



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 Lithuania**

SECOND EVALUATION ROUND

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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 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 is responsible for monitoring the implementation of the Convention by the parties and for drawing up reports evaluating the measures taken by each party. 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 the 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.

Following the first round of monitoring, which provided an overview of the implementation of the Convention by each party, GRETA launched the second evaluation round of the Convention on 15 May 2014. During this new evaluation round, GRETA has decided to examine 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. The questionnaire adopted by GRETA for the second evaluation round is sent to all parties which have undergone the first evaluation round, 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 submit, 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 comments by the party concerned, is 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 Lithuania took place in 2014. Following the receipt of Lithuania's reply to GRETA's first questionnaire on 30 April 2014, a country evaluation visit took place from 19 to 22 May 2014. The draft report on Lithuania was examined at GRETA's 21st meeting (17-21 November 2014) and the final report was adopted at GRETA's 22nd meeting (16-20 March 2015). Following the receipt of the authorities' comments, GRETA's final report was published on 5 June 2015.¹

2. In its first report, GRETA noted the steps taken by the Lithuanian authorities to develop the legal and institutional framework for combating trafficking in human beings (THB). However, GRETA urged the authorities to adopt a specific national action plan on combating trafficking in human beings and to improve the co-ordination of anti-trafficking action. GRETA considered that the authorities should pay particular attention to raising awareness of new trends in human trafficking and adopt targeted prevention measures for vulnerable groups, such as persons with intellectual disabilities, children in special schools and foster homes, and men in difficult life circumstances. Further, GRETA urged the Lithuanian authorities to take further steps to ensure that all victims of trafficking are properly identified and can benefit from the assistance and protection measures provided for under the Convention, including access to adequate accommodation and medical and social assistance. It also recommended that the procedure for granting a recovery and reflection period be reviewed. Moreover, GRETA urged the Lithuanian authorities to ensure that human trafficking offences are proactively investigated and effectively prosecuted, leading to effective, proportionate and dissuasive sanctions, and to make full use of the available measures to protect victims of trafficking in criminal proceedings.

3. On the basis of GRETA's report, on 15 June 2015, the Committee of the Parties to the Convention adopted a recommendation to the Lithuanian authorities, requesting them to report back on the measures taken to comply with this recommendation by 15 June 2017.² The report submitted by the authorities was considered at the 21st meeting of the Committee of the Parties (13 October 2017). The Committee of the Parties decided to transmit the Lithuanian authorities' report to GRETA for consideration and to make it public.³

4. On 5 September 2017, GRETA launched the second round of evaluation of the Convention in respect of Lithuania by sending the questionnaire for this round to the authorities. The deadline for submitting the reply to the questionnaire was 5 February 2018. Lithuania submitted its reply on 6 February 2018.⁴

5. In preparation of the present report, GRETA used the reply to the questionnaire by the authorities, the above-mentioned report submitted by them to the Committee of the Parties, and information provided by civil society. An evaluation visit took place from 25 to 29 June 2018, in order to hold meetings with relevant actors, collect additional information and assess the practical implementation of adopted measures. The visit was carried out by a delegation composed of:

- Mr Rudolf Christoffersen, member of GRETA;
- Ms Kateryna Levchenko, member of GRETA;
- Mr David Dolidze, administrator in the Secretariat of the Convention.

¹ <http://rm.coe.int/1680631dc5>

² <http://rm.coe.int/1680631dc3>

³ <http://rm.coe.int/report-submitted-by-the-authorities-on-measures-taken-to-comply-with-c/168073fa9b>

⁴ <http://rm.coe.int/greta-2018-4-rq2-ltu/168078b19d>

6. During the visit, the GRETA delegation met officials from the Ministry of the Interior, including the Criminal Police Bureau and the State Border Guard Service, the Ministry of Social Security and Labour, the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Health, including the National Transplant Bureau and the State Health Care Accreditation Centre, the Ministry of Education and Science, and the National Courts Administration. Further, GRETA met representatives of the Prosecutor General's Office and the Supreme Court. The delegation also held consultations with representatives of the Office of the Ombudsman for Equal Opportunities and the Office of the Ombudsman for Children's Rights.
7. In addition to holding meetings in Vilnius, the GRETA delegation travelled to Tauragė and Klaipėda where it met representatives of the local commissions for co-ordination of action against trafficking in human beings, police officers, prosecutors and judges.
8. Separate meetings were held with representatives of non-governmental organisations (NGOs) and researchers. Further, the delegation met staff of the office of the United Nations High Commissioner for Refugees (UNHCR) in Lithuania.
9. In the course of the visit, the GRETA delegation visited a shelter for women victims of violence and trafficking in human beings, run by an NGO "Missing Persons Families Support Centre" in Vilnius. The delegation also visited the Foreigners' Registration and Reception Centre of the State Border Guard Service in Pabradė.
10. The list of the national authorities and other stakeholders with which the GRETA delegation held consultations is set out in the Appendix to this report. GRETA is grateful for the information provided by them.
11. GRETA wishes to place on record the co-operation provided by the Lithuanian authorities during the evaluation visit, and in particular by the contact person appointed to liaise with GRETA, Ms Reda Sirgedienė, Senior Adviser in the Public Security and Migration Policy Department of the Ministry of the Interior and National Rapporteur for Counter-Trafficking Issues.
12. The draft of the present report was approved by GRETA at its 33rd meeting (3-7 December 2018) and was submitted to the authorities for comments on 20 December 2018. The authorities' comments were received on 15 February 2019 and were taken into account by GRETA when adopting the final report at its 34th meeting (18-22 March 2019). The report covers the situation up to 22 March 2019; 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 39-44).

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

1. Emerging trends in trafficking in human beings and types of exploitation

13. Lithuania continues to be primarily a country of origin of trafficked persons, but is also increasingly a country of destination. According to information provided by the authorities, 47 victims of THB were identified in 2014, 62 in 2015, 45 in 2016, and 58 in 2017. The majority of the victims were men (99). There were 82 women and 32 children (19 girls and 13 boys) amongst the identified victims. Most of the identified victims were Lithuanian nationals exploited abroad, the main countries of destination being the United Kingdom and Germany. Other countries of destination included Austria, Colombia, Denmark, Finland, France, Iceland, Ireland, Italy, the Netherlands, Norway, Spain and the United Arab Emirates. Further, 31 of the identified Lithuanian victims were trafficked within Lithuania. As regard foreign victims of THB, the authorities have identified 20 men trafficked to Lithuania for labour exploitation (18 Nepalese and two Ukrainians) as well as two women (one from Colombia and one from the Russian Federation).

14. The number of identified victims of THB for forced criminality has been on the rise since 2013, as has THB for the purpose of labour exploitation, which accounts for the increase in the number of male victims. In the period 2014-2017, trafficking for the purpose of forced criminality (primarily shoplifting) was the predominant form of exploitation (65 victims), followed by labour exploitation (59 victims), sexual exploitation (49 victims), and forced or exploitative sham marriages (11 victims). There has been an increase in the number of migrant workers and asylum seekers in Lithuania, which creates risks of THB, reflected in the increased number of identified foreign victims.

2. Developments in the legal framework

15. On 17 December 2015, the Lithuanian Parliament adopted amendments to the Criminal Procedure Code (CPC), its Annex and the Supplement to the CPC with a view to implementing Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012, establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA. These amendments were accompanied by the adoption of secondary legislation, in particular the recommendations on assessing the special needs of victims in criminal proceedings, approved by the Prosecutor General on 29 February 2016.

16. Amendments were also adopted by the Lithuanian Parliament in relation to legislation concerning the protection of children, including the Law on Fundamentals of Protection of the Rights of the Child.

17. Further, on 17 December 2015, the Prosecutor General, the Minister of the Interior and the Minister of Social Security and Labour jointly approved Recommendations regarding the Identification of Victims of Trafficking, Criminal Investigations and Interagency Co-operation⁵ (hereafter "Recommendations on Victim Identification"), which set out a formalised National Referral Mechanism for victims of THB.

18. The above-mentioned measures are discussed in greater detail in later parts of this report (see in particular paragraphs 94-95 and 182).

⁵ Ruling No. I-327/1V-1015/A1-758 on Approval of Recommendations regarding the Identification of Victims of Trafficking, Criminal Investigations and Interagency Co-operation.

3. Developments in the institutional framework

19. In its first report, GRETA urged the Lithuanian authorities to strengthen the institutional framework for action against THB in order to improve co-ordination and ensure more effective involvement of all public bodies having a role in combating THB and protecting its victims.

20. On 11 August 2016 the Lithuanian Government adopted Resolution No. 785 on Co-ordination of the Fight against THB, which sets out the composition of the Commission for Co-ordination of the Fight against THB ("Co-ordination Commission") and defines its tasks. Pursuant to this Resolution, all state and municipal institutions having membership in the Co-ordination Commission are expected to contribute to the implementation of the National Action Plan against THB, to send representatives to the meetings of the Commission and to co-ordinate, within their competence, the implementation of the Commission's decisions. The Commission consists of 23 representatives of State, municipal, civil society and religious bodies and organisations.⁶ The most recent composition of the Commission was approved by a Minister of the Interior's Ruling of 7 August 2018. With a view to strengthening the co-ordination of anti-trafficking efforts, the Chancellor of the Government of Lithuania was appointed as Chair of the Commission, and representatives of the Lithuanian communities abroad and the IOM Office in Vilnius became members of the Commission. Further, on 4 July 2018 the Government set up a working group to assist the Co-ordination Commission in its tasks.

21. In addition, local anti-trafficking commissions have been set up in 19 municipalities in Lithuania, which are chaired by Deputy Heads of the respective municipalities. These commissions comprise representatives of local law enforcement bodies, prosecution authorities, social service agencies, child protection services, and education and health-care agencies. The municipal commissions meet, as a rule, once every three months in full composition, and can hold *ad hoc* meetings in a more restricted composition, if necessary.

⁶ The composition of the Co-ordination Commission is as follows:

- Chancellor of the Ministry of the Interior;
- Deputy Minister of Social Security and Labour (Vice-President of the Commission);
- Director of the Department of Social Affairs and Health of the Vilnius City Municipality Administration;
- Deputy Minister of Foreign Affairs;
- Chief State Labour Inspector;
- Head of the Legal Division of the National Courts Administration;
- Director of the State Child Rights Protection and Adoption Service under the Ministry of Social Security and Labour;
- Deputy Minister of Education and Science;
- Chairman of the Social Affairs Council of the Lithuanian Bishops' Conference;
- Director of the NGO "Missing Persons Families' Support Centre Association";
- Head of the Social Support Division of the Administration of Klaipėda City Municipality;
- Director of the NGO "Men Crisis Centre Association";
- Head of the Division of Administrative and Criminal Justice of the Ministry of Justice;
- Chief Specialist of the Public Security Division of the Public Security and Migration Policy Department of the Ministry of the Interior;
- Deputy Head of the State Border Guard Service under the Ministry of the Interior;
- Deputy Minister of Health;
- Director of the NGO "Klaipėda Social and Psychological Aid Centre";
- Deputy Director of Kaunas City Municipality Administration;
- Deputy Chief Police Commissioner;
- Legal Advisor to the Association of Lithuanian Municipalities;
- Director of the Lithuanian Labour Exchange under the Ministry of Social Security and Labour;
- Deputy Chief Prosecutor at the General Prosecutor's Office for Organised Crime and Corruption Investigation Department.

22. According to representatives of civil society, the setting up of municipal commissions has had a positive impact on the co-ordination of anti-trafficking activities at local level, in particular in large towns such as Kaunas and Taurage. However, in smaller municipalities, the co-ordination commissions have limited experience and local frontline actors do not have sufficient knowledge of the Recommendations on Victim Identification, adopted in December 2015. **GRETA considers that the Lithuanian authorities should reinforce the work of the municipal commissions for combating THB, including by securing funding for their activities.**

23. In its first report on Lithuania, GRETA invited the authorities to consider establishing an independent National Rapporteur or another independent mechanism for monitoring the anti-trafficking activities of State institutions and making recommendations to persons and institutions concerned. On 23 November 2016, the Lithuanian Government adopted Resolution No. 1161⁷ on the National Rapporteur for Counter-trafficking Issues. Pursuant to it, the Minister of the Interior appoints the National Rapporteur. The National Rapporteur is responsible for the collection of statistical data and other relevant information on THB, analysing the available information and evaluating trends and the results of counter-trafficking activities, and submitting recommendations to the Minister of the Interior and the Co-ordination Commission. The Minister of the Interior informs the Government of the recommendations of the National Rapporteur on an annual basis. On 31 March 2017 the Minister of the Interior appointed Ms Reda Sirgedienė, Senior Adviser in the Public Security and Migration Policy Department of the Ministry, as National Rapporteur for Counter-Trafficking Issues. On the same date, the Minister approved "Procedures on Collection and Publishing of Statistical Data and Other Information regarding Trafficking in Human Beings, as well as Activities and Actions of the Fight against Trafficking in Human Beings".

24. In GRETA's view, the key features of National Rapporteurs' mechanisms in the sense of Article 29, paragraph 4, of the Convention⁸ 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. The human rights-based approach to anti-trafficking policies advocated by the Convention requires adequate monitoring and evaluation. A structural separation between monitoring and executive functions enables an objective evaluation of the implementation of anti-human trafficking legislation, policy and activities, identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations.⁹ The fact that the function of the National Rapporteur has been assigned to an official of the executive branch, namely the Ministry of the Interior, may limit the independence of this office, the capacity of taking a holistic approach to evaluating anti-trafficking policies and their implementation, and the ability to critically analyse the situation and provide effective guidance to all involved public bodies and non-state actors.

25. **GRETA considers that the Lithuanian 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 an effective monitoring of the anti-trafficking activities of state institutions and making targeted recommendations (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report). The National Rapporteur should be provided with sufficient human and financial resources to enable it to effectively carry out the tasks under its mandate.**

⁷ Available at: <https://www.e-tar.lt/portal/lt/legalAct/5899f9d0b53c11e6aae49c0b9525cbbb>

⁸ "Each Party shall consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements."

⁹ In this context, see also the Summary report on the Consultative Meeting on Strengthening Partnerships with National Rapporteurs on Trafficking in Persons and Equivalent Mechanisms organised by the UN Special Rapporteur on trafficking in persons, especially in women and children, in Berlin, 23-24 May 2013.

4. National Action Plans

26. In its first report, GRETA noted that following the expiry of the third National Action Plan for combating THB in 2012, there was no dedicated policy document in this area and urged the Lithuanian authorities to adopt a specific action plan on combating THB and to ensure funding for its activities.

27. On 29 August 2016, the Minister of the Interior approved a new National Action Plan against Trafficking in Human Beings for 2017-2019. Its main objectives are strengthening the co-ordination of action against trafficking in human beings; improving prevention; strengthening support to victims and persons at risk of becoming victims of trafficking; and capacity building of front-line staff. The plan includes activities to be implemented both at national and local level and defines the responsible bodies, the timeframe and financial resources for each objective. The activities are to be implemented in partnership between the State authorities, municipal bodies and specialised NGOs. An annual evaluation of the implementation of the activities under the National Action Plan is conducted by the Co-ordination Commission¹⁰ and a final evaluation will be carried out at the end of the implementation of the plan.

28. GRETA welcomes the adoption of a new National Action Plan for combating THB and **considers that the Lithuanian authorities should introduce an independent evaluation of national action plans as a tool for assessing the impact of the activities and for planning future policies and measures to combat trafficking.**

5. Training of relevant professionals

29. In its first report, GRETA considered that the Lithuanian authorities should strengthen their efforts to provide training on THB and the rights of victims to relevant professionals (in particular, police officers, prosecutors, judges, labour inspectors, child protection specialists, social workers and medical professionals).

30. The National Action Plan for 2017-2019 contains a chapter on the development of professional skills, with target groups, responsible agencies, a timeframe and envisaged funding. The training topics include identification of victims of THB, provision of assistance, collection of evidence, international co-operation and other matters. Training is to be organised at national and municipal level and should cover police officers, probation officers, consular staff, border guards, prosecutors, judges and assistants to judges, lawyers, labour inspectors, labour exchange specialists, social workers, health-care specialists, child rights specialists, heads of schools, educational assistance specialists, teachers, journalists and church representatives.

31. According to the authorities, the training needs are determined on the basis of observed trends, strategic and operational objectives, requests by professionals, and the priorities of the Government. Training follows a multi-agency approach, often with the involvement of specialised NGOs and international organisations. The State and municipality agencies fund training from their respective budgets, in addition to training provided through projects funded by international organisations.

32. Training on THB for police officers is provided at the Police School two to three times a year. Police training is based on two programmes, one for officers involved in prevention of crime, the other for officers involved in investigations. In 2017, a new programme was introduced, which consists of three modules: prevention of THB, investigation of THB and psychological and psychosocial aspects of THB.

¹⁰ The 2017 annual report prepared by the Co-ordination Commission is available at: https://vrm.lrv.lt/uploads/vrm/documents/files/LT_versija/Viesasis_saugumas/Prekyba_zmonemis/THB%20metine%20veiklos%20ataskaita_2017%20m%2B.pdf

33. The Prosecutor General's Office provides training to prosecutors on the collection of evidence and case law related to THB. Further, the Judicial Council approved on 27 October 2017 the training programme for judges for 2018, which includes training on the identification and prevention of THB, assistance to victims, evidence collection, case law, inquiries in respect of children, and granting refugee status to a victim of THB. In 2018, prosecutors attended training on THB on seven different occasions; topics covered by the training sessions included identification of victims of THB, including among asylum seekers and refugees, protection of victims in criminal proceedings, and recent trends in THB, in particular labour exploitation. On 18 December 2018, the training session for prosecutors, investigators, labour inspectors and social workers was organised at the Prosecutor General's Office specifically on identifying THB for the purpose of labour exploitation. Further, in 2017-2018, training sessions on THB were organised by the National Courts Administration, with an overall participation of 113 judges and 17 assistants to judges. Moreover, on 30 October 2018, 33 prosecutors, 33 judges, nine assistants to judges and two specialists of the National Courts Administration attended a seminar on "Preventing, Combating and Responding to Sexual and Gender Based Violence and Trafficking in Human Beings in the Context of Asylum and Migration", organised jointly by UNHCR and the Council of Europe, in co-operation with the National Courts Administration and the Prosecutor General's Office.
34. In 2017, the Ministry of Justice organised a discussion for legal practitioners on the provision of legal aid to victims of THB.
35. The Ministry of Social Security and Labour, in co-operation with municipalities and NGOs, has conducted training for social workers on the identification and assistance to victims of THB.
36. The State Child Protection and Adoption Service held training sessions for staff working in the field of child's welfare, covering the prevention of child trafficking, safeguarding the rights and interests of victims of commercial sexual exploitation, identification of child victims of THB, conduct of investigations, preventing and investigating cases of missing children, and work with juvenile offenders.
37. In 2015-2016 the State Labour Inspectorate organised training sessions for labour inspectors on the identification of victims of THB for the purpose of forced labour. Further, in November and December 2017, the NGO "Centre for Combating Trafficking in Human Beings and Exploitation" organised training on THB for staff of the territorial labour exchange offices, which covered new forms of THB, identification of victims among asylum seekers and irregular migrants, and the referral of victims to assistance. Further, in October 2017, the NGO "Missing Persons Families' Support Centre" provided training to Vilnius territorial labour exchange staff on services provided to victims of THB, identification and other related issues.
38. Diplomatic and consular staff posted abroad participate in an annual training programme which contains a module on THB (lasting 1.5 to 2 hours). The Consular Department of the Ministry of Foreign Affairs has included a chapter related to THB (identification of victims of THB, contact details of NGOs, referral and assistance) in the Consular Handbook. Further, in 2017, diplomats residing in Lithuania were trained on THB, including for the purpose of domestic servitude.
39. The Ministry of Education and Science has developed a new programme for teacher training, implemented by the National Centre for Special Needs Education and Psychology under the Ministry, on prevention measures at schools. Under this project, two training sessions were conducted in the regions of Klaipėda and Panevėžys, which covered THB and its different forms, identification of victims and measures to assist them. A methodological material on prevention of THB through education was developed and distributed. This training was implemented in partnership with the NGO "Centre for Combating Trafficking in Human Beings and Exploitation" and the regional Prosecutor's Offices.
40. In the course of the visit, GRETA was informed of the need for more specialised training on THB for social workers and health-care professionals. It was also noted that not all municipalities provided training on THB to relevant staff.

41. While welcoming the training provided to a range of professionals on different aspects of THB, **GRETA considers that the Lithuanian authorities should continue their efforts in this area by integrating training on THB into regular training programmes, with a view to ensuring that all relevant staff, including police officers, prosecutors, judges, lawyers, asylum officials, labour inspectors, social workers, child protection specialists, teachers and health-care professionals, are periodically trained on THB. The training should take account of new trends and legislative developments and aim to strengthen the prevention of THB, facilitate the identification of victims, improve their protection and access to compensation, and increase the effectiveness of investigations and prosecutions in THB cases.**

6. Data collection and research

42. In its first report, GRETA considered that the Lithuanian authorities should further develop and maintain a comprehensive and coherent data collection system on trafficking in human beings by compiling reliable statistical information from all main actors, including NGOs involved in victim identification and assistance, and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination, etc.). This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection.

43. Pursuant to Ruling No. 1V-245 of 31 March 2017 of the Minister of the Interior on the Appointment of the National Rapporteur, collecting statistical data and other relevant information on THB is one of the duties of the National Rapporteur. For this purpose, an electronic data collection system has been set up, capable of receiving and processing information from relevant state and non-state actors and allowing disaggregation by sex, age, form of exploitation, country of origin and/or destination. According to the authorities, the State Data Protection Inspectorate was involved in the process with a view to ensuring the respect of data subjects' right to personal data protection. All relevant Government agencies, municipalities, specialised NGOs and the IOM Office in Vilnius submit data to the National Rapporteur.

44. However, GRETA was informed that the data introduced by different actors into the electronic system is often not comparable as the data collection methodology used by them is not harmonised.

45. **GRETA considers that the Lithuanian authorities should continue developing a comprehensive and coherent statistical system on THB by eliminating any inconsistencies in the data collected by different agencies, with a view to ensuring that it provides a comprehensive picture of the human trafficking situation in Lithuania.**

46. In its first report, GRETA considered that the Lithuanian authorities should conduct and support research on THB-related issues as an important source of information on the impact of current policies as well as a basis for future measures.

47. In 2015-2016 Lithuania participated in the EU-funded project entitled "HESTIA – Preventing human trafficking and sham marriages: A multidisciplinary solution".¹¹ The project partners were public bodies and NGOs from six EU countries (Latvia, Lithuania, Estonia, Finland, the Slovak Republic and Ireland). As part of this project, research was carried out into the vulnerabilities, factors, methods and channels facilitating sham marriages, and the links to THB. According to the research findings concerning Lithuania, recruiters exploit the vulnerabilities of victims, such as psychological condition, family situation and socio-economic status.¹²

¹¹ The HESTIA project report is available at:
<https://www.heuni.fi/material/attachments/heuni/reports/ci5Y5cgbB/Nettiin.pdf>

¹² See page 310 of the HESTIA project report.

48. In 2017, a pilot study of services provided to victims of THB in Estonia, Latvia and Lithuania was published by the Council of the Baltic Sea States (CBSS).¹³ The study describes the main features of the National Referral Mechanisms in the three countries, specialised assistance available for victims of THB, service providers, and funding. The study was one of the outcomes of the second phase of the project "Strengthening the Role of Municipalities in the Work against Trafficking in Human Beings in the Baltic Sea Region" (STROM II) implemented by the CBSS.

49. GRETA was informed that the UNHCR Regional Representation for Northern Europe had commissioned a study to map the current national procedures for unaccompanied and separated children in the Baltic States, including Lithuania, which is expected to be completed by August 2018. **GRETA would like to be kept informed of the results of this study.**

50. **GRETA welcomes the research undertaken in Lithuania and considers that the authorities should continue to support and carry out research on THB, in particular regarding trafficking for the purposes of forced criminality, trafficking in children, internal trafficking (within Lithuania), and trafficking of foreign nationals to Lithuania.**

¹³ The pilot study is available at: http://www.cbss.org/wp-content/uploads/2012/11/Cost_calculation_report.pdf

III. Article-by-article findings

1. Prevention of trafficking in human beings

a. Measures to raise awareness (Article 5)

51. In its first report, GRETA considered that the Lithuanian authorities should continue to implement awareness-raising activities on THB and provide information to the general public on emerging trends in THB, such as for the purpose of labour exploitation, forced criminality, and exploitative sham marriages. Further, GRETA noted the need for targeted preventive measures for groups vulnerable to THB, such as persons with mental disorders, children in special schools and foster homes, and men in difficult life circumstances.

52. In April-July 2016, the Ministry of the Interior conducted an opinion poll concerning awareness of THB, which covered 3 088 respondents aged 15-75 across the country. 60% of respondents knew about the *modi operandi* of THB, 57% were aware of how to avoid becoming a victim of THB, and 53 % knew where to apply or to direct others for assistance. The opinion poll showed that respondents in general did not consider THB as a serious threat to public safety.

53. The CBSS implemented two consecutive projects, STROM I (2014-2015) and STROM II (2016-2017), entitled "Strengthening the Role of Municipalities in the Work against Trafficking in Human Beings in the Baltic Sea Region". They resulted in developing "Guidelines for Municipalities - Stepping up Action against Human Trafficking"¹⁴ on how to prevent and combat THB, develop referral mechanisms and clarify roles of local actors in preventing THB and assisting its victims. Through the second phase of this project, anti-trafficking co-ordination mechanisms were developed in a number of municipalities. Further, training was provided to journalists and diplomats.

54. An awareness-raising campaign was organised in September-December 2017 under the STROM II project, focussing on municipalities where victims of THB have been identified. Video clips, posters and flyers on different forms of THB (for sexual exploitation, forced criminal activities, forced labour and forced marriages) were produced and widely distributed, including in the public transport, post offices, public stands, schools, universities and churches. The campaign was targeted at vulnerable groups, including children, unemployed persons and socially excluded persons. It is estimated that the activities organised as part of the campaign reached over one million persons. The impact of the campaign will be assessed by the National Rapporteur.

55. In 2017, a campaign was conducted within Lithuanian communities in the United Kingdom, which has been the main country of destination for persons trafficked from Lithuania. It consisted in providing information on THB for different forms of exploitation, agencies for referral and assistance, and profiles of the potential traffickers and exploiters. Information was provided by means of video clips, flyers and social media. In 2018 this campaign was continued in the United Kingdom and was also carried out in Spain. The authorities are considering organising similar campaigns in other countries of destination.

56. Interviews with representatives of Klaipėda municipality administration and social partners cooperating in combating THB and assisting victims were edited into a video and made available on the website of the Education Development Centre. A newsletter of the Education Development Centre (subscribed by 500 teachers) was used to disseminate the awareness-raising material concerning THB.

¹⁴ The Guidelines are available at:
<http://www.cbss.org/wp-content/uploads/2016/03/Guidelines-for-Municipalities-ENG.pdf>

57. GRETA welcomes the efforts of the Lithuanian authorities to raise awareness of THB and **invites them to continue implementing measures to raise awareness of THB, taking into account the gender dimension of human trafficking, and by designing future actions in the light of impact assessment of previous measures, focusing on the needs identified. Awareness-raising measures should address emerging forms of THB, such as for forced criminality, labour exploitation, exploitative sham marriages and forced marriages, as well as trafficking of Lithuanian nationals within Lithuania.**

b. Measures to prevent THB for labour exploitation (Article 5)

58. The results of the EU-funded project entitled "ADSTRINGO: Addressing Trafficking in Human Beings for Labour Exploitation through Improved Partnerships, Enhanced Diagnostics and Intensified Organisational Approaches"¹⁵ were used for developing Guidelines for relevant authorities and NGOs to prevent abusive recruitment, exploitative employment and trafficking of migrant workers in the Baltic Sea region.

59. As already mentioned in GRETA's first report, the European Employment Services (EURES) Office at the Lithuanian Labour Exchange and 10 EURES offices in municipal ("territorial") labour exchanges take measures to prevent illegal employment by checking the conformity of the employment offered with the labour law of the state concerned (labour contract, remuneration, working time) and raising awareness among persons looking for employment abroad through campaigns, consultations and information leaflets. The authorities reported that in 2017, territorial labour exchange offices co-operated with over 100 different organisations on the prevention of THB, using awareness-raising materials and videos prepared by the Ministry of the Interior, in co-operation with the NGO "Centre for Combating Trafficking in Human Beings and Exploitation". In addition, the awareness-raising activities mentioned in paragraph 54 also aimed at preventing THB for labour exploitation and involved Labour Exchange and the State Labour Inspectorate.

60. The State Labour Inspectorate conducts inspections of economic entities in relation to illegal work. GRETA was informed that Lithuania currently has 150 labour inspectors, with nearly 1.1 million economic entities to inspect. Labour inspectors may carry out inspections without prior announcement. The inspection of private households requires the owners' agreement. According to information provided by the authorities, in 2015 labour inspectors carried out 7 091 inspections covering 6 654 economic entities, as a result of which 1 254 irregularly employed workers were discovered and 805 administrative law violations reports were made. Two of these reports were forwarded for further examination of possible THB or related offences. In 2016, labour inspectors carried out 7 012 inspections during which 1 129 irregular workers were found and 778 administrative law violations reports made; 65 reports were forwarded for further examination of possible THB. In 2017, labour inspectors carried out 6 500 inspections, detecting 266 illegally employed persons, of whom 22 were third-country nationals. The authorities reported that upon referral of the State Labour Inspectorate one pre-trial investigation for labour exploitation was initiated in 2015, two in 2016, four in 2017 and one in 2018.

61. A National Action Plan on Human Rights and Businesses was adopted in Lithuania in 2015. This plan is in the process of being updated to reflect new priority areas, including promoting the application of the OECD's "Due Diligence Guidance for Responsible Business Conduct and Guidelines for Multinational Enterprises".

¹⁵ Reports reflecting the outcome of ADSTRINGO project are available at: <https://www.heuni.fi/en/index/researchareas/humantrafficking/adstringo-addressingtraffickinginhumanbeingsforlabourexploitationthroughimprovedpartnershipsenhanceddiagnosticsandintensifiedorganisationalapproaches.html>

62. In its first report, GRETA noted that private recruitment agencies were no longer licensed, but had to report to the labour exchange offices about the number of people assisted in obtaining employment. In cases where the agencies would fail to report, the police would be informed and could initiate investigations, leading to fines for non-compliance.

63. GRETA was informed of the arrival in Lithuania of an estimated 25 000 Ukrainian nationals in 2016-2017. On 12 December 2016 the State Labour Inspectorate signed a co-operation protocol with the State Labour Agency of Ukraine concerning the exchange of information on nationals working on the territory of another country and possible labour law violations. Some Ukrainian nationals registered as posted workers in Lithuania¹⁶ work in the cargo transportation sector in Poland. Upon referral by the State Labour Inspectorate, four pre-trial proceedings for labour exploitation of posted workers were initiated in 2015–2018.

64. **GRETA urges the Lithuanian authorities to strengthen their efforts to prevent trafficking for the purpose of labour exploitation, in particular by:**

- **further sensitising the general public and relevant officials, in particular labour inspectors, staff of the labour exchange offices, police officers, prosecutors and judges, about THB for the purpose of labour exploitation and the rights of victims;**
- **increasing the human resources and strengthening the mandate of labour inspectors to detect possible victims of THB and refer them for identification and assistance;**
- **strengthening the monitoring of private recruitment agencies and reviewing the legislative framework for any gaps that may limit protection or preventive measures;**
- **developing measures to prevent of recruitment of victims of THB for labour exploitation via the Internet.**

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

65. The authorities referred to a documentary film about the risks of THB, which is available online.¹⁷ The film and the accompanying methodological material have been prepared in co-operation with the NGO "Lithuanian Centre for Human Rights", with funding from the Ministry of Education and Science (amounting to €3 000).

66. In 2014, the Ministry of Education and Science, in collaboration with the NGO "Child Support Centre" and the National Centre for Special Needs Education and Psychology, developed a programme entitled "Protect and Respect Me" for the prevention of children's sexual abuse and violence. It aims at increasing the capacity of education professionals to detect victims of sexual abuse and encourage collaboration between parents, teachers, the police and child protection officers. The programme consists of training sessions about the risks of, and protection from, sexual violence, identification of possible sexual abuse and actions to be taken in such cases, as well as self-protection. Within this programme, pupils in the final three grades of secondary school are informed of the risks of THB. In 2014-2015, the programme was piloted in five schools in Marijampolė county, with the participation of 213 education professionals and 349 pupils. In the course of 2018, it is planned to implement this programme in a further 13 schools.

¹⁶ As envisaged under Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative co-operation through the Internal Market Information System ('the IMI Regulation').

¹⁷ Available at: www.nepatogauskinoklase.lt

67. The website of the State Child Rights Protection and Adoption Service contains information on the prevention of child trafficking¹⁸ and possible ways of assisting victims. The State Child Rights Protection and Adoption Service has prepared a guiding document concerning prevention, protective measures, available services and inter-institutional co-operation in cases of child trafficking for the staff of Child Rights Protection Divisions, social workers and staff of children's social care homes, to facilitate detection of potential cases of child trafficking, and provide assistance to child victims of THB and their parents or guardians.¹⁹

68. On 20 October 2015, the Lithuanian Parliament adopted amendments to the Law on Fundamentals of Protection of the Rights of the Child, setting out the responsibilities of State and municipal institutions as regards the protection of children from negative social environment influences, promotion of a healthy lifestyle and education. The Law established administrative and criminal liability for physical and psychological violence against children, including protection against the purchase or sale of a child, child prostitution, child pornography, and the involvement of children in criminal or other illegal acts. The Law places an obligation upon staff of educational, health-care, social, law enforcement and other relevant agencies, as well as civil society organisations, to report to the child protection services and/or the police any information about criminal offences possibly committed against a child. Further, on 14 February 2017, Parliament amended the Law on Fundamentals of Protection of the Rights of the Child, defining the main forms of violence against a child, including physical, psychological and sexual violence, and neglect.

69. GRETA was informed that on 21 May 2018 the Ministry of Social Security and Labour approved a new procedure to establish threat levels for a child in the family. Pursuant to this procedure, a social worker fills in an assessment template based on detailed criteria. If the assessment of the threat level is estimated to be very high, the child may be removed from the family. This procedure is applied as of 1 July 2018 and the Child Adoption and Protection Service has been carrying out training of relevant professionals on its application.

70. Since September 2009, the State Child Rights Protection and Adoption Service has been operating a toll-free 116 111 telephone helpline for children. As of 14 February 2011, the helpline is run by the NGO "Vaikų linija" which connects callers with the consultants of the State Child Rights Protection and Adoption Service for any further necessary assistance. Most of the calls concern children's relations with peers, psychosocial health, violence, abuse and relations with family members. According to the State Child Rights Protection and Adoption Service, in 2016 the child helpline received one call related to child abuse and one call about forced labour, and, in 2017, one call concerning child trafficking and one call about commercial sexual exploitation.

71. Following amendments to the Procedure for unaccompanied foreign children of 15 June 2016, such children are accommodated in the Refugee Reception Centre in Rukla, upon the decision of the State Child Rights Protection and Adoption Service. According to Lithuanian legislation, unaccompanied children must have a guardian appointed within three days. The director of the Refugee Reception Centre usually appoints one of the centre's staff members as a temporary guardian, which is approved by the decision of the municipal authorities. In 2015 there were 33 foreign children placed in the Refugee Reception Centre in Rukla (25 from Vietnam, two from Afghanistan, one from Libya²⁰ and one from Iran). In 2016 there were 25 children in the Rukla Reception Centre (23 from Vietnam and two from Afghanistan), and in 2017 there were 13 foreign children (12 from Vietnam and one from the Russian Federation). GRETA was informed that all unaccompanied children placed in the Refugee Reception Centre had disappeared. According to the current procedure, information concerning a missing foreign child who has left the Rukla Refugee Reception Centre is immediately sent to Kalvarijos Frontier Station of Varėna Frontier District of the State Border Guard Service. The latter controls the main exit routes to Poland along the Lithuanian border. Upon receiving such notification, the Kalvarijos Frontier Station immediately notifies the Lithuanian State Border Guard Service and relevant Polish authorities through the Lithuanian-Polish Border, Customs and Police Co-operation Centre. Information is also provided to the territorial police unit in Jonava (responsible for the search of missing children), the State Child Rights Protection and Adoption Service, the Migration Department, the National Health Insurance Fund, and other agencies as necessary. However, the children have not been found and the authorities are unaware of their whereabouts.

72. GRETA was informed by representatives of specialised NGOs that the number of missing Lithuanian children had risen from 1 683 in 2014, to 2 691 in 2017. Most children abscond from institutions. The majority of them are found within 24 to 48 hours; however, civil society representatives were of the opinion that there is a lack of systematic approach from the authorities for finding out the reasons for absconding. As a positive example, GRETA was informed of the work of a specialised department of juvenile delinquency and child victims of crimes in Kaunas, where children are interviewed and the reasons for their absconding are further investigated.

73. Recalling that Article 5, paragraph 5, of the Convention requires Parties to take specific measures to reduce children's vulnerability to trafficking, notably by creating a protective environment, **GRETA urges the Lithuanian authorities to strengthen their efforts to prevent trafficking in children, in particular by:**

- **preventing unaccompanied foreign children from going missing from State care and Lithuanian children from absconding from institutions including by better training and supervision of staff working at institutions for such children;**
- **systematically carrying out police investigations into disappearances of children and strengthening the follow up and alert systems on reports of missing children;**
- **sensitising and training professionals working with children on the risks of trafficking and effective prevention measures.**

74. Further, **GRETA considers that the Lithuanian authorities should take further measures to raise awareness about the risks and different forms of child trafficking, in particular by including the subject of THB in the national school curricula, accompanied by appropriate training of teachers, and developing measures to prevent recruitment through the Internet and social networks.**

d. Social, economic and other initiatives for groups vulnerable to THB (Article 5)

75. In its first report, GRETA considered that the Lithuanian authorities should strengthen the aspect of prevention of THB through social and economic empowerment measures for persons vulnerable to THB and integrate the prevention of THB in the policies to combat gender-based violence.

76. According to information provided by the authorities, the majority of the victims of THB identified in 2012-2016 were young women (usually from disadvantaged socio-economic backgrounds, with mental disability or orphans) who were involved in exploitative sham marriages, using fraud or their social vulnerability, with third-country nationals residing in other EU countries.

77. The Lithuanian authorities have referred to the adoption on 17 November 2016 of the Law on Equal Opportunities for Women and Men, which prohibits harassment, sexual harassment and any form of discrimination (direct or indirect) on the basis of sex in the areas of employment, education and science, the supply of goods and services, and social security. The National Programme on Equal Opportunities for Women and Men for 2015-2021, adopted by the Government on 4 February 2015 and supplemented by the Action Plan for its implementation (2015-2017), aims at promoting gender equality and eliminating differences in the status of women and men. The Ministry of Social Security and Labour is responsible for the co-ordination of activities under this Programme and its Action Plan.

¹⁸ <http://www.pagalbavaikams.lt/lt.php/pagalba/prekyba-zmonemis>

¹⁹ Available at: <http://www.vaikoteises.lt/veikla/teisine-ir-kita-informacija/metodines-rekomendacijos/metodines-rekomendacijos.html>

²⁰ The Libyan national was subsequently found to be an adult and placed in the Foreigners Registration and Reception Centre.

78. GRETA considers that the Lithuanian authorities should take additional steps to strengthen the prevention of THB through social, economic and other measures for groups vulnerable to THB. Further efforts should be made to promote gender equality, combat gender-based violence and stereotypes, and support specific policies for the empowerment of women as a means of combating the root causes of THB.

e. Measures to prevent trafficking in human beings for the purpose of organ removal (Article 5)

79. GRETA notes that while human trafficking 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 Organs²¹ are two distinct crimes, they bear certain similarities and 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.²² Among the necessary preventive measures, GRETA emphasises 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 trafficking in human beings.

80. Trafficking for the purpose of the removal of organs is an aggravated form of THB under Article 147, paragraph 2, of the Criminal Code (CC).

81. The collection, storage and use of human organs, blood, tissues and cells is regulated by the Law on Donation and Transplantation of Human Tissues, Cells and Organs and secondary legislation. The Lithuanian National Transplant Bureau under the Ministry of Health operates a registry of donors, beneficiaries and organs, and is responsible for overseeing and monitoring all donation and transplantation activities in Lithuania. The National Transplant Bureau manages waiting lists for transplantations.

82. In Lithuania there are two medical clinics licensed to perform transplantations, located respectively in Kaunas and Vilnius. Doctors are under an obligation to inform the National Transplant Bureau of any adverse effects of transplantation they may come across, including any suspicion on illegal transplantation. The National Transplant Bureau will take a decision whether to inform the police. According to the authorities, no such cases have been detected so far.

83. GRETA notes that the National Anti-Trafficking Action Plan for 2017-2019 includes training for health workers about the identification of victims, the protection of their rights and the referral of victims to support services.

84. GRETA considers that the Lithuanian authorities should provide training to health and other professionals involved in transplantation of organs about THB for the purpose of organ removal.

85. Further, GRETA encourages the Lithuanian authorities to sign and ratify the Council of Europe Convention against Trafficking in Human Organs as this would contribute to the prevention of trafficking for the purpose of organ removal.

²¹ Opened for signature in Santiago de Compostela on 25 March 2015; entered into force 1 March 2018.

²² 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).

f. Measures to discourage demand (Article 6)

86. In its first report, GRETA considered that the Lithuanian authorities should make additional efforts to discourage demand for services from trafficked persons as regards all forms of exploitation.

87. The National Action Plan envisages organising annual information campaigns to reduce demand for services of victims of trafficking. One of the aims of the awareness-raising campaign mentioned in paragraph 54 was to discourage demand. By way of example of measures to discourage demand, the authorities have referred to a project entitled "Stop Traffick: Tackling Demand for Sexual Services of trafficked women and girls", which was implemented by the NGO "Klaipėda Social and Psychological Support Centre" and focussed on reducing demand for sexual services of trafficked women and girls in Cyprus, Finland, Ireland, Bulgaria and Lithuania. The toolkit and activities under this project raised awareness on men's attitude to the purchase of sex and the experiences of women and girls trafficked for the purpose of sexual exploitation.

88. GRETA considers that the Lithuanian authorities should strengthen their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society and the private sector, in line with the United Nations Guiding Principles on Business and Human Rights.

g. Border measures (Article 7)

89. The State Border Guard Service performs risk analysis and assessment during border checks on the basis of recommendations and procedures for risk analysis approved by Order of the Commander of the State Border Guard Service. These two documents contain descriptions of risk profiles and indicators of transnational crimes, including THB.

90. Officers of the State Border Guard Service use the manual prepared by Frontex which aims to facilitate the identification of victims of THB at the border. GRETA was informed that border guards working at the sea border co-operate with transportation companies by exchanging information about persons who could be trafficked and providing companies with information concerning risk profiles of potential traffickers. Information provided to border guards by sea carriers regarding vulnerable persons crossing the border, or those in possession of expired or otherwise invalid travel documents, is regularly verified and communicated, where necessary, with the staff of German and Swedish ferry companies.

91. As already noted in the first evaluation report, pursuant to Article 21-3 of the Law on the Legal Status of Aliens, decisions on issuing visas to foreign nationals or their cancellation are taken by diplomatic missions and consulates of Lithuania or the Migration Department of the Ministry of the Interior. Information on the conditions for legal entry and residence in Lithuania is available on the website of the Migration Department.²³ Lithuanian embassies and consulates, as well as the Ministry of Foreign Affairs, also provide online information regarding procedures for entry into Lithuania.

92. Lithuania is a signatory to a Memorandum among the immigration authorities of Estonia, Latvia and Lithuania, which is the basis for appointing Immigration Liaison Officers representing the three countries in Belarus and Georgia with the purpose of strengthening control of EU's external borders and promoting cross-border co-operation.

93. GRETA invites the Lithuanian authorities to maintain their efforts to detect potential victims of THB in the context of border controls. In this context, GRETA refers to the United Nations Office of the High Commissioner for Human Rights (OHCHR) 2014 Recommended Principles and Guidelines on Human Rights at International Borders.²⁴

²³ <http://www.migracija.lt/index.php?-1803999119>

²⁴ http://www.ohchr.org/Documents/Issues/Migration/OHCHR_Recommended_Principles_Guidelines.pdf

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

a. Identification of victims of THB (Article 10)

94. As noted in paragraph 17, on 17 December 2015, the Prosecutor General, the Minister of the Interior and the Minister of Social Security and Labour approved the Recommendations regarding the Identification of Victims of Trafficking, Criminal Investigations and Interagency Co-operation ("Recommendations on Victim Identification").²⁵ The Recommendations set out a National Referral Mechanism (NRM) for victims of trafficking, defining the roles of and co-operation among different actors, including police officers, border guards, prosecutors, labour inspectors, consular officials, municipal staff on social protection and children's rights, specialised NGOs and the IOM Office in Vilnius. According to the authorities, the Recommendations were distributed to relevant agencies through training sessions.

95. Pursuant to the NRM, the identification of a victim of THB may be initiated by any of the above-mentioned actors who come across a possible victim. The indicators for identification and the identification form included in the Recommendations on Victim Identification should be applied in the process of identification, and a victim identification card should be provided to the person identified as a victim of THB. In practice, the identification is most often initiated by law enforcement authorities. GRETA was informed of an agreement of principle between NGOs, the Prosecutor's Office and the police to invite representatives of specialised NGOs when interviewing possible victims of THB. In some municipalities, agreements were signed by NGOs with the municipal authorities to implement the Recommendations on Victim Identification, in co-operation with law enforcement bodies and prosecution.

96. Representatives of civil society organisations met by GRETA expressed the view that the practical implementation of Recommendations is unsatisfactory as they are not applied systematically and uniformly throughout the country. According to interlocutors, better implementation of the Recommendations would require a greater involvement of frontline officials from relevant sectors, such as labour inspectors, social workers, teachers, child protection specialists and health-care professionals who may come across victims of THB. GRETA was also informed that insufficient efforts were being made to identify victims of THB among women involved in prostitution in Lithuania.

97. The number of foreign nationals identified in Lithuania as victims of THB remained very low until 2017 (only two in 2014-2016). GRETA was informed that 18 Nepalese men who were allegedly exploited in the construction sector were granted the procedural status of victims during the pre-trial procedure, and two Ukrainian men were granted the procedural status of victims of THB for labour exploitation during the pre-trial investigation.

98. GRETA notes that the human resources allocated to the State Labour Inspectorate are limited and their main focus is placed on detecting persons in irregular employment (see paragraph 60). Representatives of the authorities considered that labour inspectors needed more training, in particular regarding the implementation of the Recommendations on Victim Identification.

²⁵ Available (in Lithuanian) at: <https://www.e-tar.lt/portal/lt/legalAct/801bbb20ad5311e5b12fbb7dc920ee2c>

99. In the context of the asylum procedure, pursuant to Article 2 (18²) of the Law on the Legal Status of Aliens, victims of THB are considered as vulnerable persons and are entitled to appropriate reception conditions, safeguards against unlawful or arbitrary detention and procedural guarantees. The grounds for considering an asylum application inadmissible, including the notion of a safe third country, do not apply to vulnerable asylum seekers. On 24 February 2016, the Minister of the Interior approved Procedures for Granting and Withdrawal of Asylum in Lithuania.²⁶ These Procedures aim at facilitating the detection and assessment of vulnerabilities among asylum seekers, including whether they may have been victims of THB, to be carried out by border guards and police officers. Should such an assessment indicate that an asylum seeker is a vulnerable person, he/she would have access to special guarantees. Further, the Procedure envisages a "second line" vulnerability assessment, which should be conducted by a social worker, medical practitioner and psychologist at the reception centre, followed by an interview with an asylum officer. Further, pursuant to the Rules on the procedures for identification, accommodation and provision of assistance to aliens with special needs (approved by the State Border Guard Service Commander's Order No. 4-597 of 23 December 2016), measures are taken to determine whether a newly arrived asylum seeker belongs to a vulnerable group, including victims of THB.

100. In the course of the evaluation visit, GRETA visited the Foreigners' Registration and Reception Centre of the State Border Guard Service in Pabradė. This facility accommodates asylum seekers and irregular migrants in two distinct sections, with 94 places for irregular migrants in a detention facility, and 88 for asylum seekers in an open-type facility. The Reception Centre employs social workers trained to identify persons with vulnerabilities. The only case of suspicion that an asylum seeker may be a victim of THB occurred in 2015 and was communicated to the police and representatives of the NGO "Caritas". Following this case, the Reception Centre recruited female officers to interview female asylum seekers and establish trust-based relationships with vulnerable women. GRETA was informed that one officer of the Criminal Intelligence Division of the State Border Guard Service deployed at the Foreigners' Registration and Reception Centre has received advanced training on THB, but no training on THB has been provided to other staff of the Foreigners' Registration and Reception Centre.

101. GRETA welcomes the adoption of the Recommendations on Victim Identification, which promote a multi-disciplinary approach. **GRETA considers that the Lithuanian authorities should take additional measures to improve the proactive identification of victims of THB, including by:**

- **enhancing the role of labour inspectors in detecting THB for the purpose of labour exploitation and providing labour inspectors with training to effectively detect, identify and refer possible victims of THB for identification and assistance;**
- **paying increased attention to detecting victims of THB among migrant workers, asylum seekers and persons placed in immigration detention centres;**
- **providing specialised training on THB to staff of reception centres for refugees and asylum seekers, and detention centres for irregular migrants;**
- **effectively disseminating the Recommendations on Victim Identification, and providing training and guidance on the application of these recommendations to all frontline professionals, including police officers, social workers, labour inspectors, prosecutors, judges, and health-care professionals at central and municipal level;**
- **encouraging a proactive approach by frontline professionals to the identification of victims of THB in Lithuania for different purposes of exploitation, including Lithuanian nationals trafficked and exploited within the country;**
- **improving co-operation between the police, social services and specialised NGOs in identifying victims of THB.**

²⁶ Available (in Lithuanian) at: <https://www.e-tar.lt/portal/lt/legalAct/ebc768d0dadd11e583a295d9366c7ab3>

b. Assistance measures (Article 12)

102. In its first report, GRETA urged the Lithuanian authorities to strengthen their efforts to provide assistance to victims of trafficking and to ensure that all victims of THB, including men, have effective access to adequate accommodation, emergency and long-term medical assistance, as well as social assistance, according to their needs. Further, GRETA considered that the Lithuanian authorities should increase their efforts to provide adequate funding to cover the assistance measures for victims of trafficking.

103. As noted in GRETA's first report, the provision of assistance is delegated to specialised NGOs selected through public tenders and is financed by the Ministry of Social Security and Labour. According to the authorities, the funding provided for assistance to victims of THB amounted to €80 000 in 2016, €115 000 in 2017, and €165 000 in 2018. Additional funding may be provided by municipalities to service providers working within these municipalities. Since 2016, the duration of the contract awarded to NGOs for assistance of victims has become two years, instead of the previous one-year contracts.

104. On 22 January 2017, the Minister of Social Security and Labour approved Regulations on the organisation of competitions for projects for social assistance to victims of THB for 2016-2018, which set out the requirements for social assistance to victims of THB. Such assistance includes psychological and legal support; access to health care;²⁷ temporary accommodation; information, mediation and representation; food and clothing; transportation; and assistance for integration into the labour market (training, search for employment, assistance in work for those already employed). Identified victims have access to assistance irrespective of whether they co-operate with law enforcement authorities.

105. In the course of the visit, representatives of specialised NGOs noted that not all victims of THB could get in contact with them as allegedly law enforcement agencies were in some cases reluctant to refer presumed victims for assistance, their priority being to obtain testimonies to be used as evidence in criminal investigations.

106. Lithuanian victims of THB can be placed in municipal shelters for women victims of domestic violence. There are 34 crisis centres, 16 organisations for mothers and their children, and five independent living houses for people at risk. However, GRETA was informed that foreign victims of THB were accommodated at the Refugee Reception Centre in Rukla as there was no facility specialised in assisting foreign victims of THB.

107. The GRETA delegation visited a Child and Family Welfare Centre in Klaipėda which provides assistance to Lithuanian women victims of domestic violence, sexual violence and THB. Accommodation, which may last up to six months, is funded by Klaipėda municipality. The centre assisted three victims of THB in 2015, one in 2016, two in 2017 and two by June 2018.

108. In the course of the evaluation visit, the GRETA delegation also visited a shelter for women victims of violence and THB, operated as of October 2017 by the NGO "Missing Persons Families Support Centre", with funding from the Ministry of Social Security and Labour. The shelter employs two social workers, two project managers and one psychologist. It has the capacity of assisting 10 victims (and their children) and, since its opening, has assisted three victims of THB. Male victims assisted by this NGO are accommodated in rented apartments. The assistance provided includes medical expenses, accommodation, food, clothes, and legal consultation.

²⁷ According to Article 47 of the Law on the Health System, emergency health care is free of charge and is covered by the Compulsory Health Insurance Fund, state or municipal budgets, and the municipal public health support programme. As per Article 49, paragraph 1, of the Law on the Health System, emergency health care is free of charge to all permanent residents, regardless of whether they are covered by the Compulsory Health Insurance. Foreign nationals who have applied for asylum and those who were granted a temporary or subsidiary protection are entitled to State-funded health care.

109. GRETA also visited the NGO "Klaipėda Social and Psychological Support Centre", which was set up in 2003 and was operating until 2013 a shelter for women victims of violence and THB. The shelter had to be closed owing to insufficient funding and the victims were accommodated in rented apartments or municipal crisis centres. This NGO assisted 12 victims of THB in 2016, 13 in 2017 and seven by June 2018.

110. The Men's Crisis Centre in Kaunas (which GRETA had visited in the course of its first evaluation) provides assistance to male victims of THB, including social, psychological and emergency medical assistance. However, accommodation for male victims of THB remains a challenge, as the only facilities which could be used for this purpose are shelters for men in difficult life circumstances, which are not adapted to the needs of victims of THB, and the duration of stay is limited to one week.²⁸

111. GRETA was informed that a new NGO specialising in the assistance of victims of THB had been registered by former staff of the NGO "Caritas", under the title "Centre against Human Trafficking and Exploitation". This NGO is currently capable of assisting up to 30 victims, both women and men, with funding from the Ministry of Social Security and Labour.²⁹ The assistance provided by it covers six towns where victims are accommodated in flats rented for this purpose.

112. According to representatives of NGOs, current accommodation arrangements are not always suited to the needs of victims, especially those with serious trauma or health problems. No budget is envisaged for legal assistance by specialised NGOs. On some occasions, lack of funding has led to discontinuing on-going assistance for victims in stabilised condition, due to the arrival of new victims with a more urgent need for support. The most significant difficulty remains access to health care, in particular when victims without health insurance need to be hospitalised, as victims' eligibility to access health care depends on their registered residence address. Further, the increase in identified male victims exacerbates the already existing difficulties with providing them suitable accommodation and specialised assistance.

113. The authorities have stated that the funds allocated by the Ministry of Social Security and Labour and municipalities to specialised NGOs are adequate, noting that only around half of the persons assisted by NGOs were identified as victims of THB, while the remainder were possible victims or vulnerable persons. The authorities also noted that the shelter opened by the NGO "Missing Persons' Families Support Centre" in 2017 was never used to its full capacity. As regards access to health care, the authorities referred to the conclusion of co-operation agreements between NGOs and health-care institutions.

114. GRETA was informed of on-going discussions in the Ministry of Social Services and Labour to reform the assistance system of victims of THB with a view to selecting one specialised NGO to co-ordinate the State-funded assistance provided by several NGOs. **GRETA would like to be kept informed about the outcome of this discussion, in particular the method of selection of the co-ordinating NGO and service providers, which victims would have access to specialised assistance, and what funding and types of assistance are envisaged.**

²⁸ See paragraph 118 of the first GRETA report.

²⁹ The Ministry provides funding to the NGO "Caritas", which, on the basis of a co-operation agreement, funds the shelter run by the NGO "Centre against Human Trafficking and Exploitation".

115. While welcoming the increase in State funding for the assistance to victims of THB, GRETA remains concerned that this may not be adequate to meet the needs of the victims. **GRETA urges the Lithuanian authorities to take additional steps to improve the assistance for victims of trafficking, and in particular to:**

- **guarantee the availability of appropriate and safe accommodation and assistance for all victims of THB, including men;**
- **provide access to specialised assistance and accommodation to foreign victims of THB;**
- **provide adequate advance financing to cover all the expenses incurred by specialised NGOs in the course of identifying and assisting victims of THB, including for legal assistance, counselling and information;**
- **ensure access of victims to health care, irrespective of their residence address.**

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

116. In its first evaluation report, GRETA urged the Lithuanian authorities to improve the identification of victims of THB among children by setting up a specific identification mechanism which takes into account the special circumstances and needs of child victims of THB, involves child specialists and ensures that the best interests of the child are the primary consideration.

117. In response to GRETA's recommendation, the Lithuanian authorities have incorporated specific provisions on the identification of child victims of THB into the Recommendations on Victim Identification, which were adopted in 2015. The Recommendations define a child as any person under 18 years of age and include indicators for identifying child victims of trafficking. Further, they specify the age-related risks of trafficking and re-iterate the irrelevance of the use of means to establish trafficking in children. Different authorities and NGOs who may initiate identification of victims of THB should notify the Municipal Child Rights Protection Department in case a child victim is identified. The Municipal Child Rights Protection Department is also listed among the authorities which may initiate identification.

118. Three child victims of trafficking were identified in 2014, 17 in 2015, four in 2016 and eight in 2017. All children were Lithuanian nationals, trafficked mostly for the purpose of sexual exploitation (12 girls) and forced criminality (10 boys and two girls). Most of the children were trafficked within Lithuania (19), followed by Germany (4), Finland (3), Denmark (1), Netherlands (1) and Norway (1).

119. The authorities informed GRETA that the "Recommendations on preventive and protective measures, provision of services, and inter-institutional co-operation on child trafficking", adopted by the State Child Rights Protection and Adoption Service in 2014, are applied in the identification of child victims of trafficking and their referral to assistance. The Recommendations have been disseminated to staff of Child Rights Protection Divisions, social workers and other relevant professionals working with socially vulnerable families.

120. Further, the authorities informed GRETA that local Prosecutor's Offices co-operate with the territorial Child Rights Protection Divisions under the municipality administration on the basis of a tripartite agreement signed on 27 January 2011 by the Prosecutor General's Office, the Ministry of Social Security and Labour, and the Office of the Ombudsman for the Rights of the Child. Pursuant to this agreement, the Child Rights Protection Division, the police and prosecutors agree to exchange information about violence against children and other violations which may amount to a criminal offence, including THB. Upon receipt of such information, the Child Rights Protection Division visits the family, inspects the conditions of the family environment and transmits information to the law enforcement authorities, where necessary. According to the procedure for providing such information, all cases related to possible child trafficking must be reported to the State Child Rights Protection and Adoption Service. According to the authorities, two pre-trial investigations were initiated in 2017 for THB, based on reports by the State Child Rights Protection and Adoption Service.

121. Assistance to child victims of THB is provided by specialised NGOs ("Child and Family Welfare Centre", "Missing Persons' Families Support Centre", "Klaipėda Social and Psychological Support Centre" and "Centre against Human Trafficking and Exploitation"). However, GRETA was informed of difficulties occurring in some cases regarding assistance of children trafficked for the purposes of forced criminality. By way of example, representatives of civil society referred to a case where an adolescent boy exploited for shoplifting, who was assisted by a specialised NGO, was initially willing to participate in court proceedings as a witness, but later on withdrew his testimony. In the opinion of representatives of local authorities and NGOs, the current protection and assistance measures for child victims of trafficking in Lithuania do not adequately meet the needs of trafficked children.

122. Representatives of the Ministry of Social Security informed GRETA that on 3 June 2016 a centre for children victims of sexual abuse was opened in Lithuania, based on the "Barnahus" model. The centre provides accommodation for up to four days and offers a child-friendly environment for interviews, forensic examinations and initial assistance. Child victims of THB who may have been subject to sexual abuse have access to services of this centre.

123. As regards unaccompanied foreign children, different procedures apply to them depending on whether they apply for asylum at the first point of contact.³⁰ Asylum seeking children should be accompanied by a lawyer and a representative of the child rights protection authorities during the initial interview, they should be referred for accommodation and assistance without delay, and their asylum applications must be given priority. In case of doubts regarding the asylum-seeker's age, the Migration Department may request an X-ray to determine whether the person is a child. Children not applying for asylum do not benefit from some of these measures, in particular, participation of a representative of the child rights protection authorities in the first interview is not mandatory, and the age determination examination may be initiated by border guards or the police before the child is referred to an accommodation. GRETA was informed that there is an important margin of error³¹ in the age assessment procedures and as a result a number of children were placed in the Foreigners Registration Centre as irregular migrants. GRETA notes that the above-described method of age assessment does not take into account psychological, cognitive or behavioural factors.

124. As noted in paragraph 71, all foreign children accommodated in the Refugee Reception Centre in Rukla have subsequently disappeared. GRETA is concerned that insufficient efforts are made to identify possible victims of THB amongst children placed in Refugee Reception Centre in Rukla and the fact that all of them have disappeared and have not been found increases the risks of them becoming victims of trafficking.

³⁰ The two situations are regulated, respectively, by Order of the Minister of the Interior on the Approval of the Description of the Procedure for Granting and Withdrawing Asylum of 24 February 2016, and Order of the Minister of Social Security and Labour, the Minister of the Interior and the Minister of Health on the Approval of the Description of the Procedure for Conducting Age Assessment and Providing Accommodation and Services with respect to Unaccompanied Minors who are not Applicants for Asylum of 9 June 2016.

³¹ See UNHCR's observations on the use of age assessments in the identification of separated or unaccompanied children seeking asylum, available at: <http://www.refworld.org/docid/55759d2d4.html>

125. **GRETA urges the Lithuanian authorities to enhance their efforts to identify victims of THB among unaccompanied or separated children in Lithuania and to ensure their referral to assistance.**

126. **Further, GRETA considers that the Lithuanian authorities should take steps to improve the identification and assistance of child victims of trafficking, and in particular to:**

- **ensure that relevant actors take a proactive approach and increase their outreach work to identify child victims of trafficking for different purposes of exploitation;**
- **provide further training to relevant professionals (police, child protection authorities, social workers, health professionals, asylum officials) as well as guidance for the identification of child victims of THB for different forms of exploitation;**
- **provide support and services which are adapted to the needs of child victims of trafficking, including appropriate accommodation, access to education and vocational training.**

127. **GRETA also invites the Lithuanian authorities to review the age assessment procedures, ensuring the presumption that a person is a child until he/she is not proved to be adult, in line with Article 10, paragraph 3, of the Convention, and that the best interests of the child are effectively protected, taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child.³²**

d. Protection of private life (Article 11)

128. The processing and protection of personal data are regulated by provisions of the Law on Legal Protection of Personal Data. The State Data Protection Inspectorate is consulted when any legislation or regulations affecting personal data are being prepared. The provisions regarding protection of personal life and confidentiality during criminal proceedings are contained in the CPC. Article 44 of the CPC states that each person has the right to respect for his or her private and family life, home and correspondence, while Article 177 prohibits disclosing data from criminal investigations concerning child victims or suspects. Article 181 of the CPC regulates access to data of criminal proceedings and the scope of persons having such access. Articles 198–204 define the right of victims to request anonymity (including partial anonymity), the grounds and procedures for its application.

e. Recovery and reflection period (Article 13)

129. In its first report, GRETA urged the Lithuanian authorities to review the procedure for granting a recovery and reflection period with a view to ensuring, in compliance with the obligations under Article 13 of the Convention, that all possible victims of trafficking are systematically informed of the possibility to benefit from a recovery and reflection period and are offered such a period without having to apply for it.

130. Pursuant to Article 130(4) of the Law on the Legal Status of Aliens, on 18 April 2012 the Lithuanian Government approved the procedure for granting a 30-day reflection period to foreign nationals (including from EU Member States) who are victims of THB. Victims must submit the request for a recovery and reflection period to an investigation officer by completing an application form. The investigation officer should decide on the matter not later than the next working day. Persons granted a reflection period have the right to safe accommodation, access to emergency medical treatment, psychological support, social services, translation and interpretation. Expulsion from the country during the reflection period is prohibited.

³² 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.

131. The Recommendations on Victim Identification establish an obligation of law enforcement officers and other frontline specialists to inform victims of THB of their rights, including the right to request a reflection period. According to the authorities, all foreign victims of THB identified in Lithuania had temporary residence permits, which enabled them to benefit from specialised services, but none of them was granted a reflection period.

132. GRETA refers to paragraph 175 of the Explanatory Report to the Convention, which states that “the reflection and recovery period provided for in Article 13, paragraph 1, should not be confused with the issue of the residence permit under Article 14, paragraph 1.” GRETA remains concerned that requesting possible victims of THB to submit a written application form for a recovery and reflection period represents an additional burden. According to the Lithuanian authorities, victims do not need to apply for the reflection period, but to confirm their willingness to benefit from it.

133. GRETA once again urges the Lithuanian authorities to review the procedure for granting a recovery and reflection period to the effect that persons in respect of whom there are reasonable grounds to believe that they are victims of human trafficking are offered such a period without having to apply for it, as provided for in Article 13 of the Convention, and to ensure that all possible foreign victims of trafficking, including EU and EEA citizens, are effectively provided such a period, with all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention.

f. Residence permits (Article 14)

134. In its first report, GRETA invited the Lithuanian authorities to consider granting residence permits to victims who, for various reasons, do not co-operate with the law enforcement authorities, but whose stay would be necessary owing to their personal situation, as envisaged by Article 14 of the Convention.

135. The legal situation as regards residence permits for victims of THB remains unchanged. Article 49⁽¹⁾ of the Law on the Legal Status of Aliens envisages a temporary residence permit for foreign victims of THB who co-operate with the investigation body or the court. The duration of the residence permit is six months and may be extended by the Migration Department upon request of the pre-trial investigation body or court. The temporary residence permits entitle their holders to work, having obtained a work permit, and receive basic medical assistance and social services, if they do not have sufficient means to pay for these services.

136. As noted in paragraph 13, 22 foreign victims of THB were identified in Lithuania in 2014-2017. According to information received from the Lithuanian authorities, there has so far been no need to issue residence permits on the basis of Article 49⁽¹⁾ of the Law on the Legal Status of Aliens. The authorities stated that it was not possible to disaggregate the data on residence permits issued to foreigners on the grounds of their being identified as victims of THB.

137. GRETA recalls that Article 14 of the Convention allows Parties to choose between granting a residence permit in exchange for co-operation with the authorities or granting it on account of the victim’s needs, or indeed to adopt both simultaneously. There are situations in which victims might be afraid to co-operate in the investigation because of threats from the traffickers. Granting a residence permit on account of the personal situation of the victim takes in a range of situations, such as the victim’s safety, state of health and family situation, and tallies with the human-rights based approach to combating THB. **GRETA once again invites the Lithuanian authorities to consider granting temporary residence permits to victims of THB on the basis of their personal situation, in addition to the residence permit on the basis of the victim’s co-operation in the investigation or criminal proceedings.**

138. Further, GRETA considers that the Lithuanian authorities should take additional steps to ensure that all victims of trafficking can fully benefit in practice from the right to obtain a renewable residence permit, without prejudice for the right to seek and enjoy asylum.

g. Compensation and legal redress (Article 15)

139. In its first report, GRETA considered that the Lithuanian authorities should adopt further measures to facilitate access to compensation for victims of trafficking, and in particular to ensure that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed, and to enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid. Further, GRETA considered that the Lithuanian authorities should review the legislation in order to make it possible for victims of THB to receive State compensation regardless of whether criminal proceedings are initiated.

140. The procedure for compensation for damages caused by criminal acts remains as described in the first report. Compensation may be awarded in accordance with Articles 107 (voluntary compensation of damages) and 108 (return of objects and valuables) of the CPC. The suspect, the accused or another person materially responsible for their actions may at any point in the process voluntarily compensate the damages caused by criminal acts to the victim. If damages caused by criminal acts have been compensated in this manner, no civil action in a criminal case will take place. A person who has suffered harm due to an offence may also file a civil claim within the criminal proceedings, which would allow the pre-trial investigating officer, the prosecutor or the court to seize the property owned by the suspect or the accused. Where the person damaged by the offence is unable to defend his/her legal interests due to minor age, illness, dependence on the accused or other circumstances, the prosecutor must file a civil claim in court on behalf of such person. Further, Article 45 of the CPC puts an obligation on judges, prosecutors and investigators to inform victims of their procedural rights and ensure access to those rights.

141. The Law on Compensation of Damage Caused by Violent Crimes sets out the modalities of State compensation for material and non-material damage of victims of violent crimes, in cases where compensation cannot be obtained from the accused. The Law contains a list of violent crimes, which includes Articles 147 (trafficking in human beings) and 157 (purchase or sale of a child) of the CC. Victims of crime whose material or non-material damage has been recognised by the court may have access to State compensation after the completion of the criminal proceedings, once the judgement enters into force or in case the court has agreed to compensate damage prior to the completion of criminal proceedings. According to Article 2 of the Law, a victim of a violent crime is a Lithuanian national, a national of another member state of the EU, a person legally residing in Lithuania, or in another member state of the EU, and other persons according to international agreements, which have been recognised as victims of a violent crime. To be eligible for compensation under this law, the following cumulative requirements must be met: (1) the violent crime must be committed within the Lithuanian territory, or on board of a vessel or aircraft with the flag or distinguishing marks of Lithuania; (2) damages awarded by a court or determined in an agreement approved by the court must not have been compensated; (3) the application for compensation must be made within 10 years from the date of the final judgment of the court awarding damages (or the court decision which approved the agreement for compensation of damages), except when there are exceptional circumstances for missing this time limit.

142. Article 46, paragraph 2, of the Criminal Procedure Code (CPC) provides that if a person is recognised as a victim and has suffered damages as a result of a violent crime, the pre-trial investigation officer or prosecutor must immediately inform the victim of the right to receive compensation according to the Law on Compensation of Damages Caused by Violent Crimes.

143. According to information provided by the authorities, seven victims of THB were awarded compensation in 2014, five in 2015 and 14 in 2016, with the amounts ranging from €200 to €7 240. In addition, the Ministry of Justice awarded compensation from the State budget to two victims of THB in 2017, in the amount of respectively €3 040 and €4 160, pursuant to Law on Compensation of Damages Caused by Violent Crimes.

144. As described in the first evaluation report, victims of crimes may be granted primary³³ and secondary legal aid³⁴ pursuant to the Law on State-Guaranteed Legal Aid. The state covers secondary legal aid for victims of criminal offences to claim compensation for damage suffered from criminal actions. Lithuanian and EU nationals, as well as persons with legal residence in Lithuania, are entitled to State-funded secondary legal aid without evaluation of their means.³⁵ The authorities indicated that as per Article 12, paragraphs 2 and 3, of the Law on State-Guaranteed Legal Aid, the scope of the secondary legal aid for victims of certain criminal offences, including THB, is not limited to legal aid for claiming compensation for damages, but also covers other aspects of criminal proceedings.

145. In 2017 the Ministry of Justice proposed to the Government to increase the fees paid to lawyers providing State-funded secondary legal aid in order to trigger greater interest among lawyers to participate in this system. Further, following the adoption of the Law of 30 June 2018, Article 12 of the Law on State-Guaranteed Legal Aid has been amended to the effect that the requirement of not having sufficient means to access legal aid during all criminal proceedings has been removed with respect to victims of THB.

146. GRETA was informed that lawyers participating in the State-funded legal aid scheme have no training on THB and insufficient experience in such cases, which is why the quality of the representation fails to adequately defend the rights and interests of victims in courts. Experienced lawyers take on THB cases only on rare occasions on the basis of their *pro bono* work. According to the authorities, a new system for ensuring the quality of legal aid is planned to be introduced by the third quarter of 2020.

147. GRETA was also informed that state-funded legal aid is mostly provided to those victims and witnesses of THB who agree to testify against traffickers in criminal proceedings. By way of example, GRETA was informed that a Colombian victim of THB was provided with legal aid only during the court proceedings and not during the pre-trial investigation as she was not in a position to prove that she did not have enough financial resources to pay for legal aid.

148. GRETA welcomes the fact that victims of THB have been awarded compensations by Lithuanian courts and have received State compensation, as well as the measures taken to facilitate access to State funded legal aid for victims of THB.

149. **GRETA urges the Lithuanian authorities to make the State compensation scheme effectively accessible to all victims of trafficking, regardless of their nationality and residence status.**

³³ Primary legal aid shall not exceed one hour and includes the provision of legal information, legal advice and drafting of documents for submission to municipal authorities, except for procedural documents. Primary legal aid is provided by municipalities or public agencies on the basis of an agreement concluded with the municipal institution.

³⁴ Secondary legal aid includes drafting of documents, defence and representation in court. It also covers litigation costs incurred in civil proceedings, the costs incurred in administrative proceedings and the costs related to the hearing of a civil action brought in a criminal case. Secondary legal aid is provided by lawyers with whom the competent authorities have concluded agreements.

³⁵ The amendments have been adopted and in force (the Resolution No. 702 of the Government of the Republic of Lithuania of 30 August 2017 and the Law amending the Law on State-Guaranteed Legal Aid No. XIII-1437 of 30 June 2018).

150. **GRETA also considers that the Lithuanian authorities should take further steps to facilitate access to compensation for victims of trafficking, including by:**

- **ensuring that all victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed, and are provided with effective access to free legal aid, in accordance with the internal law;**
- **building the capacity of lawyers in the State-funded legal aid system to support victims to claim compensation;**
- **incorporating training on compensation into existing training programmes for law enforcement officials, prosecutors and the judiciary.**

h. Repatriation and return of victims (Article 16)

151. As described in GRETA's first report, the Law on the Legal Status of Aliens provides that a foreigner shall be returned to another country if he/she unlawfully entered Lithuania or unlawfully stays there, or is a vulnerable person or an asylum seeker and agrees to return voluntarily with the support of an international organisation or an NGO. A foreigner who agreed to voluntary return should leave Lithuania within a time-limit between seven and 30 days. The Lithuanian authorities have indicated that before returning a foreign national, his/her vulnerability and safety are considered prior to the return decision being taken.

152. Pursuant to the provisions of the Recommendations on Victim Identification, the return of foreign nationals identified as victims of THB in Lithuania is carried out either through the Voluntary Assisted Return procedure, implemented by the IOM Office in Vilnius, or by the Foreigners' Registration Centre of the State Border Guard Service, in co-operation with the State Border Guard Service. The Recommendations do not provide for a risk assessment prior to return.

153. Lithuanian victims of THB identified abroad are repatriated with the assistance of diplomatic missions and consulates of Lithuania in the countries where they have been identified. The annual budget envisaged by the Ministry of Foreign Affairs for the repatriation of Lithuanian victims of THB from other countries is €3 000. In 2014-2017, a total of 47 presumed victims of THB received assistance by Lithuanian embassies and consulates abroad (14 in 2014, 12 in 2015, 11 in 2016 and 10 in 2017). The material assistance includes the purchase of tickets, provision of food, clothes, medical and other necessary assistance, while non-material assistance consists of issuing free-of-charge Repatriation Certificates, help in contacting relatives in Lithuania, law enforcement bodies and relevant NGOs.

154. **GRETA considers that the Lithuanian authorities should ensure that any return of victims of trafficking is conducted with due regard for the rights, safety and dignity of trafficked persons, including the right to *non-refoulement* (Article 40(4) of the Convention)³⁶. The authorities should envisage voluntary return procedures which would protect victims of THB from re-victimisation and re-trafficking and, in the case of children, fully respect the principle of the best interests of the child.** In this context, full consideration should be given to the UNHCR's Guidelines on the application of the Refugees Convention to trafficked people.³⁷

³⁶ 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 and persons at risk of being trafficked, HCR/GIP/06/07, 7 April 2006.

³⁷ <http://www.unhcr.org/publ/PUBL/443b626b2.pdf>

3. Substantive criminal law

a. Criminalisation of THB (Article 18)

155. Following amendments to Articles 147 and 157 of the CC adopted on 12 May 2016, the provision criminalising trafficking in human beings (Article 147) reads as follows:

"1. A person who sells, purchases or otherwise conveys or acquires a person or recruits, transports or holds in captivity a person by using physical violence or threats, or by otherwise depriving him of a possibility of resistance, or by taking advantage of the victim's dependence or vulnerability, or by using deceit, or by taking or paying money, or by receding or providing other benefits to a person who actually controls the victim, provided that the offender was aware or sought that the victim, whether he/she agreed or not, would be exploited for the purposes of slavery or under conditions similar to slavery for prostitution, pornography or other forms of sexual exploitation, forced marriage or marriage of convenience, forced labour or services, including begging, commission of a criminal act or for any other exploitative purposes, shall be punished by imprisonment for a term from two to 10 years.

2. A person who commits the act provided for in Paragraph 1 of this Article in respect of two or more victims or by endangering the victim's life, or by participating in an organised group, or by being aware of or seeking the acquisition of the victim's organ, tissue or cells, or while acting in his capacity as a civil servant or a person fulfilling public administration functions and performing his duties, shall be punished by imprisonment for a term from four to 12 years.

3. The victim of the criminal offence provided for in this Article may be released from criminal liability for the criminal offence which he/she has been directly forced to commit because of the criminal offence provided for in this Article committed against him/her.

4. A legal entity shall also be held liable for the acts provided for in Paragraphs 1 and 2 of this Article."³⁸

156. Trafficking in children is criminalised under Article 157 of the CC (purchase or sale of a child), which reads as follows:

"1. A person who proposes to purchase or otherwise acquire, sells, purchases, otherwise transfers, acquires, recruits, transports or holds captive a child, while being aware of or seeking that, regardless of the child's consent, he/she would be unlawfully adopted, exploited under the conditions of slavery or under conditions similar to slavery for prostitution, pornography, other forms of sexual exploitation, forced marriage or marriage of convenience, forced labour, including begging, commission of a criminal act or for other exploitative purposes, shall be punished by imprisonment for a term from three to 12 years.

2. A person who commits the act provided for in Paragraph 1 of this Article in respect of two or more children or against young children, or by endangering the victim's life, or by participating in an organised group, or by being aware of or seeking the acquisition of the victim's organ, tissue or cells, or while acting in his capacity as a civil servant or a person fulfilling public administration functions and performing his duties, shall be punished by imprisonment for a term from five to 15 years.

3. The victim of the criminal offence provided for in this Article may be released from criminal liability for the criminal offence which he/she has been directly forced to commit because of the criminal offence provided for in this Article committed against him/her.

4. A legal entity shall also be held liable for the acts provided for in Paragraphs 1 and 2 of this Article."³⁹

³⁸ Unofficial translation.

³⁹ Unofficial translation.

157. The three elements of the definition of THB under the Convention are included in the Lithuanian definition of THB under Article 147 of the CC. As regards the forms of exploitation, trafficking for the purpose of forced begging and for the commission of criminal offences are explicitly criminalised. There have been a number of criminal investigations opened since 2014 in respect of the latter. By way of example, the authorities referred to the judgment of Criminal Division of the Supreme Court of Lithuania No. 2K-358-1073/2017 of 12 December 2017 and the judgment of Criminal Division of the Supreme Court of Lithuania No. 2K-6-507/2017 of 7 March 2017. Lithuanian legislation also recognises the relevance of forced marriage and marriage of convenience ("sham marriage") to THB offences and this was reflected in the judgement by the Court of Appeal in the criminal case No. 1A-438-628/2017 of 20 October 2017.

158. "Abuse of a position of vulnerability" was interpreted in the judgement of the Supreme Court of Lithuania No. 2K-43-942/2016 of 6 January 2016.

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

159. As already mentioned in the first report, Article 147² of the CC establishes as a criminal offence the use of forced labour or services, including sexual services, when a person using them knew or should have known that these services were obtained as the result of exploitation of a victim of trafficking. The Lithuanian authorities informed GRETA that one person was convicted under Article 147² of the CC in 2017 by a first instance court.

160. GRETA welcomes the criminalisation of the use of services of victims of trafficking in human beings, with the knowledge that the person is a victim, and considers that the Lithuanian authorities should ensure the effective application of this legal provision in practice.

c. Corporate liability (Article 22)

161. Under Lithuanian law, a legal person can be held criminally liable for the offence of THB as provided in Article 147, paragraph 4, and Article 157, paragraph 4, of the CC. The conditions for criminal liability are provided for in Article 20 of the CC, which was amended in 2016-2017 and, as a result, the possibilities for prosecuting legal persons were extended.⁴⁰ As per Article 43 of the CC, the types of penalties which may be imposed on legal persons for their involvement in the commission of offences include a fine, restriction of operation of the legal person, and liquidation of the legal person. Further, pursuant to Article 67, paragraph 5, of the CC, a confiscation or extended confiscation of property may be imposed by court upon legal persons. Article 47, paragraph 4, of the CC states that the amount of fine for a legal person shall be from €10 000 to €5 000 000. Articles 387 and 390 of the CPC set out the order of proceedings of cases with respect to criminal offences committed by legal persons and rendering judgments in respect of legal persons.

⁴⁰ Article 20 of the CC reads as follows:

"1. A legal entity shall be held liable solely for the criminal acts the commission whereof is subject to liability of a legal entity as provided for in the Special Part of this Code.

2. A legal entity shall be held liable for the criminal acts committed by a natural person solely where a criminal act was committed for the benefit or in the interests of the legal entity by a natural person acting independently or on behalf of the legal entity, provided that he, while occupying an executive position in the legal entity, was entitled:

- 1) to represent the legal entity, or
- 2) to take decisions on behalf of the legal entity, or
- 3) to control activities of the legal entity.

3. A legal entity may be held liable for criminal acts also where they have been committed by an employee or authorised representative of the legal entity on the instruction or with the permission of or as a result of insufficient supervision or control by the person indicated in paragraph 2 of this Article.

4. A legal entity may be held liable for the criminal acts committed under the conditions indicated in paragraph 2 or 3 of this Article by another legal entity controlled by or representing it, where they have been committed for the benefit of the abovementioned legal entity on the instruction or with the permission of or as a result of insufficient supervision or control by a person holding a management position therein or a person authorised by him.

5. The criminal liability of a legal entity shall not release from criminal liability a natural person who has committed, organised, instigated or assisted in commission of a criminal act. The criminal liability of a legal entity for a criminal act committed, organised,

162. According to information provided by the authorities, one legal person was prosecuted for THB for forced labour in 2018 (the pre-trial investigation was initiated in 2017).

163. GRETA welcomes the application of the provisions establishing criminal liability of legal persons for THB and invites the Lithuanian authorities to continue ensuring that THB offences committed with the involvement of legal persons are prosecuted promptly and effectively, leading to effective sanctions.

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

164. In its first report, GRETA considered that the Lithuanian authorities should ensure that the non-punishment provision contained in Article 26 of the Convention is applied in practice through developing guidance for police officers and prosecutors. GRETA stressed that police officers and prosecutors should be encouraged to be proactive in establishing whether a person accused of a criminal offence or administrative violation is a potential victim of trafficking, and that while the identification procedure is on-going, presumed victims of trafficking should not be punished for immigration related offences or offences relating to identity documents.

165. As noted in GRETA's first report, pursuant to Article 147, paragraph 3, and Article 157, paragraph 3, of the CC, a victim of trafficking may be released from criminal liability for a criminal offence which he/she was directly forced to commit as the result of being trafficked. Further, Article 182, paragraph 1, of the Administrative Law Violations Code provides for the non-imposition of administrative sanctions upon persons for engaging in prostitution, where they have been forced into it or were recognised as victims of THB in the context of criminal proceedings. In addition, paragraph 21 of the Recommendations on Victim Identification specifies that a victim of THB exploited for the commission of a criminal offence is released from criminal liability. The Lithuanian authorities have affirmed that these provisions are fully applied in practice. By way of example of application of the non-punishment provision, the authorities have referred to a case in which a person was initially prosecuted for drug trafficking, but after he was identified as a victim of THB, the pre-trial investigation against him was terminated.

166. In the course of the evaluation visit, GRETA received reports that persons involved in prostitution, who might be victims of THB, are imposed administrative fines and are not identified as victims of trafficking. Representatives of law enforcement authorities confirmed that during police raids in locations where sexual services are provided, administrative sanctions are imposed on persons involved in prostitution. The police reportedly inform these persons of the avenues for exiting prostitution and receiving assistance. GRETA stresses the importance of proactive identification of victims of THB for the purpose of sexual exploitation, which is crucial for ensuring the application of the non-punishment provision.

instigated or assisted in by a natural person for the benefit or in the interests of the legal entity shall not be released by the criminal liability of the natural person, nor by the fact that the natural person is released from criminal liability for this act or is not held liable for other reasons.

6. The State, a municipality, a state and municipal institution and agency as well as an international public organisation shall not be held liable under this Code. The state and municipal enterprises, also the public establishments whose owner or stakeholder the State or a municipality, also the public limited liability companies and private limited liability companies whose shares, in whole or in part, belong by the right of ownership to the State or the municipality shall not be considered as state and municipal institutions and agencies and shall be held liable under this Code" (unofficial translation).

167. **GRETA considers that the Lithuanian authorities should take further measures to ensure compliance with the principle of non-punishment of victims of THB for their involvement in unlawful activities, including administrative offences, to the extent that they were compelled to do so, as contained in Article 26 of the Convention.** 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.⁴¹

4. Investigation, prosecution and procedural law

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

168. In its first report, GRETA urged the Lithuanian authorities to strengthen their efforts to ensure that THB offences for different types of exploitation are proactively investigated and effectively prosecuted by developing the training and specialisation of investigators, prosecutors and judges to tackle this complex crime.

169. In Lithuania, investigations into THB are organised and led by prosecutors. According to representatives of the Prosecutor's Office met in Vilnius, Taurage and Klaipėda, the testimony of victims and witnesses are valuable sources of evidence, but other sources are also used to obtain corroborative evidence, including through the use of special investigation techniques such as covert surveillance, wire-tapping and interception of correspondence, which are allowed in THB cases. On 27 June 2018, the Prosecutor General adopted Recommendations on Financial Investigation, which entered into force on 4 February 2019 and are mandatory for all prosecutors.

170. The Lithuanian authorities have reported that law enforcement bodies initiated criminal proceedings for THB-related offences (Articles 147, 147¹, 147² and 157 of the CC) in 24 new cases in 2014, 27 cases in 2015 and 29 cases in 2016. The number of prosecutions under these articles of the CC was 40 in 2014, 53 in 2015, 67 in 2016 and 35 in 2018.⁴²

171. According to information provided by the authorities, 15 persons were convicted of THB-related offences in 2014, 14 in 2015, 23 in 2016 and 20 in 2017. Among the perpetrators convicted in 2014-2016, 61 were male and 11 female, all being Lithuanian nationals. The penalties ranged from three to 12 years' imprisonment. Two judgments in 2014 and four in 2016 resulted in confiscation of criminal assets. In 2015-2017 there were seven cases of acquittals, confirmed on appeal. Representatives of the Prosecutor's Office indicated that cases when investigations into THB are re-qualified are rare and concern offences comparable in gravity.

172. By way of example, the authorities referred to a case of THB affecting a Lithuanian woman who was trafficked to the United Kingdom by deceit, being promised employment in a clothes shop, but was forced to conclude a sham marriage with a third-country national. The Lithuanian and UK law enforcement authorities set up a Joint Investigation Team (JIT) funded by Eurojust. The investigation led to prosecuting two Lithuanian and one Pakistani nationals and resulted in sentences of 10 years' imprisonment for the main defendant from Lithuania, six years' imprisonment for her husband, and five years' imprisonment for the Pakistani national. Part of the actions undertaken in this case included a financial investigation (recovering bank statements and tracing money transfers).

⁴¹ <https://www.osce.org/secretariat/101002?download=true>

⁴² Article 147¹ of the CC (use of forced labour or services) criminalises forcing a person by means listed in Article 147 to perform labour or services, including begging, without containing any elements of action, or indicating purpose.

173. Another case brought to GRETA's attention was initiated in 2012 under the codename "Landlord" and involved a UK-based company employing workers from Lithuania. The investigation revealed that employees had to work for long hours in conditions qualified as similar to slavery. Victims were intimidated with dogs and had penalties applied arbitrarily. At the initial stage, the case had to be suspended due to the suspect having escaped from imprisonment, but it was resumed in 2015 and a JIT was set up between the law enforcement authorities of Lithuania and the UK. Due to a considerable length of time of conducting the investigation, only 12 out of a total of 39 presumed victims could be identified in Lithuania. The Lithuanian suspect was detained in Lithuania. According to the authorities, the pre-trial investigation was concluded on 16 March 2018, resulting in charges against two UK nationals and one Lithuanian national. At the time of GRETA's visit, the on-going court proceedings were said to be experiencing difficulties, owing to the fact that most of the evidence had to be obtained in the UK.

174. Further, GRETA was informed of an on-going investigation into a case where people with vulnerabilities were recruited to work in cannabis farms in Ireland and Northern Ireland. A JIT was formed to investigate this case, and the pre-trial investigation was on-going at the time of the adoption of this report.

175. The authorities informed GRETA that there had been no prosecutions and convictions for THB with the involvement of public officials in the exercise of their functions.

176. GRETA welcomes the significant number of investigations, prosecutions and convictions in THB cases in Lithuania and the participation of Lithuania in Joint Investigation Teams in transnational cases of THB.

177. GRETA considers that the Lithuanian authorities should continue their efforts to proactively investigate THB offences for all types of exploitation, and ensure their prompt and effective prosecution, leading to proportionate, effective and dissuasive sanctions, including the confiscation of criminal assets.

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

178. In its first report, GRETA considered that the Lithuanian authorities should make full use of the available measures to protect victims of THB, including the victim/witness protection programme.

179. As described in the first GRETA report, the measures to protect victims of crime in Lithuania are contained in the CPC and allow benefiting from full or partial anonymity if the following conditions are all met: 1) there is a real threat to a victim, witness or their family members or close relatives to life, health, liberty or property, as well as service, business or other legitimate interests; 2) the victim or witness is considered important for the criminal proceedings; and 3) the victim or witness is involved in the process of a very serious, serious or less serious crime. GRETA stresses once again that the sensitivity of the offence of THB and the fact that it violates fundamental human rights makes this cumulative triple threshold unjustifiably high and the application of protection measures more difficult for victims of THB.

180. Article 186 of the CPC states that persons under 18 years of age may be interviewed at the time of the pre-trial investigation not more than once. The interview may be video and audio recorded. Children may be heard in court as witness or victim only in exceptional cases, in the absence of the accused. The hearing or an interview with a child could also be conducted in camera, with the suspect being able to follow the hearing via a video link in a separate room. A psychologist may participate in the interview of a child victim or witness, taking into accounts his/her social and psychological maturity.

181. The witness protection programme is implemented in accordance with the Law on Protection of Participants in Criminal Procedures and Criminal Intelligence, Officers of Justice and Law Enforcement Officials against Criminal Consequences, adopted in 1996. This protection programme is primarily designed for witnesses of organised crimes and can be applied upon request of the victim, an investigating officer, a penitentiary institution or a court. Representatives of NGOs specialised in supporting victims of crimes may participate in public court hearings and pre-trial investigation concerning the victim, unless the court, the prosecutor or the victim objects to such participation.

182. Amendments to the CPC were adopted on 17 December 2015 with the view to incorporating into national legislation the Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA. These amendments were followed by the adoption of Recommendations on evaluation of special needs of victims in criminal proceedings approved by the Prosecutor General on 29 February 2016. These recommendations provide for 18 measures of special protection, including trial *in camera*, conducting of interviews by a specialised officer of the same sex, provision of interpretation to victim or witness, interview through information and communication technologies, and avoidance of repeat interviews. The CPC establishes a duty to evaluate whether victims of crime need special protection to safeguard them from psychical trauma, criminal influence or other negative consequences, by filling in a questionnaire during the first interview by the investigator. Statistical data concerning the use of special protection measures is not being collected.

183. According to representatives of specialised NGOs, due to the unavailability of specialised shelters, victims stay at their homes and are more easily influenced or threatened by perpetrators. Some victims are found by perpetrators while being placed in rented apartments. According to the authorities, pre-trial detention was applied to all 29 suspected traffickers in 2017–2018.

184. **GRETA considers that the Lithuanian authorities should ensure that victims and witnesses of THB and members of their families can benefit in practice from all measures to protect victims of criminal offences to prevent retaliation and intimidation during investigation, as well as 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.⁴³

c. Jurisdiction (Article 31)

185. Pursuant to Article 7 of the CC, Lithuania establishes a universal jurisdiction for THB (Article 147) and purchase or sale of a child (Article 157). Persons are brought under criminal responsibility regardless of their citizenship and place of residence, the location where the offence was committed and whether it is criminalised under the laws of the territory where the offence was committed.

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

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

186. In its first report, GRETA invited the Lithuanian authorities to continue their efforts in the area of international co-operation with a view to preventing THB and providing assistance to victims of trafficking.

187. Lithuania is involved in international co-operation related to action against THB in the framework of the CBSS, the Nordic Council of Ministers, as well EU, Europol, Interpol, Eurojust and Frontex.

188. Further, bilateral co-operation activities have taken place with Baltic Sea Region countries and the United Kingdom as one of the countries where the most Lithuanian nationals are trafficked.

⁴³ 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).

189. On 18 October 2017, on the occasion of the EU Anti-Trafficking day, the Ministry of the Interior, in co-operation with the Nordic Council of Ministers, hosted an information meeting on THB for consular representatives of other States working in Lithuania. The consuls were introduced to THB trends, the National Referral Mechanism and other related matters. On the same occasion, a two-day training for journalists was conducted in co-operation with the Nordic Council of Ministers.

190. GRETA was informed that Lithuania was in the process of negotiating bilateral mutual legal assistance treaties with Brazil, Mexico, Algeria, Egypt, the United Arab Emirates and Ecuador. Mutual legal assistance and co-operation with countries with which Lithuania has no bilateral or international agreement is based on the principle of reciprocity, in conformity with the Lithuanian Constitution, domestic legislation and fundamental principles of criminal procedure.

191. In addition to the JITs established for investigating transnational cases of THB referred to in paragraphs 172-174, GRETA was informed that there were three other on-going JITs in THB cases. Representatives of law enforcement bodies and prosecutors noted that JITs are an effective means for investigating transnational cases of THB. The law enforcement authorities stated that the European Investigation Order was being used for international penal co-operation in specific cases, but no data was available as to its application in THB cases.

192. GRETA invites the authorities to continue developing international co-operation for the purpose of raising awareness of THB, training relevant professionals, improving identification of victims and providing them with necessary accommodation and assistance.

193. As noted in paragraph 72, an important number of Lithuanian children are registered as missing every year. According to police data, in 2017, there were 2 442 searches of missing children who disappeared from their homes, special care and other institutions; 2 350 of the searches were cancelled the same year. The authorities indicated that missing children were sometimes identified as victims of trafficking, but no statistics were provided. In 2017, inter-institutional training on handling cases of missing persons, with some 80 participants from different municipalities, was organised by the NGO "Missing Persons' Families Support Center" in co-operation with the US Embassy, the Prosecutor General's Office and the State Child Rights Protection and Adoption Service. Subsequently Lithuania joined the Amber Alert Facebook's fast child search engine.

194. GRETA considers that the Lithuanian authorities should take steps to strengthen international co-operation in the search for missing children, where there are indications of risks of trafficking.

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

195. Three specialised NGOs participate as members in the Co-ordination Commission (see paragraph 20). The relatively new NGO "Centre against Human Trafficking and Exploitation" has not yet been included in the work of the Co-ordination Commission but is represented by the Lithuanian Caritas.

196. Specialised NGOs are involved in awareness raising, training and research. Further, NGOs selected through a public tender are delegated the task of providing specialised assistance to victims of THB (see paragraph 103). GRETA refers to its recommendation regarding the need to ensure adequate funding of specialised NGOs, providing assistance to victims of THB (see paragraph 115).

197. In the course of the evaluation visit, NGO representatives expressed the view that co-operation with the public authorities, including law enforcement bodies, was generally constructive.

198. **GRETA considers that the Lithuanian authorities should step up their efforts to cooperate with civil society actors, trade unions and the private sector in activities aiming at achieving the purposes of the Convention, including prevention, awareness-raising, training of relevant professionals, identification and assistance of victims of THB.**

IV. Conclusions

199. Since the adoption of GRETA's first report on Lithuania in March 2015, progress has been made in a number of areas related to combating trafficking in human beings.

200. The Lithuanian authorities have further developed the legal, institutional and policy framework for combating trafficking in human beings, taking into consideration GRETA's previous recommendations. GRETA welcomes the adoption of a new National Action Plan against Trafficking in Human Beings (2017-2019) and the expansion of the composition of the Commission for Co-ordination of the Fight against Human Trafficking. Further, the number of local anti-trafficking commissions has increased to 19 and the role of municipalities in the fight against human trafficking has been further strengthened.

201. Considerable efforts have been made to provide training to relevant professionals and to expand the categories of staff targeted. The training is often carried out in co-operation with NGOs and international organisations and, whenever possible, a multi-stakeholder approach is promoted.

202. Progress has also been made in the area of data collection, following the appointment of a National Rapporteur. Further, a number of research projects have been conducted, shedding light on new trends in human trafficking and informing anti-trafficking policy.

203. GRETA commends the steps taken since the first evaluation visit to raise public awareness of human trafficking for different forms of exploitation, paying particular attention to children and persons in situation of social exclusion.

204. Following the adoption of Recommendations concerning the identification and referral of victims of trafficking, a formalised National Referral Mechanism has been set up, promoting a multi-disciplinary approach to victim identification.

205. Positive developments have also taken place in the area of assistance to victims of trafficking, including raising the public funding to specialised NGOs providing assistance and increasing the duration of contracts awarded to NGOs for victim assistance from one to two years.

206. Further, GRETA commends the efforts made to facilitate access to compensation for victims of trafficking and the compensations awarded by courts as well as by the Ministry of Justice under the State-compensation scheme.

207. GRETA also welcomes the significant number of investigations, prosecutions and convictions in human trafficking cases, and the application of the provisions establishing criminal liability of legal persons for trafficking offences.

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

Issues for immediate action

- **GRETA urges the Lithuanian authorities to strengthen their efforts to prevent trafficking for the purpose of labour exploitation, in particular by:**
 - further sensitising the general public and relevant officials, in particular labour inspectors, staff of the labour exchange offices, police officers, prosecutors and judges, about THB for the purpose of labour exploitation and the rights of victims;
 - increasing the human resources and strengthening the mandate of labour inspectors to detect possible victims of THB and refer them for identification and assistance;
 - strengthening the monitoring of private recruitment agencies and reviewing the legislative framework for any gaps that may limit protection or preventive measures;
 - developing measures to prevent of recruitment of victims of THB for labour exploitation via the Internet (paragraph 64);
- **GRETA urges the Lithuanian authorities to strengthen their efforts to prevent trafficking in children, in particular by:**
 - preventing unaccompanied foreign children from going missing from State care and Lithuanian children from absconding from institutions including by better training and supervision of staff working at institutions for such children;
 - systematically carrying out police investigations into disappearances of children and strengthening the follow up and alert systems on reports of missing children;
 - sensitising and training professionals working with children on the risks of trafficking and effective prevention measures (paragraph 73);
- **GRETA urges the Lithuanian authorities to take additional steps to improve the assistance for victims of trafficking, and in particular to:**
 - guarantee the availability of appropriate and safe accommodation and assistance for all victims of THB, including men;
 - provide access to specialised assistance and accommodation to foreign victims of THB;
 - provide adequate advance financing to cover all the expenses incurred by specialised NGOs in the course of identifying and assisting victims of THB, including for legal assistance, counselling and information;
 - ensure access of victims to health care, irrespective of their residence address (paragraph 115);
- **GRETA urges the Lithuanian authorities to enhance their efforts to identify victims of THB among unaccompanied or separated children in Lithuania and to ensure their referral to assistance (paragraph 125);**

- **GRETA once again urges the Lithuanian authorities to review the procedure for granting a recovery and reflection period to the effect that persons in respect of whom there are reasonable grounds to believe that they are victims of human trafficking are offered such a period without having to apply for it, as provided for in Article 13 of the Convention, and to ensure that all possible foreign victims of trafficking, including EU and EEA citizens, are effectively provided such a period, with all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention (paragraph 133);**
- **GRETA urges the Lithuanian authorities to make the State compensation scheme effectively accessible to all victims of trafficking, regardless of their nationality and residence status (paragraph 149).**

Further conclusions

- GRETA considers that the Lithuanian authorities should reinforce the work of the municipal commissions for combating THB, including by securing funding for their activities (paragraph 22);
- GRETA considers that the Lithuanian 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 an effective monitoring of the anti-trafficking activities of state institutions and making targeted recommendations (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report). The National Rapporteur should be provided with sufficient human and financial resources to enable it to effectively carry out the tasks under its mandate (paragraph 25);
- GRETA considers that the Lithuanian authorities should introduce an independent evaluation of national action plans as a tool for assessing the impact of the activities and for planning future policies and measures to combat trafficking (paragraph 28);
- GRETA considers that the Lithuanian authorities should continue their efforts in this area by integrating training on THB into regular training programmes, with a view to ensuring that all relevant staff, including police officers, prosecutors, judges, lawyers, asylum officials, labour inspectors, social workers, child protection specialists, teachers and health-care professionals, are periodically trained on THB. The training should take account of new trends and legislative developments and aim to strengthen the prevention of THB, facilitate the identification of victims, improve their protection and access to compensation, and increase the effectiveness of investigations and prosecutions in THB cases (paragraph 41);
- GRETA considers that the Lithuanian authorities should continue developing a comprehensive and coherent statistical system on THB by eliminating any inconsistencies in the data collected by different agencies, with a view to ensuring that it provides a comprehensive picture of the human trafficking situation in Lithuania (paragraph 45);
- GRETA considers that the authorities should continue to support and carry out research on THB, in particular regarding trafficking for the purposes of forced criminality, trafficking in children, internal trafficking (within Lithuania), and trafficking of foreign nationals to Lithuania (paragraph 50);

- GRETA invites the Lithuanian authorities to continue implementing measures to raise awareness of THB, taking into account the gender dimension of human trafficking, and by designing future actions in the light of impact assessment of previous measures, focusing on the needs identified. Awareness-raising measures should address emerging forms of THB, such as for forced criminality, labour exploitation, exploitative sham marriages and forced marriages, as well as trafficking of Lithuanian nationals within Lithuania (paragraph 57);
- GRETA considers that the Lithuanian authorities should take further measures to raise awareness about the risks and different forms of child trafficking, in particular by including the subject of THB in the national school curricula, accompanied by appropriate training of teachers, and developing measures to prevent recruitment through the Internet and social networks (paragraph 74);
- GRETA considers that the Lithuanian authorities should take additional steps to strengthen the prevention of THB through social, economic and other measures for groups vulnerable to THB. Further efforts should be made to promote gender equality, combat gender-based violence and stereotypes, and support specific policies for the empowerment of women as a means of combating the root causes of THB (paragraph 78);
- GRETA considers that the Lithuanian authorities should provide training to health and other professionals involved in transplantation of organs about THB for the purpose of organ removal (paragraph 84);
- GRETA encourages the Lithuanian authorities to sign and ratify the Council of Europe Convention against Trafficking in Human Organs as this would contribute to the prevention of trafficking for the purpose of organ removal (paragraph 85);
- GRETA considers that the Lithuanian authorities should strengthen their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society and the private sector, in line with the United Nations Guiding Principles on Business and Human Rights (paragraph 88);
- GRETA invites the Lithuanian authorities to maintain their efforts to detect potential victims of THB in the context of border controls (paragraph 93);
- GRETA considers that the Lithuanian authorities should take additional measures to improve the proactive identification of victims of THB, including by:
 - enhancing the role of labour inspectors in detecting THB for the purpose of labour exploitation and providing labour inspectors with training to effectively detect, identify and refer possible victims of THB for identification and assistance;
 - paying increased attention to detecting victims of THB among migrant workers, asylum seekers and persons placed in immigration detention centres;
 - providing specialised training on THB to staff of reception centres for refugees and asylum seekers, and detention centres for irregular migrants;
 - effectively disseminating the Recommendations on Victim Identification, and providing training and guidance on the application of these recommendations to all frontline professionals, including police officers, social workers, labour inspectors, prosecutors, judges, and health-care professionals at central and municipal level;
 - encouraging a proactive approach by frontline professionals to the identification of victims of THB in Lithuania for different purposes of exploitation, including Lithuanian nationals trafficked and exploited within the country;
 - improving co-operation between the police, social services and specialised NGOs in identifying victims of THB (paragraph 101);

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- GRETA considers that the Lithuanian authorities should take steps to improve the identification and assistance of child victims of trafficking, and in particular to:
 - ensure that relevant actors take a proactive approach and increase their outreach work to identify child victims of trafficking for different purposes of exploitation;
 - provide further training to relevant professionals (police, child protection authorities, social workers, health professionals, asylum officials) as well as guidance for the identification of child victims of THB for different forms of exploitation;
 - provide support and services which are adapted to the needs of child victims of trafficking, including appropriate accommodation, access to education and vocational training (paragraph 126);
 - GRETA invites the Lithuanian authorities to review the age assessment procedures, ensuring the presumption that a person is a child until he/she is not proved to be adult, in line with Article 10, paragraph 3, of the Convention, and that the best interests of the child are effectively protected, taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child (paragraph 127);
 - GRETA once again invites the Lithuanian authorities to consider granting temporary residence permits to victims of THB on the basis of their personal situation, in addition to the residence permit on the basis of the victim's co-operation in the investigation or criminal proceedings (paragraph 137);
 - GRETA considers that the Lithuanian authorities should take additional steps to ensure that all victims of trafficking can fully benefit in practice from the right to obtain a renewable residence permit, without prejudice for the right to seek and enjoy asylum (paragraph 138);
 - GRETA considers that the Lithuanian authorities should take further steps to facilitate access to compensation for victims of trafficking, including by:
 - ensuring that all victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed, and are provided with effective access to free legal aid, in accordance with the internal law;
 - building the capacity of lawyers in the State-funded legal aid system to support victims to claim compensation;
 - incorporating training on compensation into existing training programmes for law enforcement officials, prosecutors and the judiciary (paragraph 150);
 - GRETA considers that the Lithuanian authorities should ensure that any return of victims of trafficking is conducted with due regard for the rights, safety and dignity of trafficked persons, including the right to non-refoulement (Article 40(4) of the Convention). The authorities should envisage voluntary return procedures which would protect victims of THB from re-victimisation and re-trafficking and, in the case of children, fully respect the principle of the best interests of the child (paragraph 154);
 - GRETA welcomes the criminalisation of the use of services of victims of trafficking in human beings, with the knowledge that the person is a victim, and considers that the Lithuanian authorities should ensure the effective application of this legal provision in practice (paragraph 160);

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- GRETA welcomes the application of the provisions establishing criminal liability of legal persons for THB and invites the Lithuanian authorities to continue ensuring that THB offences committed with the involvement of legal persons are prosecuted promptly and effectively, leading to effective sanctions (paragraph 163);
 - GRETA considers that the Lithuanian authorities should take further measures to ensure compliance with the principle of non-punishment of victims of THB for their involvement in unlawful activities, including administrative offences, to the extent that they were compelled to do so, as contained in Article 26 of the Convention (paragraph 167);
 - GRETA considers that the Lithuanian authorities should continue their efforts to proactively investigate THB offences for all types of exploitation, and ensure their prompt and effective prosecution, leading to proportionate, effective and dissuasive sanctions, including the confiscation of criminal assets (paragraph 177);
 - GRETA considers that the Lithuanian authorities should ensure that victims and witnesses of THB and members of their families can benefit in practice from all measures to protect victims of criminal offences to prevent retaliation and intimidation during investigation, as well as during and after the court proceedings (paragraph 184);
 - GRETA invites the authorities to continue developing international co-operation for the purpose of raising awareness of THB, training relevant professionals, improving identification of victims and providing them with necessary accommodation and assistance (paragraph 192);
 - GRETA considers that the Lithuanian authorities should take steps to strengthen international co-operation in the search for missing children, where there are indications of risks of trafficking (paragraph 194);
 - GRETA considers that the Lithuanian authorities should step up their efforts to co-operate with civil society actors, trade unions and the private sector in activities aiming at achieving the purposes of the Convention, including prevention, awareness-raising, training of relevant professionals, identification and assistance of victims of THB (paragraph 198).

- **Appendix**

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

Public bodies

- Ministry of the Interior
- Ministry of Social Security and Labour
- State Labour Inspectorate
- Ministry of Foreign Affairs
- Ministry of Justice and the Law Institute
- Ministry of Health
- Ministry of Education and Science
- Prosecutor General's Office
- National Courts Administration
- State Border Guard Service
- Criminal Police Bureau
- National Transplant Bureau
- State Health Care Accreditation Centre
- Child Rights Protection and Adoption Service
- Parliament
- Ombudsman for Children
- Ombudsman for Equal Opportunities
- Commission for Co-ordination of the Fight against Trafficking in Human Beings in Taurage District
- Working Group for Co-ordination of the Fight against Trafficking in Human Beings in Klaipeda City
- Klaipeda District Court
- Klaipeda District Chief Police Office

Intergovernmental organisations

- UNHCR Office in Lithuania

Non-governmental organisations

- Diversity Development Group Lithuania
- Lithuanian Red Cross Society
- Missing Persons Family Support Centre
- Centre for Combating Trafficking in Human Beings and Exploitation
- Klaipėda Social and Psychological Service Centre

Government's comments

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

GRETA engaged in a dialogue with the Lithuanian 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 Lithuanian authorities on 24 April 2019 and invited them to submit any final comments. The comments of the authorities, submitted on 3 June 2019, are reproduced hereafter.



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3 June 2019 No. ID-2845

Cc: Permanent Representation of Lithuania
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 E-mail: atstovybe.et@urm.lt

**RE: COMMENTS TO THE REPORT CONCERNING THE IMPLEMENTATION OF THE
 COUNCIL OF EUROPE CONVENTION ON ACTION AGAINST TRAFFICKING IN
 HUMAN BEINGS BY LITHUANIA**

Dear Ms Nestorova,

We would like to express our appreciation of GRETA's report on the implementation of the Council of Europe Convention on Action against Trafficking in Human beings by Lithuania (hereinafter – Report) and the constructive dialogue we had. In response to the draft Report, we would like to provide the following comments:

Article 33:

Prosecutor General's Office provides training to prosecutors on the collection of evidence and case law related to THB. It should be highlighted that most of the training provided by Prosecutor General's Office is organized not only for prosecutors, but also for Police investigators. The interinstitutional training is mostly provided in order to unify pre-trial practice and share relevant information about THB. Having in mind the number of prosecutors specializing in THB (14 prosecutors), the interinstitutional training is considered as the most effective way to share the latest and most relevant topics on THB. Such trainings contributed to the effectiveness of investigations and prosecutions in THB cases.

35 paragraph:

"The amendments have been adopted and the Law amending the Law on State-Guaranteed Legal Aid (No. XIII-1437 of 30 June 2018) is already in force" and adding additional footnote, which would provide supplementary information for the sentence "In 2017 the Ministry of Justice proposed to the Government to increase the fees paid to lawyers providing State-funded secondary legal aid in order to trigger greater interest among lawyers to participate in this system." (Paragraph 145). The suggested wording of the new footnote would be "The amendments have been adopted and are in force (the Resolution No. 702 of the Government of the Republic of Lithuania of 30 August 2017).

74 paragraph:

Information about a minor alien who has left Rukla Refugee Reception Centre (hereinafter - the Centre) is immediately sent to Kalvarijos Frontier Station of Varėna Frontier District of the SBGS, (Frontier Station receives this information from the Centre by e-mail). Kalvarijos Frontier Station controls the Lithuanian internal border with the Republic of Poland, and thus the main exit routes to Poland. The purpose of such a notification is to detain minor aliens who, as a rule, leave Lithuania with the intention to get to their destination countries (usually Poland or Germany). Lithuania is usually a country of transit for irregular migrants. Upon receiving a notification about a minor alien who has left the Centre, Kalvarijos Frontier Station immediately forwards this information both to the SBGS officers carrying out the service at the internal border with Poland and to Polish officials. The information for Polish officials is provided through the Lithuanian-Polish Border, Customs and Police Co-operation Centre.

127 paragraph:

It should be repeatedly emphasised, that during the transposition of provisions of the Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime to the national law of the Republic of Lithuania, Article 27¹ was introduced in the Criminal Procedure Code of the Republic of Lithuania (hereinafter – CPC). Due to these amendments of the CPC, the separate rule on the assessment of the victim's age was introduced in the paragraph 2 of this Article. According to the current rule, if the age of a natural person raises respective doubts as to whether he has reached the age of an adult person, he shall be considered as a minor until the final identification of his or her real age is done, i.e. until this final determination, made by the competent authorities, such person is presumed to be a child. The said rule, established in the CPC, is fully in line with Article 10, paragraph 3, of the Convention.

159 paragraph:

Article 147² of the Criminal Code (hereinafter – CC) establishes as a criminal offence the use of forced labor or services, including sexual services, when a person using them knew or should have known that these services were obtained as the result of exploitation of a victim of trafficking. The Lithuanian authorities informed GRETA that one person was convicted under Article 147² of the CC in 2017 by a first instance court. However, this person was acquitted by the court of appeal, and the Supreme Court has dismissed the prosecutor's cassation appeal.

160 paragraph:

Only one legal person was prosecuted for THB for forced labour in 2018 (the pre-trial investigation was initiated in 2017). There is no information that more legal persons may be under investigation.

Thank you for your co-operation.

Yours sincerely,

Česlovas Mulma
Vice Minister



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