



**GRETA**  
GROUP OF EXPERTS  
ON ACTION AGAINST  
TRAFFICKING IN HUMAN BEINGS

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

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## Preamble

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

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

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

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

GRETA decided to launch the second evaluation round of the Convention on 15 May 2014. Following the first round of monitoring, which provided an overview of the implementation of the Convention by each party, GRETA has decided to examine during this new evaluation round the impact of legislative, policy and practical measures on the prevention of trafficking, the protection of the rights of victims of trafficking, and the prosecution of traffickers. The adoption of a human rights-based approach to action against trafficking in human beings remains at the centre of the second evaluation round. In addition, particular attention is paid to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking. For the second evaluation round, GRETA has adopted a questionnaire to be sent to all states parties which have undergone the first round of evaluation, following a timetable approved by GRETA.

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

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

## I. Introduction

1. The first evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") by Iceland took place in 2013-2014. Following the receipt of Iceland's reply to GRETA's first questionnaire on 27 September 2013, a country evaluation visit was organised from 21 to 24 October 2013. The draft report on Iceland was examined at GRETA's 19th meeting (17-21 March 2014) and the final report was adopted at GRETA's 20th meeting (30 June - 4 July 2014). Following the receipt of the Icelandic authorities' comments, GRETA's final report was published on 23 September 2014.<sup>1</sup>

2. In its first evaluation report on Iceland, GRETA noted that the focus of anti-trafficking policy in Iceland had been on trafficking in human beings (THB) for the purpose of sexual exploitation and urged the Icelandic authorities to strengthen action to combat trafficking for the purpose of labour exploitation in at-risk economic sectors, such as construction, hotels, catering and entertainment. There had been only one officially recognised victim of human trafficking in Iceland in a case which resulted in the conviction of the traffickers in 2010. GRETA urged the Icelandic authorities to set up a formalised national referral system defining clear procedures and roles of all frontline actors who may come into contact with victims of trafficking, which is independent of the initiation of criminal proceedings and follows a multi-agency approach. Further, GRETA urged the Icelandic authorities to provide safe and suitable accommodation for all victims of trafficking, which is adapted to their needs, gender and age. While welcoming the provision in Icelandic law of a recovery and reflection period of six months, GRETA urged the Icelandic authorities to ensure that all possible victims of trafficking are offered such a period, regardless of their co-operation in the investigation. GRETA welcomed the framework for State compensation of victims in Iceland and invited the authorities to ensure that victims of trafficking are systematically informed of the possibilities for compensation and are ensured effective access to legal aid. Furthermore, GRETA urged the Icelandic authorities to take additional measures to ensure that human trafficking offences are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions, by improving the knowledge and specialisation of investigators, prosecutors and judges about human trafficking.

3. On the basis of GRETA's report, on 5 December 2014 the Committee of the Parties to the Convention adopted a recommendation to the Icelandic authorities, requesting them to report back on measures taken to implement this recommendation by 5 December 2016.<sup>2</sup> The report submitted by the Icelandic authorities was considered at the 20th meeting of the Committee of the Parties (10 March 2017). The Committee of the Parties decided to transmit the authorities' report to GRETA for consideration and to make it public.<sup>3</sup>

4. On 1 February 2017, GRETA launched the second round of evaluation of the Convention in respect of Iceland by sending the questionnaire for this round to the Icelandic authorities. The deadline for submitting the reply to the questionnaire was 3 July 2017. The authorities submitted the reply to the questionnaire on 6 October 2017.

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<sup>1</sup> Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Iceland, GRETA(2014)17, available at: <http://rm.coe.int/1680631c6f>

<sup>2</sup> Recommendation CP(2014)15 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Iceland, adopted at the 15th meeting of the Committee of the Parties on 5 December 2014, available at: <http://rm.coe.int/1680631c49>

<sup>3</sup> Available at: <http://rm.coe.int/16807006ce>

5. In preparation of the present report, GRETA used the reply to the questionnaire by the Icelandic authorities, the above-mentioned report submitted by them to the Committee of the Parties, and information received from civil society. An evaluation visit to Iceland took place from 17 to 20 April 2018 in order to hold meetings with relevant governmental and non-governmental actors, collect additional information and examine the practical implementation of the adopted measures. The visit was carried out by a delegation composed of:

- Mr Jan van Dijk, First Vice-President of GRETA;
- Mr Mihai Șerban, member of GRETA;
- Ms Petya Nestorova, Executive Secretary of the Convention.

6. During the visit, GRETA's delegation held meetings with officials from the Ministry of Justice, the Ministry of Welfare, the Ministry for Foreign Affairs, the State Prosecutor's Office, the Police, the Centre for Police Training, the Directorate of Labour, the Directorate of Immigration, the Government Agency for Child Protection, the Primary Health Care Centre, and Reykjavík City social and child protection services. Further, the GRETA delegation met a member of the Icelandic Parliament (*Alþingi*).

7. Separate meetings were held with representatives of non-governmental organisations (NGOs) and trade unions.

8. In the course of the visit, the GRETA delegation visited the Women's Shelter in Reykjavík, which can accommodate female victims of human trafficking, Bjarkarhlið Family Justice Centre for survivors of violence, including of human trafficking, and Barnahus (Children's house).

9. The list of the national authorities, NGOs and other organisations with which the delegation held consultations is set out in the Appendix to this report. GRETA is grateful for the information provided by them.

10. GRETA wishes to place on record the excellent co-operation provided by Ms Hildur Dungal and Ms Sunna Diðriksdóttir of the Ministry of Justice in the preparation of the visit programme.

11. The draft version of the present report was approved by GRETA at its 32nd meeting (9-13 July 2018) and was submitted to the Icelandic authorities for comments on 20 July 2018. The authorities' comments were received on 16 October 2018 and were taken into account by GRETA when adopting the final report at its 33rd meeting (3-7 December 2018). The report covers the situation up to 7 December 2018; developments since that date are not taken into account in the following analysis and conclusions. The conclusions summarise the progress made since the first report, the issues which require immediate action and the other areas where further action is needed (see pages 41-46).

## II. Main developments in the implementation of the Convention by Iceland

### 1. Emerging trends in trafficking in human beings

12. Iceland remains primarily a country of destination for trafficked persons and is to a certain extent also a country of transit. There is still an absence of a victim identification procedure which is independent of the criminal justice process and a lack of a centralised data collection system. Since 2016, the Ministry of Welfare has started collecting information on cases where it was informed of an initial suspicion of trafficking in human beings. These cases concerned 10 possible victims in 2016, two in 2017 and three in the first three months of 2018. The majority of them were women (nine), followed by men (five) and one girl. These persons originated from European countries (Belarus, Czech Republic, Denmark, "the former Yugoslav Republic of Macedonia"), China, Pakistan, Ghana and Thailand; in some cases, the presumed victim's nationality was not recorded. A multi-disciplinary operational team (see paragraphs 21, 88 and 91) was convened by the Ministry of Welfare on nine occasions in 2016-2018 concerning a total of 11 persons in order to provide the necessary assistance. In the remainder of the cases the initial suspicion of trafficking was not confirmed, the presumed victim refused to contact anti-trafficking stakeholders or left the country. None of the cases resulted in the actual identification of victims of THB.

13. The number of migrant workers in Iceland has increased over the reporting period and there have been reports of labour exploitation, in particular in the booming construction, tourism and catering sectors. Foreign *au pair* and voluntary work schemes are allegedly also being abused to exploit foreign workers. There are reports about prostitution being on the rise, with young women travelling to Iceland over the weekend to sell sex, but despite suspicions of organised movement and possible abuse, there have been no investigations resulting in prosecutions and no victims of THB for the purpose of sexual exploitation identified in recent years. Iceland is part of the Schengen Zone and is reportedly being used to exploit people arriving from EU countries for short periods of time, making use of the three-month rule for registration-free residence.

14. In 2016-2017, the number of applicants for international protection in Iceland increased substantially (over 1 000 each year). As a response to receiving many asylum seekers from countries deemed as safe countries of origin (e.g. Georgia, Albania and "the former Yugoslav Republic of Macedonia"), the Icelandic Government strengthened the use of accelerated procedures for manifestly unfounded claims, where suspensive effect in the appeals instance is no longer granted. In 2018, the number of applications for international protection in Iceland decreased substantially (370 in the first seven months of 2018, compared to 1 100 in 2017).<sup>4</sup> According to UNHCR, with regards to cases assessed on merits, and in particular cases from war-torn countries, Iceland provides international protection to almost all applicants from Afghanistan, Iraq, Somalia and Syria. The number of unaccompanied children applying for asylum in Iceland remains low (nine in 2017). No victims of THB have been identified among asylum seekers.

<sup>4</sup> [https://icelandmonitor.mbl.is/news/news/2018/08/16/fewer\\_people\\_apply\\_for\\_international\\_protection/](https://icelandmonitor.mbl.is/news/news/2018/08/16/fewer_people_apply_for_international_protection/)

## 2. Developments in the legal framework

15. In June 2016 the Icelandic Parliament adopted a comprehensive package with amendments to the Act on Foreigners. The new Act on Foreigners No. 80/2016 entered into force on 1 January 2017. It provides for the issuing of a nine-month residence permit to presumed victims of trafficking while the identification is taking place (Article 75) and the issuing of a renewable residence permit to victims of trafficking for reasons of their personal circumstances or for the purpose of co-operation with the investigation/criminal proceedings (Article 76). The amendments also introduced a provision prohibiting the penalisation of asylum seekers for irregular entry as well as a definition of a stateless person.

16. In early 2018, the Minister of Social Affairs and Equality submitted to Parliament a Bill amending the Act on the Rights and Obligations of Foreign Companies, which contains provisions concerning temporary work agencies, the rights of foreign workers and supply chain liability.<sup>5</sup> The bill was drafted with a view to implementing Directive 2014/54/EU of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers. The bill entered into force on 20 June 2018 through Act No. 75/2018 (see paragraph 60).

## 3. Developments in the institutional framework

17. In 2014, a Steering Group (also referred to as "consultation forum") was set up by the Ministry of the Interior to oversee the implementation of the second National Action Plan. It was initially made up of representatives of the Ministry of the Interior, the Ministry of Welfare, the National Commissioner of the Icelandic Police, the District Commissioner of the Police in Suðurnes, the District Commissioner of Reykjavík Police, the Directorate of Immigration and the Icelandic Human Rights Centre. Its composition was expanded over time to include the social services of Reykjavík city, trade unions and, since the spring of 2016, the Icelandic Red Cross. The main focus of the Steering Group has been on raising awareness of relevant professionals regarding THB, the indicators of THB and what can be done to assist possible victims.

18. The Steering Group was supposed to hold monthly meetings. However, since 2016, political instability and two changes of Government (following early elections in October 2016 and in October 2017) have affected the functioning of the Steering Group. Its meetings have been rare and it reportedly has not met since the spring of 2016. On 1 May 2017, the Ministry of the Interior was formally dissolved and split into two new ministries, of Justice and of Transport and Local Government. The Ministry of Justice took over the role of overseeing the implementation of the second Action Plan, but because it had been adopted under a different government, there was a lack of political ownership. One official at the Ministry of Justice's Department of Public Security and Criminal Justice was assigned to anti-trafficking co-ordination work, but she fulfilled at the same time other tasks, including co-ordination work in the area of combating money laundering.

<sup>5</sup> <http://www.althingi.is/altext/148/s/0674.html>

19. An information group on human trafficking (also referred to as “education team”) was set up in the spring of 2014. It is composed of four members, respectively from the Reykjavík Metropolitan Police, the Suðurnes Police Department, the Department of Welfare of the City of Reykjavík and the Federation of General and Special Workers in Iceland (SGS). The group has met frequently and has set up an education programme focusing on bringing together different entities working in the same geographical region that may come into contact with possible victims of THB (see paragraph 35). With a view to drawing political attention to the problem of THB in Iceland and the need to provide adequate human resources and funding, on 13 November 2017 the information group addressed a letter to the legislative and executive powers in Iceland. The letter contained six proposals for action: to adopt and fund a new national action plan, to appoint a dedicated national co-ordinator, to amend the legislation criminalising THB, to strengthen the surveillance of the labour market (including worker accommodation if organised by the employer), to increase the funding provided to law enforcement agencies so that there are staff to deal with THB cases, and to remove the anonymity of persons convicted of the purchase of sexual services. These proposals are discussed in more details in later sections of the report. At the time of GRETA’s second evaluation visit in April 2018, there had been no reaction from the Government to the proposals.

20. In 2015 the Ministry of Welfare formed two teams to provide assistance and services to victims of THB. The first one, called the “co-operation and co-ordination team”, is composed of some 15 persons representing the Ministry of Welfare, the Primary Health Care Centre, the Ministry of Justice, the Women’s Shelter, the centre for survivors of violence Bjarkarhlið, the State Hospital, the Reykjavík Metropolitan Police, the Icelandic Human Rights Centre, the Human Rights Centre of Reykjavík Municipality, the Ministry of Education and Culture, the NGO Stígamót (Education and Counselling Centre for Survivors of Sexual Abuse and Violence), the Directorate of Immigration, the Department of Welfare Services of Reykjavík Municipality, and the Directorate of Labour. The objective is to convene the team twice a year, but in 2017 it met only once, in June. The main tasks of the team are to exchange information about the services provided for victims of THB, to discuss individual cases, to receive updates from the police and the centre for survivors of violence, and to share updates about international co-operation regarding human trafficking.

21. The second team, called the “operational team”, consists of representatives from the Ministry of Welfare, the Primary Health Care Centre, the Women’s Shelter, the Reykjavík Metropolitan Police, the Human Rights Centre of Reykjavík Municipality and the Department of Welfare Services of Reykjavík Municipality. This team is convened whenever there is a concrete case of a possible victim of THB to ensure the provision of welfare services, with the victim’s consent (see paragraph 88). In case the victim is located outside the Reykjavík Metropolitan area, representatives from welfare services in that particular area are convened.

22. Reykjavík Metropolitan Police has set up a new investigation unit focused on human trafficking and prostitution, with two police officers who have access to other specialists in the organised crime unit, if needed, in case of complicated investigations. A special email address has also been set up for tip offs or inquiries about possible human trafficking. There are no specialised units or police officers dealing specifically with THB in the other parts of the country. Suðurnes District Police Department, which includes Keflavík International Airport (the main point of entry into Iceland), has built up experience in the investigation of THB cases and has a specialised police unit for the identification of falsified documents at the airport.

23. Further, a human trafficking team was formed at the Directorate of Labour and work procedures were put in place. The objective of the team is to increase awareness among labour inspectors of THB, to strengthen co-operation with other government agencies (police, tax authorities and trade unions) with special focus on social dumping, and to review the process of work permits, temporary work agencies and posted workers cases.

24. A reform of the judiciary and the prosecution service took place in 2016, including the establishment of a separate tier for appeal of court/prosecutorial decisions. A new level of appellate courts was added to the existing district courts and Supreme Court and a number of new judges were appointed. Further, the institution of District Prosecutor was established to handle the prosecution of criminal cases before the courts as well as investigating serious financial or economic crimes, offences against the authorities and offences committed by police officers in the course of their work. There is no specialisation of prosecutors and judges to deal with THB cases, but one of the prosecutors in the Suðurnes Police Department, who is a member of the above-mentioned information/education group, has developed specialism on THB.

25. Reference should also be made to a new Family Justice Centre for adult survivors of violence, called Bjarkarhlið, which started as a multidisciplinary pilot project in 2016. It is built on the American model of the Family Justice Center with the goal of providing survivors of violence with necessary support at one location. Bjarkarhlið is run in co-operation between the Ministry of Welfare, the City of Reykjavík, the Metropolitan Police, the Women's Shelter, the Human Rights Centre of Iceland, the Ministry of Justice, and the NGO Stígamót (see paragraph 99).

26. Despite the above-mentioned positive developments, GRETA is concerned that there has been a vacuum in the co-ordination of anti-trafficking action at national level and it would appear that trafficking in human beings has not been the subject of sufficient political attention in Iceland in recent years. **GRETA urges the Icelandic authorities to take steps to improve the co-ordination of anti-trafficking action, including by designating a national co-ordinator body with a mandate and responsibility to bring together all relevant actors, convene regular meetings of the Steering Group and take the lead in developing a new National Action Plan (see also paragraph 33).** GRETA notes that in a number of countries, the structures which co-ordinate action against THB are not placed within a particular ministry but, rather, are directly subordinated to the Council of Ministers, or the Prime Minister; this can secure its authority and demonstrate the willingness of the authorities to ensure that such structures have a genuine inter-institutional functioning.

27. In its first report, GRETA invited the Icelandic authorities to introduce an independent evaluation of the implementation of the National Action Plan as a tool for assessing the impact of the activities and for planning future policies and measures to combat human trafficking. Such independent monitoring is in the spirit of the human rights-based approach to anti-trafficking action underpinning the Convention. GRETA is of the view that the key features of National Rapporteurs' mechanisms within the meaning of Article 29, paragraph 4, of the Convention should be the ability to critically monitor the efforts and effectiveness of all State institutions, including national co-ordinators, and to that end maintain a constant exchange with civil society, the research community and other relevant stakeholders. A structural separation between these monitoring functions and executive functions makes possible an objective evaluation of the implementation of anti-trafficking legislation, policy and activities, identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations. Therefore, **GRETA considers that the Icelandic authorities should examine the possibility of establishing an independent National Rapporteur or designating another mechanism as an independent organisational entity with a view to ensuring effective monitoring of the anti-trafficking activities of state institutions and making recommendations to the persons and institutions concerned (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).**

#### 4. National Action Plan

28. During the reporting period, Iceland has continued to implement the second Action Plan to combat THB (2013-2016).<sup>6</sup> It followed on the first Action Plan (2009-2012), specifying which of the 25 actions contained in it had been completed and which were to be carried over in the new plan. The second Action Plan contained 25 actions in four areas (prevention and training; assistance and protection of victims; investigation and prosecution of THB cases; co-ordination, co-operation and evaluation). In the area of prevention, it envisaged the provision of training for relevant professionals, the publication of a manual for front-line professionals on the identification of victims and their referral to assistance, the issuing of a brochure for possible victims of THB, the organisation of annual conferences on THB, the setting up of an internet page with educational materials and information for the general public and professionals, and securing funding for academic research. In the area of assistance to victims, the plan envisaged ensuring safe housing to all victims of THB, finalising the procedures concerning unaccompanied children, and drawing up guidelines for dealing with cases where the possible victim of THB is an asylum seeker. When it comes to investigation and prosecution, it was envisaged to update the guidelines on police procedures in THB cases, to make regular risk assessment of THB cases in Iceland, and to develop procedures for the protection of witnesses. Finally, in the area of co-ordination and co-operation, the plan contained actions aimed at establishing registration of THB cases, setting up regular consultation of stakeholders under the supervision of the Ministry of the Interior as well as a consultative group of professionals involved in the investigation and prosecution of THB cases.

29. The Ministry of the Interior (since May 2017, the Ministry of Justice) has been responsible for the overall implementation of the second Action Plan. Some of the above-mentioned actions were to be carried out by the Ministry of Welfare and the Ministry of Education, Science and Culture. The budget proposed for the implementation of the second Action Plan over the three year period was 8 million ISK (approximately 48 000 euros). In reply to a written question by a Member of Parliament, the Minister of Justice indicated that in 2015 the Ministry of the Interior provided 4 million ISK for projects related to trafficking and in 2016, about 6 million ISK.

30. Stakeholders in Iceland commented that the second Action Plan was overly ambitious, which is why it was decided early on to adopt a set of priorities among the actions contained in the Plan. It was initially envisaged to evaluate the implementation of the Action Plan, but the Steering Group carried out some internal evaluation and consequently felt it would not be useful to commission an independent evaluation. GRETA notes that the disadvantage of this approach is that it deprives the authorities of the opportunity to look outside the confines of the National Action Plan and to ask an evaluator to find out what wider impact the Plan has had, including possible adverse impacts on people who were expected to benefit.

31. As noted in paragraph 18, due to changes of government, there has been stagnation in anti-trafficking action in Iceland since 2016. The development of a new anti-trafficking Action Plan was expected to start in 2017. However, due to the collapse of the Government in September 2017 and the calling of early elections in October 2017, the preparation of the new plan was delayed. The previously mentioned letter sent by the information group to the legislative and executive powers in Iceland in November 2017 (see paragraph 19) stressed that "there is now an urgent and even compelling need to draw up and implement an action plan to combat human trafficking. The last plan covering the period 2013-2016 received limited funding and was never fully implemented. Iceland has signed up to international commitments on such action plans, which are currently not fulfilled. Any action plan must be accompanied by the necessary funding and defined responsibility, if it is to meet its objective".

<sup>6</sup> *Áætlun ríkisstjórnar Íslands um aðgerðir gegn mansali 2013-2016.* Available in Icelandic at: <http://www.innanrikisraduneyti.is/frettir/nr/28544>

32. At the time of GRETA's second evaluation visit in April 2018, work on a new National Action Plan for combating THB was expected to start in the autumn of 2018, possibly under the joint ownership of the Ministry of Justice and the Ministry of Welfare. There was a general feeling that due to the failure to implement many of the activities envisaged under the second anti-trafficking Action Plan, the new one should probably focus on a more limited number of realistic activities. Parallels were drawn to the recently adopted National Action Plan for Combating Violence, which is supported by funding and could provide a basis for developing the new anti-trafficking plan. GRETA was subsequently informed that the new draft Action Plan was being reviewed by relevant stakeholders, following which it would be published, probably in late February 2019. **GRETA would like to receive a copy of the new Action Plan when it is published.**

33. GRETA is concerned by the delay in adopting a new National Action Plan against THB and **urges the Icelandic authorities to adopt such a plan as a matter of priority, in consultation with all relevant actors, and to support it with budgetary resources reflecting the requirements of a co-ordinated and effective human rights-based approach to combating human trafficking. The new plan should address all victims of trafficking for all forms of exploitation, while taking into account the gender-dimension of trafficking and the particular vulnerability of children.**

34. Reference should also be made to the Action Plan on Equality for the period 2016-2019, which states under Action 12 that the Ministry of Justice shall engage in an analysis of the status of refugees and asylum-seekers from the perspectives of gender, gender equality and human rights, including an examination of whether gender equality and human rights perspectives are given sufficient attention in Icelandic legislation and practice, including considerations of gender, sexual orientation or gender identity, persons at risk, and survivors of violent offences and trafficking in human beings.

## **5. Training of relevant professionals**

35. Since the first evaluation by GRETA, the information/education team, set up in 2014 and comprising a police officer, a prosecutor, a representative of the social services and a trade union representative, has invested efforts in training a range of professionals to recognise signs of human trafficking and on how to react. Multi-agency training seminars have been held regionally for police officers, health care workers, social workers and labour inspectors to boost local co-operation. Education has also been provided to border guards, staff of the Directorate of Immigration, the Directorate of Labour, children's services, trade unions, hotel staff and others. The training is based on the Frontex training manual on THB. By April 2017, a total of some 4 000 persons had participated in training events across Iceland. GRETA was informed that training on THB has become an integral part of the retraining programmes in many professional fields.

36. The Centre for Police Training and Professional Development was established in June 2016 as a result of changes to legislation regarding police training in Iceland. GRETA was informed that the subject of THB had been included in the training provided to police officers and police prosecutors in 2017-2018. The Centre for Police Training was one of the organisers of a conference on modern-day slavery which was held on 14 September 2017, with speakers from Norway, Denmark and Sweden, targeting in particular the police and prosecution. Further, in 2018 a three-day course was held for police officers and prosecutors at the Centre for Police Training with specialists from the Swedish police and a similar course is due to be held in the spring of 2019. The focus of the new course is on detecting and apprehending persons who buy sexual services in order to better enforce the legislation regarding buying sexual services. Theoretical information on the legislation regarding prostitution and human trafficking, how to enforce it, how to search the Internet, obtain addresses and do surveillance, is provided on the first day of the training course, followed by practical work in real-life situation on the second and third days. Further, THB is a special topic in one of the courses in Police Science at the University of Akureyri. Each police district chief assesses the needs for retraining and there is no compulsory training concerning THB for police officers who are already in service.

37. Since 2015 the Centre for Police Training has organised annually a survey of police officers concerning their experience with THB. The participation rate was 325 respondents in 2015, 206 in 2016 and 215 in 2017.<sup>7</sup> In 2015, 23% of the participants considered that they had sufficient knowledge on human trafficking, against 26% in 2017. Police officers were asked to reflect on whether they ever considered a case to be a human trafficking case. In 2015, only 36% stated that they had considered it, compared to 51% in 2017. When asked whether they had ever worked on a case that was listed as human trafficking, the rates were 12% in 2015, 16% in 2016 and 13% in 2017. In 2015 and 2016 the survey looked into whether police officers had been educated in any way on human trafficking: in both years, only 17% indicated having had education on the matter. The survey results were broken down by police district, which demonstrated considerable differences across the country, with some regions, such as the West Fjords, having had no cases of THB ever considered by the police.

38. On 14-16 November 2018, a U.S. prosecutor specialised in prosecuting child exploitation, human trafficking and violent crimes held a series of training events in Reykjavik, which were organised in co-operation with the U.S. Embassy in Iceland. On the first day, a seminar was held for the Directorates of Immigration and Labour (attended by some 35 participants). On the second day, there was a seminar for prosecutors and police officers (with some 25 participants, as well as more participants joining on the distance learning platform from other areas of Iceland), as well as a seminar for judges and assistants at the judicial administrative institution for the courts in Iceland (attended by six participants and additional participants online). Finally, on the third day, there was a roundtable discussion with NGOs and other service providers (attended by some 20 participants) and a seminar for Keflavík Border Police (with some 30 participants).

39. Representatives of the Government Agency for Child Protection, the Ministry of Welfare, the Reykjavík Metropolitan Police and the Directorate of Immigration have participated in seminars on child trafficking organised by the Council of Baltic Sea States (CBSS). Further, the Ministry of Welfare participated in an International Organization for Migration (IOM) expert group on improving counter-trafficking efforts. The aim was to enhance the health sector's capacity to identify and respond to needs of victims of trafficking and to share expertise among Nordic countries.

40. The second Action Plan envisaged the publication of a manual for front-line professionals on the identification of victims and their referral to assistance, but GRETA was informed that it had not yet been issued.

41. The information/education team and other interlocutors in Iceland noted that the offence of human trafficking, differentiated from other offences, is still insufficiently known by judges and prosecutors. Following the recent reform of the judiciary system, a number of new judges were appointed who could benefit from training on THB. Further, staff of the District Prosecutor's Office and prosecutors working at the nine District Police Commissioners' offices have not received training on THB. GRETA is concerned that the growing awareness about THB among police officers, immigration officials and labour inspectors is not matched by training of the judiciary, which reflects on the absence of successful prosecutions and convictions of THB. Further, there is need for more training and guidance on THB for immigration officers, labour inspectors and tax authorities.

**42. GRETA urges the Icelandic authorities to provide further training on THB to police officers, prosecutors and judges with a view to improving the criminal justice response to THB across the country and protecting victims' rights.**

<sup>7</sup> GRETA was informed that there were some 650 police officers in service, another 85 were undergoing practical training and some 84 were in the process of taking exams to become police officers.

43. **Further, GRETA considers that the Icelandic authorities should ensure that all relevant professionals (including immigration and asylum officials, labour inspectors, tax inspectors, social workers, health-care professionals, child welfare and education staff, diplomatic and consular officials) are trained periodically, throughout their careers, on the identification of victims of trafficking, including with a view to improving the identification of victims of THB for the purpose of labour exploitation, taking full account of gender and child-specific aspects.**

## **6. Data collection and research**

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

45. The establishment of a data collection mechanism was one of the actions in the second Action Plan against THB which should have been completed by December 2015. The Ministry of Welfare has started collecting information, from the beginning of 2016, on cases of possible THB in which it was contacted by the police, another agency or the person concerned him/herself. The database of such cases is still rather rudimentary and in some cases there is a lack of information on the nationality, age and form of alleged exploitation of the persons (see paragraph 12). The Ministry of Welfare admits that the police does not systematically inform it of possible victims of THB.

46. **GRETA once again urges the Icelandic authorities to develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical data on measures to protect and promote the rights of victims, as well as on the investigation, prosecution and adjudication of human trafficking cases. Statistics regarding victims should be collected from all main actors, including reception centres for asylum seekers, be harmonised and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. This should be accompanied by all the necessary measures to ensure the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database. The introduction of a National Referral Mechanism for victims of trafficking would be conducive to improving data collection.**

47. The second Action Plan envisaged the carrying out of research on the scope and nature of THB in Iceland. GRETA was not informed of any research having taken place in this respect. The lack of funding for the implementation of the second Action Plan was noted as the reason for the absence of research.

48. **GRETA considers that the Icelandic authorities should conduct and support research on THB issues, including when such studies are carried out by civil society, as an important source of information for future policy measures. Areas where research is needed in order to shed more light on the extent of human trafficking in Iceland include trafficking for the purpose of sexual exploitation, labour exploitation (in particular in at-risk sectors, including *au pairs*) and trafficking in children.**

### III. Article-by-article findings

#### 1. Prevention of trafficking in human beings

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

49. In its first report, GRETA urged the Icelandic authorities to carry out information and awareness-raising campaigns on THB with the involvement of civil society and on the basis of previous research and impact assessment. GRETA stressed that special attention should be paid to raising awareness of THB for the purpose of labour exploitation.

50. No national campaigns to raise public awareness of THB among the general public have been conducted in Iceland during the reporting period, due to the lack of funding envisaged for the implementation of the second Action Plan. In the area of prevention, the second Action Plan envisaged, *inter alia*, the issuing of a brochure for possible victims of THB, the organisation of annual conferences on THB, and the setting up of an internet page with educational materials and information for the general public and professionals. No brochure was published, but the homepage of the Ministry of the Interior has a special section with relevant information.

51. A conference on THB, open to the general public, was organised on 20 May 2016 in Reykjavík, with the participation of Council of Europe experts, Icelandic police officers, trade union representatives and private sector representatives (Icelandair Hotels and Securitas). Further, in 2016, the information/education group was awarded a grant from the Equality Fund, which paid for the organisation of a conference in Reykjavík on 14 September 2017 on modern-day slavery (see also paragraph 36).<sup>8</sup> The conference, with speakers from Norway, Sweden and Denmark, attracted some 200 participants from government agencies, trade unions, the police, the judiciary, social services and NGOs.

**52. GRETA considers that the Icelandic authorities should strengthen their efforts to raise awareness of THB among the general public, including through launching a general campaign, focusing on new trends in THB and based on the assessment of needs. The publication of information materials for possible victims of THB, in a variety of languages, should form part of the awareness raising measures (see also paragraph 101).**

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

53. In its first report, GRETA urged the Icelandic authorities to strengthen action to combat THB for the purpose of labour exploitation.

54. According to the Icelandic authorities, greater focus has been placed in the last two years on labour exploitation due to the changing economic climate in Iceland. According to recent statistics, migrant workers account for some 19.2% of the workforce in Iceland (37 592 migrant workers in 2018, compared to 21 028 in 2008). The number of temporary work agencies has grown and 1 416 persons were employed by them across the country in September 2018. Many temporary workers are reportedly paid wages considerably below the collective wage agreement, are asked to pay high rent for poor living conditions and are obliged to spend a fixed length of time working for their employer. According to the Directorate of Labour, the number of migrants working without work permits and without pay is also increasing.

<sup>8</sup> [http://reykjavik.is/sites/default/files/radstefna\\_dagskra.pdf](http://reykjavik.is/sites/default/files/radstefna_dagskra.pdf)

55. Trade unions in Iceland have been at the forefront of the fight against THB. The Icelandic Confederation of Labour (ASÍ) has implemented the project "Equal Rights - No Exception!" in co-operation with the police, tax officers and other stakeholders.<sup>9</sup> As part of this project, various awareness-raising measures were organised among professionals to combat forced labour. Leaflets with information about the rights of foreign workers in Iceland, collective agreements and other employment terms were issued in a range of languages under this project; more translations were envisaged, e.g. in Lithuanian and Russian. Trade union representatives are entitled to enter workplaces and demand to see work-related documents. They have been trained on recognising indicators of THB, but trade unions have limited means to inspect the labour market. Trade unions can take cases of violation of collective agreements to the labour court, but most people are not willing to testify against their employer.

56. Trade unions have expressed concerns about labour exploitation in the sector of tourism (including companies renting horses), which is characterised by the presence of many small companies, sometimes in rather isolated locations. Another at-risk sector is construction, which employs posted workers who are contracted in their home countries to avoid taxes and union fees. Further, there is reportedly a "grey line" between *au pairs*, farm workers and domestic workers, many of whom come from Poland. Trade unions monitor *au pair* websites advertising work in Iceland and send warning letters to those advertising, informing them of the rules for having *au pairs*. Despite reports sent to the police, there is a lack of systematic procedures for exchange of information and no follow-up. GRETA was informed that there was a lack of understanding of the characteristics of forced labour, which is not defined in Icelandic law (see paragraph 147). The Icelandic authorities have referred to Article 68 of the Icelandic Constitution, which states that no one shall be required to perform compulsory labour.

57. As noted in paragraph 23, a human trafficking team was formed at the Directorate of Labour (which falls under the Ministry of Welfare). The measures taken by this team include the provision of training and information to staff of the Directorate (i.e. labour inspectors), increased co-operation with other government agencies, such as the police, tax authorities and trade unions, with special focus on social dumping and joint inspectors, and a review of the process of issuing work permits, temporary work agencies and posted workers.

58. GRETA was informed that there were joint inspections of work sites by the Department of Labour, the police, the tax authorities, the internal revenue agency and trade unions. However, the internal revenue agency withdrew in early 2017 and since then there have been only a few joint inspections. Labour inspectors have referred a number of cases to the police for investigation, but the workers are reluctant to complain for fear of losing their jobs and the investigations are usually dropped due to lack of evidence. In their comments on the draft GRETA report, the Icelandic authorities stated that in October 2018 the Minister of Social Affairs and Equality appointed a working group to combat social dumping in the national labour market. The group is composed of representatives from the Icelandic Confederation of Labour (ASÍ), the Ministry of Industries and Innovation, the Icelandic Confederation of University Graduates, the Federation of State and Municipal Employees, the Ministry of Justice, the Ministry of Finance and Economic, the National Police Commissioner of the Icelandic Police, the Directorate of Internal Revenue, the Icelandic Association of Local Authorities, the Confederation of Icelandic Enterprise, the Administration of Occupational Safety and Health, and the Directorate of Labour. The aim of the group is to ensure that, when serious cases arise, they are dealt with in such a way that the offenders are held liable, workers are protected from repeated violations and there are conditions for normal competition between companies.

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<sup>9</sup> [https://www.asi.is/media/275485/plakat\\_vef-3-ensk.pdf](https://www.asi.is/media/275485/plakat_vef-3-ensk.pdf)

59. The Directorate of Labour is entrusted with the supervision of the labour market through the following laws: the Act on the Right and Obligations of Foreign Undertakings that Post Workers Temporarily in Iceland and on their Workers Terms and Condition of Employment, the Foreign Nationals Right to Work Act, and the Act on Temporary-Work Agencies. The Directorate of Labour, the Administration of Occupational Safety and Health and the Directorate of Internal Revenue have developed good co-operation regarding on-site inspections. The Directorate of Labour monitors 208 companies in Iceland and conducted 47 inspections in 2017 and 49 at the time of writing in 2018. Inspectors from the Directorate have been trained on recognising indicators of THB.

60. As noted in paragraph 16, a Bill amending the Act on the Rights and Obligations of Foreign Companies, which contains provisions concerning temporary work agencies, the rights of foreign workers and supply chain liability, was adopted into law on 20 June 2018. GRETA was informed that the bill introduces supply chain liability only in the construction sector. During the Parliamentary debates, the issue of introducing supply chain liability to other sectors was considered, but it was decided to limit the scope of the Act to the construction sector to begin with due to the fact that most posted workers employed in Iceland are employed in the field of construction.

61. GRETA was informed that the Directorate of Labour collaborated with counterparts in other Nordic countries and was making efforts to engage with the private sector around the corporate social responsibility agenda. Further, there are reportedly plans to produce guidelines for companies on managing the risk of hidden forced labour, similar to those prepared by the Danish Centre against Human Trafficking (CMM).

62. Iceland ratified the Protocol to the ILO Convention on Forced Labour (No. 29) on 14 June 2017, but has not signed ILO Convention No. 189 concerning decent work for domestic workers.

63. GRETA welcomes the involvement of the Directorate of Labour and trade unions in the co-ordination and implementation of anti-trafficking measures, which is an important step towards implementing the recommendations made by GRETA in its first report. **GRETA urges the Icelandic authorities to take further steps in the area of preventing trafficking for the purpose of labour exploitation, in particular by:**

- **sensitising relevant professionals (police officers, labour inspectors, tax and internal revenue officials, prosecutors, judges) about THB for the purpose of labour exploitation and the rights of victims;**
- **raising awareness among the general public as well as, in a targeted manner, among migrant workers, about the risks of THB for the purpose of labour exploitation;**
- **strengthening the monitoring of recruitment and temporary work agencies and reviewing the legislative framework for any gaps that may limit protection or preventive measures;**
- **strengthening the monitoring of employers registered in other EU countries and recruiting posted workers to Iceland with a view to preventing the economic exploitation of these workers, paying particular attention to the construction sector;**
- **reviewing the regulations concerning *au pairs* to ensure that they are not subject to abuse;**
- **ensuring that the mandate of labour inspectors enables them to contribute to preventing and detecting cases of THB for economic exploitation, including in domestic households;**
- **envisaging expanding the scope of the amended Act on the Rights and Obligations of Foreign Companies to all economic sectors;**

- **working closely with trade unions, civil society and the private sector to raise awareness of trafficking for the purpose of labour exploitation, prevent trafficking in supply chains and strengthen corporate social responsibility, drawing on the Guiding Principles on Business and Human Rights<sup>10</sup> and Recommendation CM/Rec(2016)3 on human rights and business.<sup>11</sup>**

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

64. The Child Protection Act No. 80/2002 provides the legal basis for the protection of all children within the territory of Iceland, irrespective of citizenship. All municipalities in Iceland have a child protection committee responsible for monitoring, assessing and investigating the conditions of children believed to be living in unacceptable conditions, mistreated or having serious social problems. These committees have to apply child protection measures to safeguard the child's best interests and welfare. According to Article 21 of the Child Protection Act, when a child protection committee is notified or receives information by other means that a child's physical or mental health or development might be at risk due to neglect, incapacity or behaviour of a parent, violence or degrading conduct by other parties, or due to the child's own behaviour, the committee shall decide without delay, and not later than seven days from receipt of the notification or other information, whether there is reason to initiate investigation of the case. Pursuant to Article 16 in the Child Protection Act, all persons are obliged to notify a child protection committee if they have reasons to believe that a child is living in unacceptable circumstances of upbringing, is exposed to violence or other degrading treatment, or in conditions seriously endangering his/her health. The child protection committees should therefore be notified if anyone would have a reason to believe a child is a victim of THB.

65. The Government Agency for Child Protection provides instructions and advice to the local child protection committees and monitors their work. The Agency also trains the personnel at the Directorate of Immigration regarding children.

66. The Government Agency for Child Protection and the Directorate of Immigration work together on cases of unaccompanied children who arrive in Iceland and seek international protection. The number of unaccompanied and separated children arriving in Iceland was 20 in 2016 and 26 in 2017; however, following age assessment, it was established that only 12 of them were children.

67. Since February 2016, all unaccompanied and separated children in Iceland have been interviewed at Barnahus (Children's House) in Reykjavík. Set up 20 years ago, Barnahus was initially intended for interviewing sexually abused children, but has expanded its functions over the years, covering all unaccompanied children arriving in Iceland, including possible victims of trafficking. This interdisciplinary and multi-agency centre avoids subjecting children to repeated interviews by many agencies in different locations (see also paragraph 117). The interview provides the basis for the asylum application, individual age and mental health assessment, need for protective measures, accommodation, collaboration between agencies and rapport building with the child. If there are indicators that the child is a victim of trafficking, the police would be involved.

68. Unaccompanied children either stay in accommodation provided by the Directorate of Immigration, where there is staff presence 24 hours per day, seven days a week, or are placed with a foster family. There have been no cases of disappearance of unaccompanied children.

69. There is no specific awareness raising of THB through education in schools in Iceland. All children at the age of 7 are educated in school about violence against children through a puppet show called "The Kids on the Block".

<sup>10</sup> [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

<sup>11</sup> [Recommendation CM/Rec\(2016\)3](#) of the Committee of Ministers to member States on human rights and business, adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies.

70. **GRETA considers that the Icelandic authorities should enhance their efforts in the area of prevention of child trafficking, by continuing to sensitise and train frontline professionals working with children and providing information to children about the risks of trafficking, including through recruitment via the Internet.**

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

71. GRETA notes that while trafficking in human beings for the purpose of organ removal as defined by the Convention and organ trafficking as defined by Articles 4 to 8 of the Council of Europe Convention against Trafficking in Human Organs<sup>12</sup> are distinct crimes, they share similar root causes, such as shortage of organs to meet demand for transplantation and poor economic and other conditions that put persons in a vulnerable position. Therefore, measures to prevent organ trafficking can help prevent trafficking for the purpose of organ removal and the reverse is also true.<sup>13</sup> Among the necessary preventive measures, GRETA underlines the importance of a robust and transparent domestic system for the removal and transplantation of human organs and the need for training of health-care professionals. GRETA also stresses the importance of conducting a thorough investigation of each case where there is information or suspicion of trafficking for the purpose of organ removal, paying attention to the abuse of the vulnerability of the "donor" and ensuring that "donors" are treated as victims of THB.

72. In Iceland, Law No. 16/1991 regulates the removal of organs for transplantation and sets out the requirements for approval of organ donation and organ removal. The Directorate of Health is the responsible government body that oversees the approval process. Organ donation is based on informed consent. It is assumed that the deceased was against the organ donation unless he/she had previously expressed his/her wish to be a donor. Before an organ is removed the death of the person has to be confirmed by two physicians (different from the ones removing the organ). Before the approval of an organ donation, a physician must provide the prospective donor with information on the nature of the action and its possible consequences. An organ donor shall have the option of a consultation with a physician other than the one treating the expected transplant recipient.

73. There have been no suspected cases of THB for the purpose of the removal of organs in Iceland.

74. Iceland has not signed the Council of Europe Convention against Trafficking in Human Organs. **GRETA encourages Iceland to sign and ratify the Council of Europe Convention against Trafficking in Human Organs.**

75. **GRETA considers that the Icelandic authorities should make efforts to sensitise medical professionals involved in organ transplantations and other health-care professionals to THB for the purpose of organ removal.**

<sup>12</sup> Opened for signature in Santiago de Compostela on 25 March 2015; in force since 1 March 2018.

<sup>13</sup> See "[Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs](#)", [Joint Council of Europe/United Nations Study](#) (2009), in particular pages 55-56; "Trafficking in human beings for the purpose of organ removal in the OSCE region: Analysis and Finding", OSCE Occasional Paper No. 6 (2013).

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e. **Measures to discourage demand (Article 6)**

76. In the first evaluation report, GRETA considered that the Icelandic authorities should strengthen their efforts to discourage demand for the services of trafficked persons for the purpose of labour exploitation in economic sectors at higher risk of human trafficking, such as construction, hotels, catering and entertainment.

77. The second National Action Plan noted the particular risk of women and girls falling victim to THB and stressed the importance of addressing the demand side, in particular for pornography and prostitution.

78. The activities of the information/education team have served, *inter alia*, to raise awareness about the demand side of human trafficking. Media coverage has also helped raise public awareness.

79. As noted in GRETA's first report, the purchase of sexual services was criminalised in Iceland in 2009 through Article 206 of the Penal Code.<sup>14</sup> During the second country visit, GRETA was informed that the legislation criminalising the purchase of sex had not been enforced in many cases. The police have reportedly investigated a number of cases, but the penalties were minor and the law guarantees anonymity to perpetrators, which is why the law is considered to have no deterrent effect. An evaluation of the impact of the ban on purchasing sex in reducing THB has not been carried out. According to the police, the offer of sexual services had increased. One of the proposals for action made in the letter sent by the information/education group on 13 November 2017 to the legislative and executive powers concerned the need to remove the anonymity of buyers in prostitution cases. It is noted in the letter that the increase in the supply of prostitution in Iceland signifies that demand is high.

80. The Centre for Police Training referred to a seminar organised on 24 April 2018 with the participation of Swedish police officers on how to implement in practice the legislation criminalising the purchase of sex. Reference has been made in paragraph 36 to a training course in this respect which will take place in the spring of 2019.

81. The NGO Stígamót has continued to raise awareness of the links between THB and prostitution. It has also established co-operation with the ROSA Project in Norway and has learned from their experience on screening adverts for sexual services on the Internet for cases which might be indicative of THB.

**82. GRETA considers that the Icelandic authorities should strengthen their efforts to discourage demand for the services of trafficked persons, by adopting legislative, administrative, educational, social and cultural measures to discourage demand that fosters all forms of exploitation leading to trafficking, for all forms of exploitation, in partnership with civil society, trade unions and the private sector. Increased attention should be paid to discouraging demand for the services of trafficked persons for the purpose of labour exploitation in economic sectors at high risk of human trafficking, such as construction, tourism and catering.**

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<sup>14</sup> See paragraph 94 of GRETA's first report.

f. **Border measures (Article 7)**

83. In its first report, GRETA welcomed the drawing up of an information sheet for possible victims of THB by the Directorate of Immigration and invited the Icelandic authorities to have it translated into a range of languages and to ensure that foreign nationals arriving in Iceland are provided with written information, in a language that they can understand, in order to alert them to the risks of THB, inform them of their rights and where to turn for advice and assistance. According to the Icelandic authorities, there are for the time being no plans to translate the information sheet for possible victims of THB into other languages.

84. As noted in GRETA's first report, almost all of the border traffic in Iceland goes through Keflavík International Airport, which is in the district of the Police Commissioner of Suðurnes in charge of border surveillance. The police commissioner has developed work procedures on screening for THB and staff members have received appropriate training. Since 25 March 2001, Iceland has been involved in the Schengen Scheme. GRETA was informed by police officers that there had been a number of cases of smuggling of persons through Keflavík International Airport, some of which were initially investigated as possible human trafficking, and the Ministry of Welfare was involved in providing assistance to the persons concerned.

85. No measures have been taken to ensure that the personnel employed by commercial carriers, including airline attendants and staff working on other means of transportation by land and sea, are able to detect possible victims of THB and inform relevant bodies in due course. The Icelandic authorities have indicated that this would be on the agenda for future awareness raising.

86. **GRETA considers that the Icelandic authorities should continue their efforts to detect and prevent THB through border control measures, in particular in the context of increased migration flows, and develop awareness among staff of commercial air carriers and staff working on other means of transportation of the detection of victims, using indicators of THB, and how to refer them to assistance. This should be accompanied by the provision of written information to foreign nationals, in a language that they can understand, in order to alert them about the risks of THB and to inform them of their rights and where to turn for advice and assistance.** GRETA refers in this context to the United Nations Office of the High Commissioner for Human Rights (OHCHR) 2014 Recommended Principles and Guidelines on Human Rights at International Borders.<sup>15</sup>

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

**a. Identification of victims of THB (Article 10)**

87. In its first report, GRETA urged the Icelandic authorities to set up a formalised national referral system defining clear procedures and roles of all frontline actors who may come into contact with victims of trafficking, and to ensure that the formal identification of victims of human trafficking, including Icelandic and EU/EEA nationals, is not dependent on the initiation of criminal proceedings. Further, GRETA urged the authorities to promote multi-agency involvement in victim identification by formalising the role and input of specialised NGOs and involving other relevant actors, such as labour inspectors, and to provide regular training on the identification of victims of THB to all frontline staff.

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[http://www.ohchr.org/Documents/Issues/Migration/OHCHR\\_Recommended\\_Principles\\_Guidelines.pdf](http://www.ohchr.org/Documents/Issues/Migration/OHCHR_Recommended_Principles_Guidelines.pdf)

88. Since GRETA's first evaluation, a new development has been the setting up of the operational team (see paragraph 21) in cases where there is a suspicion that a person might be a victim of THB. The information about such persons comes from a variety of sources: in the first place, from the police (including at Keflavík International Airport), but also the Directorate of Immigration, the Directorate of Labour, local authorities, social services, trade unions, the Women's Shelter and child protection services. The operational team is convened whenever there is a concrete case of a possible victim of THB to ensure the provision of welfare services, with the victim's consent. The team is composed of representatives of the Ministry of Welfare, the Primary Health Care Centre, the Women's Shelter, the Reykjavík Metropolitan Police, the Human Rights Centre of Reykjavík Municipality, the Department of Welfare Services of Reykjavík Municipality, and other local authorities and social services, depending on where the person is located. GRETA was informed that different service providers and authorities may be brought together, depending on which municipality is involved, the police district and whether there are specific health issues. However, some interlocutors noted that because the operational team is convened at the level of the Ministry of Welfare, it tends to be rather bureaucratic and slow, and by the time the team is convened, possible victims leave the country. According to the Icelandic authorities, each member of the operational team can call the team together, depending on the case, and the meetings can be held at the location of any of the members. Members of the co-ordination team (see paragraph 20) can also contact members of the operational team, regarding necessary services.

89. The operational team does not have a mandate to formally identify victims of trafficking, but rather provides a collaborative network for referring possible victims to assistance. The decision on whether a person is presumed to be a victim of THB and therefore needs assistance is made by the chair of the team in co-operation with different stakeholders.

90. As noted in GRETA's first report, the National Commissioner of Police has issued guidelines on the identification of victims of THB which are based on the Norwegian "Guide to the Identification of Possible Victims of Trafficking", drawn up in November 2008 by the Norwegian National Co-ordinating Unit for Victims of Trafficking (KOM). The guidelines have not been updated since 2010. According to the identification guidelines, a person who is detected as a possible victim of trafficking has to be verified by the police, the prosecution authorities, immigration authorities or, in the case of children, child welfare authorities. However, none of these agencies has a specific mandate to conduct formal identification of victims of trafficking. The Icelandic authorities have noted that while there is no formal identification process, victims can be granted all the necessary assistance without formal identification. The legal status of victim may be granted by the police or the Directorate of Immigration following an assessment by the police, but the final declaration of victim status is in the hands of the courts.

91. The operational team was convened three times in 2016, twice in 2017, twice in January-March 2018 (some of the cases concerned more than one person), and twice in September 2018 (regarding two cases of suspicion of labour exploitation). In some cases brought to the attention of the Ministry of Welfare, the operational team was not convened because new information appeared, indicating that it was not a THB case, or the person did not want to contact any stakeholders or receive assistance. Presumed victims do not attend the meetings of the operational team.

92. By way of example, GRETA was informed of the case of a woman and a man from China who were detected upon their departure from Keflavík International Airport to the UK with false travel documents in January 2018. The man was initially suspected of being a trafficker and the woman, a victim. The police informed the Ministry of Welfare of the case. The woman was provided with information and counselling by the Welfare Department of the Municipality of Reykjanesbær (close to the airport) and was escorted to the Women's Shelter on the first day, while the man was placed in custody. On the following day, the operational team met, including representatives from the Ministry of Welfare, the Welfare Department of Reykjanesbær and the District Police of Suðurnes. The police subsequently found that a third party had paid for the hotel where the man and the woman had spent one night between flights, while in transit in Iceland. That third party had already left the country. The man was released from custody and was accommodated in a guest house. A week later, the woman left the Women's shelter and did not return. The police subsequently informed the Ministry of Welfare that the two persons had left the country.

93. The operational team was also activated in February 2016, when a case of domestic violence reported in the coastal town of Vík in Mýrdal (known as the "Vík case") was identified subsequently as one involving economic exploitation (housework during the daytime and sewing at night) of two Asian women who had residence rights in Italy. The women were accommodated in the Women's Shelter. While the police investigation was on-going, the women decided to return to Italy (see also paragraph 167).

94. Other cases in which the operational team was activated concerned: a woman from Belarus selling lottery tickets, a woman of unidentified nationality who had contacted the Directorate of Labour because she was allegedly not getting paid by the hotel where she was working, a man from an international youth exchange programme (nationality unidentified), a woman from "the former Yugoslav Republic of Macedonia" who had gone to the Women's Shelter, a woman from Ghana detected upon departure from Iceland and, most recently, in March 2018, a man from Pakistan who had contacted a trade union indicating that he was being abused by his employer. In all these cases, the persons concerned were reportedly provided with necessary assistance through the operational team.

95. As noted in paragraph 55, trade unions have expressed concerns about labour exploitation in the sectors of tourism (including companies renting horses), restaurants, construction, *au pairs* and domestic work. Further, there have been reports about Polish men recruited by Polish intermediaries to work in the fishing industry, some of whom have apparently complained to trade unions about their treatment. Foreign workers in Iceland are in principle unionised and collective agreements apply to them but, in certain cases, the fishing boats are registered in other countries.

96. However, GRETA was informed that the identification of cases of THB had been given less priority by the police due to limited staffing and resources. As noted in paragraph 22, only the Reykjavík Metropolitan Police has an investigation unit specialised in cases of human trafficking and prostitution, with three police officers. According to the Metropolitan Police the email address set up for tip offs or inquiries about possible human trafficking is monitored by the specialised investigation unit and some of the notifications have formed grounds for further inquiry or investigations by the police or have been linked to on-going investigations.

97. Trade unions together with the Icelandic Human Rights Centre have prepared materials on how to interview possible victims of trafficking. According to the Metropolitan Police, these materials are not used as such since the police officers who have the responsibility to conduct formal interviews have all been trained by the Police Academy and have received training on communications and interrogations of persons in sensitive situations. However, the materials are used by inspection officers under the auspices of the Icelandic Confederation of Labour (ASÍ), which has as members two-thirds of wage earners in Iceland.

98. The second National Action Plan envisaged drawing up guidelines for dealing with cases where a possible victim of THB is an asylum seeker, but this has not yet happened. The Directorate of Immigration, which deals with asylum claims, stated that if a suspicion of THB emerges during the asylum procedure, they would contact the police; however, there was felt to be a need for a specific protocol on what to do with possible victims of THB. The Directorate of Immigration currently co-operates with the UNHCR Regional Representation for Northern Europe (RRNE) to further improve the reception system, while taking into consideration the views of asylum seekers in a participatory approach. According to UNHCR, Iceland has made commendable progress in its asylum procedures, reception and integration of refugees. The Icelandic Red Cross provides free-of-charge legal aid to asylum seekers and has occasionally encountered asylum seekers who either present their trafficking experience as the core of their asylum claim or in addition to a claim on other grounds. The protection granted to refugees remains stronger than that for trafficking victims and recognition as a refugee on the basis of a trafficking claim is reportedly rare. Reference can be made to the case of a Nigerian woman whose asylum claim was rejected and who was about to be sent back to Nigeria, but due to the fact that she had previously been a victim of trafficking in Italy, she was eventually given a humanitarian residence permit in Iceland, together with her child. In the context of a Lean Quality initiative, finalised in 2016, UNHCR RRNE analysed the quality of first instance decisions taken by the Directorate of Immigration and found that asylum seekers presenting a trafficking based claim were generally assessed in the light of the Refugee Convention's ground "membership of a particular social group". Noting the new accelerated procedures for manifestly unfounded asylum claims (see paragraph 14), GRETA stresses the importance of carefully screening cases channelled into the accelerated procedure for possible trafficking claims.

99. During the second evaluation visit, GRETA visited the Family Justice Centre Bjarkarhlíð, which is a multi-disciplinary service centre for adult survivors of violence. Established in March 2017, Bjarkarhlíð is a collaborative project between the Ministry of Welfare, the Ministry of Justice, the Municipality of Reykjavík and several NGOs. It provides a holistic approach to adult victims of violence who are interviewed in the same location by different specialists (social worker, lawyer, police officer) and are supported in a warm welcoming environment. The Social Services of Reykjavík also use Bjarkarhlíð for counselling children that have witnessed domestic violence. During the first year of the project, 316 survivors of violence (91% of whom were women) received assistance in Bjarkarhlíð. Most of the cases concerned domestic violence, but there were also some cases where THB was part of the violent experience that survivors sought help for. One such case had already been investigated in Italy and another person had reportedly escaped from THB in Libya. Both of these cases were in a refugee process in Iceland. In a third case, Bjarkarhlíð interviewed a woman from Central America who had been recruited by an Icelandic couple for the purpose of prostitution. Bjarkarhlíð thus participates in the initial identification of possible victims of THB and their referral to assistance. GRETA was informed that the possibility of reinforcing Bjarkarhlíð was being discussed so that it could provide more services to presumed victims of THB. One idea was to locate the operational team at Bjarkarhlíð, rather than at the Ministry of Welfare. In their comments on the draft GRETA report, the Icelandic authorities indicated that a Parliamentary Resolution "Action Plan against Violence and Its Consequences" was on the Minister of Social Affairs' list of priorities for the Parliament in the autumn of 2018. One of the actions included in it proposed that the co-ordination of social and health services for victims and possible victims of human trafficking be located in Bjarkarhlíð.

100. While welcoming the setting up of the operation team by the Ministry of Welfare and the work carried out at Bjarkarhlíð, GRETA is concerned by the continuing lack of a formalised procedure for the identification of victims of THB which brings together individual good practices into a clear framework with roles and responsibilities of different stakeholders, and harmonised indicators and criteria for the identification of victims of trafficking.

**101. GRETA urges the Icelandic authorities to further improve the identification of victims of trafficking by:**

- **setting up a formalised National Referral Mechanism (NRM) which defines the procedures and roles of all frontline actors who may come into contact with victims of trafficking, in order to improve clarity and legal certainty;**
- **harmonising the indicators and criteria used by different stakeholders to identify presumed victims of trafficking and ensuring that all frontline professionals are trained to apply this procedure and the indicators;**
- **drawing up guidelines for dealing with cases where a possible victim of THB is an asylum seeker, which are part of the NRM, taking into account the UNHCR Guidelines on International Protection No. 7, and ensuring proactive identification of possible victims of trafficking among asylum seekers to avoid them being subjected to the accelerated procedure;**
- **pursuing a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by encouraging regular and co-ordinated multi-agency inspections in sectors most at risk;**
- **preparing a brochure for possible victims of THB, with information on their rights as victims of THB, available in a variety of languages.**

**102. Further, GRETA considers that the Icelandic authorities should continue to ensure that whenever there are reasonable grounds to believe that a person is a victim of THB on the basis of operational indicators, he/she is provided with all the assistance and protection measures provided for in the Convention, regardless of whether an investigation into trafficking is opened and whether the person co-operates in the investigation.**

**b. Assistance measures (Article 12)**

103. In its first report, GRETA urged the Icelandic authorities to strengthen their efforts to provide assistance to victims of trafficking, including safe and suitable temporary accommodation for all victims of trafficking, which is adapted to their needs, gender and age, and to ensure access to education, vocational training and the labour market for victims of trafficking who are lawfully resident in the country in order to help their reintegration into society and to avoid re-trafficking.

104. Pursuant to the Municipalities' Social Services Act No. 40/1991, the municipalities are obligated to provide all their residents with necessary services and assistance. Persons without legal residence in Iceland are provided with necessary assistance from the municipality where they are located. All expenses regarding such persons are refunded by the Ministry of Welfare. Victims of trafficking in human beings who are not domiciled in Iceland receive financial support on the basis of Regulation 735/2018 for local financial assistance to non-EEA foreign nationals who are not domiciled in Iceland. The Icelandic authorities have stated that all persons in this situation are offered financial support, depending on needs assessment, and the majority of the presumed victims of THB have received financial assistance. The financial assistance covers food, rent, transportation and other basic needs.

105. The Ministry of Welfare has overall responsibility for providing victims of trafficking with physical, social and psychological assistance. The Ministry strives to obtain information on presumed trafficking victims as soon as possible so as to ensure timely assistance adapted to the person's needs, through the operational team which includes representatives from social services, health care and law enforcement. The aim of the team's meetings is to strengthen interdisciplinary co-operation and coordinate services. Further, the co-operation and co-ordination team convened by the Ministry of Welfare (currently once a year) serves as a platform for exchanging information between stakeholders about the services provided for victims of THB and discuss the management of individual cases.

106. On the basis of an agreement with the Ministry of Welfare, the Icelandic Human Rights Centre provides free legal counselling to all persons of foreign origin in Iceland and information about their legal rights and other services available to them.

107. Pursuant to Ministry of Welfare Regulation 1176/2011, victims and possible victims of THB are entitled to emergency health care, regardless of their immigration status. They are also guaranteed health services pursuant to Regulation No. 50/2017 on health services for persons without health insurance. The Ministry of Health has arranged for possible victims of THB to have access to health care at the Primary Health Care Centre and psychological assistance is provided by a special team at *Landspítali* (the National University Hospital).

108. Since December 2014, the Ministry of Welfare has had an agreement with the Women's Shelter in Reykjavík, pursuant to which all women who are presumed to be victims of human trafficking can stay at the shelter and get the necessary protection there (accompanied by their children, if any). GRETA visited the Women's Shelter, located in a house in a central residential area of Reykjavík. It is the only shelter for victims of domestic violence in Iceland. With 12 rooms, it was working at full capacity (on average, 13 women and 10 children are present at any given time). In 2016, two presumed victims of THB (in the so-called "Vík case", see paragraph 167) had stayed at the shelter, initially for two weeks and later on for a few days before leaving Iceland. In 2017, four women were accommodated at the shelter on the basis of the agreement with the Ministry of Welfare. None of them were identified as victims of THB; two sought asylum. Six counsellors, a social worker, a lawyer as well as other staff work at the shelter. None of the staff have received training on THB. Leaflets in six different languages are available at the shelter, with information about life at the shelter, interviews, self-help groups and education, but no specific information for victims of human trafficking.

109. There is still no specific shelter for men in Iceland, but according to the Icelandic authorities, should there be a need for a male victim of THB to be accommodated, this would happen in a guesthouse or the centre for asylum seekers. The authorities have affirmed that male victims of THB are entitled to the same level of support as women, including secure housing, counselling, financial aid if needed and health services.

110. As noted earlier (see paragraph 99), the centre for adult survivors of violence, Bjarkarhlíð, currently provides co-ordinated services to all victims, including of human trafficking, and there are plans to expand this role. **GRETA would like to be kept informed of future developments concerning expanding the role of Bjarkarhlíð.**

111. Until recently, the residence permit granted to victims of THB did not entitle them to work in Iceland, which was seen as problematic by some interlocutors as victims of trafficking do not receive sufficient allowance enabling them to survive. The impossibility of victims of THB to work was also criticised on the ground that it removed any incentive for them to denounce their traffickers. Following amendments to the Act on Foreign Nationals' Right to Work in force since June 2018 (see paragraph 129), victims of trafficking who hold a residence permit are entitled to receive a work permit.

112. GRETA is concerned that the services available to victims of THB, either when there are reasonable grounds to consider them victims or when their identification is considered more definite, have not yet been defined in an NRM. There is still no specialised accommodation for victims of trafficking.

113. **GRETA once again urges the Icelandic authorities to strengthen their efforts to provide assistance to victims of trafficking, including measures to:**

- **provide safe and suitable temporary accommodation for all victims of trafficking, which is adapted to their needs, gender and age;**
- **provide information for victims on the services and assistance measures available and how to access them, in an appropriate range of languages;**
- **review the legislation in order to ensure access to work and vocational training for victims of trafficking who are lawfully resident in the country;**
- **provide training on THB to staff working at the Women's Shelter, municipal welfare staff and health-care staff.**

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

114. In its first report, GRETA urged the Icelandic authorities to set up a procedure for the identification and referral of child victims of trafficking, which takes into account the special circumstances and needs of child victims and involves child specialists, child protection services and specialised police and prosecutors.

115. The Child Protection Act No. 80/2002 applies to all children within the territory of Iceland, irrespective of citizenship, and the Child Protection Service of the Ministry of Welfare is responsible for their protection. Child protection services provide children with interpreters and personal assistants who often speak the unaccompanied children's native language. Education is guaranteed for all children in Iceland in accordance with the Convention on the Rights of the Child which Iceland incorporated into national law in 2013.

116. If the police or another agency comes across a potential child victim of THB, the case is referred to the local child welfare authorities who are responsible for ensuring accommodation and other services. A representative of the child welfare authorities and a representative of the Icelandic Red Cross (who acts as the child's legal representative) are present during interviews with children seeking asylum as well as unaccompanied children. Article 28, paragraph 5, of the new Act on Foreigners No. 80/2016, states that all interviews with children must be done by an expert in matters of children.

117. During the second evaluation visit, GRETA visited Barnahus (Children's House). Established in 1998, Barnahus is a child-friendly, interdisciplinary and multiagency centre in which different professionals work under the same roof in investigating suspected child sexual abuse cases and providing appropriate support for child victims in line with the Children Advocacy Centre model. The activities are based on a partnership between the police, prosecution, the University Hospital and the local child protection services as well as the Government Agency for Child Protection which is responsible for its operation. The basic concept of Barnahus is to avoid subjecting the child to repeated interviews by many agencies in different locations, including the courtroom. Barnahus is located in a residential area of Reykjavik and its interior is designed to maximise the child's comfort e.g. by toys, pictures and selection of colours. The child is interviewed in a special room by an interviewer trained in forensic interviewing according to an evidence-based protocol. The interview is observed in a different room by a judge, who is formally in charge of the procedure, a social worker from the child protection authorities, the police, the prosecution, the defence lawyer and the child's legal guardian. The interview is videotaped for multiple purposes, including child protection and criminal investigation, and as court testimony at the main proceedings if an indictment is made. This arrangement makes it possible in most cases to do with only one interview and the child does not need to appear in court. After the interview the child may undergo a medical examination in the medical room at Barnahus. Child-friendly interviews are very important to find if there is a suspicion of THB since the victim's disclosure might be the key or only evidence of the crime, as it is in most sexual abuse cases involving children. Since February 2016, all unaccompanied children have been interviewed at Barnahus.

118. There is still no formalised procedure for the identification and referral of child victims of trafficking in Iceland and no child victims of trafficking have so far been identified. GRETA was informed of several cases where there was a suspicion of trafficking which was not confirmed. In one case in 2016, a pregnant 15-year old girl had travelled to Iceland together with her older boyfriend; the case was referred to the child protection service, but it was not confirmed as THB. In another case, a 17-year old boy from Lithuania was found working for a criminal gang; there was a suspicion of THB for the purpose of forced criminality, the boy was accommodated in a juvenile home and subsequently repatriated in co-operation with social workers in his country of origin. Child protection service representatives indicated that there was a need for more training and collaboration in order to follow up suspicions of child trafficking.

119. When a person seeking asylum claims to be under 18 but does not have any documents that verify his/her age, the Directorate of Immigration requests an age assessment. Age assessments are conducted by forensic dentists based on x-rays, but there is also an interview and a review of documents, so the age assessment is based on multiple factors. The benefit of the doubt is granted to the asylum seeker and he/she is considered a child until a decision to process the individual as a grown up, based on the age assessment report, has been made. **GRETA invites the Icelandic authorities to ensure that the age assessment procedures take into account psychological, cognitive or behavioural factors, with a view to ensuring that the best interests of the child are effectively protected, in compliance with Article 10, paragraph 3, of the Convention, the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child.**<sup>16</sup>

120. While welcoming the involvement of Barnahus in interviewing unaccompanied and separated children, **GRETA urges the Icelandic authorities to take further steps to identify child victims of trafficking and, in particular, to:**

- **establish a clear procedure (National Referral Mechanism) concerning the identification of child victims of THB which is integrated into the child protection system and takes into account the special circumstances and needs of child victims, involves child specialists and ensures that the best interests of the child are the primary consideration in all proceedings relating to child victims of THB and children at risk;**
- **ensure that relevant actors take a proactive approach and increase their outreach work to identify child victims of THB. In this context, reference is made to the recommendation concerning the provision of training to relevant professionals (see paragraph 43).**

#### **d. Protection of private life (Article 11)**

121. The Icelandic authorities have indicated that service providers working with victims of THB are bound by confidentiality by their profession, whether they are health care professionals, social workers, child protection professionals or police officers.

122. Some interlocutors have raised the question of sharing data about confidential operations which might require the setting up of protocols for memoranda of understanding agreed by organisations that want to share confidential data.

<sup>16</sup> [General Comment No. 6 Treatment of unaccompanied and separated children outside their country of origin](#), Committee on the Rights of the Child, Thirty-ninth session, 17 May - 3 June 2005.

### e. Recovery and reflection period (Article 13)

123. In its first evaluation report, GRETA welcomed the provision in Icelandic law for a recovery and reflection period longer than the minimum of 30 days envisaged in the Convention and urged the Icelandic authorities to ensure, in compliance with Article 13 of the Convention, that all possible foreign victims of trafficking are offered a recovery and reflection period as well as all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.

124. As noted in paragraph 15, the new Act on Foreigners (Article 75) includes a provision stipulating that possible victims of THB can be issued a temporary residence permit for up to nine months (previously it was six months). The person issued with such a permit shall not be expelled during this period. The residence permit can be refused if there are reasons to suspect that the person is claiming to be a victim solely in order to gain a residence permit or if the granting of the permit is against public order. The permit applies only to third-country nationals. An application has to be submitted to the Directorate of Immigration and the police have to give an opinion on the case. If the police give an opinion stating that the person is a possible THB victim, then the permit is granted.

125. All applications for residence permits in Iceland are submitted directly to the Directorate of Immigration, which provides information to applicants on their legal rights. However, self-identification is a challenge. GRETA was informed that victims are not willing to talk or seek help from the Directorate of Immigration or the police and therefore do not apply for the permit. According to information provided to GRETA, the Directorate of Immigration had issued one temporary residence permit based on the reflection period, in 2016. According to the Directorate of Immigration, all presumed foreign victims are offered a recovery and reflection period permit when the conditions of the law are met. Regarding children, the Directorate of Immigration has indicated that it always consults child services regarding the best interests of the child.

126. GRETA notes that the purpose of the temporary residence permit under Article 75 of the Act on Foreigners is not clearly stated as is done in the Convention, i.e. to enable possible victims of trafficking to recover and escape the influence of traffickers and/or to take an informed decision on co-operating with the competent authorities. GRETA stresses once again the importance of the recovery and reflection period for the recovery of victims and their effective access to the ensuing rights; as such, it should be granted to any presumed or identified victim of trafficking in human beings, including children. Considering that after three months EU nationals can only stay legally in other EU countries provided they meet a number of requirements (e.g. economic activity, sufficient resources, being enrolled as a student), the possibility that they would be considered as being irregular cannot be excluded and they should logically be entitled to benefit from a recovery and reflection period.

127. While welcoming the provision in Icelandic law for a recovery and reflection period longer than the minimum of 30 days envisaged in the Convention, **GRETA considers that the Icelandic authorities should take further steps to ensure that all presumed foreign victims of trafficking, including EU/EEA nationals, both adults and children, are offered a recovery and reflection period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period. Staff performing identification should be issued with clear instructions stressing the need to offer the recovery and reflection period as defined in the Convention, i.e. not making it conditional on the victim's co-operation, offering it to victims before formal statements are made to investigators and in case of children, bearing in mind the best interests of the child.**

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**f. Residence permits (Article 14)**

128. In its first report, GRETA welcomed the fact that Icelandic legislation envisaged the issuing of residence permits to victims of trafficking both on the basis of their personal situation and when co-operating in the investigation or criminal proceedings related to THB, and encouraged the authorities to ensure that victims of trafficking could fully benefit in practice from the right to obtain a renewable residence permit.

129. Pursuant to Article 76 of the new Act on Foreigners, in force since 1 January 2017, a victim of human trafficking and his/her child present in Iceland may be granted a renewable residence permit for one year when necessary: a) for reasons of the individual's personal circumstances, or b) for the purpose of co-operation with the authorities in the investigation and criminal proceedings, at the request of the police. This residence permit cannot form the basis of a permanent residence permit and cannot lead to a work permit. Changes made to the Act on Foreign Nationals' Right to Work entered into law in June 2018, allowing for the granting of a work permit to victims of THB who have been granted a temporary residence permit on the basis of the recovery and reflection period, as well as granting a work permit to persons who have been granted a residence permit as trafficking victims. GRETA welcomes this development.

130. GRETA was informed that one person was issued with a residence permit on the grounds of being a victim of THB, in 2016 (the same person as the one referred to in paragraph 125 as having been granted a recovery and reflection period). According to the authorities, possible victims of trafficking claim asylum rather than applying for a residence permit for victims of THB because the asylum process provides better rights and standards.

131. GRETA refers to a media report from August 2017 concerning a Nigerian woman who was reportedly a victim of human trafficking and who had fled Italy with her husband and 8-year old child. Their asylum claims were rejected by the Icelandic authorities and it was decided to send them back to Nigeria.<sup>17</sup> Following a petition calling on the authorities to grant asylum to the family, the woman and her child were granted humanitarian permits, but the husband was deported.

132. **GRETA invites the Icelandic authorities to ensure that victims of trafficking can fully benefit from the right to obtain a residence permit, including due to their personal circumstances.**

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<sup>17</sup> Reykjavík Grapevine, *Iceland to Deport Survivor of Human Trafficking and Her Family*, 30 August 2017.

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**g. Compensation and legal redress (Article 15)**

133. In the first report, GRETA welcomed the framework for State compensation of victims in Iceland and invited the Icelandic authorities to ensure that victims of THB were systematically informed of the possibilities for compensation and were ensured effective access to legal aid.

134. The legal framework for granting compensation to victims of THB in Iceland has not changed since GRETA's first evaluation. State compensation is payable to persons who have been victims of an action that has taken place in the jurisdiction of the Icelandic State and is punishable under the Penal Code, which includes victims of THB. The treasury may, however, in special cases pay compensation for damages resulting from an offence committed outside Iceland and in such cases, the victim or claimant of the compensation must be a legal resident or Icelandic national. The nationality of the victim has no bearing on the outcome. In cases where the identity of the offender is known, reimbursement of what has been paid is demanded by the state from that person as a general rule. Compensation is also paid if the offender is unknown, is a child or is not *compos mentis*. The claimant in each case has to claim compensation directly from the State and has no obligation to try to collect it first from the offender. When a crime is reported, the police are obliged to guide the victim on how compensation can be obtained. A claim for compensation has to be lodged no later than two years after the relevant offence took place. Under special circumstances an exception to this two-year rule can be made, such as when the victim is a child. The litigant can put his/her claim forward on his/her own, but in practice almost all the claims come through solicitors the costs of whom are paid by the State. The claim is made during the criminal case but it is not part of the criminal case.

135. The conditions for free legal aid are laid down in Article 41 of the Law on Criminal Procedure. Legal aid is envisaged in criminal cases and is also given in civil cases if it is likely to have a positive outcome. In order to receive free legal aid, it is necessary to apply to a committee which follows certain criteria (e.g. the person's financial situation) to decide whether the person is eligible. In the case of victims of THB, the lawyer providing free legal aid has competences limited to claiming compensation and cannot intervene in the criminal case.

136. No victims of THB have received compensation in Iceland since 2010.

137. **GRETA considers that the Icelandic authorities should:**

- **systematically inform victims of trafficking of their right to claim compensation, in a language they can understand;**
- **enable victims of trafficking to exercise their right to compensation by making available free legal aid to support victims to claim compensation at early stages of the procedure;**
- **include victim compensation in training programmes for law enforcement officials, prosecutors and judges.**

## **h. Repatriation and return of victims (Article 16)**

138. In the first report, GRETA urged the Icelandic authorities to set up the institutional and procedural framework for the repatriation and return of victims of trafficking in order to ensure that return is conducted with due regard to the rights, safety and dignity of the person and the principle of *non-refoulement*, as well as the status of relevant legal proceedings.

139. The second National Action Plan envisaged establishing procedures on the repatriation and return of victims of THB by December 2015. GRETA was not informed of such procedures having been established.

140. As regards the application of the Dublin III Regulation,<sup>18</sup> according to the Directorate of Immigration, a person would not be transferred or removed from the country while the procedure for identification as a possible victim of trafficking is in progress and there is an on-going investigation in Iceland. If the person is found to be a victim of THB in Iceland, the case will be handled in Iceland; however, this has never happened yet. Reference is made in this respect to the case mentioned in paragraph 131.

141. Reference has been made in paragraph 93 to the so-called "Vík case" in which two Asian women, presumed victims of THB, decided to return to Italy where they had residence rights. The Icelandic authorities were not familiar with Italy's anti-trafficking system and were unable to establish whom to contact in Italy in order to ask for the situation of the women concerned to be further monitored.

142. According to the authorities, there have been not cases of a non-voluntary return of children who are victims of trafficking; if a child is returning to his/her country of origin and has been in contact with Child Protection Authorities in Iceland, they always contact appropriate authorities in the country of origin to ensure a safe return.

**143. GRETA considers that the Icelandic authorities should take additional steps to ensure that the return of victims of THB is preferably voluntary and is conducted with due regard to their rights, safety and dignity, including the right to *non-refoulement* (Article 40(4) of the Convention), as well as the status of relevant legal proceedings and, in the case of children, by fully respecting the principle of the best interests of the child. The authorities should give full consideration to the UNHCR's Guidelines on the application of the Refugees Convention to trafficked people<sup>19</sup> and their possible entitlement to asylum when deciding upon applications for asylum of persons who are at risk of being re-trafficked or otherwise persecuted should they be obliged to return to their State of origin or residence.**

<sup>18</sup> Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast). The regulation, known as Dublin III, makes no reference to victims of trafficking, with the exception of Article 6 (3) (c) which refers to children who have been trafficked and to the fact that the best interests of the child must be taken into account. Articles 31 and 32 deal with the exchange of relevant information prior to the execution of a transfer, so in case of a particular vulnerability a presumed victim of trafficking may be identified.

<sup>19</sup> [UNHCR, Guidelines on International Protection: The application of Article 1A\(2\) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking, HCR/GIP/06/07](#), 7 April 2006.

### 3. Substantive criminal law

#### a. Criminalisation of THB (Article 18)

144. In its first evaluation report, GRETA noted that the three constituent elements of the definition of THB under the Convention (i.e. action, means and purpose) were included in the definition of THB in Article 227.a of the General Penal Code. However, GRETA urged the Icelandic authorities to include slavery, practices similar to slavery and servitude as types of exploitation in the legal definition of trafficking in human beings. Further, in order to be fully consistent with the definition of THB in the Convention, GRETA considered that the Icelandic authorities should ensure that all the means included in the Convention were appropriately taken into account.

145. There have been no amendments to Article 227.a of the General Penal Code, which establishes THB as a criminal offence as follows:

“Anyone found guilty of the following acts for the purpose of sexually using a person or for forced labour or to remove his/her organs shall be punished for trafficking in human beings with up to 12 years’ imprisonment:

1. Procuring, transporting (transferring), delivering, housing or receiving a person who has been subjected to unlawful force under Article 225, or deprived of freedom as per paragraph 1, Article 226, or subject to threat as per Article 233, or unlawful deception through creating, encouraging or making use of the person’s lack of understanding of the situation or taking advantage of the person’s difficult circumstances.
2. Procuring, transporting (transferring), delivering, housing or receiving an individual younger than 18 years of age.
3. Rendering payment or other gain in order to acquire the consent of those responsible for actions of another individual.

The same penalty shall be applied to a person accepting payment or other gain according to clause 3, paragraph 1.

If a violation according to paragraph 1 is committed against a child it shall be considered as an aggravating factor when deciding the severity of the punishment.

The same penalty shall be applied to anyone found guilty of one or more of the following acts, for the purpose of facilitating human trafficking:

1. The forging of a travel or identity document;
2. The procurement or provision of such a document;
3. The retention, removal, damage or destruction of a travel or identity document of another person.”<sup>20</sup>

146. The Icelandic authorities have been considering amending Article 227.a of the General Penal Code with a view to implementing GRETA's recommendations, as well as Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, which Iceland, being part of the Schengen Agreement, is expected to transpose. However, at the time of the second evaluation visit, there were still no concrete amendments on the table. In the previously mentioned letter sent by the information/education group to the legislative and executive powers in November 2017 (see paragraph 19), the need to update and amend the legislation criminalising THB by including new forms of exploitation such as forced begging, criminal activities and forced marriage, as well as servitude, was stressed. It was noted that cases of alleged human trafficking involving such forms of exploitation have begun to emerge in Iceland, but it is not possible to handle them satisfactorily in comparison with other Nordic countries.

147. There is no definition of "forced labour" in Icelandic law, which is seen as a problem when it comes to investigating and prosecuting cases of THB for the purpose of labour exploitation. GRETA was informed that the Ministry of Justice was looking into possible changes in the General Penal Code, such as introducing a separate offence of "forced labour" which would require a lower threshold of proof and carry lighter penalties than THB. The authorities have stressed that investigating all the elements required by the criminalisation of THB is challenging. Victims in human trafficking cases are often reluctant to inform the police of their working conditions and other relevant facts. Among the challenges facing investigators and prosecutors is to establish how much work the person in question has performed and if the salary and working conditions are such that the term "forced labour" can be used. Another challenge is proving that the suspect has abused the "vulnerable position" of the presumed victim. In that case, it is crucial to verify the conditions of the possible victims and if they can only give limited information, to gather the necessary evidence through other channels. However, it can be a challenging task to obtain information from the home countries of the victims or the countries where they have lived before arriving in Iceland. Assessing the evidence to determine the likelihood of a conviction and thus making a decision whether to indict a suspect depends on the nature and quality of the information that have to be available to fulfil the legal requirements of the definition of human trafficking.

148. "Abuse of a position of vulnerability" is not defined in the General Penal Code and there are no criteria for evaluating the vulnerability of a person subjected to THB. In the case of foreign nationals, Article 25 of the Act on Foreigners No. 80/2016 defines a person in a particularly vulnerable position as "a person who, due to certain personal characteristics or circumstances, has special needs which must be taken into account in handling the case or who cannot fully, or at all, avail him/herself of the rights or satisfy the conditions provided for in this Act without assistance or special consideration, e.g. unaccompanied children, people with disabilities, people with mental illness or disability, elderly people, pregnant women, single parents with young children, victims of human trafficking, seriously ill persons and persons who have been subjected to torture, genital mutilation, rape or other serious forms of psychological, physical or sexual violence."<sup>21</sup>

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<sup>21</sup>

Non-official translation.

149. There is no reference to the issue of consent in Article 227.a of the Penal Code. According to the Icelandic authorities, the consent of a person to intended or actual exploitation does not have a determining effect on whether that person will be recognised as a victim of THB under Icelandic law. The question of consent to exploitation is irrelevant with regard to the standing of victims in criminal proceedings. Nevertheless, GRETA sees benefits in stating explicitly in legislation that consent is irrelevant to determining whether the crime of human trafficking has occurred. Setting out this pivotal principle in law could facilitate its use by investigators, prosecutors and judges when dealing with cases of human trafficking and be conducive to obtaining a more consistent approach. Indeed, consent is an important factor at different stages of human trafficking cases, for instance: if victims refuse to self-identify as they consider that they consented to exploitation; when taking a decision on whether to investigate and prosecute a case as THB where the victim apparently consented to exploitation; when deciding on the penalty for offenders where there are assertions of consent.<sup>22</sup>

**150. Given that Article 4(a) of the Convention provides the minimum content of the types of exploitation included in the definition of THB, GRETA once again urges the Icelandic authorities to include slavery, practices similar to slavery and servitude as types of exploitation in the legal definition of trafficking in human beings.**

**151. Further, GRETA considers that the Icelandic authorities should take steps to ensure that THB for the purpose of forced begging, exploitation of criminal activities and forced marriage are adequately covered by law and practice.**

**152. GRETA also considers that the Icelandic authorities should examine the existing legal provisions with a view to extending the scope of forced labour to include working conditions contrary to human dignity in line with the ILO indicators of forced labour.**

**153. In addition, GRETA considers that stating explicitly the irrelevance of the consent of a victim of trafficking to the intended exploitation could improve the implementation of the anti-trafficking provisions.**

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

154. In its first report, GRETA invited the Icelandic authorities to consider establishing as a criminal offence the use of services which are the object of labour exploitation, with the knowledge that the person is a victim of trafficking in human beings.

155. The use of services of victims of THB, with the knowledge that the person is a victim, is still not criminalised in Icelandic law. GRETA notes that the criminalisation of the purchase of sexual services under Article 206 of the Penal Code includes persons who use sexual services from victims of THB. The Icelandic authorities have informed GRETA that a person who uses the services of a victim of THB with the knowledge that the person is a victim of THB could be found guilty of aiding in a criminal offence, according to Article 22 of the Penal Code.

**156. GRETA considers that the Icelandic authorities should criminalise the use of services of victims of trafficking, with the knowledge that the persons concerned are victims, for all types of exploitation.**

<sup>22</sup> See UNODC Issue Paper, The Role of Consent in the Trafficking in Persons Protocol, United Nations, Vienna, 2014. Available at: [www.unodc.org/documents/human-trafficking/2014/UNODC\\_2014\\_Issue\\_Paper\\_Consent.pdf](http://www.unodc.org/documents/human-trafficking/2014/UNODC_2014_Issue_Paper_Consent.pdf)

### c. Corporate liability (Article 22)

157. As described in the first evaluation report, pursuant to Article 19.d of Chapter II.A of the General Penal Code, "If the requirements set forth in the provisions of this chapter are met, a legal person may be made criminally liable for violations of this Act and may be deprived of rights under paragraph 2 of Article 68".<sup>23</sup> There have been no cases implicating legal entities in THB offences to date.

158. **GRETA considers that the Icelandic authorities should examine the reasons why no legal entities have been investigated and prosecuted for trafficking-related acts and, in the light of their findings, take the necessary measures to ensure that the criminal liability of legal entities can be acted upon in practice.**

### d. Non-punishment of victims of THB (Article 26)

159. In its first report, GRETA urged the Icelandic authorities to ensure compliance with Article 26 of the Convention through the adoption of a provision on non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, or by further developing relevant guidance.

160. There is still no specific provision in Icelandic law on the non-punishment of victims of trafficking. The authorities have referred to the general provisions of the Penal Code (in particular, Articles 74 and 75 containing exculpating circumstances) which could be applied in case a victim of THB commits an offence while being trafficked.<sup>24</sup> Further, prosecutors can decide not to prosecute if special circumstances apply as per Article 146, paragraph 3.d, of the Law on Criminal Procedure No. 88/2008 (i.e. if the accused has suffered considerable pain or other reasons suggest that the case should not be prosecuted and public safety does not require that the case be prosecuted).

161. There are still no guidelines for prosecutors on the steps to be taken when prosecuting suspects who might be victims of trafficking. During the second evaluation visit, prosecutors referred to some 15 men used as "drug mules" who were stopped at Keflavík International Airport and detained; some of the men had physical disabilities and it was not excluded that they had been used by drug traffickers who abused their position of vulnerability.

162. GRETA is concerned that the absence of a specific provision on the non-punishment of victims of trafficking entails a risk of treating them differently depending on the prosecutor in charge of the case. **GRETA urges the Icelandic authorities to take further measures to ensure compliance with Article 26 of the Convention by adopting a specific legal provision on the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, and/or developing detailed guidance for police officers and prosecutors on the aims and scope of the non-punishment provision, as well as including the non-punishment provision in the training of police officers, prosecutors, judges and lawyers.** Reference is made in this context to the recommendations on non-punishment for legislators and prosecutors contained in the paper issued by the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings in consultation with the Alliance against Trafficking in Persons Expert Co-ordination Team.<sup>25</sup>

<sup>23</sup> Non-official translation.

<sup>24</sup> See paragraph 168 of GRETA's first report on Iceland.

<sup>25</sup> <http://www.osce.org/secretariat/101002?download=true>

## **4. Investigation, prosecution and procedural law**

### **a. Measures related to ensuring effective investigations (Articles 1, 27 and 29)**

163. In its first report, GRETA urged the Icelandic authorities to take additional measures to ensure that THB offences are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions, in particular by continuing efforts to train police officers to detect cases of THB and step up proactive investigations, including through co-operation with other relevant actors in the country and abroad, encouraging the police and the Prosecutor's Office to develop their specialism in THB, and improving the knowledge of investigators, prosecutors and judges about THB, the severe impact of exploitation on the victims and the need to respect their human rights.

164. Following a reform in 2016, there are currently three levels of prosecution authorities in Iceland. The Director of Public Prosecutions prosecutes the most serious offences, including offences committed in an official capacity, as well as all cases before the Supreme Court, and has overall command of police investigations, monitoring their progress. On the next level is the District Prosecutor which investigated serious financial or economic crimes, offences against the authorities and offences committed by police officers in the course of their work and prosecutes criminal cases before the courts. It has a staff of about 50, consisting of lawyers, police officers, people with qualifications in business studies and economics, as well as other experts. At the third level, prosecutors under the nine District Police Commissioners lead all other investigations.

165. The District Prosecutor also operates a Financial Intelligence Unit (with three staff) which handles cases involving the recovery and confiscation of illicit gains from criminal activities. This unit is intended to assist the police when needed, but all police districts have their own financial investigators.

166. As noted in paragraph 22, the only police department in Iceland with a specialisation in investigating THB offences is Reykjavík Metropolitan Police, which has set up a new investigation unit focused on human trafficking and prostitution, with two police officers. Suðurnes District Police Department also has experience in the investigation of THB cases due to its responsibility for Keflavík International Airport. GRETA was informed that because of lack of resources and specialisation, only a few cases are investigated as THB.

167. GRETA was informed that since 2012, there has been only one alleged case of THB submitted by the police for prosecution, in 2016. This case, known as the "Vík case" after the name of the town where it took place, started as a result of a complaint of domestic violence made to the police (see paragraph 93). This led the police to searching a private house in which it discovered two Asian women doing housework during the daytime and sewing at night. The police came across this case by chance and did not prepare it properly; no special investigation techniques were used and no evidence was secured. The two women were accommodated in the Women's Shelter in Reykjavík. They did not make statements against their employer and there was no evidence as to how long they were working, what type of work they were doing and for what payment. The prosecution returned the case to the police with instructions about what needed to be investigated, including a financial investigation. In the meantime, the presumed victims left Iceland and returned to Italy, where they had residence rights.

168. In response to a written question to the Minister of Justice by the MP Andrés Inga Jónsson, in September 2017, concerning the number of cases of THB registered and investigated by the police, the Minister of Justice reported that there had been five such cases in 2013, two in 2014, six in 2015 and six in 2016. In the majority of cases, the investigation was discontinued by the police. In the single case of THB submitted to the District Prosecutor, the decision was not to prosecute. There has been no conviction for THB since 2009.

169. As described in GRETA's first report, the use of special investigation techniques is regulated by the Law on Criminal Procedure and the Rules on special methods and operations of the police during investigation of criminal cases.<sup>26</sup> The police can use a variety of special investigation techniques, including informers, secret surveillance, controlled delivery, shadowing and infiltrators. All these investigation techniques can be used in THB cases and the need for their use is evaluated on a case by case basis.

170. There is a general consensus among different professionals in Iceland on the need to develop specialisation and training of police officers, prosecutors and judges. There appear to be misconceptions among judges as to what human trafficking entails and the situation of trafficked persons.

171. GRETA is concerned by the lack of progress in the criminal justice response to THB in Iceland and **urges the Icelandic authorities to take measures to ensure that THB cases are investigated proactively, prosecuted successfully, and lead to effective, proportionate and dissuasive sanctions, including by:**

- **reviewing the investigation/prosecution procedure with a view to identifying and addressing gaps (e.g. in relation to trafficking for the purpose of labour exploitation/forced labour);**
- **ensuring that police units investigating THB offences are properly resourced;**
- **continuing to improve the knowledge of police investigators, prosecutors and judges about the seriousness of THB, the severe impact of exploitation on the victims and the need to respect their human rights.**

172. Further, recalling the obligation for Parties to the Convention to confiscate criminal assets linked to human trafficking, **GRETA considers that the Icelandic authorities should intensify their efforts to identify, seize and confiscate criminal assets generated by trafficking offences.**

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

173. The legal measures for the protection of witnesses and victims of THB were described in detail in GRETA's first evaluation report.<sup>27</sup>

174. Iceland does not have a formal witness protection programme but several legal provisions provide methods and measures to protect witnesses. The Icelandic authorities have referred to Articles 65 and 66 in Chapter 8 and Articles 122 and 123 in Chapter 18 of the Law on Criminal Procedure, as well as Article 108 in the General Penal Code. Article 122, paragraph 8, of the Law on Criminal Procedure states that if a judge thinks that a witness or the witness's immediate family are in danger, it is possible to allow the witness to remain anonymous if the witness or the prosecutor request this. Other protection measures include the use of video conferencing, giving separate evidence in court, change of identity and change of appearance.

175. The Icelandic authorities have stated that police procedures take into consideration the need for protecting victims and witnesses of THB. There has been only one case in which a victim of THB took part in criminal proceedings, in 2010, and in order to protect her from the accused, she was moved to another Nordic country as a protected witness, gave evidence in court without the accused being present, underwent a change of appearance and received a new identity. The Icelandic police is therefore said to be aware of the challenges in this field and to draw from the experience in this case.

<sup>26</sup> See paragraph 174 of GRETA's first evaluation report.

<sup>27</sup> See paragraphs 182-183 of GRETA's first evaluation report.

176. **GRETA invites the Icelandic authorities to make full use of all measures available to protect victims/witnesses of THB and to prevent intimidation during the investigation and during and after the court proceedings.** In this context, GRETA refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.<sup>28</sup>

### **c. Jurisdiction (Article 31)**

177. Pursuant to Article 4 of the Icelandic General Penal Code, punishment shall be imposed under the Code for offences committed within the Icelandic state. If the offence is committed by a person employed by or a passenger on board a foreign ship or aircraft travelling within Icelandic jurisdiction against someone travelling on the ship or aircraft, or against interests closely associated with the craft, punishment shall be imposed in Iceland only if the responsible minister orders an investigation and prosecution.<sup>29</sup>

178. Pursuant to Article 5 of the General Penal Code, offences committed abroad by Icelandic citizens or by persons residing in Iceland are punishable according to Icelandic law if the offence was committed outside the criminal jurisdiction of other States under international law, provided that it was also punishable at the time under the law of the defendant's State, or if the offence was committed under the criminal jurisdiction of another State under international law, provided that it was also punishable at the time under the law of the defendant's State. Punishment shall be imposed under the Icelandic General Penal Code for offences committed abroad by an Icelandic citizen or a person domiciled in Iceland in several cases, included those covered by Article 227a, paragraph 1, of the General Penal Code, even if the deed is not considered a punishable offence under the laws of the State involved.<sup>30</sup>

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

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

179. Iceland chaired the Council of Baltic Sea States Taskforce against Trafficking in Human Beings in 2016-2017. During this period, the Council of the Baltic Sea States held four seminars to train diplomatic and consular staff on how to assist victims of human trafficking. Two representatives of Iceland attended every seminar.

180. As regards international police co-operation, Iceland has a liaison officer at Europol, which has proved very useful for the information flow. The Icelandic Police joined Europol's working group on THB and participated in an EMPACT joint action day in May 2018. Further, Iceland is a member of Frontex and through that forum Icelandic police officers have participated in joint projects, including with regard to THB.

181. Iceland has not participated in any Joint Investigation Teams (JITs) on human trafficking. Iceland signed an agreement with Eurojust in 2005 and there is a contact person appointed, but no liaison officer.

182. Iceland has participated in a project launched by IOM in 2016 called the Nordic Health Care Network on Counter-Trafficking. The goal is to share experience among Nordic health-care professionals and counter-trafficking actors to enhance health sector capacity to identify and respond to the needs of victims of trafficking. A representative of the Ministry of Welfare took part in the project meetings.

<sup>28</sup> [Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice](#) (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies)

<sup>29</sup> Non-official translation.

<sup>30</sup> Non-official translation.

183. **GRETA welcomes Iceland's involvement in international co-operation in the area of combating THB and invites the Icelandic authorities to further develop bilateral and multi-lateral co-operation with a view to preventing and combating THB.**

184. Iceland does not have an early warning system for missing children and is not linked to the European telephone number for missing children. **GRETA invites the Icelandic authorities to reinforce co-operation in the search for missing children.**

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

185. Civil society in Iceland is closely associated with the activities carried out in the area of combating human trafficking. As noted in paragraph 17, the Icelandic Human Rights Centre, the Icelandic Red Cross and trade unions participate in the Steering Group set up to oversee the second National Action Plan. Further, the co-operation and co-ordination team set up by the Ministry of Welfare (see paragraph 20) includes the NGO Stígamót.

186. Trade unions in Iceland have been at the forefront of the fight against THB, through the provision of training, awareness raising and participation in inspections of workplaces. A trade union representative is a member of the information/education team. Trade unions also have representatives on the board of the Directorate of Labour.

187. GRETA welcomes the co-operation established between the authorities and civil society in Iceland and stresses the importance of involving civil society as an equal partner in the planning, implementation and assessment of anti-trafficking measures. **GRETA considers that the Icelandic authorities should continue building strategic partnerships with NGOs and trade unions, including by involving them in the victim identification process and the provision of assistance to victims of trafficking, and the planning of the next National Action Plan.**

## IV. Conclusions

188. Since the adoption of GRETA's first report on Iceland in July 2014, progress has been made in some areas.

189. The legislative framework relevant to action against human trafficking has evolved as a result of amendments to the Act on Foreigners, which increased the duration of the recovery and reflection period from six to nine months. Further, following amendments to the Act on Foreign Nationals' Right to Work in force since June 2018, victims of human trafficking who have been granted a residence permit are also entitled to receive a work permit.

190. The Icelandic authorities have also developed the institutional framework for combating trafficking in human beings, with the setting up of two teams by the Ministry of Welfare to provide assistance and services to victims of trafficking, as well as a human trafficking team at the Directorate of Labour. Another positive development is the setting up of a new investigation unit at Reykjavik Metropolitan Police to deal with cases of human trafficking and prostitution.

191. Thanks to the efforts of the information/education team, training on human trafficking has been provided to an increasing range of relevant professionals, following a multi-agency approach. The Centre for Police Training and Professional Development has also been instrumental in increasing knowledge about human trafficking, including through organising training by foreign experts.

192. GRETA welcomes the involvement of the Directorate of Labour and trade unions in the co-ordination and implementation of measures to combat trafficking for the purpose of labour exploitation.

193. GRETA also commends the decision to interview all unaccompanied and separated children at Barnahus (Children's House), which is a child-friendly, interdisciplinary and multiagency centre, thus avoiding subjecting children to repeated interviews by many agencies in different locations.

194. Further, the setting up of Bjarkarhlíð, a multi-disciplinary service centre for adult survivors of violence, provides opportunities for improving the identification of victims of trafficking and providing specialised services to them.

195. Moreover, GRETA commends Iceland's involvement in international co-operation and the co-operation established between the authorities and civil society in the area of combating human trafficking

196. However, despite the progress achieved, some issues continued to give rise to concern. In this report, GRETA requests the Icelandic authorities to take further action in a number of areas. The position of the recommendations in the text of the report is shown in parentheses.

**Issues for immediate action**

- **GRETA urges the Icelandic authorities to take steps to improve the co-ordination of anti-trafficking action, including by designating a national co-ordinator body with a mandate and responsibility to bring together all relevant actors, convene regular meetings of the Steering Group and take the lead in developing a new National Action Plan (paragraph 26);**
- **GRETA urges the Icelandic authorities to adopt a national action plan against human trafficking as a matter of priority, in consultation with all relevant actors, and to support it with budgetary resources reflecting the requirements of a co-ordinated and effective human rights-based approach to combating human trafficking. The new plan should address all victims of trafficking for all forms of exploitation, while taking into account the gender-dimension of trafficking and the particular vulnerability of children (paragraph 33);**
- **GRETA urges the Icelandic authorities to provide further training on THB to police officers, prosecutors and judges with a view to improving the criminal justice response to THB across the country and protecting victims' rights (paragraph 42);**
- **GRETA once again urges the Icelandic authorities to develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical data on measures to protect and promote the rights of victims, as well as on the investigation, prosecution and adjudication of human trafficking cases. Statistics regarding victims should be collected from all main actors, including reception centres for asylum seekers, be harmonised and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. This should be accompanied by all the necessary measures to ensure the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database. The introduction of a National Referral Mechanism for victims of trafficking would be conducive to improving data collection (paragraph 46);**
- **GRETA urges the Icelandic authorities to take further steps in the area of preventing trafficking for the purpose of labour exploitation, in particular by:**
  - **sensitising relevant professionals (police officers, labour inspectors, tax and internal revenue officials, prosecutors, judges) about THB for the purpose of labour exploitation and the rights of victims;**
  - **raising awareness among the general public as well as, in a targeted manner, among migrant workers, about the risks of THB for the purpose of labour exploitation;**
  - **strengthening the monitoring of recruitment and temporary work agencies and reviewing the legislative framework for any gaps that may limit protection or preventive measures;**
  - **strengthening the monitoring of employers registered in other EU countries and recruiting posted workers to Iceland with a view to preventing the economic exploitation of these workers, paying particular attention to the construction sector;**
  - **reviewing the regulations concerning *au pairs* to ensure that they are not subject to abuse;**
  - **ensuring that the mandate of labour inspectors enables them to contribute to preventing and detecting cases of THB for economic exploitation, including in domestic households;**

- envisaging expanding the scope of the amended Act on the Rights and Obligations of Foreign Companies to all economic sectors;
- working closely with trade unions, civil society and the private sector to raise awareness of trafficking for the purpose of labour exploitation, prevent trafficking in supply chains and strengthen corporate social responsibility, drawing on the Guiding Principles on Business and Human Rights and Recommendation CM/Rec(2016)3 on human rights and business (paragraph 63);
- **GRETA urges the Icelandic authorities to further improve the identification of victims of trafficking by:**
  - setting up a formalised National Referral Mechanism (NRM) which defines the procedures and roles of all frontline actors who may come into contact with victims of trafficking, in order to improve clarity and legal certainty;
  - harmonising the indicators and criteria used by different stakeholders to identify presumed victims of trafficking and ensuring that all frontline professionals are trained to apply this procedure and the indicators;
  - drawing up guidelines for dealing with cases where a possible victim of THB is an asylum seeker, which are part of the NRM, taking into account the UNHCR Guidelines on International Protection No. 7, and ensuring proactive identification of possible victims of trafficking among asylum seekers to avoid them being subjected to the accelerated procedure;
  - pursuing a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by encouraging regular and co-ordinated multi-agency inspections in sectors most at risk;
  - preparing a brochure for possible victims of THB, with information on their rights as victims of THB, available in a variety of languages (paragraph 101);
- **GRETA once again urges the Icelandic authorities to strengthen their efforts to provide assistance to victims of trafficking, including measures to:**
  - provide safe and suitable temporary accommodation for all victims of trafficking, which is adapted to their needs, gender and age;
  - provide information for victims on the services and assistance measures available and how to access them, in an appropriate range of languages;
  - review the legislation in order to ensure access to work and vocational training for victims of trafficking who are lawfully resident in the country;
  - provide training on THB to staff working at the Women's Shelter, municipal welfare staff and health-care staff (paragraph 113);
- **GRETA urges the Icelandic authorities to take further steps to identify child victims of trafficking and, in particular, to:**
  - establish a clear procedure (National Referral Mechanism) concerning the identification of child victims of THB which is integrated into the child protection system and takes into account the special circumstances and needs of child victims, involves child specialists and ensures that the best interests of the child are the primary consideration in all proceedings relating to child victims of THB and children at risk;
  - ensure that relevant actors take a proactive approach and increase their outreach work to identify child victims of THB. In this context, reference is made to the recommendation concerning the provision of training to relevant professionals (paragraph 120);

- **Given that Article 4(a) of the Convention provides the minimum content of the types of exploitation included in the definition of THB, GRETA once again urges the Icelandic authorities to include slavery, practices similar to slavery and servitude as types of exploitation in the legal definition of trafficking in human beings (paragraph 150);**
- **GRETA urges the Icelandic authorities to take further measures to ensure compliance with Article 26 of the Convention by adopting a specific legal provision on the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, and/or developing detailed guidance for police officers and prosecutors on the aims and scope of the non-punishment provision, as well as including the non-punishment provision in the training of police officers, prosecutors, judges and lawyers (paragraph 162);**
- **GRETA urges the Icelandic authorities to take measures to ensure that THB cases are investigated proactively, prosecuted successfully, and lead to effective, proportionate and dissuasive sanctions, including by:**
  - **reviewing the investigation/prosecution procedure with a view to identifying and addressing gaps (e.g. in relation to trafficking for the purpose of labour exploitation/forced labour);**
  - **ensuring that police units investigating THB offences are properly resourced;**
  - **continuing to improve the knowledge of police investigators, prosecutors and judges about the seriousness of THB, the severe impact of exploitation on the victims and the need to respect their human rights (paragraph 171).**

#### Further conclusions

- GRETA considers that the Icelandic authorities should examine the possibility of establishing an independent National Rapporteur or designating another mechanism as an independent organisational entity with a view to ensuring effective monitoring of the anti-trafficking activities of state institutions and making recommendations to the persons and institutions concerned (paragraph 27);
- GRETA considers that the Icelandic authorities should ensure that all relevant professionals (including immigration and asylum officials, labour inspectors, tax inspectors, social workers, health-care professionals, child welfare and education staff, diplomatic and consular officials) are trained periodically, throughout their careers, on the identification of victims of trafficking, including with a view to improving the identification of victims of THB for the purpose of labour exploitation, taking full account of gender and child-specific aspects (paragraph 43);
- GRETA considers that the Icelandic authorities should conduct and support research on THB issues, including when such studies are carried out by civil society, as an important source of information for future policy measures. Areas where research is needed in order to shed more light on the extent of human trafficking in Iceland include trafficking for the purpose of sexual exploitation, labour exploitation (in particular in at-risk sectors, including *au pairs*) and trafficking in children (paragraph 48);

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- GRETA considers that the Icelandic authorities should strengthen their efforts to raise awareness of THB among the general public, including through launching a general campaign, focusing on new trends in THB and based on the assessment of needs. The publication of information materials for possible victims of THB, in a variety of languages, should form part of the awareness raising measures (paragraph 52);
  - GRETA considers that the Icelandic authorities should enhance their efforts in the area of prevention of child trafficking, by continuing to sensitise and train frontline professionals working with children and providing information to children about the risks of trafficking, including through recruitment via the Internet (paragraph 70);
  - GRETA encourages Iceland to sign and ratify the Council of Europe Convention against Trafficking in Human Organs (paragraph 74);
  - GRETA considers that the Icelandic authorities should make efforts to sensitise medical professionals involved in organ transplantations and other health-care professionals to THB for the purpose of organ removal (paragraph 75);
  - GRETA considers that the Icelandic authorities should strengthen their efforts to discourage demand for the services of trafficked persons, by adopting legislative, administrative, educational, social and cultural measures to discourage demand that fosters all forms of exploitation leading to trafficking, for all forms of exploitation, in partnership with civil society, trade unions and the private sector. Increased attention should be paid to discouraging demand for the services of trafficked persons for the purpose of labour exploitation in economic sectors at high risk of human trafficking, such as construction, tourism and catering (paragraph 82);
  - GRETA considers that the Icelandic authorities should continue their efforts to detect and prevent THB through border control measures, in particular in the context of increased migration flows, and develop awareness among staff of commercial air carriers and staff working on other means of transportation of the detection of victims, using indicators of THB, and how to refer them to assistance. This should be accompanied by the provision of written information to foreign nationals, in a language that they can understand, in order to alert them about the risks of THB and to inform them of their rights and where to turn for advice and assistance (paragraph 86);
  - GRETA considers that the Icelandic authorities should continue to ensure that whenever there are reasonable grounds to believe that a person is a victim of THB on the basis of operational indicators, he/she is provided with all the assistance and protection measures provided for in the Convention, regardless of whether an investigation into trafficking is opened and whether the person co-operates in the investigation (paragraph 102);
  - GRETA invites the Icelandic authorities to ensure that the age assessment procedures take into account psychological, cognitive or behavioural factors, with a view to ensuring that the best interests of the child are effectively protected, in compliance with Article 10, paragraph 3, of the Convention, the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child (paragraph 119);
  - GRETA considers that the Icelandic authorities should take further steps to ensure that all presumed foreign victims of trafficking, including EU/EEA nationals, both adults and children, are offered a recovery and reflection period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period. Staff performing identification should be issued with clear instructions stressing the need to offer the recovery and reflection period as defined in the Convention, i.e. not making it conditional on the victim's co-operation, offering it to victims before formal statements are made to investigators and in case of children, bearing in mind the best interests of the child (paragraph 127);
  - GRETA invites the Icelandic authorities to ensure that victims of trafficking can fully benefit from the right to obtain a residence permit, including due to their personal circumstances (paragraph 132);

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- GRETA considers that the Icelandic authorities should:
    - systematically inform victims of trafficking of their right to claim compensation, in a language they can understand;
    - enable victims of trafficking to exercise their right to compensation by making available free legal aid to support victims to claim compensation at early stages of the procedure;
    - include victim compensation in training programmes for law enforcement officials, prosecutors and judges (paragraph 137);
  - GRETA considers that the Icelandic authorities should take additional steps to ensure that the return of victims of THB is preferably voluntary and is conducted with due regard to their rights, safety and dignity, including the right to *non-refoulement* (Article 40(4) of the Convention), well as the status of relevant legal proceedings and, in the case of children, by fully respecting the principle of the best interests of the child. The authorities should give full consideration to the UNHCR's Guidelines on the application of the Refugees Convention to trafficked people and their possible entitlement to asylum when deciding upon applications for asylum of persons who are at risk of being re-trafficked or otherwise persecuted should they be obliged to return to their State of origin or residence (paragraph 143);
  - GRETA considers that the Icelandic authorities should take steps to ensure that THB for the purpose of forced begging, exploitation of criminal activities and forced marriage are adequately covered by law and practice (paragraph 151);
  - GRETA considers that the Icelandic authorities should examine the existing legal provisions with a view to extending the scope of forced labour to include working conditions contrary to human dignity in line with the ILO indicators of forced labour (paragraph 152);
  - GRETA considers that stating explicitly the irrelevance of the consent of a victim of trafficking to the intended exploitation could improve the implementation of the anti-trafficking provisions (paragraph 153);
  - GRETA considers that the Icelandic authorities should criminalise the use of services of victims of trafficking, with the knowledge that the persons concerned are victims, for all types of exploitation (paragraph 156);
  - GRETA considers that the Icelandic authorities should examine the reasons why no legal entities have been investigated and prosecuted for trafficking-related acts and, in the light of their findings, take the necessary measures to ensure that the criminal liability of legal entities can be acted upon in practice (paragraph 158);
  - GRETA considers that the Icelandic authorities should intensify their efforts to identify, seize and confiscate criminal assets generated by trafficking offences (paragraph 172);
  - GRETA invites the Icelandic authorities to make full use of all measures available to protect victims/witnesses of THB and to prevent intimidation during the investigation and during and after the court proceedings (paragraph 176);
  - GRETA invites the Icelandic authorities to further develop bilateral and multi-lateral co-operation with a view to preventing and combating THB (paragraph 183);
  - GRETA invites the Icelandic authorities to reinforce co-operation in the search for missing children (paragraph 184);
  - GRETA considers that the Icelandic authorities should continue building strategic partnerships with NGOs and trade unions, including by involving them in the victim identification process and the provision of assistance to victims of trafficking, and the planning of the next National Action Plan (paragraph 187).

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## **Appendix**

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

#### **Public bodies**

- Ministry of Justice
- National Commissioner of the Icelandic Police
- District Commissioner of the Reykjavík Police
- District Commissioner of Police in Suðurnes
- Centre for Police Training
- Directorate of Immigration
- State Prosecutor's Office
- Ministry of Foreign Affairs
- Ministry of Welfare
- Directorate of Labour
- Government Agency for Child Protection
- Social and child protection services of the City of Reykjavík
- Primary Health Care Centre
- Icelandic Parliament (*Alþingi*)

#### **NGOs and other civil society organisations**

- Icelandic Human Rights Centre
- Stigamót
- Icelandic Confederation of Labour (ASÍ)
- Federation of General and Specialised Workers in Iceland (SGS)

## **Government comments**

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

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

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the Icelandic authorities on 18 January 2019 and invited them to submit any final comments. The comments of the Icelandic authorities, submitted on 8 March 2019, are reproduced hereafter.

**1. Page 13, article 37, first sentence:**

Instead of: "Since 2015 the Centre for Police Training has organised annually a survey of police officers concerning their experience with THB", it should be "Since 2015 the Office of the National Police Commissioner has organised annually a survey of police officers concerning their experience with THB.

**2. Page 19, article 68:**

It is stated in the last sentence that there have been "no cases of disappearance of unaccompanied children".

This is not completely accurate, last year an incident occurred where an individual under the age of 18, who had sought international protection in a different Nordic country arrived in Iceland unaccompanied. The individual in question did not seek international protection upon entering Iceland, and Child Protective Services communicated to the authorities in the country from which he had arrived about means of facilitating his return to the country in question. Before plans on his return could materialize, the individual in question had disappeared. The Child Protective Services notified Law Enforcement officials on the disappearance.

**3. Page 27, article 110:**

GRETA asks to be informed of future developments concerning expanding the role of Bjarkarhlíð.

The plan is to establish a National Referral Mechanism (NRM) which defines the procedures and roles of all frontline actors who may come into contact with victims of trafficking and place it within Bjarkarhlíð.

**4. Page 38, article 164:**

There is a misunderstanding concerning the prosecution authority in Iceland. Hope this may explain our system:

Following a reform in 2016 the prosecution authority in Iceland now consists of three types of institutions on two levels. The Director of Public Prosecutions (DPP) is the highest holder of prosecution authority. His role is to ensure that legally prescribed sanctions are applied and to supervise the exercise of prosecution authority on the lower level which consists of the District Prosecutor and nine District Police Commissioners. The DPP handles all appeals of decisions made by the prosecution authority on the lower level and has overall command of police investigations. The DPP conducts all criminal cases of appeal before the Court of Appeal and the Supreme Court.

The District Prosecutor prosecutes the most serious offences, including murder, trafficking in human beings, sexual offences and offences committed in an official capacity. The District Prosecutor investigates serious financial or economic crimes, offences against the authorities and offences committed by police officers in the course of their work and prosecutes these cases.

Prosecutors under the nine District Police Commissioners lead all other investigations and prosecute the less serious crimes.

**5. National Action Plan for combating THB**

The new National Action Plan for combating THB is in its final stages and the work has been done in consultation with all relevant actors. It will most likely be published in late March 2019. As requested GRETA will receive a finalized copy of the National Anti-Trafficking plan upon it being published.