard as a witness in a case whose affairs are recalculated due to his or her age could adversely affect his / her mental and moral development, the hearing must be done in a particularly, so that the hearing in the next hearing can not be repeated. A psychologist or expert shall be apprised of the psychologist or expert who, in view of the subject matter and degree of intellectual development of the interviewed person, will contribute to the proper conduct of the hearing and the representative of the social protection authority for children and the social guardianship unless a guardian is present. Before the hearing of a witness under the first sentence, the law enforcement officer consults the method of conducting a hearing with the psychologist or expert who will be interviewed and, if necessary, with the authority of social protection of children and the social guardian, legal guardian or pedagogue ensure the proper conduct of the hearing and prevent secondary victimization. "The hearing of a particularly vulnerable victim, a victim of human trafficking, is carried out using technical equipment for the recording of sound and images. The law enforcement authority shall ensure that the same person is guilty of the pre-trial hearing if this does not interfere with the conduct of the criminal proceedings."

If a person under the age of 18 is interviewed and if it is a criminal offense committed against a close person or an entrusted person, or it is clear from the circumstances of the case that the remission of a person under the age of 18 may be affected or a reasonable presumption that could adversely affect the mental and moral development of a person below the age of 18, the hearing shall be conducted in such a way that a person under the age of 18 may be heard in the next proceedings only exceptionally. A further hearing of a person under the age of 18 may be carried out in the preparatory procedure only with the consent of her legal guardian or curator.

Where a criminal offense committed for a crime against human dignity, a criminal offense of trafficking in human beings or a criminal offense of abuse and abusive treatment of a person who is a particularly vulnerable victim under a special law, a person of the same sex as the person being interviewed, and do not prevent the serious reasons which the law enforcement authority is required to state in the minutes.

The investigator, the prosecutor or the judge to whom the case is assigned is responsible for the performance and assessment of the protective measures, according to the stage of the criminal proceedings. Information on the course of the criminal proceedings is provided directly by the investigative bodies or through the plenipotentiary of the injured party.

The issue of protection of child victims before and during court proceedings is regulated in relation to the number of hearings through the provision of the provisions of §135 (1) to (5) of the CPC which exhaustively define the legal conditions for conducting such a hearing, including the persons present in

the act, with the result that such an interrogation has been carried out so readily without the need for its repetition.

## **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?

NJBPNM police officers of the UHCP PZ, which carry out the documentation of trafficking in human beings and the identification of potential victims, take part in specialized training courses on this issue each year.

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?

The issue of financial investigations falls within the competence of the MV SR, using procedures according to the methodological aid to the "Financial Investigation" elaborated in cooperation with the Presidium of the Police Corps, available to the law enforcement authorities from 01.01.2017.

## **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?

Pursuant to §7c (1) of Act 82/2005 Coll. the supervisory authority is required, when carrying out the control of illegal work and illegal employment, to inform a third-country national who has been illegally employed, about his right to sue when the agreed wage has not been paid, about his right to claim an agreed wage and about his right to service of the debt to the country to which he returns or will be administratively expelled at the expense of a legal person or a natural person who has been legally fined for violating the prohibition of illegal employment.

In the field of cooperation with other countries on the application of the abovementioned rights, labor inspectorates do not have practical experience.

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.

National Unit while investigating and prosecuting suspects in THB cases from 2013 cooperated with other countries under 4 Joint Investigation Teams (hereinafter referred to as " JIT "), in all four cases it was with the United Kingdom of Great Britain and Northern Ireland.

The historically first joint investigation team under the name "SVANETIA" started to operate on September 26, 2013. The Joint Investigation Team was set up to facilitate investigation and prosecution in the UK and the SR in connection with a criminal offense of trafficking in human beings for the purpose of sexual exploitation and enforcing forced marriages of citizens of the SR with third country nationals in the UK to legalize their residence in the European Union .

JIT's objective was to obtain evidence and relevant information, identify responsible persons, disable their activities and use the evidence obtained for the purpose of prosecuting and confiscating criminal proceeds in both countries

Contracting Parties to the Agreement:

- United Kingdom of Great Britain and Northern Ireland  
Metropolitan Police London
- Slovak republic  
General Prosecution of the Slovak Republic  
Executive Unit National Unit for Combating Illegal Migration

JIT SVANETIA's investigation has led to trials in the years 2013 to 2017 before the criminal courts of the two participating countries, with three trials being conducted in the UK and one in the Slovak Republic. All proceedings were terminated by condemning sentences and imposing sentences on defendants. Criminals in the United Kingdom were citizens of the Slovak Republic and one Pakistani, sentenced in the Slovak Republic by three Slovak citizens. The offender was sentenced to a term of imprisonment from 16 months to 8 years.

JIT's activity ended on 26.3.2017.

The agreement to establish a second JIT under the name "SYNAPSIS" was signed on 14.10.2016.

The JIT was set up to facilitate investigation and prosecution in the UK and the SR in connection with a criminal offense of trafficking in human beings for the purpose of sexual exploitation and enforcing forced marriages of citizens of the SR with third country nationals in the UK to legalize their residence in the European Union .

Contracting Parties to the Agreement:

- United Kingdom of Great Britain and Northern Ireland  
The Crown Office and the Procurator Fiscal Service  
The Police Service of Scotland  
Crown Prosecution Service London  
Metropolitan Police London
- Slovak republic  
General Prosecution of the Slovak Republic  
Executive Unit National Unit for Combating Illegal Migration

On August 17, 2018, the Slovak police completed an investigation with a motion to file charges against 4 accused persons, and the activity of the JIT will be terminated by the end of the criminal prosecution conducted by the British police. By this time, the Slovak police will provide the British side with the necessary co-operation.

The agreement to establish a JIT with the UK under the name of "ROBOTIC" was signed on 15.6.2017.

The JIT was set up to facilitate investigation and prosecution in the UK and the Slovak Republic in connection with the crime of trafficking in human beings for the purpose of labor exploitation of Slovak citizens in the UK and sexual exploitation.

Contracting Parties to the Agreement:

- United Kingdom of Great Britain and Northern Ireland  
West Midlands Police  
Crown Prosecutor's Office Birmingham
- Slovak republic  
General Prosecution of the Slovak Republic  
Executive Unit National Unit for Combating Illegal Migration

Criminal prosecution was started by the Slovak police on 15 June 2017.

In 2018, operational meetings were held with British partners to make arrangements for further investigation procedures, and steps were taken to stabilize other injured parties and obtain evidence against suspects.

The fourth JIT under the name "LANGSAT" was established by an agreement on a joint investigation team with the UK signed on 28.11.2017.

The JIT was set up to facilitate investigations conducted in the United Kingdom of Great Britain and Northern Ireland and the Slovak Republic as well as facilitating international police and judicial cooperation in clarifying, documenting and investigating the crime of trafficking in human beings in connection with the trafficking offense for purpose of labor exploitation of Slovak citizens in the UK.

Contracting Parties to the Agreement:

- United Kingdom of Great Britain and Northern Ireland
  - The Crown Prosecution Service
  - The National Crime Agency
- Slovak republic
  - General Prosecution of the Slovak Republic
  - Executive Unit National Unit for Combating Illegal Migration

Criminal prosecution was started by the Slovak police on 13.11.2017.

In the year 2018, witnesses were interviewed by the Slovak police, while some British counterparts were also present. In 2018, the Slovak Police also carried out financial investigations of suspects in connection with their property in Slovakia as well as accounts held in Slovak banks

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 2018, in cases of trafficking in human beings, the Department of Operational Activities and Investigations of the National unit requested legal assistance together in 12 cases in criminal proceedings. As a rule, the testimonies of the witnesses, the accused, or the filing of the evidence in the criminal proceedings. We have a worse experience with legal aid, since it is too long to handle. The final result, however, is positive as it allows the continuation of criminal proceedings.

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?

In the framework of international cooperation, in cases of trafficking in human beings, it is very useful to have the possibility of the communication through the National Center of EUROPOL, especially in the handling of requests for criminal proceedings, when investigating information in an operational investigation before criminal prosecution is initiated.

We particularly appreciate international cooperation in investigating human trafficking in joint international investigative teams.

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?

In September 2018, the MV SR based on the outcome of the public procurement concluded a contract with a non-governmental organization, which is to provide professional assistance and support to the THB victims enrolled in the Program.

Charitas Slovakia is taking part in a meeting of the international network RENATE, in which it cooperates to help victims of THB. In 2018 they participated in training in Albania (Tirana) and at a meeting in Ukraine (Lviv). As part of the project "Strengthening the Co-operation of Caritas Members in the Euro-Mediterranean Region to Combat Human Trafficking", Charitas Slovakia participated in the training on "Advocacy and Communication & Partners" meeting in Sarajevo (Bosnia and Herzegovina) and "Education on stress and work with people in stressful and stressful situations" in Amman (Jordan) and

also in 2018 SKCH participates in the preparation of a study on the situation of trafficking in child victims in Slovakia.

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?

Cooperation with other countries is based on the work of national representatives in the Europol, Interpol and Eurojust organizations through which legal aid applications are carried out.

## **11. Cross-cutting questions**

### 11. Prierezové otázky

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?

Pursuant to § 3 of the Victims Act, which governs the basic principles of the protection and support of victims, the rights granted to victims by this Act shall apply without discrimination based on sex, religion or belief, race, nationality or ethnic group, state of health, age, sexual orientation, marital status, color, language, political or other opinion, national or social origin, property or other status.

See also 2.2.

11.2 What steps are taken to ensure that criminal, civil, labour and administrative proceedings concerning victims of THB are gender-sensitive?

Pursuant to § 3 of the Victims Act, which governs the basic principles of the protection and support of victims, the rights granted to victims by this Act shall apply without discrimination based on sex, religion or belief, race, nationality or ethnic group, state of health, age, sexual orientation, marital status, color, language, political or other opinion, national or social origin, property or other status.

See also 2.2.

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?

In 2018 started the project "Special hearing rooms for child victims and others in particular vulnerable victims of crime ". The project is co-financed by the European Union from the Internal Security Fund.

Objectives of the project

1. Creating a space for victims of crime with a special need for protection against further victimization during the criminal proceedings.
2. Increasing the professional competence of police officers in investigations.

Special hearing rooms for child victims and other particularly vulnerable victims of crime (SHR) are intended in particular for the hearing of children who have become victims or witnesses of serious crime and which differ fundamentally from regular police offices. The intention is wider use of SHR, eg. to perform a process of recognition. At the same time, they will serve to raise awareness and support other particularly vulnerable victims, including those who are physically and mentally handicapped, victims of human trafficking, victims of crimes against human dignity, victims of domestic violence and other victims in particular, the increased risk of secondary victimization due to their age, gender, race, nationality, sexual orientation, religion, state of health, intellectual maturity, ability to express themselves, the situation of life, or the relation to the offender or dependence on it.

The project will help to reduce the risk of secondary victimization of crime victims through the creation of premises adapted to the hearing of children and other particularly vulnerable victims of crime, and by providing specialized training for police officers who practice children and other particularly vulnerable victims of crime. At the same time, the team will also develop a tool to combat trafficking in human beings and sexual abuse.

See also 8.6.

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?

In 2016, Act No. 82/2005 Coll. (§7b (5) et seq.) Established a new responsibility (co-responsibility for illegal employment) with the recipient of the service for accepting a job or service under a contract from a service provider (service provider) through illegally employed natural persons,

- in the case of cross-border provision of services for a period exceeding five days within a period of 12 months from the first provision of the service; or
- if it is a national supply of labor or a cross-border supply of labor.

In relation to that responsibility, the inspection body may, for accepting a service or work from illegal employment entities, impose a fine on the recipient for the same amount as the service provider may impose on the contractor for violating the prohibition of illegal employment.

At the same time, Act No. 82/2005 Coll. (§7b (6)) regulated the obligation of the service provider to provide the recipient of the service without delay and to the extent necessary, at the request of the recipient, with the documents and personal data of the natural persons through whom he delivers the work or provides the service necessary for the recipient of the service check that the service provider does not violate the prohibition of illegal employment, namely the recipient of the service.

The goal is that recipients of the service should only receive service or work from serious business partners / employers, j. to remove illegal employment from supply chains.

In connection with posted employees § 5 (8) and(9) The Labor Code regulates in as follows:

A visiting employee who considers that his or her rights or legitimate interests are affected by the failure to comply with the conditions of posting to the territory of the Slovak Republic may take the initiative directly or through employee representatives to the competent Labor Inspectorate or may apply to the court for legal protection.

A visiting employee whose guest employer has not paid a wage or any part of his or her part in the salary has the right to claim their payment to a natural person or legal person who is a service provider in the territory of the Slovak Republic (hereinafter referred to as the "supplier of services"), the direct subcontractor of which is the guest employer. The Service Provider is obliged to provide the Host Employee with a payable wage or part thereof in the amount in which it has not been paid within 15 days of receipt of the guest's request after deducting the deduction from the wage paid by the Host Employer if he paid the wage; the Service Provider does not assume responsibility for making and deducting these deductions. The Service Provider is required to inform the Host Employer of the wage payment according to the second sentence.

In order to improve the conditions for raising awareness of the trafficking offense between business entities and to provide information on its prevention and assistance to victims, grants are annually invoked, under which entities may request financial support and funds to be used for educational and preventive purposes. In order to raise awareness of the dangers and social risks of trafficking in human beings, information was regularly presented through the media, implemented preventive campaigns and also targeted education. Such activities include, for example, calls by the Ministry of the Interior of the Slovak Republic for Corporate Social Responsibility or training for personnel agency staff. The training

was aimed at raising awareness of the crime of trafficking in human beings as well as in the timely identification of potential victims of this crime.

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.

There is no evidence of corruption or related misconduct of a public official during the reference period in cases of trafficking in human beings.

Based on Government Resolution 585/2018 of December 12, 2018, a decision was taken to establish the position of an anticorruption coordinator in order to monitor and set up policies for preventing corruption and identifying risk areas.

## 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);

From the point of view of developments in the field of trafficking in human beings it can be stated that since the second evaluation report, when the Slovak Republic was predominantly a country of origin and transit of victims of human trafficking, we are monitoring the increasing share of exploited victims in the home country with the predominant form of sexual exploitation of victims.

New trends, respectively a new form of exploitation also with a rising tendency is the conclusion of forced marriages of juvenile Roma girls with also underage Roma boys. The girl is sold by her own parents and forced to resign from her will to be a member of another Roma family in agreement with her parents and running financially. The wedding ceremony takes place in the sense of Romani traditions and the young bride is then forced to live in her new husband's household and fulfill all her marital duties.

There has also been a change in the countries of the exploitation of Slovak victims, where the exploitation of Slovak victims of human trafficking was predominantly in the United Kingdom of Great Britain and Northern Ireland, predominantly for the purpose of sexual exploitation and labor exploitation, in 2017 there was an increase in the number of male victims exploited for forced begging in Germany and Austria, but the most frequent form of sexual exploitation remains. In 2018, the home country of the victims of trafficking in human beings - the Slovak Republic, where victims were almost exclusively women and girls who were exploited for sexual purposes and forced marriage, was the most common country of exploitation of victims of human trafficking. The second most frequent form of exploitation of Slovak victims in 2018 was forced begging, where countries of exploitation were Germany, Switzerland and Austria.

Among the new trends in trafficking in human beings can be included the criminality of Roma, where socially and mentally vulnerable individuals are lured by the preference to work in the target countries (eg the United Kingdom) under the promise of an advantageous job, being abused for the prostitution and marriage of nationals of other countries .



The recommendations in the second GRETA evaluation report were, according to current options, also included in the National Action Plan to Combat Trafficking in Human Beings for the years 2019-2023.

- 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);

Concerning the protection of victims' rights, on 12 October 2017, the National Council of the Slovak Republic approved the Victims Act, which entered into force on January 1, 2018, and which amended Law no. 300/2005 Coll. Criminal Code as amended and Act no. 301/2005 Coll. Criminal Code, as amended.

The first part of the Act contains general provisions defining the subject matter of the Act, basic concepts for the purposes of this Act, and the basic principles of the application of victim protection and support. With regard to trafficking, victims of trafficking were included in a group of particularly vulnerable victims, with a higher risk of secondary and repeated victimization.

§ 3 (1) lays down the principle that any person claiming to be a victim is to be treated as a victim until proven otherwise or where there is no apparent abuse of the status of a victim under this Act, regardless of whether the perpetrator of the offense has been identified, prosecuted or convicted.

In § 3 (2) provides for a prohibition of discrimination against victims of crime. This means that the rights attaching to the victim of a crime must be applied in accordance with the principle of equal treatment.

§ 3 (8) of the Victims Act provides the obligation of law enforcement agencies, courts and victim support bodies in the case of a particularly vulnerable victim to be a child, to take account of the best interests of a child, (5) of Act no. 36/2005 Coll. on the Family and on Amendments to Certain Acts as amended by Act No. 175/2015 Z. z.

The second part of the Victims Act regulates the rights of victims of crime, such as the right to information, the right to provide professional assistance, the right to legal aid, the right to protection against secondary or repeated victimization, and the right to a victim of a violent crime for compensation.

The third part of the Victims Act regulates the compensation of victims of violent crimes and the fourth part of the law regulates the support of bodies providing assistance to victims of crime.

Amended Act no. 301/2005 Coll The Criminal Procedure Code supplemented the new principle in the criminal proceedings in § 2 par. 21, the purpose of which is to protect the rights of the injured person while at the same time strengthening his position during the course of criminal proceedings.

§125 include the new wording of (4), which introduced a ban on confronting all child victims and children's witnesses. This legislation increases the protection of all child victims and children's witnesses by eliminating direct contact with the perpetrator in criminal proceedings, regardless of the offense committed.

§134 specifies a special procedure for the hearing of a witness who is a particularly vulnerable victim under the Victims Act, which is legally enforced using technical devices designed to record sound and images. The law enforcement authority shall ensure that the same person conducts examinations in the pre-trial proceedings if this does not interfere with the course of

the criminal proceedings, and that a psychologist is recruited for the hearing, or an expert who, with regard to the subject matter of the hearing of the interviewee, will contribute to the proper conduct of the hearing. Where a person who is a particularly vulnerable victim under a special Act is being interrogated as a witness in criminal proceedings conducted for a criminal offence against human dignity, a criminal offence of human trafficking or a criminal offence of maltreatment of a close person and entrusted person, the interrogation in the preliminary hearing shall be usually conducted by a person of the same sex as the interrogated person, unless it is prevented by serious reasons which shall be stated by the law enforcement authority in the transcript.

Act no. 351/2015 Coll. on the Transborder Co-operation in the Posting of Workers in the Performance of Work on Services and Amending and Amending Some Acts from 18 June 2016 Labor Code on a new provision, namely § 5, (8) (9) concerns posted workers - see answer to question no. 11.4 in Part I. This Act established the joint responsibility of the service provider in the territory of the Slovak Republic and its direct subcontractor, who is the employer of the posted employee, in compliance with the minimum wage, minimum wage and wage compensation rules for overtime work at the posted employee territory of the Slovak Republic.

Legislative changes from 2015 in Act no. 480/2002 Coll. on Asylum and on Amendments to Some Laws, as amended, relate directly to the issue of THB, and it has been realized that the MV SR creates in the suitable conditions for the accommodation and care of aliens, taking into account the specific needs of vulnerable persons ascertained on the basis of an individual assessment of their state, in asylum facilities. For the purposes of this provision, vulnerable persons are also understood to be victims of THB. As a result of these legislative changes, minor asylum seekers are placed in children's homes, thereby preventing access to such persons by adult asylum seekers who could possibly be THB offenders.

In 2018, Act No. 366/2018 amending Act no. 461/2003 Coll. on Social Insurance as amended and amending Act no. 580/2004 Coll. on health insurance and amending Act no. 95/2002 Coll. on insurance and amending certain laws, as amended, with effect from 30 December 2018, which created the conditions for the smooth provision of health care from public health insurance for all THB victims included in the program. MV SR, MH SR, the Office for Surveillance of Health Care and Individual Health insurance participated on the preparation of the relevant parts of the amendment to Act no. 580/2004 Coll. on health insurance and amending Act no. 95/2002 Coll. on Insurance and on Amendments to Certain Acts and on Other Follow-up Measures to Ensure the Implementation of the Relevant Provisions of the Act Concerning Victims Included in the Program.

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

On 1 January 2013, the Order of the Minister of the Interior of the Slovak Republic no. 1/2014, supplemented the Order of the Minister of the Interior of the Slovak Republic no. 175/2010 on Determining the Competence of the Police force Departments and the Departments of the MV SR in the Detection of Criminal Offenses and in the Proceedings in Criminal Procedure as amended by a specialized department dealing with the detection and investigation of a crime of trafficking under §179 within the National Unit. Within the National unit, five separate offices were created: the Department for Combating Trafficking in Human Beings, the Coordination Unit, and three Operations Activities and West, Mid and East investigations with investigators specializing in the investigation of trafficking in human beings. Since the introduction of trafficking in human beings into the structure of the National unit, we are seeing a gradual increase in detected cases of trafficking in human beings, prosecutions initiated as well as an increased number of identified victims of trafficking in human beings and offenders accused of such crimes.

In the framework of the implementation of the new institutional frameworks and the strengthening of professional capacities as well as the provision of assistance to victims of crime, including victims of trafficking in human beings, the contact information centers in each region were created within the framework of the implementation of the national project "Improving access of victims of crime to services" which will provide potential victims and victims with access to relevant information as well as legal, psychological and social assistance. Within the framework of networking and implementation of preventive activities, contacts with more than 3,000 public administration bodies, civil and private sectors have been established, within which they have been presented with information centers, their contacts, the target and available services.

- 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);

In cooperation with the members of the Expert Group for Combating Trafficking in Human Beings, the MV SR prepared the fifth strategic document - the National Program for Combating Trafficking in Human Beings for the years 2019 - 2023, which was subsequently adopted by Resolution no. 495/2018 of November 6, 2018 approved by the Government of the Slovak Republic.

The main objective of the National Program is the introduction of a coordinated system to reduce trafficking in human beings, the reduction of trafficking crime with regard to current trends and the development of the situation in the area concerned, which includes targeting the perpetrator and potential victims. Both sides should also focus on strengthening existing instruments that have proven good practice over many years, as well as on new tools to combat trafficking in human beings that reflect new trends in crime.

The document aims to combat the trafficking of human beings, ie to reduce the risk of potential victims of human trafficking, as well as to provide direct assistance to victims of trafficking in accordance with international and European standards and commitments of the Slovak Republic in this area.

In order to achieve the main objective of the National Program for Combating Trafficking in Human Beings for 2019-2023, it is necessary to pay attention to the sub-areas expressed in the abbreviation 4 P:

- "Prevention",
- "Protection",
- "Prosecution" (investigation),
- "Partnership".

Therefore, the tasks described in the National Action Plan for Combating Trafficking in Human Beings for 2019-2023 are divided into the above-mentioned areas.

This is a total of 21 tasks that have emerged from application practice as well as European Union standards in the field of THB. They also reflect the recommendations of the Council of Europe's monitoring mechanisms (Council of Europe Convention on the Trafficking of Human Beings) or the United States of America (TIP - Trafficking in Persons Report).

On 1.1.2019 the new regulation of the Ministry of the Interior of the Slovak Republic no. 144/2018 of 10 December 2018 on securing a program for the support and protection of victims of trafficking in human beings, which repeals the Regulation of the Ministry of the Interior of the Slovak Republic no. 180/2013 on securing a program to support and protect victims of trafficking in human beings on 19 December 2013 came into force. This new regulation

addresses, amongst other things, the issue of third-country nationals or stateless persons, more specifically regulates the procedures for assistance, assisted voluntary return to OSL victims and assistance unaccompanied minors who were enrolled in the program.

See also previous answers in this section

- recent case-law concerning THB for different forms of exploitation.
- nedávna judikatúra týkajúcej sa OSĽ pre rôzne formy vykorisťovania.

See in attachment (in Slovak only)

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

- strengthen the monitoring of job intermediaries and temporary employment agencies and review the legislative framework for any loopholes that may limit protection or preventive measures;

The police corps in cooperation with the National Labor Inspectorate and the Labor, Social Affairs and Family Headquarters performs regular co-operative inspections of business entities. The inspections are carried out under the Agreement on the Co-operative Control of Business Entities concluded between the Ministry of the Interior of the Slovak Republic and the National Labor Inspectorate which entered into force on 30.12.2013 and under the Agreement on Cooperation in the Control of Illegal Labor and Illegal Employment concluded between the Ministry of Interior of the Slovak Republic and the Department of Labor, Social Affairs and Family dated 10.6.2013.

In accordance with the abovementioned agreements, the MV SR takes part in the inspection of the police officers of the national unit in cooperation with the services of the Border Police and Aliens' Police Presidium of the Police Corps. During the inspections of business entities, the police are mainly focused on searching for persons - aliens who have been illegally present in the Slovak Republic and other violations of the provisions in the sense of Act no. 404/2011 on the Residence of Aliens and on Amendments to Certain Acts and on the identification of victims THB pursuant to § 179 of the CC as amended.

The National Labor Inspectorate is responsible for the performance of controls by the staff of the regional labor inspectorates and by the Center for Labor, Social Affairs and Family, employees of the Department of Labor, Social Affairs and Family, and the relevant Labor, Social Affairs and Family Offices, depending on the place of control. The main objective of the control activity of the labor inspectorates and the bodies of the Center for Labor, Social Affairs and Family is to investigate all forms of violation of the prohibition of illegal employment under Act no. 82/2005 Z.z. and on the amendment and supplementation of certain laws as amended, whether it is the use of dependent labor of natural persons without the conclusion of an employment relationship, without fulfilling the employer's notification duty towards the Social Insurance Company in the register of insured persons, the use of dependent labor of third country nationals without a temporary residence permit for employment purposes, respectively without a work permit, or the use of the work of a natural person who does not exhibit signs of dependent labor, but is performed without entering into a contractual relationship under the Civil Code, respectively The Commercial Code.

Labor inspectorates perform regular inspections in temporary employment agencies (TEA) to check compliance with applicable legislation. In 2018, labor inspectorates focused on TEA control within the national task of the National Labor Inspectorate. TEA monitoring has also

been strengthened through specialist competence training of labor inspectors who have been trained in the field of posting, temporary assignment and agency employment.

From the point of view of the amendment contained in the Labor Code, it is primarily about § 58 and §58a, where the protection of the rights of user employees is protected by general regulation. In particular, pursuant to § 58 par. 3 of the Labor Code: " A user employer may not temporarily second an employee who is temporarily seconded to such user employer to another user employer. ".

Pursuant to §58 (6) of the Labor Code: "Temporary secondment may be agreed for no more than 24 months. Temporary secondment of an employee to the same user employer may be extended or repeatedly agreed no more than four times within 24 months; this shall also apply in the event of the temporary secondment of an employee to other employers or by another temporary employment agency to the same user employer. Repeatedly agreed temporary secondment is the secondment by which the employee is to be temporarily seconded to the same user employer prior to the expiry of six months after the end of the preceding temporary secondment, and if it is temporary secondment for the reason stated in Section 48 Subsection 4 Paragraph b) or c), prior to the expiry of four months after the end of the preceding temporary secondment. The provisions of the first sentence and second sentence shall not apply to temporary secondment for the reason stated in Section 48 Subsection 4 Paragraph a). "; (7) " If an employee is temporarily seconded contrary to the first sentence or second sentence of Subsection 6, the employment between the employee and employer or temporary employment agency shall terminate, and employment for an indefinite period of time shall commence between the employee and user employer".

Pursuant to §58 (9) of the Labor Code, "During the period of temporary secondment, the wage, wage compensation and travel expense refunds shall be provided to the employee by the employer who has temporarily seconded him or her, or the temporary employment agency, unless this Act or a special regulation provides otherwise. The working conditions, including wage terms and employment terms, of temporarily seconded employees must be at least equally favourable as those of a user employer's comparable employee."

Pursuant to §58 (10) of the Labor Code, "If an employer or temporary employment agency failed to provide a temporarily seconded employee with a wage at least equally favourable as the wage to which a comparable employee of the user employer is entitled, then the user employer is obliged, within 15 days from the payroll date agreed between the employer or temporary employment agency and the temporarily seconded employee, to provide the temporarily seconded employee with such wage or the difference between the wage of a comparable employee of the user employer and the wage provided to him or her by the employer or temporary employment agency, after making wage deductions under §131; for such purposes, the user employer shall be deemed to be the employer of the temporarily seconded employee. The user employer is obliged to inform the employer or temporary employment agency of the sum of the paid wage under the first sentence. The obligation under the first sentence and second sentence shall also apply to a user employer to which an employee is seconded to perform work by the employer or temporary employment agency from the territory of another Member State of the European Union to the territory of the Slovak Republic."

Pursuant to §58a (4) of the Labor Code, "If requested by a user employer, the employer or temporary employment agency are obliged to provide the user employer without undue delay with data required in order for the user employer to check whether the employer or temporary employment agency are in compliance with the obligation under the second sentence of §58 (9) in respect of the wage conditions of the employees who were temporarily seconded to them, and in order for the user employer to be able to fulfil the obligation under the first sentence of §58 (10). The employer or temporary employment agency shall provide the user employer with

personal data of temporarily seconded employees to the extent necessary for achieving the purpose under the first sentence.”

The conditions for the performance of paid employment mediation as well as the conditions for carrying out the activity of temporary employment agencies are regulated by Act no. 5/2004 Coll. on Employment Services and on Amendments to Some Laws as amended.

A legal entity or a natural person may only engage in paid employment if he has an authorization issued by the Trade Licensing Office under Act No. 455/1991 Coll. on Trades Licensing (Trades Licensing Act), as amended. Natural persons and legal entities who have been granted a trade license for paid employment are required to comply with the relevant provisions of the Employment Services Act for remuneration.

The activities of the temporary employment agency may be exercised by a legal person or a natural person on the basis of an authorization issued by the Center for Labor, Social Affairs and Family (hereinafter referred to as the "Headquarters"). Under §30 (1) of the Employment Services Act, the Temporary Employment Agency provides protection to temporary agency workers under special regulations as regards working conditions and conditions of employment. Provision of protection to a temporary agency agent is controlled by the competent authorities provided for by a special regulation (§ 30 (2)).

In order to obtain and maintain information on the number and activity of intermediaries for the remuneration or work of temporary employment agencies, the Employment Services Act establishes the obligation for the employment intermediaries and the temporary employment agencies to submit annual activity reports and to establish conditions for checking compliance with generally binding legal rules on employment services, including the obligation to provide information and necessary documents to the supervisory authorities.

The authority of the control of the headquarters or of the Office of Labor, Social Affairs and Family is entitled to exercise control in the scope of § 9 (3) of Act no. 10/1996 Coll. on control in the state administration, as amended, ie. is entitled to control the fulfillment of the obligations under the Act on Employment Services for the participants in legal relations under §2 of this Act. The responsibility of the trade licensing authorities, which are obliged to control the obligations arising for the employment mediator for payment of the Trade Licensing Act, can not be omitted.

In the case of an established violation of the Employment Services Act by the employment intermediary for payment, the administrative offense under §68a of the Employment Services Act is sanctioned by a decision of the Office or Head Office with a fine of up to EUR 33,193.91. A legal person or a natural person who carries out temporary agency work without authorization is penalized with a fine ranging from EUR 5,000 to EUR 100,000.

- strengthen the prevention of trafficking in children through the implementation of measures and programmes aimed at supporting children in vulnerable situations;

At the end of 2017 the national project "Support for the Protection of Children against Violence" was approved aimed at making the system of child protection more effective by setting up systemic coordination of subjects participating in child protection tasks (Children's and Social Correctional Institutions, Police College, Public Prosecutor's Office, health care providers, accredited bodies, municipalities, courts) in order to increase the effectiveness of these actors in addressing the issue of violence against children in the field of child protection against violence at regional level. In the framework of the initiating meetings, cooperation was offered to the cooperating body and the possibilities of networking and coordination of the protection of children against violence were clarified. Thus 7302 representatives of the subjects (prosecutor's office, school facilities, social protection of children and social guardians, police corps, courts,

health care providers, municipalities, etc.) were approached for the year of the coordinators. Also, 113 coordinating meetings of the bodies were carried out in order to solve systemic deficiencies and meet the needs of individual subjects in protecting children against violence. During this period, the analysis of systemic deficiencies of serious cases of violence was carried out in 37 cases.

Through the position of child protection coordinator and in cooperation with other subjects, 210 educational and preventive events, aimed at sensitizing the public on the issue of violence against children, have been implemented. 12,820 participants participated in these activities.

- 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;

Please see the part about the joint controls of the business entities

- enhance the role of labour inspectors in the detection of human trafficking for the purpose of labour exploitation and providing them with clear instructions on how to proceed when detecting possible victims of trafficking;

See the answer to question 3.6. in Part I.

At the same time, the National Labor Inspectorate, for the purpose of unification and rationalization of working methods of labor inspectors, has prepared a methodological guideline for labor inspectorates, which describes the procedure for the control of illegal employment. The Labor Inspector is obliged to observe the identifiers of trafficking when carrying out the control of illegal employment, whether the controlled person has access to his / her documents, whether the inspected person is instructed on how to denounce (justify his presence at the workplace, explanation) or whether the inspected physical person is denied the right of the employer to terminate without the presence of a witness (representative of the employer).

The Labor Inspector is obliged to notify the law enforcement bodies of the above mentioned facts or indications or evidence that the controlled individual is forced to work under pressure (involuntary) to carry out work other than promised or agreed upon, further to the fact that the insured person is denied wage or part of the wage is taken out, or is the controlled person obliged to repay the debt (eg for travel, accommodation, employment) or the controlled individual freedom of movement and contact, respectively. the inspected person is intimidated or abused by the employer.

See the response to the Recommendation - Strengthen the monitoring of labor mediators and temporary work agencies and review the legislative framework for any gaps that may limit protective or preventive measures;

- pay increased attention to detecting victims of human trafficking among asylum seekers and persons placed in immigration detention centres;

Please see the answer above.

- enact statutory rights to assistance for victims of human trafficking, as specified in Articles 10 and 12 of the Convention, regardless of the victim's co-operation with the investigation and regardless of nationality or immigration status;

Please see the answer above.

- establish a clear and uniform procedure concerning the identification of child victims of human trafficking, both Slovak and foreign, and disseminate information and guidance about the application of this procedure to relevant professionals. Does the "Methodological guide on how

to proceed in provision of assistance to victims of trafficking with special focus on minors and foreigners" provide for such a procedure? Please provide a copy of this document;

In order to harmonize the procedures of the law enforcement agencies and the Social security of the children offices (hereinafter referred as "SPODaSK") authorities and other stakeholders, which are regulated in the "Methodological tool for the process of providing assistance to victims of human trafficking with a special focus on children and aliens, the procedure of the SPODaSK bodies was elaborated" Implementation of social protection measures Children and Social Corruptions for Victims of Trafficking in Human Beings - Guideline and Recommended Practice no. 6-3 / 2016 ", the wording of which was developed in cooperation with the IC MV SR".

In particular, the procedure of the UNCCD for unaccompanied minors ("MBS") "Implementation of measures for the social protection of children and social care for unaccompanied minors" has been developed.

With both procedures, all employees of the SPODaSK body are notified as well as they are made available to the courts for the execution of the court's decision. Methodological aids are made available on the intranet of UPSVaR Headquarters and their content was the subject of work meetings and educational activities for SPODaSK staff.

- ensure that legal guardians are appointed without delay and are able to carry out their tasks in an efficient manner. How long does it take, in practice, for a legal guardian to be appointed to an unaccompanied child?

The CMP, the Family Act as well as the procedures under these legal regulations fall within the scope of the MS SR.

If an unaccompanied minor can not be entrusted to the personal care of a relative or other natural person closely related to the institution of the social protection of children and social welfare under §29 of Act no. 305/2005 Coll. is obliged to file a motion for urgent action under a special regulation (CMP) without delay and to satisfy the basic needs of the child. At the same time, in this proposal, the authority for the social protection of children and social guardians also proposes that the MBS be appointed guardian or curator.

If a minor is found without any care or if his or her life, health, and development are seriously compromised or undermined, the court shall urgently order the minors to be temporarily entrusted to the care of a natural person or legal person designated by the resolution (§365 CMP). There is no need to make provision for a minor procedural guardian (§365 of the CMP) in the proceedings for the immediate injunction.

The court decides to allow MBS to take care of the device within 24 hours. SPOdaSk carries out urgent actions in the interest of the child until a guardian under the special regulation / family law is appointed to an unaccompanied minor or the appointed guardian does not take up his / her duties. The body for the social protection of children and the social guardianship exclusively carries out only what is imposed by law or imposed by the court, and only to the extent that it is regulated by law.

- take steps to address the problem of disappearance of unaccompanied children from child care facilities, by providing suitable safe accommodation and adequately trained staff.

In all acts relating to minors, based on Article 3 of the UN Convention on the Rights of the Child , the criterion is the best interest of the child. In assessing the best interest of a child, it is important to find the MBS opinion that will be done in the MBS entry interview, implemented in a language the child understands – e.g. in most cases in the presence of an interpreter. In the course of the interview, the MBS is provided with all information related to the assurance of its



rights and legitimate interests, as well as legal advice related to the legalization of residence on the territory of the Slovak Republic, or specific measures intended for THB victims.

In order to specify the procedures when considering, assessing and applying attributes of best interest of the MBS has been processed "Application Guide to the best interests of the child in all procedures, measures and decisions taken in relation to unaccompanied minors". Concerned guide has been made available to social workers and authorities SPODaSK equipment to enforce court decisions as well as other entities that participate in providing care for MBS through the intranet of the UPSVaR while its content was subject to workshops and educational activities for employees of SPODaSK authorities.

The Foster home for MBS (since January 1, 1919, the name for the Center for Children and Families) has been determined by the court decision to place a MBS decision in place. The Foster house Medzilaborce has intensified preventive and organizational measures that create conditions for reducing MBS who are leaving the facility illegally. Attention is mainly focused on promoting the quality and scope of MBS care and the conditions for securing their needs, rights and legitimate interests. Preventive measures to prevent fleeing consist mainly of educational activity, psychological support, building trust, providing social counseling and other methods of social work, as well as providing legal advice, respecting cultural and religious traditions, and informing MBS of the risks and consequences of escape. In 2018 an external camera system of the facility was installed to protect the MBS against the impact of the threatening persons, staffing was enhanced to provide daytime and night-time services. The cooperation with the Border and Alien Police Office was also intensified in the examination and determination of the MBS age status assessment, as well as in the operational reporting of the MBS escape and the provision of data to the Police Corps search systems. The technical capacities of the facility have also been strengthened - the specialist team has been extended to work position by a psychologist focusing on working exclusively with MBS. Coordination of the activity of educators and service staff was personally assigned to the head of the care department, which also serves as a special pedagogue. In the first stages of the placement of minors in the facility, specialist interpreting services were used more intensively.

The Slovak language was also intensified using an individual approach. For the MBS, a separate classroom was set up, where language teaching is being conducted in order to reduce the language barrier, to speed up the adaptation and subsequent integration of children, participation in the education system in the SR.

A relaxation room was created for the professional work of the psychologist. A gym and a refurbished outdoor multifunctional playground have been created to expand leisure opportunities.

During the monitored period, all employees increased their skills and deepened skills focused on specific aspects of MBS, multicultural communication, participated in professional events and trainings to provide social and psychological counseling for MBS.

## Part III - Statistics on THB

### Časť III - Štatistika o OSĽ

14. Please provide the following statistics, **per year starting with 2015**, 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).

The number of identified victims of trafficking in human beings in the investigated cases of trafficking in human beings, see Annex no. 1 and also annexes 6 and 7.

- Number of victims of THB identified as part of the asylum procedure (disaggregated by sex, age, nationality, form of exploitation).

In the attached table, we provide data on the number of MBS who were placed in DeD Medzilaborce and who were identified as victims of trafficking in human beings.

| MBS   | MBS/<br>New cases | Out of the whole THB victims |       | Out of the whole THB victims |       | Out of the whole THB victims |         |
|-------|-------------------|------------------------------|-------|------------------------------|-------|------------------------------|---------|
|       |                   | Boys                         | Girls | MBS                          | Adult | Romania                      | Hungary |
| 2015  | 34/26             | 0                            | 0     | 0                            | 0     | 0                            | 0       |
| 2016  | 44/36             | 3                            | 1     | 4                            | 0     | 3                            | 1       |
| 2017  | 44/38             | 3                            | 0     | 3                            | 0     | 3                            | 0       |
| 2018* | 27/19             | 0                            | 0     | 0                            | 0     | 0                            | 0       |

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

In the annexed table, we provide data on the number of cases where specialized methods for assisting minors or adults who have been victims of trafficking under Section 11 (3) (a) have been provided by the SPODaSK authority. c) of Act no. 305/2005 Z.z. o SPODaSK.

| Expert method for assistance | Number of cases | Out of the whole |              | Out of the whole |       | Out of the whole |        |
|------------------------------|-----------------|------------------|--------------|------------------|-------|------------------|--------|
|                              |                 | Boys/Male        | Girls/Female | MBS              | Adult | Slovak citizens  | Others |
| 2015                         | 5               | 2                | 3            | 4                | 1     | 5                | 0      |
| 2016                         | 5               | 1                | 4            | 5                | 0     | 5                | 0      |
| 2017                         | 0               | 0                | 0            | 0                | 0     | 0                | 0      |
| 2018*                        | 14              | 1                | 10           | 10               | 1     | 11               | 3      |

See also annex 5

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

In the attached table, we present data on the number of minors for whom the SPODaSK authority has exercised the role of guardian in criminal proceedings pursuant to Section 73 (3) b) point 5 of Act no. 305/2005 Coll. o SPODaSK

| SPODaSK as legal guardian | Number of cases | Out of the whole |       | Out of the whole |        | SPODaSK as legal guardian |
|---------------------------|-----------------|------------------|-------|------------------|--------|---------------------------|
|                           |                 | Boys             | Girls | Slovak citizens  | Others |                           |
| 2015                      | 4               | 1                | 3     | 4                | 0      | 4                         |
| 2016                      | 9               | 4                | 5     | 5                | 4      | 8                         |
| 2017                      | 0               | 0                | 0     | 0                | 0      | 0                         |
| 2018*                     | 13              | 0                | 10    | 10               | 3      | 12                        |

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

All victims of THB which willingly enrolled into the program received recovery and reflection period.

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

No such permit was granted, all foreign citizens willingly returned home.

- 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).

No such permit was granted, all foreign citizens willingly returned home.

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

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

See above answers.

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

In the attached table, we present data on the number of minors for whom the SPODaSK authority has taken the necessary measures for the return and transfer of the child from abroad pursuant to § 73 par. b) point 6 of Act no. 305/2005 Z.z. o SPODaSK.

| Number of MBS where criminal | Number of cases | Out of the whole |       | Out of the whole   |                      |
|------------------------------|-----------------|------------------|-------|--------------------|----------------------|
|                              |                 | Boys             | Girls | Repatriation to SK | Repatriation to home |

| proceedings<br>is in the<br>process |    |   |    |   | country |
|-------------------------------------|----|---|----|---|---------|
| 2015                                | 4  | 1 | 3  | 0 | 0       |
| 2016                                | 9  | 4 | 5  | 0 | 1       |
| 2017                                | 0  | 0 | 0  | 0 | 0       |
| 2018*                               | 13 | 3 | 10 | 2 | 3       |

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

The number of prosecutions in which criminal prosecution has been initiated in cases of trafficking in human beings, see annex no. 2

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

The number of criminal prosecutions in which allegations were made in cases of trafficking in human beings, see annex no. 3

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

Please see the annex no. 4

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

Please see the annex no. 4

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

- Number of convictions of legal entities for THB.

No such judgement so far.