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GROUP OF EXPERTS ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS (GRETA)

Reply to the Questionnaire from the Czech Republic

Reply submitted 30 November 2018

Council of Europe Convention on Action against Trafficking in Human Beings

The *Council of Europe Convention on Action against Trafficking in Human Beings [CETS No. 197]* was opened for signature in Warsaw on 16 May 2005, on the occasion of the Third Summit of Heads of State and Government of the Council of Europe member states and entered into force on 1 February 2008.

This Convention is considered to be one of the Council of Europe's most important achievements and the most important human rights treaty of the last decade. The first European treaty in this field, it is a comprehensive instrument focusing mainly on the protection of victims of trafficking and the safeguarding of their rights. It also aims to prevent trafficking and to prosecute traffickers. In addition, it provides for the setting up of an effective and independent monitoring mechanism capable of controlling the implementation of the obligations contained in the Convention.

Monitoring mechanism of the Convention

The monitoring mechanism of the Convention consists of two pillars: the *Group of Experts on Action against Trafficking in Human Beings (GRETA)*, a technical body, composed of independent and highly qualified experts, and the *Committee of the Parties*, a more political body, composed of the representatives in the Committee of Ministers of the Parties to the Convention and of representatives of parties non-members of the Council of Europe.

GRETA is responsible for monitoring implementation of the Convention by the Parties. GRETA will regularly publish reports evaluating the measures taken by the parties and those Parties which do not fully respect the measures contained in the Convention will be required to step up their action.

The Committee of the Parties may also, on the basis of GRETA's report and conclusions, make recommendations to a Party concerning the measures to be taken to follow up GRETA's conclusions.

For further information please consult our website: www.coe.int/trafficking

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Introduction

In accordance with Article 36, paragraph 1, of the *Council of Europe Convention on Action against Trafficking in Human Beings* (hereinafter "the Convention"), the *Group of Experts on Action against Trafficking in Human Beings (GRETA)* "shall monitor the implementation of this Convention by the Parties".

Pursuant to Article 38, paragraph 1, of the Convention and Rules 1 and 2 of the *Rules of procedure for evaluating implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties* (hereinafter "the Rules on the Evaluation Procedure"), GRETA will evaluate the implementation of the Convention following a procedure divided in rounds.

The first evaluation round with regard to a Party is initiated by sending the questionnaire the earliest one year and at the latest two years following the entry into force of the Convention for the Party concerned (Rule 3 of the Rules on the Evaluation Procedure).

For the first evaluation round, GRETA has selected the provisions of the Convention which will provide an overview of the implementation of the Convention by each Party (Rule 4, second paragraph, of the Rules on the Evaluation Procedure).

For each evaluation round, GRETA will prepare a questionnaire on the implementation by the Parties of the specific provisions of the Convention on which the evaluation is based. The questionnaire will be public (Rule 5, first paragraph, of the Rules on the Evaluation Procedure).

In conformity with Rule 11 of the Rules on the Evaluation Procedure, replies to the questionnaire should be submitted in one of the official languages of the Council of Europe, which are English and French. Replies in other languages will not be taken into consideration. Replies should be detailed, answer all questions and reference texts should be attached when requested by GRETA.

Preliminary Questions

- ***Question 1:*** Please specify which State body/agency was responsible for coordinating and collecting the replies to this questionnaire. Please specify the name and professional title of the person heading this State body/agency. Please indicate if this person is the “contact person” appointed by your country to liaise with GRETA or a different person.

The Ministry of Justice of the Czech Republic as the main entity responsible for GRETA matters coordinated the replies to this questionnaire. The Head of the Ministry is Mr. Jan Kněžínek, the Minister of Justice. The contact person is Mrs. Jiřina Jůzlová, International Cooperation Department (jjuzlova@mzp.justice.cz, phone: +420 221 997 944)

- ***Question 2:*** Which State bodies/agencies contributed to responding to this questionnaire? Please indicate the main responsibilities and/or fields of competence of each of these bodies/agencies.

The Ministry of Justice is responsible for legislation in this area and accredits institutions providing help for victims.

The Ministry of the Interior is responsible for the implementation of the Strategy for Combating Trafficking in Human Beings.

The Police is responsible for criminal investigation.

The Supreme Public Prosecutor's Office has a designated national correspondent for combatting human trafficking. Lower authorities of the Public Prosecutor's System are responsible for prosecuting crimes of THB (the Supreme Public Prosecutor's Office supervises their activities).

The Probation and Mediation Service (PMS) provides victims with legal information as well as with psychological support, and offers restorative programmes, such as mediation.

The Ministry of Labour and Social Affairs, in particular its Child Protection Department, plays an important role in the protection of child victims. Furthermore, the State Labour Inspection Office supervises the employment conditions and helps to detect possible cases of THB.

- ***Question 3:*** Did any non-governmental organisations (NGOs) or other entities of civil society contribute to responding to this questionnaire? If so, please indicate the main activities of each of the NGOs and/or other entities of civil society which contributed.

We have consulted La Strada which is one of the NGO's registered within the Czech Republic. La Strada tackles the problems of human trafficking and exploitation, being a part of the La Strada International network, which comprises of eight organizations based in various European countries. They offer assistance to individuals who have been trafficked and / or exploited and help them to have their voice heard in discussions focusing on their rights.

I. Integration of the core concepts and definitions contained in the Convention in the internal law of the parties

Section I.1. Integration of the Human Rights approach to action against trafficking in human beings

As stipulated in the Convention, trafficking in human beings (hereinafter “THB”) “constitutes a violation of human rights and an offence to the dignity and the integrity of the human being” (third paragraph of the Preamble of the Convention). Therefore in the letter and in the spirit of the Convention, THB is a violation of human rights and not just a criminal offence.

- ***Question 4:* Please indicate if, in your internal law, THB is considered as a human rights violation (or only a criminal offence, see Section II.3. below).**

Personal freedom and freedom of decisions are rights which are guaranteed by the Charter of Fundamental Rights and Freedoms of the Czech Republic. Particularly, the article 9 provides for the prohibition of forced labour. With this being said, the Act no. 40/2009 Coll. (the Criminal Code) reflects the human rights stipulated in the Charter and protects them under criminal law. This act divides criminal offences into different categories based on the main protected sphere of interest (eg. life, property, etc.). THB is considered as a criminal offence against freedom. The interest protected by law is therefore personal freedom of individuals – their capability to decide in virtually all spheres of life. For this reason, trafficking in human beings, as multiple other criminal offences, is a criminal offence which stems from a violation of basic human rights.

- ***Question 5:* Please indicate what special legal protection exists under your internal law (including case law, if any) in cases of violations of human rights, which would apply in cases of THB (for example, constitutional protection, positive obligation of the state, priority examination, etc.).**

THB victims, including alleged victims if not proved otherwise, are considered by law as particularly vulnerable. As such they enjoy all victim support services, including legal aid free of charge, and may use special measures in order to protect themselves from secondary victimisation during the criminal proceedings. Relevant provisions are included mostly in the Act no. 137/2001 Coll. (on Special Protection of Witnesses and Other Persons in Relation to Criminal Proceedings), Act no. 45/2013 Coll. (on Victims of Crime and on Amendment to Some Acts) and Act no. 141/1961 Coll. (the Criminal Procedure Code) Furthermore, personal freedom and freedom of decisions are rights which are guaranteed by the Charter of Fundamental Rights and Freedoms of the Czech Republic. As such rights, they are under the protection of the Constitutional Court (the right to bring an action against a decision or another interference of the state agencies or institutions).

Section I.2. Comprehensive approach to THB, co-ordination of all actors and actions to prevent and combat THB and to protect its victims, and international co-operation

Questions in this section aim to obtain information concerning the comprehensive nature of the legal framework and policies on action against THB established by the parties to the Convention covering measures on prevention, protection and prosecution (Article 1) as well as on partnerships (Articles 29, 32 and 35).

These partnerships should comprise:

- national co-ordination and co-operation among all national actors involved in action against THB (Article 29-2). Any national action to combat THB must be comprehensive and multi-sectorial, and take on board the required multidisciplinary expertise. This comprehensive national action must be co-ordinated through a specific governmental body or entity. These are the “co-ordinating bodies” referred to in Article 29 of the Convention which are distinct from “National Rapporteurs”. In accordance with the Convention it is compulsory to ensure co-ordination of the national policies and actions (“shall”), whereas the appointment of National Rapporteurs is optional (“shall consider appointing ...”).
- international co-operation among all actors from different parties (Chapter VI of the Convention). Article 32 sets out the general principles which are to govern international co-operation. Firstly the parties must co-operate with one another “to the widest extent possible”. This principle requires them to provide extensive co-operation to one another and

to minimise impediments to the smooth and rapid flow of information and evidence internationally. Article 32 contains the general part of the obligation to co-operate: co-operation must include the prevention of and combat against THB (first indent), the protection of and assistance to victims (second indent) and to investigations or proceedings concerning criminal offences established in accordance with the Convention (third indent), i.e. the offences established in conformity with Articles 18, 20 and 21.

- co-operation and partnership with civil society (Article 35). The strategic partnership referred to in Article 35 between State authorities and public officials and civil society means the setting-up of co-operative frameworks through which state actors fulfil their obligations under the Convention, by co-ordinating their efforts with civil society. Co-operation with international non-governmental organisations active in the field of prevention and protection of the victims of THB is also needed.

Questions concerning the comprehensive approach to THB (Article 1):

- ***Question 6:* Please indicate the titles of the main internal legal provisions and/or regulations containing measures to prevent THB, to protect and assist its victims, and to criminalise THB and prosecute traffickers.**

- Act no. 40/2009 Coll., the Criminal Code (section 168)
- Act no. 418/2011 Coll., on Criminal Liability of Legal Persons and Proceedings against them
- Act No. 141/1961 Coll., the Criminal Procedure Code, Act no. 218/2003 Coll., concerning Youth Responsibility for Unlawful Acts and Judiciary in Suits of Youth and Amendments to Some Acts
- Act no. 45/2013 Coll., on Victims of Crime and on Amendment to Some Acts
- Act no. 108/2006 Coll., on Social Services
- Act n. 359/1999 Coll. on Child Care

Act no. 40/2009 Coll. (the Criminal Code) contains a comprehensive criminal offence of trafficking in human beings in its Section 168 which reads as follows:

Section 168 Trafficking in Human Beings

(1) Whoever forces, procures, hires, incites, entices, transports, conceals, detains, accepts or hands over a child to be used by another for

- a) sexual intercourse or other forms of sexual abuse or harassment, or for production of pornographic works,*
 - b) extraction of tissue, cell, or organs from his body,*
 - c) service in the armed forces,*
 - d) slavery or servitude, or*
 - e) forced labour or other forms of exploitation, or who profits on such a conduct,*
- will be sentenced to imprisonment for two to ten years.*

(2) The same sentence will be imposed to anyone who forces, procures, hires, incites, entices, transports, hides, detains, accepts or hands over a person other than referred to in sub-section (1) by using violence, threat of violence or other grievous harm or deceit, or by abusing his error, distress, or addiction in order to use him for

- a) sexual intercourse or other forms of sexual abuse or harassment, or for the production of pornographic works,*
- b) extraction of tissue, cell, or organs from their body,*
- c) service in the armed forces,*
- d) slavery or servitude, or*
- e) forced labour or other forms of exploitation, or*

who profits on such conduct.

(3) An offender will be sentenced to imprisonment for five to twelve years or to confiscation of assets if he

a) commits then act referred to in sub-section (1) or (2) as a member of an organized group,

b) exposes another person to a risk of grievous bodily harm or death by such an act,

c) commits such an act with the intention to gain a substantial profit for himself or for another, or

d) commits such an act with the intention to use another person for prostitution.

(4) An offender will be sentenced to imprisonment for eight to fifteen years or to confiscation of assets if he

a) causes grievous bodily harm by the act referred to in sub-section (1) or (2),

b) commits such an act with the intention to gain extensive profit for himself or for another, or

c) commits such an act in connection to an organized group operating in several states.

(5) An offender will be sentenced to imprisonment for ten to eighteen years or to confiscation of assets, if he causes death by the act referred to in sub-section (1) or (2).

(6) Preparation is criminal.

In line with Act no. 418/2011 Coll., (on Criminal Liability of Legal Persons and Proceedings against them), particularly its Section 7, also legal persons may be held criminally liable for trafficking in human beings.

Section 7 Criminal Acts

Criminal acts for the purpose of this Act are to be understood as misdemeanours or felonies stipulated in the Criminal Code, with the exception of Manslaughter (Section 141 of the Criminal Code), Murder of a Newborn Child by its Mother (Section 142 of the Criminal Code), Accessory to Suicide (Section 144 of the Criminal Code), Brawling (Section 158 of the Criminal Code), Intercourse among Relatives (Section 188 of the Criminal Code), Abandoning a Child or Entrusted Person (Section 195 of the Criminal Code), Negligence of Mandatory Support (Section 196 of the Criminal Code), Maltreatment of a Person Living in Common Residence (Section 199 of the Criminal Code), Breach of Regulations on Rules of Economic Competition (Section 248 (2) of the Criminal Code), High Treason (Section 309 of the Criminal Code), Abusing Representation of State or International Organization (Section 315 of the Criminal Code), Collaboration with Enemy (Section 319 of the Criminal Code), War Treason (Section 320 of the Criminal Code), Service in Foreign Armed Forces (Section 321 of the Criminal Code), Liberation of Prisoners (Section 338 of the Criminal Code), Violent Crossing of State Borders (Section 339 of the Criminal Code), Mutiny of Prisoners (Section 344 of the Criminal Code), Dangerous pursuing (Section 354 of the Criminal Code), Insobriety (Section 360 of the Criminal Code), criminal offenses against conscription stipulated in Chapter XI of the Criminal Code, Military criminal offenses stipulated in Chapter XII of the Criminal Code and Use of Forbidden Means and Methods of Combat (Section 411 of the Criminal Code).

The prosecution of traffickers, as well as the prosecution of other offenders, is regulated by the Act No. 141/1961 Coll., (the Criminal Procedure Code). Relevant deviations from general rules of the code as regards the prosecution of juveniles may be found in the Act no. 218/2003 Coll., (Concerning Youth Responsibility for Unlawful Acts and Judiciary in Suits of Youth and Amendments to Some Acts).

The measures of assistance to and support for the victims of trafficking in human beings are contained particularly in the Act no. 45/2013 Coll., (on Victims of Crime). The Section 2 para 4 lit. c) thereof stipulates that all victims of trafficking in human beings are considered particularly vulnerable. The particularly vulnerable victims enjoy all victim support services, including legal aid free of charge,, and may take use of special measures in order to be protected from secondary victimisation during the criminal proceedings.

Section 2 Definition of Terms

...
(4) A particularly vulnerable victim for the purposes of this Act upon fulfilment of conditions listed in paragraph 2 or 3 is understood as

...
c) a victim of the crime of trafficking in human beings (Sec 168 of the Criminal Code) or the crime of terrorist attack (Sec 311 of the Criminal Code),

...

Section 5 Free professional assistance

(1) Entities filed in the register of providers of assistance to crime victims are obliged to provide professional assistance without delay free of charge based on request of a particularly vulnerable victim needing this assistance. This does not apply if it concerns a victim of the crime of failure to provide alimony payments (Sec 196 of the Criminal Code), if the danger of an emergency or a permanently unfavourable consequence did not occur.

...

Section 51a

...
(2) An aggrieved person under the age of 18 and a particularly vulnerable victim according to the Act on Victims of Crime is entitled to legal assistance provided by the agent free of charge even in case the conditions referred to in sub-section (1) are not met, unless a criminal offence of negligence of mandatory support is concerned (Section 196 of the Criminal Code).

...

With this being said, additional measures concerning assistance to and support for the victims can be also found in other legislation (e.g. Act no. 108/2006 Coll., on Social Services; Act no. 359/1999 Coll., on Child Care).

- **Question 7: Does your country have a comprehensive national policy and/or a National Action Plan to combat THB? If so, please indicate its title, date of adoption and duration, main fields of action and the body/bodies responsible for its implementation.**

The Czech Republic summarizes its current national policy in the area of THB in the National Strategy for Combating Trafficking in Human Beings. The current strategy is prepared for the period of 2016-2019 (hereinafter referred to as "Strategy", please see attached). This is already the fifth strategic document in this area. The first strategy was adopted in 2003 (at that time, it mostly focused on sexual exploitation). The first comprehensive strategy that considered all aspects of THB was prepared for the period of 2005-2007. While drafting a new strategy, an evaluation of the previous strategy is carried out by the Ministry of the Interior to identify possible weaknesses (e.g. please see annex 2 of the Strategy).

The Strategy creates a coordination frame for the state bodies concerning prevention as well as repression of this kind of crime. The goal of the Strategy is to reduce the scope for committing this crime with regard to its current trends, dynamics and development through a system of interrelated measures. For the following period, an emphasis is placed on stepping up the offensive and coordinated approach of the relevant state authorities, particularly in the area of detection, due diligence, as well as assistance to victims especially in cases of trafficking in human beings for the purposes of labour exploitation and trafficking in children. The individual goals and measures, including the basic foundations of this strategic document, were prepared in co-operation with stakeholders from both governmental and non-governmental sectors. The body responsible for implementation is the Ministry of the Interior.

There is also an Interdepartmental Coordination Group for Combatting Trafficking in Human Beings. The Chairman of this Group is the Minister of the Interior who is responsible for the coordination of combatting trafficking in human beings on the national level. The Group was established in 2008 and its members are representatives of individual governmental departments as well as representatives of relevant NGOs (La Strada, Diakonie). The Group meets at least twice a year and is responsible for coordinating activities in the field of combatting trafficking in human beings as well as for fulfilling other tasks. The Group also serves as a platform for exchanging information on the current situation and ongoing activities in the discussed field as well as it is used for submitting proposals and recommendations for taking particular measures. A public prosecutor of the Supreme Public Prosecutor's Office is also a member of this group.

Questions concerning specialised authorities, co-ordination of actors and actions against THB and international co-operation (Articles 29, 32 to 35):

- ***Question 8: In your country are there persons or entities specialised in the fight against THB and the protection of victims? If so, please describe the type and the periodicity of the training provided for these persons or the staff of these entities? Please specify the financial resources (in euros) allocated to this training.***

The body responsible for the implementation of the Strategy for Combating Trafficking in Human Beings is the Ministry of the Interior. Furthermore, all relevant stakeholders meet at least twice a year at the meeting of the Interdepartmental Coordination Group for Combatting Trafficking in Human Beings. Each stakeholder has a specific group of specialists who focus on the issue of trafficking in human beings from their point of view (THB being one of the topics on their agenda).

Entities specializing in THB

Police - Within Criminal Police and Investigation Service of the Police, there are assigned specialists on the issue of THB. These specialists are in both, general crimes departments of the regional police directorates as well as in relevant departments of the Unit for Combating Organized Crime (including its regional offices). These police officers are trained through special instructive and methodical seminars. Furthermore, the officers from the above-mentioned departments regularly share their knowledge and experience with other colleagues from different departments, particularly with the National Drug Unit, Foreign Police officers, etc.

The Supreme Public Prosecutor's Office – The Supreme Public Prosecutor's Office has a designated national correspondent for combatting human trafficking, exploitation of women and children, illegal migration and employment. The work of this correspondent comprises of collecting relevant information from the legislation and the case law, of his/her participation in seminars dedicated to this issue and of an exchange of experience among public prosecutors – specialists on the field of THB. Furthermore, in the structure of the public prosecution service, there are obligatorily appointed specialised public prosecutors for the THB issue. The specialisation is set at the Regional, High and Supreme Public Prosecutor's Offices.

The Probation and Mediation Service (PMS) – The PMS is a state authority that provides victims with legal information as well as psychological support, and offers restorative programmes, such as mediation. There are 74 centres of the Probation and Mediation Service; they can be found in all parts of the Czech Republic and provide their services free of charge. The staff is regularly trained.

Furthermore, there is also a number of NGO's. The entities are specified in the Register of Providers of Assistance to Crime Victims. The Register is available on the website of the Ministry of the Interior at <http://portal.justice.cz/Justice2/MS/ms.aspx?o=23&j=33&k=6115&d=330753>.

The Register has 4 sections that contain information on all types of victim assistance providers (providers of social services; accredited providers of legal information or restorative programmes; lawyers; centres of the PMS).

The Child Protection Department – The Child Protection Department plays an important role in the protection of child victims. Each officer must undergo regular trainings focusing on different aspects of law, including the issue of THB.

In the period under review, the Czech Republic was training personnel who may come into contact with the THB victims. These training courses were also attended by specialists on the issue of human trafficking from the Unit for Combating Organised Crime of the Police of the Czech Republic. Furthermore, there is continuous educational training underway of the individual units of the Police, consular officials travelling to the Czech representative offices abroad, non-profit non-governmental organisations, etc. Beyond this framework, there is a training course in progress from 2014 for the Immigration Police Service, which focuses on the legal aspects of human trafficking, assistance to THB victims and also the methods of interrogation of victims and indicators for identifying cases THB. Furthermore, the Ministry of the Interior prepared a comprehensive material focusing on the issue of THB. This material was distributed to all stakeholders.

Apart from the training mentioned, each Ministry, agency or another body also arranges a number of seminars and workshops that focus on exchanging best practices and knowledge. Most of these seminars are organized within the public sector (e.g. an interdepartmental exchange of experience, guest lecturers from different Ministries, etc.). There is also a possibility to attend seminars and workshop organized by private accredited entities as a part of professional development.

The training of judges and prosecutors generally takes place in the framework of the Judicial Academy, where courses are regularly offered on the subject of THB and related topics. The Judicial Academy is a central institution of the justice sector for the training of judges, state prosecutors and other target groups. During the year 2017 and 2018, the Judicial Academy organized for example the following seminars and workshops.

- *Human trafficking and Criminal Code*
- *Compensation in the criminal proceedings*
- *Human trafficking – international seminar (UK) with a focus on forced labour*
- *Interrogation of vulnerable victims*

Furthermore, there were a number of other seminars that partially focused on the issue of investigation of the human trafficking or procedural issues.

Moreover, the National Strategy for Combating Trafficking in Human Beings is also focused on educational activities in relation to judicial probationers. In recent years, seminars were organised, for example, on the topics of Human Trafficking for the Purpose of Sexual Exploitation, Trafficking in Human Beings with a Focus on Migration to Germany and Asylum Procedures.

Furthermore, the Czech Republic continuously responds to current trends, building on cooperation with the major countries of origin and countries of destination for human trafficking. An example of good practice is the project entitled Innovations to Prevent Labour Exploitation of EU Citizens. Moreover, the Czech Republic is also participating in international workshops (e.g. International workshop at the Embassy of United Kingdom in Vienna, project meetings at EMPACT, expert workshop in Romania and United Kingdom).

Unfortunately, the Czech Republic has no detail financial statistics of expenses related solely to education in the field of THB. The Judicial Academy is an institution set up in order to provide training to the judiciary as well as to the governmental officers, therefore, training is provided for

free (or for an administrative fee). Furthermore, in-house ministerial trainings with guest lecturers from different institutions are also mostly free of charge.

- ***Question 9:* Is there, within your governmental structure, a national body responsible for co-ordinating all national actors and actions against THB (regardless of the denomination and whether it was set up for this specific purpose or whether this responsibility was assigned to an already existing governmental body)? If so, please specify its name, administrative status, annual budget (in euros), human resources, composition and competences. If there is currently no such co-ordinating body, are there any plans to set one up in the near future? If so, please give details.**

In the Czech Republic, there is the Inter-Ministerial Coordination Group which brings together the Minister of the Interior (Chair), the Deputy Minister of the Interior for Internal Security (Vice-Chair), the Director of the Crime Prevention Department (Secretary and national rapporteur) and representatives from all other competent Ministries, Government councils and non-governmental organisations. The status of the Inter-Ministerial Coordination Group was approved by the Governmental Resolution No. 1006 of 20 August 2008.

The Group is responsible for coordinating activities in the area of combating THB and meeting tasks arising from relevant documents, in particular from the Government Resolution No. 67 of 23 January 2008 concerning the National Strategy to Combat Trafficking in Human Beings (2008-2011) and its updated versions. The Group serves as a platform for mutual exchange of information regarding the current situation and activities concerning THB and for an active submission of proposals and recommendations for measures to be adopted. It is also responsible for submitting proposals for activities to be used at the inter-ministerial level in the fight against THB and it collates, analyses and evaluates data. Its members prepare supporting documents for an Annual Report which is drawn up and submitted by the secretary of the group to the Minister of the Interior as an initial document setting out priorities and relating tasks for the Inter-Ministerial Coordination Group for the upcoming period.

- ***Question 10:* Is this co-ordinating body also responsible for the co-ordination of the collection of administrative data or population survey data on THB? If not, please specify which body/entity has this responsibility.**

Yes.

- ***Question 11:* Do NGOs have full membership status in your national co-ordinating body? If so, how many? Please describe the criteria for NGO membership.**

Yes. The members of the Inter-Ministerial Coordination Group include all NGO's involved in helping THB victims. Currently, 5 NGO's have a full membership.

- ***Question 12:* Are there any other national or international entities or bodies participating in your national co-ordinating body? If so, please specify.**

The members of the Inter-Ministerial Coordination Group include the representatives of the Ministry of the Interior, the Ministry of Labour and Social Affairs, the Ministry of Health, the Ministry of Justice, the Ministry of Regional Development, the Ministry of Foreign Affairs. The members also include the representatives of the International Organization for Migration, the Unit for Combating Organized Crime and the Municipal Police.

- ***Question 13:* Please describe the legal basis for international co-operation between your country and other countries in the fight against THB:**

- **national legislation;**
 - **international instruments/agreements (bilateral and/or multilateral).**
- Please indicate the title of the legal instruments.**

A basic legal instrument providing for the international judicial cooperation in criminal matters is the Act no. 104/2013 Coll., (on International Judicial Cooperation in Criminal Matters). This Act provides for various forms of judicial co-operation in criminal matters, such as mutual legal assistance, extradition, transfer of criminal proceedings and the enforcement of criminal judgments and decisions. A special part of the Act is focused on mutual co-operation between the Czech Republic and the other Member States of the European Union and thus transposes a uniform EU legislation in the field of judicial co-operation in criminal matters, such as, for example, the European Evidence Order, European Arrest Warrant, the recognition and execution of the decision imposing the penalty of imprisonment, the recognition and execution of financial penalties, the Confiscation Order, etc.. There are also specific provisions enabling the co-operation of the Czech Republic with the International Criminal Courts and Tribunals, such as the ICC.

The Czech Republic is also a contracting party to many bilateral and multilateral treaties and conventions in the field of judicial co-operation in criminal matters. The most significant international instruments are the following.

Council of Europe:

- European Convention on Mutual Assistance in Criminal Matters, Strasbourg, 20/04/1959
- Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, Strasbourg, 17/03/1978
- Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters, Strasbourg, 08/11/2001
- Council of Europe Convention on Action against Trafficking in Human Beings, Warsaw, 16/05/2005

European Union:

- Convention, established by the Council in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union, 29/05/2000, Brussels
- Protocol, established by the Council in accordance with Article 34 of the Treaty on European Union, to the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, 16/10/2001, Luxembourg

United Nations:

- Protocol signed at Lake Success, New York, on 12 November 1947, to amend the Convention for the Suppression of the Traffic in Women and Children, concluded at Geneva on 30 September 1921, and the Convention for the Suppression of the Traffic in Women of Full Age, concluded at Geneva on 11 October 1933
- International Convention for the Suppression of the Traffic in Women and Children, concluded at Geneva on 30 September 1921, as amended by the Protocol signed at Lake Success, New York, on 12 November 1947
- International Convention for the Suppression of the Traffic in Women and Children
- International Convention for the Suppression of the Traffic in Women of Full Age, concluded at Geneva on 11 October 1933, as amended by the Protocol signed at Lake Success, New York, on 12 November 1947
- International Convention for the Suppression of the Traffic in Women of Full Age
- Protocol amending the International Agreement for the Suppression of the White Slave Traffic, signed at Paris on 18 May 1904, and the International Convention for the Suppression of the White Slave Traffic, signed at Paris on 4 May 1910
- International Agreement for the Suppression of the White Slave Traffic, signed at Paris on 18 May 1904, amended by the Protocol signed at Lake Success, New York, 4 May 1949

- International Convention for the Suppression of the White Slave Traffic, signed at Paris on 4 May 1910, amended by the Protocol signed at Lake Success, New York, 4 May 1949
- International Agreement for the suppression of the "White Slave Traffic"
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others
- Final Protocol to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others
- Slavery Convention, Geneva, 25 September 1926
- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, Geneva, 7 September 1956
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, New York, 15 November 2000

The respective Czech police authorities participate in the implementation of the THB priorities within the EU Policy Cycle. The priorities are implemented through the EMPACT project which is based on activities carried out in line with operational actions aimed at different areas of criminality related to the THB. Those operational actions are proposed and agreed upon by the Member States which decide about their participation considering the current national security situation. The provisions on cooperation in the area of THB form a standard part of bilateral treaties on police cooperation (recently, for example, with Israel No. 41/2014, with Bosnia and Herzegovina No. 40/2014).

- ***Question 14:* What steps have been taken by your country to ensure that the requesting party is promptly informed of the final results of action taken in the framework of international co-operation on action against THB, as provided for in Article 34 of the Convention?**

The Act no. 104/2013 Coll. (on International Judicial Cooperation in Criminal Matters) provides for the Central Authorities to accept the incoming requests for judicial co-operation in criminal matters. Furthermore, a direct contact between the Public Prosecutor's Offices and courts can be established by an international treaty or convention. The judicial authority (a Public Prosecutor's Office or a court) is obliged to execute the request for judicial co-operation in criminal matters without delay as well as seek additional information from the requesting authority if it is needed for the execution of the request.

With respect to mutual assistance in criminal matters (providing evidence for the purposes of criminal proceedings), the Act provides for a possibility to concentrate the execution of the in-coming mutual legal assistance request(s) at one Public Prosecutor's Office (pre-trial stage) or court (trial stage) and a possibility to ask the foreign requesting authority to supplement the mutual legal assistance request if it is not complete. Furthermore, the Act also includes an obligation to consult with the counterparts before the execution of the mutual legal assistance request is to be executed, postponed or refused, and seek their position or supplementation of the request.

As a general rule, the execution of the incoming requests for judicial co-operation in criminal matters (mutual legal assistance, extradition and execution of criminal judgments and decisions) is concentrated on a regional level in order to have well-experienced prosecutors and judges dealing with the requests. The Czech Republic has a four-tier court system comprised of District Courts (86), Regional Courts (8), High Courts (2), the Supreme Court and the Supreme Administrative Court. The Public Prosecutor's Offices follow the same structure under the umbrella of the Supreme Public Prosecutor's Office.

Moreover, the International Police Cooperation Division of the Police Presidium of the Czech Republic keeps all communication towards the requested and requesting parties (Interpol, Europol and SIRENE) with maximum speed, as the current operating situation of the workplace allows (the documents are usually communicated in a matter of hours or days), thus without unnecessary delays.

- ***Question 15:* Do the relevant authorities of your country have the possibility to spontaneously provide information, without prior request, to authorities of another country if the disclosure of such information might assist the receiving country in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with the Convention? If so, please indicate how such information is transmitted and which authorities are involved.**

Any judicial authority may provide spontaneous information to a foreign authority through the same channels as are generally used for mutual legal assistance requests. This is a standard procedure (Section 56 of the Act no. 104/2013 Coll., on International Judicial Cooperation in Criminal Matters). Moreover, in justified cases, spontaneous information may be also exchanged through informal channels, such as the EJM network or by the means of Police cooperation, e.g. via Europol.

Furthermore, the Police can also provide spontaneous information according to the Act no. 273/2008 Coll. (on the Police of Czech Republic) or according to specific bilateral or multilateral international agreements.

The State Labour Inspection Office (SLIO) can share information via the European Internal Market Information System (IMI). Even though the IMI system is not primarily intended for issues of THB for the purposes of labour exploitation, the information of this sort may also be shared with the registered European authorities.

The SLIO representative, together with the officers from the National Organized Crime Agency, also participate in the meetings of the Europol initiative, the so-called EMPACT (specialized Police forces focusing on organized crime). Furthermore, the Member States' representatives meet regularly in order to plan the so-called European "Joint Action Days" aimed at combating THB for the purposes of labour exploitation.

- ***Question 16:* Do your police forces carry out joint actions, on a bilateral and/or a multilateral legal basis, with the police forces from other parties to fight THB? If so, please describe the action taken and provide an assessment of its impact. If not, please describe any plans for joint action or obstacles to joint action.**

The Member States are invited to participate in the action days of the EMPACT project or in the Joint Actions Days which have to integrate at least two different EMPACT projects. The respective Czech Police Authority regularly participates mostly in the activities related to sexual and labour exploitation. In addition, the Unit for Combating Organized Crime undertakes bilateral joint actions with Germany and Austria. The joint actions help to establish a close professional relationship that enhances the overall cooperation.

Section I.3. Definition of "THB" and of "victim" in the internal law of the parties

In accordance with Article 4a of the Convention, trafficking in human beings consists of a combination of three basic components, each to be found in a list given in the definition:

- the action of: "recruitment, transportation, transfer, harbouring or receipt of persons";

- by means of: "the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person";
- for the purpose of exploitation, which includes "at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs".

Article 4b of the Convention follows European Court of Human Rights case-law in that it states that the consent of a victim of THB to a form of exploitation listed in Article 4a is irrelevant if any of the means referred to in Article 4a has been used.

Under Article 4c recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation is to be regarded as trafficking in human beings even if it does not involve any of the means listed in Article 4a. It is also immaterial whether or not the child consents to be exploited. Under Article 4d the word "child" means any person under 18 years of age.

Article 4e defines "victim" as "any natural person who is subject to trafficking in human beings as defined in this article". A victim is anyone subjected to a combination of components (action – means – purpose) specified in Article 4a of the Convention.

Questions:

- ***Question 17:* Are all the elements of the three components (action, means and purpose) contained in Article 4a of the Convention included in the legal definition of THB established by your internal law? Please describe how they have been integrated in your internal law.**

Yes, all elements are integrated into the basic criminal offences of trafficking in human beings in the Section 168 para 1 and 2 of the Act no. 40/2009 Coll., (the Criminal Code).

Section 168 Trafficking in Human Beings

(1) Whoever forces, procures, hires, incites, entices, transports, conceals, detains, accepts or hands over a child to be used by another for

a) sexual intercourse or other forms of sexual abuse or harassment, or for production of pornographic works,

b) extraction of tissue, cell, or organs from his body,

c) service in the armed forces,

d) slavery or servitude, or

e) forced labor or other forms of exploitation, or

who profits on such a conduct,

will be sentenced to imprisonment for two to ten years.

(2) The same sentence will be imposed to anyone who forces, procures, hires, incites, entices, transports, hides, detains, accepts or hands over a person other than referred to in sub-section (1) by using violence, threat of violence or other grievous harm or deceit, or by abusing his error, distress, or addiction in order to use him for

a) sexual intercourse or other forms of sexual abuse or harassment, or for the production of pornographic works,

b) extraction of tissue, cell, or organs from their body,

c) service in the armed forces,

d) slavery or servitude, or

e) forced labour or other forms of exploitation, or who profits on such conduct.

...

As for the actions, they comprise of forcing, procuring, hiring, inciting, enticing, transporting, concealing, detaining, accepting and handing over. Criminally punishable is also a person profiting from such conduct.

Means required only as regards adult victims in para 2, contain using violence, a threat of violence or of other grievous harm, deceit, and abusing error, distress, or addiction.

The possible purposes according to the Czech law include a sexual intercourse, other forms of sexual abuse or harassment, or production of pornographic works, an extraction of tissue, cell, or organs from the body, service in the armed forces, a slavery or servitude, a forced labour and other forms of exploitation.

The consent of any victim of THB is irrelevant, regardless of whether the victim is a man, a woman or a child. Trafficking is criminally punishable even where the consent of the victim is given, although as regards adults only where some of the coercive "means" are used, which actually precludes a free decision of the victim.

- ***Question 18:* Please indicate which of the following forms of THB are recognised under your internal law:**
 - national;
 - transnational;
 - linked to organised crime;
 - not linked to organised crime.

All listed forms are recognised as criminal offence pursuant to the Section 168 of the Act no. 40/2009 Coll., the Criminal Code. The fact whether or not trafficking was transnational is irrelevant. Committing such offence as a member of an organised group constitutes a special aggravating circumstance justifying the imposition of a prison penalty for up to 12 years, in cases where the organised group is transnational for up to 15 years.

- ***Question 19:* Under your internal law, is a "victim of THB" any natural person who is subject to THB as defined in Article 4e of the Convention? Please provide the definition of a "victim of THB" under your internal law. Please provide (a translation of) the legal text(s) in English or in French.**

A victim of a crime is defined by the Section 2 para 2 of the Act no. 45/2013 Coll. (on Victims of Crime) as follows:

Section 2 Definition of Terms

...

(2) A victim is understood as a natural person who as the result of a crime has or may have received bodily injury, suffered property or non-pecuniary damage or at whose expense the offender gained from the crime.

...

A victim of THB is therefore any natural person who as the result of THB has or may have received bodily injury, suffered property or non-pecuniary damage or at whose expense the offender gained from the crime. The THB victims include also alleged victims unless proved otherwise. All THB victims are considered as particularly vulnerable victims.

- ***Question 20:* Does your internal law recognise as victims of THB:**
 - women;
 - men;
 - children?

Generally, the Act no. 40/2009 Coll. (the Criminal Code) doesn't distinguish between men and women. As regards children, the coercive means are not required in order for the conduct to be criminally punishable and the child to be a victim of THB (please see section 168 of the Act no. 40/2009 Coll., the Criminal Code).

- ***Question 21:* To what extent does the consent of a person to intended or actual exploitation determine if that person will be recognised as a victim of THB under your internal law? Please specify if your internal law contemplates the consent of the three categories of victims: women, men, children. Please provide examples.**

The consent of any victim of THB is irrelevant, regardless of whether the victim is a man, a woman or a child. Trafficking is criminally punishable even where the consent of the victim is given, although as regards adults only where some of the coercive "means" are used, which actually precludes a free decision of the victim (e.g. a threat or use of force or other forms of coercion).

II. Implementation by the parties of measures aimed to prevent THB, protect and promote the rights of victims of THB and prosecute traffickers

Section II.1. Implementation of measures to prevent THB

Questions in this section aim to obtain information on the implementation by the parties of the preventive measures contained in Chapter II of the Convention (Articles 5 to 9). Implementation of preventive measures concerns all countries: countries of origin, transit and destination. Preventive measures to be implemented can vary depending on the type of country, but all countries should implement measures to prevent THB.

Questions:

- ***Question 22:* Has a national/regional/local campaign or programme to alert the potential victims of THB to the various forms of exploitation been carried out in your country during the last two years? If so, was it based on research for determining effective prevention methods? Was it addressed to a particular group of potential victims? Which bodies, governmental or non-governmental, were in charge of implementing it? Please describe the material used for the campaign/programme and its dissemination. If possible, please provide an assessment of the impact of the campaign/programme. If more than one campaign or programme was carried out please provide the details for each of them. If there are currently plans for launching a new campaign or programme, please provide details.**

Every year, extensive preventive and informative activities on human trafficking are carried out by different stakeholders, mostly by NGOs. Most of these activities are financially supported by the Ministry of the Interior, the Ministry of Labour and Social Affairs, the Norwegian funds and the EU funds. Such campaigns are prepared after a careful consideration and they focus on human trafficking from different angles. Each campaign is tailored to specific needs of a target group and

uses the best possible way to communicate the message (e.g. posters in/on the public transportation and in streets, internet campaigns (social media, designated websites), e-learning modules, fieldwork, workshops, etc).

Please see below the illustrative examples of recent (2016 – 2018) campaigns:

A campaign targeting workers in the construction sector - The project focuses on the extension of the SOS and INFO line for trafficked or exploited persons, mainly from the point of view of the SOS line itself, and the extension of the portfolio of possible languages to communicate in.

A project "Finding ways of contacting migrant women working in closed environments"- The project was supported by the Daphne program of the European Commission. It aimed at finding appropriate ways to ensure women working in closed environments (e.g. households, hotels, restaurants and other hard-to-reach places) can access information on their rights. Furthermore, it also focused on informing about possibilities of using the social and legal services of specialized NGOs.

A project "Prevention of THB and exploitation in the EU" - This project used an e-learning module that contains basic information from the labour-law area and draws attention to potential risks. The module was in Bulgarian and Romanian. The target group is potential labour migrants in their home countries.

A preventive programme "Faces of love" - This programme aimed at children and adolescents in orphanages and reformatories. This target group is being acquainted with the issues and risks associated with human trafficking, prostitution and violence.

A project "Why me? II." - (continuance of the project Why me I.). The project is implemented by the Probation and Mediation Service and is based on international experience. It provides complete support to the victims of crime, including particularly vulnerable victims (THB victims). Support is provided at 55 different locations by trained staff.

An umbrella campaign focusing on trafficking in human beings and labour exploitation in construction, agriculture and sex business - The campaign was supported by the Ministry of the Interior of the Czech Republic, Leo Burnett, Philip Morris International, the National Cafe and the Prague Public Transit Co. As part of the campaign, almost 70 city lights with a total of 7 motifs were placed in Prague (mostly in metro stations), 4 motives focused on THB in general, and 3 on the target group of potentially trafficked persons. The same motives were also used in buses and trams in Prague, together with a total of 2720 leaflets of A4 size.

La Strada Fieldwork - Social workers do outreach work in the natural target group setting on a regular basis (at places attended by the potentially trafficked and exploited persons - illegal job centres, cheap lodgings, construction sites, storage facilities, marketplaces etc). The field workers disseminate La Strada's information materials in order to make the target group people aware of their rights and options. The SOS and INFO Line contact details are part of the distributed information materials. Furthermore, they also carry out debate and lectures on THB for specific communities (e.g. the Philippines community in Prague).

A cooperation with the Gangmasters and Labour Abuse Authority (GLAA) - The cooperation included publishing a link to a detailed report on the situation of labour exploitation in the UK, including an informative leaflet.

In cooperation with the European Crime Prevention Network (the EUCPN), there are currently plans for launching a new campaign. The EUCPN developed a flyer adjusted to the specific situation in each Member State. The EUCPN will develop (postponed to 2019) an animated

video based on the content of the flyer. The goal is to inform victims of THB of the fact that they have EU-wide rights. As a part of the campaign, a press release and a Common Media Strategy will be prepared, including social media posting with short messages and #hashtags that Member State may use.

- ***Question 23:* Please describe the social and economic empowerment measures for disadvantaged groups vulnerable to THB which have been implemented or are planned.**

There is a network of organisations providing support and help for all victims of crime (incl. THB victims). These organisations, lawyers and centres of the PMS are in the Register of Providers of Assistance to Crime Victims (<https://otc.justice.cz/verejne/seznam.jsf>). Depending on their nature, these organisations provide legal information, psychological and social counselling, legal assistance, or restorative programmes. Most services and basic support is for free, expert assistance is provided free of charge to particularly vulnerable victims who need it. Such victims also receive free legal assistance to the extent set out. Other victims are not entitled to free professional assistance, but such assistance may be provided free of charge at the discretion of the provider. However, the assistance provided by the centres of the PMS is always free of charge.

- ***Question 24:* What preventive measures to discourage demand leading to THB, as provided for in Article 6 of the Convention, has your country adopted or is considering adopting?**

The Czech Republic is focusing on raising awareness, mostly via information campaigns, including educational programmes for boys and girls during their schooling (please see question no. 22, e.g. an umbrella campaign, a campaign focusing on sexual exploitation of children, e-learning in Bulgarian and Romanian). Furthermore, according to the Act no. 40/2009 Coll. (the Criminal Code), criminally punishable is not only a person who committed THB but also a person profiting from such conduct.

Regarding the labour exploitation of foreigners, the Czech Labour Office, when issuing a work permit to a seasonal employee (foreigners from the so-called third country), also provides foreigners with written information on the rights and obligations of the seasonal employee, including information on the procedure for filing a complaint for violation of labor law regulations (Act no. 262/2006 Coll., the Employment Act, Part 96). In addition, the Ministry of Labour and Social Affairs provides on its website complete information in several language versions concerning the possibilities of foreigner's employment in the Czech Republic. Finally, the State Labour Inspection Office carries out a regular inspection to ensure all employments fulfil all legal obligations (that the employees have employment contracts, they get paid fair wage etc.). Often the inspection is carried out together with officers focusing on health and safety. In the case of any suspicion, the State Labour Inspection Office informs the Police. Extensive inspection mechanisms and a close cooperation between different stakeholders have a positive impact on discouraging the demand leading to THB.

On a different note, the Czech Republic has a transparent system of issuing residence permits, and in general has no quota for the number of issued permits. The law stipulates clear requirements for each application, and therefore minimizes the need for illegal migration and lowers the risk of using services of smugglers. Furthermore, the information about legal documents governing the issuance of visas is available at the official website of the Ministry of Foreign Affairs of the Czech Republic (see below answer to question no. 27), and also officers at the Embassies and Consulates inform any person about his/her options. Each officer is trained before commencing his/her position. Moreover, the NGOs, particularly La Strada, cooperate with multiple Embassies hosted in the Czech Republic as well as with the Czech Embassies abroad.

- ***Question 25:* Please specify the measures taken by your country to ensure quality, security and integrity of travel and identity documents in order to prevent their unlawful creation and issuance as well as to ensure that they cannot easily forged.**

The documents correspond to the European trends and standards. To ensure quality, security and integrity of travel and identity documents and to prevent their unlawful creation and issuance as well as to ensure that they cannot be easily forged, there is a sophisticated system of security features. For example, safety features implemented during papermaking, during the production of the documents, during documents personalization and last but not least inserting a chip with biometric data.

- ***Question 26:* Please specify the measures taken by your country to detect cases of THB at its borders, *inter alia* by means of border surveillance teams and intelligence measures.**

The National Centre against Organised Crime regularly monitors suspicious activities and carries out risk assessments. These activities are carried out in close cooperation with the Foreign Police and other relevant Police departments. In necessary cases, operational searching means can be also used (e.g. surveillance, use of an agent, etc.) according to the Act no. 273/2008 Coll. (on the Police of Czech Republic).

- ***Question 27:* Please describe any measures taken to provide information, through consulates and embassies, about legal entry and stay on the territory of your country in order to ensure informed and legal immigration.**

The information about legal documents governing the issuance of visas are available at the website (https://www.mzv.cz/jnp/en/information_for_alien/index.html), and also officers at the Embassies and Consulates inform any person about his/her options. Each officer is trained before commencing his/her position. Furthermore, subsequent education is also provided in order to enhance their qualification.

Furthermore, the NGOs, particularly La Strada, cooperate with multiple Embassies hosted in the Czech Republic as well as with the Czech Embassies abroad. La Strada provides them with materials and contact information that can be given to potential victims of THB.

- ***Question 28:* Please describe any measures taken to avoid issuing visas (tourist, working, student visas, etc.) when there are reasonable grounds to believe that a person may be a victim of THB or implicated in THB. In such cases, please describe any specific measures which your law enforcement authorities have instructions to apply.**

Officers carry out an extensive examination of visa applications as to the purpose of the journey through supporting documents and interviews. These measures do not target the THB directly but can reveal a misuse of visas. The officers are regularly trained in order to ensure maximum professionalism and accuracy.

- ***Question 29:* Do any specific measures exist for preventing national THB, including THB taking place on the territory of parties with special agreements establishing common borders (Schengen Agreement for example)? If so, please specify.**

The cooperation takes place on the basis of Police cooperation agreements, possibly on the basis of European regulations (Prüm decisions). The Police cooperation agreements govern forms of

cooperation irrespective of the type of crime, and in specific cases also allow for the exchange of information without the previous request of another country.

- ***Question 30:* What funds have been allocated to the above-mentioned preventive measures in the state budget (central and/or regional/local)? Please specify amounts in euros.**

There are many different funds and sources for victim support organisations on both central and local levels. Especially the NGOs use financial support from different grants, funds etc. on the national and regional level. They sometimes also receive contributions from the commercial sphere.

Within the Program for Support and Protection of Victims of Trafficking in Human Beings, the Ministry of the Interior finances preventive measures up to the overall amount of approximately 15.640 EUR per year. Moreover, the Ministry of Labour and Social Affairs offers grants for agencies focusing on providing social services in general (333 million EUR is allocated for social services).

Furthermore, the funds from the EU (e.g. the European Social Fund) are also used. The Ministry of Justice used the EU funds for example for a project to intensify assistance to victims (appx. 400.000 EUR) and for a project "Why me?" which focuses on victim support (2,3 mil EUR).

- ***Question 31:* Has an assessment of the impact of the above-mentioned preventive measures taken by your country been carried out? If so, please specify the results of the assessment.**

Generally, organisations providing victims' support are conducting various campaigns to raise awareness of the existence of the victim support and the rights of victims. Before a specific campaign is launched, all aspects are considered (language, sex, environment), including past experience. With this being said, we cannot evaluate the impact of such campaigns properly, although based on past experience, we know that these campaigns have an effect (e.g. the victims informed relevant bodies where they have learned about their rights etc.).

The PMS is currently implementing a media campaign aimed at promoting the rights of victims, an evaluation will be carried out after the end of this campaign.

Finally, while drafting a new strategy (National Action Plan), an evaluation of the previous strategy and measures is carried out by the Ministry of the Interior.

Section II.2. Implementation of measures to protect and promote the rights of victims of trafficking in human beings

Questions in this section aim to obtain information on the implementation by the parties of measures to protect and promote the rights of victims contained in Chapter III of the Convention (Articles 10 to 17). This part of the questionnaire concerns the ways and procedures to identify victims (Article 10), measures to assist victims (Article 12), the recovery and reflection period (Article 13) and residence permits (Article 14). In addition some questions concerning repatriation and return of victims (Article 16) and reintegration of victims into society (Article 16-5) as well as questions about compensation (Article 15) are addressed.

Questions:

- ***Question 32:* At what moment and by whom is the process to identify a potential victim of THB initiated (for example, declaration of the potential victim, statement by a police officer, statement by a NGO etc.)?**

The investigating, prosecuting and adjudicating bodies can identify the victims directly while performing a forced work within the framework of their activities. Furthermore, the NGOs or other public authorities can inform the investigating, prosecuting and adjudicating bodies as well. There is also a room for local authorities which dispose of the most relevant information. In the criminal process, a victim can also file a criminal complaint with any police body or public prosecutor in writing, verbally in a report or electronically. In the criminal complaint, a victim should demonstrate what she/he believes constitutes an evidence that the criminal offence has been committed. Very important is a principle included in the Section 3 of the Act No. 45/2013 Coll. (on Victims of Crime) - any person who feels like a victim of a crime must be considered a victim unless proved otherwise.

Moreover, the potential victim of THB can enter the Program for Support and Protection of Victims of Trafficking in Human Beings and can use a reflection period (60 days) on whether to cooperate with law enforcement agencies. A proposal to enter the program is given by the Police or by specialized NGOs.

- ***Question 33:* Have any common criteria been defined in your internal law for granting the legal status of victim of THB? If so, please specify.**

In line with the Section 3 para 1 of the Act no. 45/2013 Coll. (on Victims of Crimes), every person believing to be a victim of a committed crime must be considered a victim, if the contrary does not become evident or if it is not clearly a case of a misuse of the standing of the victim according to this Act. In a case of doubts on whether the victim is a particularly vulnerable victim, he or she shall be considered a particularly vulnerable victim. It is irrelevant for the standing of the victim, whether or not the offender was identified or convicted.

- ***Question 34:* Which national authority(ies) grant(s) the legal status of victim of THB (for example, police forces, public prosecutor, judge, etc.)? Can such a decision be appealed?**

The status is in fact not granted by any authority, the system is based on the presumption described in the previous answer. As the police authorities usually are the first ones to come in contact with the victim, it may be implied that these are commonly the first authorities treating the victim according to its legal status. If it later becomes evident that the person is actually not a victim of a crime or if it comes out that the person is clearly misusing the stance of a victim according to the Act no. 40/2013 Coll. (on Victims of Crimes), such a person shall not further be treated as a victim. The court will decide by a resolution that such a person will not be admitted to the trial proceedings as the aggrieved person (the Section 206 para 3 of the Act no. 141/1961 Coll. (the Criminal Procedure Code). No appeal is available. Nevertheless, the person concerned may e.g. file a request for a review of the procedure of the police authority to the public prosecutor (in line with the Section 157a of the code) or claim damages in line with the Act no. 82/1998 Coll., (on Liability of the State for Damage Caused by Decision or Maladministration while Exercising Public Authority).

- ***Question 35:* Can a person be removed from your country during the process of identification as a victim of THB (for example, if he/she is present illegally)?**

No, such a person cannot be removed. The Czech law stipulates a reflection and recovery period. The foreigner who is likely to be a victim of a THB crime can also apply for a long-term residence permit for the purposes of protection on the territory.

- ***Question 36:* Does your country recognise the status of victim of THB granted by another party when the victim is on your territory?**

In order to consider a person as a victim, it is necessary to fulfil the criteria of the Act no. 45/2013 Coll. (on Victims) described above. For this reason, a person will be considered a victim according to the Section 3 para 1 of the Act if he/she believes to be a victim.

The status of a victim of THB is also granted in cases where a victim of THB is identified abroad and returned to the Czech Republic through the Program of Voluntary Return. For the implementation of a voluntary return, the Czech Republic needs a relevant statement of a foreign entity (NGOs, IOM Police).

- ***Question 37:* Please indicate which types of assistance described in Article 12 of the Convention are provided to victims of THB in your country. Please specify who provides the different types of assistance.**

There is a special regulation which aims to protect victims of human trafficking comprised in the Act no. 45/2013 Coll. (on Victims of Crimes). This Act grants victims of human trafficking a special status of particularly vulnerable victims who have special rights. Investigating and prosecuting bodies shall inform these victims of their rights at their first contact without any request. The investigating and prosecuting bodies have a duty to treat the particularly vulnerable victims politely and gently and to be willing to help them at any time (the Section 3 of the Act).

The Victims of THB are more endangered by a secondary victimisation and by an intimidation by perpetrators. The Act no. 45/2013 Coll. (on Victims of Crimes) grants these victims some specific rights – a right to a chargeless legal aid (Section 5), a right to be protected from the contact with the perpetrator (Section 20 subsection 4), a right to be protected from imminent danger (Section 14), a right to be protected during giving testimony (Section 20). The Act no. 141/1961 Coll. (the Criminal Procedure Code) further grants victims the right to be represented during the criminal procedure by an agent. According to the Section 51a subsection 1 letter a) of the Criminal Procedure Code if a particularly vulnerable victim proves that he/she does not have sufficient funds to pay the costs incurred in retaining an agent, the presiding judge of the court which acts in the proceedings of the first instance, and in preliminary hearing, shall decide upon the victim's petition for an entitlement to legal assistance provided by an agent free of charge or at a reduced fee.

An access to education for children is provided by the Ministry of Education, Youth and Sports.

Furthermore, The Czech law stipulates a reflection and recovery period. A foreigner who is likely to be a victim of a THB crime can also apply for a long-term residence permit for the purposes of protection on the territory.

An extensive assistance to the THB victims is also provided within the Program for Support and Protection of Victims of Trafficking in Human Beings of the Ministry of the Interior of the Czech Republic.

- A psycho-social assistance (lit. a) including accommodation is provided in line with the Act no. 108/2006 Coll., (on Social Services), by a number of private providers (NGOs), as well as by the public Probation and Mediation Service.
- An emergency medical treatment (lit. b) is provided by healthcare facilities.
- Translation and interpretation services (lit. c) may be provided by translators and interpreters.

- Legal information (lit. d) is provided by the PMS and by private entities (NGOs) accredited for this purpose by the Ministry of Justice in line with the Act no. 45/2013 Coll. (on Victims of Crimes).
- Legal aid (lit. e), in cases where it is paid, is according to the Act no. 45/2013 Coll. (on Victims of Crime), provided exclusively by lawyers (attorneys).
- ***Question 38:* Please describe the differences in the assistance and protection measures envisaged for victims of transnational trafficking and those envisaged for victims of national trafficking.**

There are no legally stipulated differences in these cases. The assistance and protection measures should be individualised with regard to the specific needs of each victim. One of the fundamental principles of the Act no. 45/2013 Coll. (on Victims of Crime) is that the authorities and providers concerned are obliged to respect the personality and dignity of the victim, to approach the victim politely and with care and to accommodate the victim, if possible. The authorities have to interact with the victim with regard to his or her age, health condition including psychological state, his or her intellectual maturity and cultural identity in a way that does not cause the deepening of the injury incurred to the victim by the crime, or cause secondary injury.

- ***Question 39:* Does your state budget allocate specific funding for these assistance and protection measures? Please indicate the amount (in euros), the criteria for receiving such funding and who receives it. Please specify the bodies/agencies/NGOs which actually cover the costs of the different types of assistance?**

The Ministry of the Interior allocates within the Program for Support and Protection of Victims of Trafficking in Human Beings approximately 64.490 EUR per year for the assistance and protection measures.

Moreover, the Ministry of Labour and Social Affairs offers grants for agencies focusing on providing social services in the overall amount of 333 million EUR. Please note these funds are available for agencies providing all different types of social services. THB victims can benefit from a number of these social services (at the same time, there is no detailed statistics of funds allocated only for services used only by victims of THB).

The PMS provides victims with legal information, psychological support, and offers restorative programmes, such as mediation. There are 74 centres of the PMS. With this being said, the budget (approx. 24.000 EUR) is allocated for all activities (services for all victims). On a different note, according to the Act no. 59/2017 Coll. (on the use of funds from proprietary criminal sanctions imposed in criminal proceedings), 2 % of fines imposed as a punishment for a crime are transferred to a PMS bank account at the end of each year. These funds shall be used to finance the PMS activities mentioned above. Please note that this legislation came into force on the 1st of January 2018, therefore we don't have any statistical data available yet at this point.

- ***Question 40:* Please describe how the recovery and reflection period provided for in Article 13 of the Convention is defined in your internal law. Please indicate the minimum and maximum duration of the recovery and reflection period and how your internal law foresees it being adapted to the particular circumstances of victims.**

As soon as a foreigner becomes aware of his/her status of a victim (he/she believes to be a THB victim), he/she has a 30-day reflection period to decide whether he/she will cooperate with the law enforcement authorities or not. During this period, foreigners cannot be removed from the territory of the Czech Republic.

According to the Section 42e (2) of the Act No. 326/1999 Coll. (on the Stay of Foreigners on the Territory of the Czech Republic), a foreigner who is likely to be a victim of a THB crime can apply for a long-term residence permit for the purposes of protection on the territory. This information is circulated via campaigns carried out by the NGOs. Relevant information is also available on the website of the Ministry of the Interior.

Furthermore, it is worth mentioning that since 2003 a person can also enter the Program for Support and Protection of Victims of Trafficking in Human Beings which is under the responsibility of the Ministry of the Interior . The program is a measure designed to provide support and appropriate protection to victims of trafficking based on an individual risk assessment. It is intended for victims of trafficking over 18 years of age, i.e. for a citizen of the EU traded in the territory of the Czech Republic, for a third-country national traded on the territory of the Czech Republic and for a citizen of the Czech Republic traded on the territory of the Czech Republic, in special cases also abroad. A victim who enters the Program is automatically given 60 days for reflection - it is not necessary to cooperate with the law enforcement authorities for the duration of the reflection period.

In the case a child victim is identified, the court decides in a preliminary hearing about a guardian. The guardian can be a member of a family or a temporary foster family. Alternatively, a child can be placed in a public institution for children. Such a child has a legal right to reside in the Czech Republic and has also an access to the health care. As a THB victim, he/she is also provided with a professional help (psychological help, therapy, etc.). The court's decision is valid for one month and after a review can be prolonged up to 6 months in total. Afterwards, there are the following options which are always chosen with regard to the best interest of the child: i) repatriation, ii) unification with a family living abroad, or iii) accommodating the child in the Czech Republic (a court's decision about a foster family or a relevant institution). In most of the cases, the right to reside is valid until the age of 18. Afterwards, a person should apply for a residence permit.

- ***Question 41: What are the grounds (personal situation and/or co-operation with the law enforcement authorities) for issuing residence permits to victims of THB provided for in Article 14 of the Convention? Please indicate the different types of residence permits which can be issued to victims of THB, their minimum and maximum duration, if any, and the grounds for their renewal.***

A permit for a long-term residence for the purposes of protection on the territory shall be issued by the Ministry of the Interior at the request of a foreigner who is

- a) likely a victim of a trafficking in human beings crime, or
- b) a person for whom an illegal crossing of a national border has been organized or made available, or a person who was helped with an unauthorized stay on the territory, whose testimony is relevant for detecting an offender or an organized group engaged in the organization or facilitation of unauthorized crossing of a State border or in facilitating of an unauthorized residence on the territory.

A person can apply for a permit under the condition that he/she cooperates with the law enforcement authorities in criminal proceedings concerning the suspicion of committing a crime and does not cooperate with a suspect in the commission of the crime. A long-term residence permit for the purposes of protection on the territory shall be also issued on a request of a foreigner whose cooperation with the law enforcement authorities is important for preventing, detecting or investigating the crime or another serious intentional offence, the prosecution of which is bound by the declared international treaty, given that the foreigner cooperates with the law enforcement authorities and does not cooperate with the suspect of committing the offence.

The foreigner shall be informed without any delay in a language in which he/she is able to understand by a law enforcement authority or the Ministry on the right to apply for a long-term residence permit for the purposes of protection on the territory and conditions of such a residence. The foreigner is granted a period of one month from the date he/she was informed about his/her rights to decide whether he/she will cooperate with a law enforcement authority; the validity of this period may be terminated if the foreigner ceases to fulfil one of the conditions under lit. a) or b) or if it is necessary to ensure the protection of the public order or the security of the state, or the foreigner requests the cancellation of the granted period. During the given period of time, a foreigner cannot be expelled nor can be otherwise terminated his/her stay on the territory. Furthermore, there may be in place the procedure for granting international protection under a special legal regulation. The above-mentioned period of time does not affect the procedure for the expulsion of a foreigner or the procedure for his/her handover according to the international treaty which is part of the legal order of the Czech Republic.

In the case a child victim is identified, the court decides in a preliminary hearing about a guardian (a person or an institution). Such a child has a legal right to reside in the Czech Republic. In most of the cases, the right to reside is valid until the age of 18. Afterwards, a person should apply for a residence permit.

- ***Question 42:* Please describe how your internal law provides for the right of victims of THB to compensation. Please specify if your country has adopted any specific measures to guarantee compensation for victims of THB as provided for in Article 15 of the Convention.**

Generally, a victim may claim compensation for damage from the offender by means of civil proceedings; a victim may also join the claim for compensation for damage in the criminal proceedings against the offender (the so-called 'adhesion proceedings').

Moreover, in accordance with the Act No. 45/2013, financial assistance may be paid to victims who have incurred a statutory minimum damage to health as a result of a crime, victims of sexual crimes against human dignity, tortured children and survivors (from a group defined by law) of those who died as a result of a crime. This assistance is most often provided in the amounts ranging from CZK 10.000 (approximately EUR 380) to CZK 200.000 (approximately EUR 7.700) and is calculated either as a statutory flat rate or corresponds to the amount of proven lost earnings and costs of treatment or, where appropriate, the costs of specialised therapy used to alleviate the non-pecuniary harm suffered. The Ministry of Justice decides on the applications for the payment of financial assistance which must be submitted within 2 years from the date when the victim learned of the damage caused by the crime, and no later than 5 years from the date of the crime. NGOs assisting victims often provide help with requests for financial assistance.

Moreover, NGOs and the PMS provide other extensive assistance to victims, including legal aid.

- ***Question 43:* Please describe the procedure established under your internal law for the repatriation and return of victims of THB.**

A person identified as a THB victim or a potential THB victim can join the Program of support and protection of victims of trafficking. The Program also includes the Program of Assisted Voluntary Return to the Country of Origin which is provided by the International Organisation for Migration, and provides a voluntary, safe and free return to the country of origin for:

- a) a foreigner included in the Program,
- b) a citizen of the Czech Republic.

If a person qualifies for a voluntary return, a ticket to the country of origin and direct help at departure is provided. In the event that it is not possible to provide transport to the final destination of the client, a basic transport allowance is provided in order to reach the final destination in the country of origin (e. g. a transport allowance for a bus ticket from the airport etc.)

Furthermore, a person who requested asylum according to the Act No. 325/1999 Coll., on Asylum, can also benefit from the assistance with his/her return to the home country.

- ***Question 44:* Does a person, repatriated to your country as a victim of THB, continue having victim status? If so, please specify on which grounds such recognition is made (for example, declaration of the victim). What assistance measures are envisaged for such persons after repatriation?**

Yes. Such a person can enter the Program for Support and Protection of Victims of Trafficking in Human Beings of the Ministry of the Interior. A potential victim only needs a statement from a foreign entity (police, NGO's, IOM) that she/he has become a likely victim of THB. Within the Program, a potential victim can use all the services provided by the Program for 60 days, then the potential victim has to decide whether she/he will cooperate with the law enforcement authorities or not. This is a strict condition of staying in the program.

The programme for victims includes an isolation from the criminal environment, a social assistance, a psychological and social counselling, psychotherapeutic services, translation and interpretation services, a legal counselling, healthcare, requalification courses, a safe accommodation.

The PMS also offers assistance to victims. Assistance is provided for each person who feels like a victim, unless it becomes evident he/she isn't or if it is clearly a case of misuse of the standing of the victim.

- ***Question 45:* What are the grounds for the victim status to come to an end:**
 - **victim status claimed improperly;**
 - **victim's refusal to co-operate with the authorities;**
 - **return to the country of origin;**
 - **request of the victim;**
 - **other, please specify.**

Any person who feels like a victim of a crime must be considered a victim unless the opposite is shown, or it is an obvious abuse of the victim's position. In practice, victim support organisations provide services for all persons who claimed to be victims and as long as it is required (depending on the individual needs of a person), irrespective of the non-initiated or terminated criminal process.

Moreover, the grounds for a termination of the participation in the Program of Support and Protection of Victims of Trafficking are the following:

- it may be terminated at any time at the victim's request,
- the victim decides to return to her/his country of origin,
- the victim collaborates with the suspect,
- the victim seriously breaches the law of the country or commits an intentional crime,
- it is proven that the person is not a THB victim,
- it may be terminated upon a final decision in the criminal proceedings,
- the victim intentionally provides the Police or another body with untrue information,
- the victim breaches an agreement with an NGO.

However, the above-listed grounds for the termination of the participation in the Program do not have an impact on the fact whether the person concerned maintains his/her status of a victim.

Section II.3. Implementation of measures concerning substantive criminal law, investigation, prosecution and procedural law

Questions in this section aim to obtain information on the implementation by parties of measures concerning substantive criminal law contained in Chapter IV of the Convention (Articles 18 to 26) as well as measures concerning investigation, prosecution and procedural law contained in Chapter V of the Convention (Articles 27 to 31).

Questions:

- ***Question 46: Is THB subject to a single criminal offence in your internal law? If so, please provide (a translation of) the legal text(s) in English or French. If not, please specify the combination of criminal offences, covering as minimum all conducts falling within the definition of THB as contained in Article 4 of the Convention, used under your internal law to prosecute for THB.***

Yes.

The Section 168 of the Act no. 40/2009 Coll., the Criminal Code
Trafficking in Human Beings

(1) Whoever forces, procures, hires, incites, entices, transports, conceals, detains, accepts or hands over a child to be used by another for

- a) sexual intercourse or other forms of sexual abuse or harassment, or for production of pornographic works,
 - b) extraction of tissue, cell, or organs from his body,
 - c) service in the armed forces,
 - d) slavery or servitude, or
 - e) forced labor or other forms of exploitation, or
- who profits on such a conduct,
will be sentenced to imprisonment for two to ten years.

(2) The same sentence will be imposed to anyone who forces, procures, hires, incites, entices, transports, hides, detains, accepts or hands over a person other than referred to in sub-section (1) by using violence, threat of violence or other grievous harm or deceit, or by abusing his error, distress, or addiction in order to use him for

- a) sexual intercourse or other forms of sexual abuse or harassment, or for the production of pornographic works,
 - b) extraction of tissue, cell, or organs from their body,
 - c) service in the armed forces,
 - d) slavery or servitude, or
 - e) forced labor or other forms of exploitation, or
- who profits on such conduct.

(3) An offender will be sentenced to imprisonment for five to twelve years or to confiscation of assets if he

- a) commits then act referred to in sub-section (1) or (2) as a member of an organized group,
- b) exposes another person to a risk of grievous bodily harm or death by such an act,
- c) commits such an act with the intention to gain a substantial profit for himself or for another, or
- d) commits such an act with the intention to use another person for prostitution.

(4) An offender will be sentenced to imprisonment for eight to fifteen years or to confiscation of assets if he

- a) causes grievous bodily harm by the act referred to in sub-section (1) or (2),
- b) commits such an act with the intention to gain extensive profit for himself or for another, or
- c) commits such an act in connection to an organized group operating in several states.

(5) An offender will be sentenced to imprisonment for ten to eighteen years or to confiscation of assets, if he causes death by the act referred to in sub-section (1) or (2).

(6) Preparation is criminal.

- ***Question 47: Does your internal law establish as a criminal offence the use of services of a victim of THB with the knowledge that the person is a victim of THB as provided for in Article 19 of the Convention?***¹

The use of the services would in principle not be a criminal offence as such. However, if a person using such services knows that the person providing services is a THB victim, meaning that the person using such services has credibly learned that a criminal offence of THB has been committed, such a person is obliged to report the commission of this offence to a public prosecutor or a police authority, unless such a reporting would expose the reporting person or its close person to danger of death, bodily harm, other serious detriment or criminal prosecution, otherwise he/she commits a criminal offence of non-reporting of criminal offence according to the Section 368 of the Act no. 40/2009 Coll. (the Criminal Code).

Section 368 of the Act no. 40/2009 Coll., the Criminal Code

Non-reporting of Criminal Offense

(1) Whoever gains credible knowledge that another person committed a criminal act of Murder (Section 140), Grievous bodily harm (Section 145), Torture and other cruel and inhumane treatment (Section 149), Trafficking in human beings (Section 168), Illegal confinement (Section 170), Hostage taking (Section 174), Abuse of a child for production of pornography (Section 193), Maltreatment of entrusted person (Section 198), Forgery and alteration of money (Section 233), Unauthorized obtaining, forgery and alteration of means of payment (Section 234), Unauthorized production of money (Section 237), Breach of regulations on control of export of goods and technologies of dual use (Section 262), Breach of duty in export of goods and technologies of dual use (Section 263), Conducting foreign business with military material without license or permit (Section 265), Breach of duty related to issuing permits and licenses for foreign trade with military material (Section 266), Public menace (Section 272), Development, manufacture and possession of prohibited means of combat (Section 280), Unauthorized production and possession of radioactive substances and highly dangerous substances (Section 281), Unauthorized production and possession of nuclear material and special fission material (Section 282), Gaining control over aircraft, civil vessel and fixed platform (Section 290), Hijacking of aircraft to abroad (Section 292), Treason (Section 309), Subversion of the Republic (Section 310), Terrorist attack (Section 311), Terror (Section 312), Participation on a terrorist group (Section 312e), Terrorism financing (Section 312d), Support and promotion of terrorism (Section 312e), Threat by terrorist criminal act (Section 312f), Sabotage (Section 314), Espionage (Section 316), Endangering classified information (Section 317), Military treason (Section 320), Accepting bribes (Section 331), Bribery (Section 332), Genocide (Section 400), Attack against humanity (Section 401), Apartheid and discrimination against groups of people (Section 402), Aggression (Section 405a), Preparation of offensive war (Section 406), Use of prohibited means and methods of combat (Section 411), War cruelty (Section 412), Persecution of the population (Section 413), Pillage in the area of military operations (Section 414) or Abuse of internationally and state recognized symbols under Section 415 (3), and fails to immediately report such a criminal act to the public prosecutor or police authority, or if a soldier is concerned, to their superior, will be sentenced to imprisonment for up to three years; if this Act stipulates a lighter punishment for any of these criminal offenses, he will be sentenced to such a lighter punishment.

(2) Whoever commits an act referred to in sub-section (1) will not be criminally liable, if he could not report the criminal act without exposing himself or a close person to danger of death, bodily harm, other serious detriment or criminal prosecution.

¹ Article 19 of the Convention does not concern using the services of a prostitute as such and the criminalisation of her/his client (see paragraphs 229 to 236 of the Explanatory Report of the Convention).

(3) The report duty according to sub-section (1) does not apply to an attorney or his employee, who learns about commission of a criminal act in relation to performance of his legal profession or practice. The report duty also does not apply to clergymen of a registered church or religious society authorized to exercise special rights when they learn about a criminal offense in relation to performing a confession, or in connection with practice of similar confessional secrets. The duty to report a criminal offense of Trafficking in human beings according to Section 168 (2) and Illegal confinement (Section 170) does not apply also to persons providing assistance to victims of crimes.

- ***Question 48:* Does your internal law establish as a specific criminal offence retaining, removing, concealing, damaging or destroying a travel or identity document of another person committed intentionally and for the purpose of enabling THB as provided for in Article 20c of the Convention?**

Such a conduct would be criminally punishable as a preparation of a criminal offence of trafficking in human beings in line with the Section 168 para 6 (see above), Section 20 and Section 14 para 3 of the Act no. 40/2009 Coll., the Criminal Code.

Section 20 of the Act no. 40/2009 Coll., the Criminal Code

Preparation

(1) Conduct that consists in intentional creation of conditions for the commission of an especially serious felony (Section 14 (3)), especially in its organization, acquisition or adaptation of the means or instruments for its commission, in conspiracy, unlawful assembly, in inducing of or assisting with such a crime, will be considered as preparation only if the Criminal Code expressly stipulates it for a specific criminal offense and an attempt or completion of an especially serious felony did not occur.

(2) Preparation is criminal according to the term of sentence stipulated for an especially serious felony to which it led, unless the Criminal Code stipulates otherwise.

(3) Criminal liability for the preparation of an especially serious felony will expire if the offender voluntarily abandoned further conduct aimed towards the commission of the especially serious felony and

a) removed the threat to an interest protected by the Criminal Code which occurred due to the committed preparation, or

b) reported the preparation to commit an especially serious felony at a time the threat to an interest protected by the Criminal Code which occurred due to the committed preparation could still be removed; the report must be made to a public prosecutor or police authority. A soldier may report it to his superior officer.

(4) If there are several persons involved in an act, expiration criminal liability for the preparation is not precluded in case of an offender who acted in such manner, if the act is completed by the other offenders despite his timely reporting or earlier participation in such an act.

(5) The provisions of sub-section (3) and (4) will have no effect on the criminal liability of an offender for any other completed criminal offense which they have committed by their conduct referred to in sub-section (1).

Section 14 of the Act no. 40/2009 Coll., the Criminal Code

Misdemeanours and Felonies

...

(3) Felonies are all criminal offenses that are not classified as misdemeanours under the Criminal Code; especially serious felonies are those intentional criminal offenses for which the Criminal Code prescribes a sentence of imprisonment with the upper limit of at least ten years.

- ***Question 49:* Does your internal law ensure that a legal person can be held liable for criminal offences established in accordance with the Convention as provided for in its Article 22? What types of legal persons are subject to corporate liability for such offences?**

Yes, legal persons may be held liable for a criminal offence trafficking in human beings. All legal persons may be held liable, with the exception of the Czech Republic as the state and also its local self-governing entities while exercising public authority.

The criminal liability of legal persons is based particularly on the Section 8 of the Act No. 418/2011 Coll., on Criminal Liability of Legal Persons and Proceedings against Them, which reads as follows:

Section 8 of the Act No. 418/2011 Coll.

Criminal Liability of a Legal Entity

(1) Criminal act committed by a legal entity is an unlawful act committed in its interest or within its activity, if committed by

- a) statutory body or member of the statutory body or other person in a leadership position within the legal entity, who is entitled to act on behalf of or for the legal entity,
 - b) a person in a leadership position within the legal entity, who performs managerial or controlling activities, even if they are not a person as mentioned in paragraph a),
 - c) a person with a decisive authority on management of this legal entity, if his/her act was at least one of the conditions leading to a consequence establishing criminal liability of a legal entity, or
 - d) employee or a person with similar status (thereinafter "employee") while fulfilling his/her duties/tasks, even if they are not a person as mentioned in paragraph a) to c),
- provided that the act can be attributed to the legal entity in accordance with sub-section (2).

(2) Commission of a criminal act as specified in Section 7 can be attributed to a legal entity, if committed by

- a) action of bodies or persons referred to in sub-section (1) a) to c), or
- b) an employee referred to in sub-section (1) d) on the grounds of a decision, approval or guidance of bodies of the legal entity or persons referred to in sub-section (1) a) to c), or because the bodies of the legal entity or persons referred to in sub-section (1) a) to c) did not take measures required by other legal regulation or that can be justly required, namely that they did not perform obligatory or necessary control (supervision) over the activities of employees or other persons they are superiors to, or they did not take necessary measures to prevent or avert the consequences of the committed criminal act.

(3) Criminal liability of a legal entity is not precluded by the fact that a specific natural person who has acted in a way specified in sub-section (1) and (2) cannot be identified.

(4) Sub-section (1) and (2) will apply also if

- a) the activity specified in sub-sections (1) and (2) took place prior to incorporation of the legal entity,
- b) the legal entity has been incorporated, but the court decided on nullity of the legal entity,
- c) the legal act establishing authorisation for acting on behalf of the legal entities is invalid or ineffective, or
- d) the acting natural person is not criminally liable for such criminal act.

(5) The legal entity will be relieved of criminal liability according to sub-section (1) to (4) if it made every effort which could be reasonably required of it in order to prevent the commission of the unlawful act by the persons referred to in sub-section (1).

- **Question 50: Which sanctions does your internal law provide for criminal offences established in accordance with the Convention? Please specify the criminal, civil and administrative sanctions.**

As the question concerns criminal offences established in accordance with the Convention, only criminal sanctions apply in this case.

The criminal sanctions specifically mentioned in the Section 168 of the Act no. 40/2009 Coll. (the Criminal Code) include imprisonment, in the basic criminal offence for up to 10 years, in the most aggravated criminal offence for up to 18 years, and confiscation of assets. Other criminal sanctions may be imposed besides the aforementioned sanctions in line with the Sections 52 and 53 of the CC.

Section 52 of the Act no. 40/2009 Coll., the Criminal Code

Types of Punishments

(1) The court may impose the following punishments for committed criminal offenses

- a) sentence of imprisonment,
- b) house confinement,
- c) community service,
- d) confiscation of assets,
- e) pecuniary penalty,
- f) confiscation of an item,
- g) prohibition of certain activity,
- h) prohibition of stay,
- i) ban from sport, cultural and other social events,
- j) loss of honorary titles or decorations,
- k) loss of military rank,
- l) banishment.

(2) Unless defined otherwise by the Criminal Code, a sentence of imprisonment will be understood as

- a) an unsuspended prison sentence,
- b) a suspended sentence of imprisonment,
- c) a suspended sentence of imprisonment with supervision.

(3) Exceptional sentence of imprisonment (Section 54) is a special type of a sentence of imprisonment.

Section 53 of the Act no. 40/2009 Coll., the Criminal Code

Imposing Multiple Punishments Individually and in Parallel

(1) If the Criminal Code stipulates several punishments for a criminal act, each of these penalties may be imposed separately, or more punishments may be imposed concurrently. Besides a punishment stipulated by the Criminal Code for a criminal offense, other punishments referred to in Section 52 may also be imposed. However, house confinement may not be imposed in parallel to imprisonment and community service, community service in parallel to imprisonment, pecuniary penalty in parallel to confiscation of assets and prohibition of stay in parallel to banishment.

(2) House confinement, community service, pecuniary penalty, ban from sport, cultural and other social events, banishment and prohibition of stay may be also imposed individually, even if the Criminal Code does not stipulate such a punishment for a particular criminal offense.

The types of protective measures for natural persons which also belong under criminal sanctions are set out in the Section 98 of the Act no. 40/2009 Coll. (the Criminal Code).

Section 98 of the Act no. 40/2009 Coll., the Criminal Code

Types of Protective Measures

(1) Protective measures are protective treatment, security detention, forfeiture of an item, forfeiture of a portion of assets and protective rehabilitation.

(2) Imposition of protective rehabilitation will be governed by the Justice over Juveniles Act.

(3) Protective treatment may not be imposed in parallel to security detention. Forfeiture of a portion of assets may not be imposed in parallel to confiscation of the same portion of assets.

The types of criminal sanctions that may be imposed on legal persons are laid down in a general manner in the Section 15 of the Act no. 418/2011 Coll. (on Criminal Liability of Legal Persons and Proceedings against Them).

Section 15 of the Act No. 418/2011 Coll.

Types of Sentences and Protective Measures

(1) For criminal acts committed by a legal entity, only the following sentences can be imposed

- a) dissolution of the legal entity,
- b) confiscation of property,
- c) monetary penalty,
- d) confiscation of items,
- e) prohibition to perform certain activity,
- f) prohibition to perform public contracts or to participate in public tenders,
- g) prohibition to receive endowments (grants) and subsidies,
- h) publication of a judgement.

(2) Protective measure of forfeiture of items can be imposed for criminal acts committed by a legal entity.

(3) Punishments and protective measures referred to in sub-section (1) and (2) can be imposed to a legal entity separately or concurrently. However, it is not possible to impose a sentence of monetary penalty concurrently to confiscation of property and a sentence of confiscation of items to forfeiture of the same items.

- ***Question 51:* Does your internal law provide for the possibility to take into account previous convictions in another party when determining the penalty in relation to offences established in accordance with the Convention?**

Yes, when determining the penalty in relation to all offences, hence also in relation to trafficking in human beings, a general provision of the Section 39 of the Act no. 40/2009 Coll. (the Criminal Code) applies, which in its para 1 stipulates inter alia that an account shall be taken of the way of previous life of the perpetrator.

Section 39 of the Act no. 40/2009 Coll., the Criminal Code

Determination of the Type and Extent of Punishment

(1) When determining the type and extent of the punishment, the court will take into account the nature and seriousness of the criminal offense committed, of the personal, family, property and other relations of the offender and his previous way of life and the possibility of his personal reform; furthermore, the offender's behaviour after the act will also be taken into account, in particular their efforts to compensate any damage or mitigate any other detrimental effects of the act, and where the offender has been designated as a co-operating accused; moreover will be taken into consideration the extent to which the offender has contributed to the clarification of a felony committed by members of an organized group, in connection with an organized group or in favor of an organized criminal group. The court will also take account of the effects and consequences that may be expected from the punishment in terms of the offender's future life.

...

A previous conviction for a criminal offence constitutes a general aggravating circumstance according to the Section 42 lit. p) of the Act no. 40/2009 Coll. (the Criminal Code). Such previous convictions contain, in line with the Section 11 para 2 of the code, the convictions issued in other EU Member States which are also part of the criminal record.

Section 42 of the Act no. 40/2009 Coll., the Criminal Code

Aggravating Circumstances

The Court may consider the following circumstances as aggravating, particularly when the offender:

...

p) had already been sentenced for a criminal offense; the court is authorized not to consider such a fact as an aggravating circumstance according to the nature of the previous conviction, particularly in respect of the significance of a protected interest affected by such an act, the manner of

commission of such an act and its consequences, the circumstances under which it was committed, the offender's personality, the extent of his culpability, his motives and the period which has passed since his last conviction; concerning an offender of the criminal offense committed in a state induced by a mental disorder, or an offender who indulges in abuse of an addictive substance and has committed the criminal offense under its influence or in connection with its abuse, also when he commenced treatment or took other necessary measures for its commencement.

Section 11 of the Act no. 40/2009 Coll., the Criminal Code

Effects of Foreign Judgments

(1) A criminal judgment of a foreign state cannot be executed in the territory of the Czech Republic or have other effects in this territory unless the law or an international treaty stipulates otherwise.

(2) A final and effective judgment of another member state of the European Union issued in criminal proceedings will be deemed as a judgment of a court of the Czech Republic for the purposes of criminal proceedings, if it was issued for an act that is criminal also under the law of the Czech Republic.

- ***Question 52:* Please describe how your internal law provides for the possibility of not imposing penalties on victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so, as provided for in Article 26 of the Convention.**

There is a special provision which aims to protect the THB victims comprised in the Act no. 45/2013 Coll., on Victims of Crime. This Act grants the THB victims a special status of particularly vulnerable victims who have special rights. The investigating and prosecuting bodies shall inform these victims of their rights at a first contact without request. The investigating and prosecuting bodies have a duty to treat the particularly vulnerable victims politely and gently and to be willing to help them at any time (the Section 3 of the Act no. 45/2013 Coll., on Victims of Crime).

The definition and application of the non-punishment principle and its enactment in a national legal order is essential. Such a person might be considered to be acting in an extreme necessity which is one of the conditions precluding the illegality of the act in line with the Section 28 of the Act no. 40/2009 Coll. (the Criminal Code).

Section 28 of the Act no. 40/2009 Coll., the Criminal Code

Extreme Necessity

(1) An act otherwise criminal, by which a person repels an impending danger to an interest protected by this Code, will not be considered as a criminal offense.

(2) Extreme necessity is not concerned if such danger could have been repelled otherwise under the given conditions, or if the consequences caused are evidently equally serious or even more serious than the imminent consequence, or if the person threatened by the consequence was obliged to bear it.

The following provisions of the CC on the waiver of punishment might also apply:

Section 46 of the Act no. 40/2009 Coll., the Criminal Code

General Provisions

(1) The punishment for an offender who has committed a misdemeanor and who regrets having committing the act and demonstrates genuine efforts of reformation may be waived, if it can be reasonably expected, with regard to the nature and seriousness of the offense committed and the current way of life of the offender, that merely discussing the matter in court will suffice to ensure their reformation and the protection of society.

(2) The court will waive punishment of an offender designated as cooperating accused person, if the conditions stipulated in Section 178a (1) and (2) of Criminal Procedure Code are met and if the

cooperating accused person submitted his complete and true deposition both in pre-trial proceedings and in trial proceedings, concerning the matters of fact that are eligible to significantly contribute to clarification of the felony committed by members of an organized group, in connection to an organized group or for the benefit of an organized criminal group; the provision of Section 48 (1) is not affected thereby. Punishment of an offender designated as cooperating accused person is not possible, if he committed a crime more serious than the felony, to the clarification of he contributed, if he participated as an organizer or instigator on commission of the felony, to the clarification of he contributed, if he intentionally caused a grievous bodily harm or death or if there are grounds for extraordinary increasing of a sentence of imprisonment (Section 59).

(3) The court may further waive a punishment where an offender found guilty of premeditating or attempting a criminal offense did not recognize, with respect to the nature or type of subject of assault against which the act was to be committed, or the nature or type of the means by which the act was to be committed, that the premeditation or attempt could not possibly have led to completion of the act.

(4) Where the court decides to waive a punishment, the offender will be regarded as if he has not been convicted.

Section 47 of the Act no. 40/2009 Coll., the Criminal Code

Waiver of Punishment and Concurrent Imposing of Protective treatment or Security detention

(1) The court may waive punishment also if the offender committed the criminal offense in a state of diminished sanity or in a state incited by a mental disorder and if the court believes that a protective treatment (Section 99) that it imposes at the same time will secure correction of the offender and protection of society better than punishment. This provision will not apply in case the offender induced the state of diminished sanity or mental disorder to himself, even negligently, by an addictive substance.

(2) The court may waive punishment also if the offender committed the criminal offense in a state of diminished sanity or in a state incited by a mental disorder and it cannot be expected, with regard to the nature of the mental disorder and possibilities of influencing the offender, that a protective treatment would secure sufficient protection of society and if the court believes that a security detention (Section 100) that it imposes to the offender would secure protection of society better than punishment.

Section 48 of the Act no. 40/2009 Coll., the Criminal Code

Conditional Waiver of Punishment with Supervision

(1) Under the conditions referred to in Section 46 (1) (2) or (3) the court may conditionally waive punishment and order supervision over an offender if it considers it necessary to supervise behavior of the offender for the stated time.

(2) In conditional waiver of punishment will a court prescribe a probation period for up to one year and at the same time order supervision over the offender (Section 49 to 51).

(3) A court may impose adequate restrictions and duties to the offender whose punishment has been waived to induce him to lead an upright life; generally will the court also order him to compensate for the damage or remedy the non-material harm caused by the criminal offense according to his possibilities, or that he surrendered any unjust enrichment obtained through the criminal offense.

(4) The court may impose as adequate restrictions and obligations especially

- a) to submit to a training program for gaining suitable work qualification,
- b) to submit to a suitable program of social training and re-education,
- c) to submit to therapy for addiction to addictive substances that is not a protective treatment according to this Code,
- d) to submit to suitable programs of psychological counselling,
- e) to refrain from visiting unsuitable areas, sport, cultural and other social events and contact with certain persons,
- f) to refrain from illicit interference with rights or legally protected interests of other persons,
- g) to refrain from gambling, gaming on gaming machines and placing bets,

- h) to refrain from consummation of alcoholic beverages or other addictive substances,
- i) to pay due alimony or other due payments,
- j) to publically personally apologize to the aggrieved person, or
- k) to provide the aggrieved person with adequate satisfaction.

(5) If an offender at the age close to the age of juveniles is concerned, the court may, in the interest of using educational influence of a family, school and other subjects, impose either individually or in parallel to adequate restrictions and duties referred to in sub-section (4) also some of rehabilitation measures provided for in the Justice over Juveniles Act, while using the according conditions stipulated for juveniles.

(6) If an offender, whose punishment was conditionally waived, has lead an upright life during the probation period and complied with the prescribed conditions, the court will pronounce him as approved; otherwise it will decide to impose the sentence.

(7) If the court has not rendered a decision according to sub-section (6) within one year from the lapse of the probation period without any fault of the conditionally sentenced person, he will be considered as approved.

(8) If the court pronounced the conditionally sentenced person as approved, or if he is considered as approved, he will be regarded as if he was never convicted.

- ***Question 53:* Does your internal law provide for the initiation of legal proceedings by the victim and/or *ex officio* (for example, by the public prosecutor)?**

If a public prosecutor finds out information concerning cases of human trafficking, he is ex offio obliged to provide relevant institutions with information and to secure relevant remedies. This information can be provided to the victim.

- ***Question 54:* Please describe how your internal law allows for NGOs or associations/groups assisting or supporting victims to participate in legal proceedings (for example, as third parties)? Please specify the conditions for this participation as well as their legal status during these proceedings.**

Such entities might act as agents of victims (in their procedural position of aggrieved persons in the criminal proceedings) in line with the Section 50 of the Act No. 141/1961 Coll. (the Criminal Procedure Code).

Section 50 of the Act No. 141/1961 Coll.

(1) The party concerned and the aggrieved person may be represented by an agent, which may also be a legal entity; they must be advised thereon. The agent of the aggrieved person may at the same time be a fiduciary according to the Act on Victims of Crime.

(2) In case the agent of the party concerned or the aggrieved person is a natural person, it may not be a person, who is not fully legally competent or whose legal capacity is restricted; in the course of a trial and public session the agent cannot be the person, who is summoned as a witness, expert or interpreter.

The agent is entitled inter alia to make proposals and submit petitions and appeals on behalf of the victim; the agent is also entitled to participate in all actions of the proceedings in which the victim could participate, see the Section 51 of the Act No. 141/1961 Coll. (the Criminal Procedure Code) which reads as follows:

Section 51 of the Act No. 141/1961 Coll.

(1) An agent of the party concerned and the aggrieved person is entitled to make proposals and submit petitions and appeals on their behalf; he is also entitled to participate in all actions in which the party concerned and the aggrieved person could participate.

(2) The agent of the aggrieved person and the party concerned is entitled to be present, as soon as the criminal prosecution is initiated, at investigative actions aimed to clarify the matters of fact

significant for assertion of rights of the persons he represents, and the outcome of which may be used as evidence in trial proceedings, unless the presence of the agent could defeat the purpose of criminal prosecution or if the action cannot be delayed an notification thereof secured. The agent may ask questions to the accused person and to other interviewed persons, however not before the police authority concludes its line of inquiry and bids him to do so. He may raise objections against the performance of the investigative action at any time in its course.

(3) If the agent notifies the police authority that he wishes to participate in the investigative action according to sub-section (2), the police authority will be obliged to timely inform the agent what kind of action it will be and the time and place of its realization, unless the performance of the action cannot be delayed and the notification of the agent cannot be secured. If the action consists in questioning of persons, the police authority will notify the agent also identification data of such persons. If such data is not available in advance, the notification must clearly imply the matter concerning which this person is to be interviewed.

(4) If the agent of the aggrieved person or the party concerned is to participate in questioning of a witness, the identity of which is to be concealed for reasons referred to in Section 55 (2), the police authority is obliged to take measures preventing the agent from ascertaining the identity of the witness, therefore the notification on the questioning of the witness, the identity of which is to be concealed for the reasons referred to in Section 55 (2) must not contain data allowing the discovery of the identity of the witness.

The member of such an NGO may act as a fiduciary of the victim, according to the Section 21 of the Act no. 45/2013 Coll. (on Victims of Crime) as only a natural person may take this position. The fiduciaries provide mainly a psychological help and support and are not allowed to interfere in the course of actions of the criminal proceedings.

Section 21 of the Act no. 45/2013 Coll.

The right to accompaniment by a fiduciary

(1) The victim has the right for a fiduciary to accompany him to actions of criminal proceedings and to submittal of an explanation.

(2) The fiduciary can be a natural person qualified to perform legal acts whom the victim himself chooses. The fiduciary provides the victim with necessary, mainly psychological, help. The fiduciary can also be the victim's proxy. The fiduciary cannot be a person who figures in the case as a defendant, a defense attorney, witness, expert or interpreter.

(3) The fiduciary cannot interfere in the course of the action.

(4) It is possible to disqualify the fiduciary from participating in the action only in exceptional cases, if participation of the fiduciary would interrupt the course of the action or threaten the achieving of the purpose of the action. In the event that the fiduciary is disqualified, it is necessary to enable the victim to choose another fiduciary, unless the listed action cannot be delayed or its delay would relate to unreasonable difficulties or costs.

- ***Question 55:* Please describe the measures taken in your internal law to protect the identity and safety of victims before, during and after investigations and legal proceedings.**

The measures aiming at the protection of victims from imminent danger are contained in the Section 14 of the Act no. 45/2013 Coll. (on Victims of Crime) which reads as follows and refers to multiple other pieces of legislation.

Section 14 of the Act no. 45/2013 Coll.

(1) In cases determined by other legislation, when threat of danger to the victim occurs, a police officer shall perform an action or adopt other measures to ensure the victim's safety. This obligation also applies to customs officers, members of the Prison Services, Military Police officers and municipal police officers under conditions determined by other legislation.

- (2) The Police of the Czech Republic shall provide short-term protection of the victim under conditions determined by other legislation.
- (3) The Police of the Czech Republic shall perform removal of a person from a common dwelling under conditions determined by other legislation.
- (4) Upon the victim's request, the court shall order an interim measure in civil proceedings in cases of serious threat to his life, health, freedom or human dignity under conditions determined by other legislation.
- (5) The victim shall receive special witness protection under conditions determined by other legislation.
- (6) Concealment of the identity and appearance of the victim in the standing of witness is provided under conditions determined by the Code of Criminal Procedure.
- (7) The court or the state prosecutor shall issue an interim measure in criminal proceedings under conditions determined by the Code of Criminal Procedure.
- (8) Judicial body shall issue a European protection order under the conditions laid down in the act on international judicial cooperation in criminal matters.

The Act no. 45/2013 Coll. (on Victims of Crime) recognises the term secondary injury as an injury not caused to the victim by crime, but occurring to the victim in consequence with the crime.

The Police, other law enforcement and public authorities, entities filed in the register of providers of assistance to crime victims, healthcare providers, experts, interpreters, defence lawyers and the media are obliged to respect the personality and dignity of the victim, to approach the victim politely and with care and to accommodate the victim if possible. They shall interact with the victim with regards to his/her age, health condition including psychological state, his/her intellectual maturity and cultural identity in a way that does not cause deepening of the injury incurred to the victim by the crime, or cause secondary injury.

The protection from secondary victimisation is further in detail elaborated on in Sections 17 – 22 of the Act no. 45/2013 Coll. (on Victims of Crime) which provide for the prevention of contact of the victim with the indicated offender, for a manner in which interviews with victims shall be led, for the right to be accompanied by a fiduciary and for the right to make a declaration on the impact of the crime on the victim's life. A stronger protection in a number of these provisions is provided to particularly vulnerable victims, i.e. also to the THB victims.

Part 5 of the Act no. 45/2013 Coll.

The right to protection from secondary injury

Section 17

Preventing contact of the victim and a person close to the victim with a person the victim has indicated as the offender, with a suspect or a person against whom criminal proceedings are being conducted

(1) The victim and a person close to the victim have the right to request in whatever state of criminal proceedings, or even prior to its commencement, that during actions in which they take part, necessary measures would be in place to prevent their contact with a person the victim has indicated as the offender, with a crime suspect or a person against whom criminal proceedings are being conducted.

Section 18

Submittal of an explanation and interview of the victim

(1) Questions leading to an intimate area of the interviewed victim can only be asked if it is essential for clarification of facts vital to criminal proceedings. These questions must be asked with abundant caution, and in terms of content in an exhaustive manner, so that it would not be necessary to repeat the interview; it is necessary to adjust their formulation, while maintaining necessary consideration to the age, personal experience and mental state of the victim.

(2) The victim has the right at any time to object to the direction of the question. The objection is recorded in the report. The interviewing authority shall decide on the justification of the objection.

Section 19

Submittal of explanation and interview by a person of the same or opposite gender

(1) The victim can request to be interviewed in pre-trial proceedings by a person of the same or opposite gender. A request from a particularly vulnerable victim must always be granted if important reasons do not prevent this. Reasons leading to refusal of the request are listed in the action report.

(2) A particularly vulnerable victim can also request, if it is necessary to interpret his testimony, selection of an interpreter of the same or opposite gender. The authority involved in criminal proceedings shall grant the request, unless it cannot delay performance of the action or ascertain an interpreter of the requested gender.

(3) Paragraphs 1 and 2 are applied in similar fashion for submittal of explanation according to other legislation.

Section 20

Submittal of an explanation and interview of particularly vulnerable victim

(1) It is necessary to interview a particularly vulnerable victim in criminal proceedings in an especially sensitive manner, and with regard to the specific circumstances making the person particularly vulnerable.

(2) If possible, a person with the relevant training should conduct the interview of particularly vulnerable victims in pre-trial proceedings in rooms adapted or adjusted for this purpose. If the victim is a child, a person with the relevant training shall always conduct the interview with the exception of cases when the action cannot be delayed and it is not possible to find a trained person.

(3) The interview of a particularly vulnerable victim is performed so that it need not be repeated later. In the case of another interview before the same authority, the one performing the interview is generally the same person, if important reasons do not prevent this.

(4) If a particularly vulnerable victim does not wish to have immediate visual contact with a person suspected of committing a crime or with a person against whom criminal proceedings are being conducted, if not prevented by serious reasons, necessary measures are applied in order to prevent such visual contact, especially audiovisual technology is applied if technically possible. It is meanwhile necessary to ensure that the right to a defence is not violated.

(5) Paragraphs 1 to 4 are applied in similar fashion for submittal of explanation according to other legislation.

Section 21

The right to accompaniment by a fiduciary

(1) The victim has the right for a fiduciary to accompany him to actions of criminal proceedings and to submittal of an explanation.

(2) The fiduciary can be a natural person qualified to perform legal acts whom the victim himself chooses. The fiduciary provides the victim with necessary, mainly psychological, help. The fiduciary can also be the victim's proxy. The fiduciary cannot be a person who figures in the case as a defendant, a defence attorney, witness, expert or interpreter.

(3) The fiduciary cannot interfere in the course of the action.

(4) It is possible to disqualify the fiduciary from participating in the action only in exceptional cases, if participation of the fiduciary would interrupt the course of the action or threaten the achieving of the purpose of the action. In the event that the fiduciary is disqualified, it is necessary to enable the victim to choose another fiduciary, unless the listed action cannot be delayed or its delay would relate to unreasonable difficulties or costs.

Section 22

A victim has a right to make declaration on the impact of the crime on the victim's life.

As regards the protection of identity of a victim, it is provided for particularly in the Section 8a of the Act No. 141/1961 Coll. (the Criminal Procedure Code) which prohibits the disclosure of information which would lead to the identification of a victim (an aggrieved person) in the pre-trial proceedings as well as the disclosure of information not related to the criminal activity concerned also in the latter stage of the proceedings. The Section 8d of the code contains exceptions from the prohibition of disclosure.

Section 8a the Act No. 141/1961 Coll.

(1) When providing information about their activities, the authorities involved in criminal proceedings are mindful not to endanger clarification of matters significant for criminal proceedings, not to disclose information on parties concerned in criminal proceedings not directly related to criminal activities and not to breach the principle that until a person prosecuted in criminal proceedings is found guilty by a final condemning judgement, he may not be regarded as guilty (Section (2)). In pre-trial proceedings the authorities involved in criminal proceedings must not disclose information eligible for identification of a person, against whom criminal proceeding is conducted, an aggrieved person, parties concerned and a witness.

(2) When providing information according to sub-section (1), the authorities involved in criminal proceedings are particularly mindful about protection of personal data and privacy of minors under 18 years of age.

(3) The authorities involved in criminal proceedings inform the public about their activities by providing information according to sub-section (1) to news media; they will refuse to provide information in order to protect interests referred to in sub-sections (1) and (2). Should a public prosecutor reserve the right to provide information on a specific criminal matter in pre-trial proceedings, police authorities may provide such information only with his previous consent.

Section 8d the Act No. 141/1961 Coll.

(1) Information subject to prohibition of disclosure pursuant to Sections 8a through 8c may be disclosed to the necessary extent for the purposes of searching for missing persons, to reach the purpose of criminal proceedings or if it is allowed by this Code. The stated information may also be disclosed, if it is justified by the public interest, and if public interest takes outweighs the right to privacy of the person concerned; however, it is necessary to exercise due care for protection of the interests of a person under 18 years of age.

(2) Information subject to prohibition of disclosure pursuant to Sections 8a through 8c may also be disclosed if the person concerned by the prohibition of disclosure grants his explicit consent with the disclosure of such information. If such a person died or was pronounced dead, the consent may be granted by the spouse, partner or a child of the deceased person, and in their absence by his parents; in the case of a person under 18 years of age or a person with a restricted legal capacity, by their legal representative or guardian. The consent with the disclosure of information may not be granted by a person who has committed a criminal offence against the person who died or was pronounced dead.

(3) Information subject to prohibition of disclosure pursuant to Sections 8a through 8c may also be disclosed if the person concerned by the prohibition of disclosure died or was pronounced dead and there is no person entitled to grant the consent to the disclosure of information according to sub-section (2).

Furthermore, the Section 16 of the Act no. 45/2013 Coll. (on Victim of Crimes) stipulates that a victim may request that certain personal data are kept separately from the criminal file in such a way that only law enforcement authorities and officers of the PMS may access them.

Section 16 of the Act no. 45/2013 Coll.

Providing personal data of the victim

If a victim, his proxy, legal representative, guardian or fiduciary requests data, it is provided on the residence and the mailing address of the victim, proxy, legal representative, guardian or fiduciary, data on their place of performance of employment or occupation or enterprising, and on their

personal, family and property relations, in a manner so that only authorities involved in criminal proceedings, police officers and officials of the Probation and Mediation Services active in the given matter could become familiar with it. If it is essential for achieving the purpose of criminal proceedings or for due exercising of the right to defend a person against whom criminal proceedings are being conducted, the relevant police officer or authority involved in criminal proceedings shall make available the necessary data; such person or authority shall file a report on provision of access and its reasons.