



# EVALUATION REPORT

## SLOVAK REPUBLIC

### Third evaluation round

#### **GRETA**

Group of Experts  
on Action against  
Trafficking  
in Human Beings

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

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## Preamble

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

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 of the Convention on which the evaluation procedure is based.

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

GRETA has decided that the third evaluation round of the Convention will focus on trafficking victims' access to justice and effective remedies, which is essential for victims' rehabilitation and reinstatement of rights, and reflects a victim-centred and human-rights based approach to the fight against human trafficking. A number of provisions of the Convention establishing substantive and procedural obligations are relevant to this topic, in particular articles 12, 15, 23, 26, 27, 28, 29, 30 and 32.

Access to justice and effective remedies is contingent on the fulfilment of a number of preconditions, including prompt and accurate identification of victims of trafficking, the provision of a recovery and reflection period, the availability of material, psychological, medical and legal assistance, access to translation and interpretation, when appropriate, regularisation of the victim's stay, the right to seek and enjoy asylum, and full respect for the principle of *non-refoulement*. These preconditions, corresponding to various provisions of the Convention, have been examined at length during the first and second evaluation rounds of monitoring of the Convention. Consequently, GRETA has decided to ask each State Party for an update on the implementation of GRETA's previous recommendations on selected topics through a separate country-specific part of the questionnaire. GRETA's findings and analysis of these topics are presented in a separate chapter.

## Executive summary

Since the second round of evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, the Slovak Republic has continued to develop the legislative framework relevant to action against trafficking in human beings (THB). The Act on Victims of Crime and Amendments of Certain Rules (Act 274/2017), which entered into force on 1 January 2019, defines victims of human trafficking as particularly vulnerable victims and gives them a number of rights, including to be protected from secondary or repeated victimisation, and to receive state compensation.

On 6 November 2018, the Slovak Government adopted the fifth National Programme against Trafficking in Human Beings (2019-2023), which envisages the implementation of a number of tasks related to recommendations made in GRETA's second evaluation report. Further, a methodological tool for the provision of assistance to victims of human trafficking, with a special focus on children and foreign nationals, was developed.

Compared to the period covered by GRETA's second report, in the period 2016-2019, there has been an increase in the number of presumed victims of trafficking: a total of 255, of whom 55% were female. The number of identified child victims has also increased: 40, or 16% of all victims. The great majority of identified victims were Slovak nationals, most of whom were exploited abroad.

The focus of the third evaluation round of the Convention being on trafficking victims' access to justice and effective remedies, the report analyses in detail the implementation of provisions of the Convention establishing substantive and procedural obligations relevant to this topic.

Guidance has been issued to prosecutors on fulfilling their obligation to provide comprehensive information to victims of crime on their rights and the assistance available. However, GRETA notes that the provision of information to victims of THB appears to be done in a formalistic way, without making sure that they understand their rights and can effectively benefit from them. Further steps are needed to ensure that presumed victims of THB are given information, in a language they understand, to allow them to evaluate their situation and make informed choices about the legal possibilities available to them.

GRETA considers that the Slovak authorities should strengthen their efforts to facilitate and guarantee access to justice by granting access to legal assistance to all victims of THB, regardless of whether they have entered the Victim Support Programme or not.

Foreign victims of trafficking have the right to work in the Slovak Republic. Nevertheless, there is need for further steps to strengthen effective access to the labour market for victims of THB and their economic and social inclusion through the provision of vocational training, raising awareness among potential employers, and the promotion of micro-businesses, social enterprises and public-private partnerships.

A state compensation scheme for victims of crime has been set up, capable of covering both physical injury and moral damage. However, only one victim of THB has so far received state compensation, and almost no victims of THB have been paid compensation by perpetrators. Constitutional Court Decision 759/2017, which established that criminal courts should deal with compensation claims by victims of THB instead of referring them to civil courts, is a potentially important development. GRETA urges the Slovak authorities to facilitate and guarantee access to compensation for victims of THB, by ensuring their access to legal aid at the outset of criminal proceedings and building the capacity of legal professionals to support victims to claim compensation. The collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation, should be part of the criminal investigations with a view to supporting compensation claims.

GRETA is concerned by the lenient sentences given to traffickers and stresses that failure to convict traffickers and the absence of effective, proportionate and dissuasive sanctions, including such resulting from plea-bargaining procedures, undermines efforts to combat THB and guarantee victims' access to justice. The Slovak authorities should take further steps to ensure that all possible human trafficking offences are promptly investigated, regardless of whether a complaint about the reported crime has been submitted or of the cultural context of the crime, making use of special investigation techniques in order to gather evidence and not having to rely exclusively on testimony by victims or witnesses. It is essential that human trafficking offences are not re-classified as other offences which carry lighter penalties and deprive victims of access to protection and compensation.

There is a specific provision in Slovak law concerning the non-punishment of victims of trafficking for offences they were forced to commit, but its scope of application is rather narrow. GRETA urges the Slovak authorities to strengthen their efforts to ensure compliance with the non-punishment provision, by extending its scope to cover all offences which victims of trafficking were compelled to commit, including administrative and immigration-related offences, as well as issuing guidance to police officers and prosecutors.

The Slovak authorities should also set up a sufficient number of specially adapted interview rooms and systematically use them to interview children and other vulnerable victims of human trafficking.

The report examines progress made on the implementation of previous GRETA recommendations on selected topics. While welcoming the legislation regulating temporary work, GRETA considers that the Slovak authorities should strengthen the monitoring of recruitment and temporary work agencies, as well as business supply chains. The Slovak authorities should also pay increased attention to detecting victims of trafficking amongst asylum seekers and persons placed in immigration detention centres.

The Act on Residence of Foreigners provides for "tolerated residence", which the authorities consider as equivalent to a recovery and reflection period for the purposes of the Convention. No third-country nationals have been granted "tolerated residence" as victims of THB since 2015. GRETA once again urges the Slovak authorities to provide in national law for a recovery and reflection period when there are reasonable grounds to believe that a person is a victim of human trafficking, as provided for in Article 13 of the Convention, and to ensure that all possible victims of trafficking are offered such a period.

## I. Introduction

1. The Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) entered into force for the Slovak Republic on 1 February 2008.
2. GRETA’s first evaluation report on the Slovak Republic<sup>1</sup> was published on 19 September 2011, and the second evaluation report<sup>2</sup> on 9 November 2015.
3. On the basis of GRETA’s second report on the Slovak Republic, the Committee of the Parties to the Convention adopted a recommendation to the Slovak authorities, requesting them to inform the Committee within a one-year period of measures taken to comply with the recommendation. The report submitted by the Slovak authorities<sup>3</sup> was considered at the 20th meeting of the Committee of the Parties (10 March 2017) and was made public. Subsequently, on 13 November 2017, the Slovak authorities submitted additional information as a follow-up to their report sent in reply to the Committee of the Parties’ recommendation.
4. On 20 November 2018, GRETA launched the third round of evaluation of the Convention in respect of the Slovak Republic by sending the questionnaire for this round to the Slovak authorities. The deadline for submitting the reply to the questionnaire was 20 March 2019 and the authorities’ reply was received on 20 March 2019.
5. In preparation of the present report, GRETA used the reply to the third-round questionnaire by the Slovak authorities, the above-mentioned report and additional information submitted by them in reply to the Committee of the Parties’ recommendation, and information received from civil society. An evaluation visit to the Slovak Republic took place from 17 to 21 June 2019 in order to hold meetings with relevant governmental and non-governmental actors, collect additional information and examine the practical implementation of adopted measures. The visit was carried out by a delegation composed of:
  - Mr Davor Derenčinović, President of GRETA;
  - Mr Mihai Șerban, member of GRETA;
  - Ms Natacha De Roeck, Administrator in the Secretariat of the Convention
  - Mr Mats Lindberg, Administrator in the Secretariat of the Convention
6. During the visit, the GRETA delegation met Mr Rudolf Urbanovič, State Secretary of the Ministry of the Interior and National Co-ordinator on Combating Human Trafficking, as well as members of the Expert Group acting as an advisory body to the National Co-ordinator and the Information Centre for Combating Trafficking in Human Beings and Crime Prevention, which has been assigned the role of National Rapporteur on Trafficking in Human Beings in the Slovak Republic. Amongst the officials met by GRETA were representatives of the Ministry of the Interior, the Ministry of Labour, Social Affairs and Family, including the National Labour Inspectorate, the Ministry of Justice, the Ministry of Health, the General Prosecutor’s Office, the Judicial Academy and the Centre for Legal Aid. Meetings were also held with judges from the Specialised Criminal Court in Bratislava and the District Court of Nitra. Further, discussions were held with a representative of the Office of the Public Defender of Rights, and the Office of the Plenipotentiary for Roma Communities. The GRETA delegation also met officials from the Police and Prosecution Services in Košice and Žilina.
7. In the course of the visit, the GRETA delegation visited an immigration detention centre in Medved’ov, an accommodation facility for women at risk in Banská Bystrica, the Slniečko crisis centre for children in Nitra, and a child advocacy centre run by the NGO Náruč in Žilina.

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<sup>1</sup> <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168063c341>

<sup>2</sup> <https://rm.coe.int/greta-2015-21-fgr-svk-w-cmnts-en/168078e6b8>

<sup>3</sup> <https://rm.coe.int/16806fd4a4>



8. Separate meetings were held with representatives of non-governmental organisations, victims of trafficking, lawyers, researchers and journalists. The GRETA delegation also met representatives of the International Organization for Migration (IOM).
9. The list of the national authorities, NGOs and other organisations with which the delegation held consultations is set out in Appendix 2 to this report. GRETA is grateful for the information provided by them.
10. GRETA wishes to place on record the co-operation provided by the Slovak authorities and in particular by Ms Martina Pussová, Manager of the Information Centre for Combating Trafficking in Human Beings and Crime Prevention (GRETA's contact person) and Ms Miroslava Fialová of the Ministry of the Interior.
11. The draft version of the present report was approved by GRETA at its 36th meeting (18-22 November 2019) and was submitted to the Slovak authorities for comments. The authorities' comments were received on 28 February 2020 and were taken into account by GRETA when adopting the final report. The report covers the situation up to 6 April 2020; developments since that date are not taken into account in the following analysis and conclusions. GRETA's conclusions and proposals for action are summarised in Appendix 1.

## II. Overview of the current situation and trends in the area of trafficking in human beings in the Slovak Republic

12. The Slovak Republic remains primarily a country of origin and transit of victims of trafficking in human beings (THB) and to a lesser extent a country of destination. The statistics on presumed victims of THB registered by the Ministry of the Interior show that there were 56 victims in 2015, 45 in 2016, 88 in 2017, 56 in 2018, and 66 in 2019. This indicates an increase in the number of presumed victims, compared to the period covered by GRETA's second report.<sup>4</sup> In the period 2016-2019 (data for 2015 is not disaggregated), there were 141 female and 114 male victims; 215 of the victims were adult and 40 children (34 girls and 6 boys). These figures refer to the number of presumed victims of THB known to the authorities and include victims who did not wish to co-operate with the authorities and/or benefit from the Support Programme for Victims of Trafficking (see paragraphs 211-212). In the period 2016-2018,<sup>5</sup> the female victims were primarily trafficked for the purpose of sexual exploitation (79 victims), followed by forced begging (16), forced marriage (13), forced labour (7) and forced criminality (2). In some cases, the victims were subjected to multiple forms of exploitation. Male victims were trafficked primarily for the purpose of labour exploitation (44) and forced begging (33), but also forced marriage (2) and forced criminality (1). Among the child victims of THB there were 18 victims of sexual exploitation, 8 victims of forced marriage, 4 victims of labour exploitation and 2 victims of forced begging. The great majority of identified victims were Slovak nationals. Most of the victims (198 in the period 2016-2019) were exploited abroad, but 62 were exploited in the Slovak Republic and some were exploited both in the Slovak Republic and abroad. There were only eight foreign citizens among the identified victims, one of whom was an asylum seeker.

13. There have been some changes over the last years in the countries of destination and the forms of exploitation of Slovak victims. The United Kingdom has been the main country of destination of persons trafficked from the Slovak Republic for the purposes of sexual and labour exploitation, but in 2017 there was an increase in the number of male victims trafficked for forced begging in Germany and Austria. The statistics indicate an increase in the number of identified child victims of THB. In particular, there has been an increasing number of cases of arranged (forced) marriages of girls of Roma origin, which are considered as cases of THB. Another trend is the increase in the number of men falling victim to human trafficking. Some 100 000 Slovak citizens have emigrated in recent years, which has created demand for foreign workforce, attracting mostly low-skilled migrant workers from neighbouring countries who reportedly risk being subjected to labour exploitation.

14. GRETA notes that the official statistics in paragraph 12 do not include presumed victims of THB who have been in contact with NGOs, but have refused to enter into contact with the authorities. Civil society representatives noted that a number of such persons are assisted by NGOs without being reflected in the official statistics. In this context, the Information Centre for Combating Trafficking in Human Beings and Crime Prevention sent a request for co-operation to NGOs and international organisations in November 2015, asking them to submit information on presumed victims for the compilation of anonymised data.

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<sup>4</sup> As noted in paragraph 13 of GRETA's second report on the Slovak Republic, 28 victims of THB were identified in 2010, 31 in 2011, 22 in 2012, 30 in 2013, and 19 in the first half of 2014. The majority of the victims (62%) were female. Only six child victims of THB were identified in the period 2010-2013, all of them girls.

<sup>5</sup> A precise breakdown into forms of exploitation is not available for 2019, but preliminary data suggest that the proportions of different forms of exploitation are similar to those in the preceding years.

### III. Developments in the institutional and policy framework for action against human trafficking

15. The Expert Group for the Area of the Fight against Trafficking in Human Beings remains the national co-ordinating body in the work against THB. It is chaired by the State Secretary of the Ministry of the Interior, who acts as National Co-ordinator for Combating Trafficking in Human Beings. The Expert Group has 21 members representing the Ministry of the Interior and its subordinated agencies (Information Centre for Combating THB, Migration Office, Border and Alien Police), the Ministry of Defence, the Ministry of Justice, the Ministry of Labour, Social Affairs and Family, the Ministry of Health, the Ministry of Finance, the Ministry of Foreign Affairs, the Ministry of Education, Science, Research and Sports, the Government Office, the Plenipotentiary for Roma Communities, the Office of the Prosecutor General, the National Labour Inspectorate, the League of Slovak Cities and Towns, IOM and the NGO Slovak Catholic Charity.<sup>6</sup>

16. The Information Centre for Combating Trafficking in Human Beings and Crime Prevention of the Ministry of the Interior maintains its role as National Rapporteur for THB. In 2015 the Centre was placed directly under the Office of the State Secretary within the structure of the Ministry of the Interior, in order to facilitate communication in THB matters. As previously noted by GRETA, the key features of National Rapporteurs' mechanisms within the meaning of Article 29, paragraph 4, of the Convention should be the ability to critically monitor the efforts and effectiveness of all state institutions, including national co-ordinators, and to that end maintain a constant exchange with civil society, the research community and other relevant stakeholders. A structural separation between these monitoring functions and executive functions makes possible an objective evaluation of the implementation of anti-trafficking legislation, policy and activities, identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations. **GRETA reiterates its recommendation from the second evaluation report and considers that the Slovak authorities should examine the possibility of establishing an independent National Rapporteur or designating an already existing independent mechanism for monitoring the anti-trafficking activities of state institutions.**

17. A Task Force consisting of authorities and relevant NGOs convenes every three months to discuss practical co-operation, concrete cases and action against THB and in support of victims of THB, under the direction of the Information Centre for Combating Trafficking in Human Beings and Crime Prevention.

18. In the framework of the implementation of the institutional frameworks and the strengthening of professional capacities, as well as the provision of assistance to victims of crime, including victims of THB, contact and information centres were created in each of the Slovak Republic's regions. The establishment of these contact centres was also part of the implementation of the national project "Improving access of victims of crime to services", which aims at providing victims of crime with access to relevant information as well as legal, psychological and social assistance.

19. On 6 November 2018 the fifth National Programme against Trafficking in Human Beings, covering the years 2019-2023, was adopted by the Slovak Government. The implementation of the previous national programmes was evaluated by the Ministry of the Interior. The evaluations are available in Slovak on the internet pages of the Ministry of the Interior.

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<sup>6</sup> The full list of members of the Expert Group is available on the website of the Ministry of the Interior: <http://www.minv.sk/?zoznam-clenov-expertnej-skupiny>

20. The new National Programme includes 21 tasks grouped under four pillars - prevention, protection, prosecution and partnership. It focuses on assistance to victims of THB and co-operation between authorities, both domestically and internationally. There is also a focus on research and data collection, including as regards THB for the purpose of labour exploitation, and an analysis of concluded court cases concerning THB. Many of the tasks under the new National Programme are linked to recommendations made in GRETA's second evaluation report.

21. There is no dedicated budget for the implementation of the National Programme, but all responsible authorities are expected to finance their actions from their ordinary budgets. Overall, there is an estimated 300 000 Euros of State funding explicitly available for the Ministry of the Interior's work related to THB, out of which some 80 % is earmarked for the Victim Support Programme.

**22. GRETA welcomes the adoption of the fifth National Programme against Trafficking in Human Beings, covering the years 2019-2023, and considers that adequate funding should be ensured for its implementation.**

**23. Further, given the absence of an independent National Rapporteur, GRETA considers that the Slovak authorities should commission an external, independent evaluation of the implementation of the National Programme.**

## **IV. Access to justice and effective remedies for victims of human trafficking**

### **1. Introduction**

24. Victims of human trafficking, by virtue of their status as victims of crime and victims of human rights violations, have the right of access to justice and effective remedies for any harm committed against them. These rights must be guaranteed, in a gender- and age-sensitive manner, to all victims of trafficking subject to the jurisdiction of parties to the Convention, irrespective of their immigration status or presence on the national territory, and notwithstanding their capacity or willingness to co-operate in any criminal investigation.

25. The right to effective remedies is a reflection of the human rights-based approach underpinning the Convention. Regardless of whether a State is implicated in the trafficking or directly responsible for the harm, the positive obligations arising from international human rights law require States to facilitate and guarantee effective access to remedies if they have failed to take reasonable steps to prevent human trafficking, protect potential or actual victims of trafficking, and effectively investigate trafficking offences.<sup>7</sup>

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<sup>7</sup> *Rantsev v. Cyprus and Russia*, no. 25965/04, judgment of 7 January 2010; *L.E. v. Greece*, application No. 71545/12, judgment of 21 January 2016; *Chowdury and Others v. Greece*, application No. 21884/15, judgement 30 March 2017.

26. According to the Basic Principles on the Right to an Effective Remedy for Victims of Trafficking in Persons,<sup>8</sup> the right to an effective remedy is considered to include restitution,<sup>9</sup> compensation,<sup>10</sup> rehabilitation,<sup>11</sup> satisfaction<sup>12</sup> and guarantees of non-repetition.<sup>13</sup> All victims of trafficking require access to appropriate and effective remedies, starting with access to justice. The provision of effective remedies serves multiple purposes. The remedy of compensation, for instance, for any injury, loss or harm sustained, can provide critical support in victims' recovery and empowerment, help their social inclusion and prevent re-victimisation. The remedy of rehabilitation can similarly help in the victims' recovery and social inclusion. Of relevance in this respect is also the 1985 United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, which outlines the main steps to be taken to improve access to justice, and fair treatment, restitution, compensation and social assistance for victims of crime.<sup>14</sup>

27. The Convention provides specifically for the substantive right of victims of trafficking to compensation and legal redress, as well as for a number of procedural rights necessary to ensure access to them. These include the rights to be identified as a victim of trafficking, to be granted a recovery and reflection period, as well as a residence permit (to enable a victim to remain in the country and seek access to remedies), and to receive counselling, information, legal assistance and free legal aid. Another important procedural right is provided by the non-punishment provision of the Convention (Article 26), according to which victims of human trafficking must not be subjected to penalties for their involvement in unlawful activities that they have been compelled to commit. Further, the Convention requires State Parties to enable the seizure and confirmation of the assets of traffickers, which could be used to fund State compensation schemes for victims.

28. Children need special support to access remedies, the best interests of the child being the primary consideration in all actions concerning trafficked children. The appointment of legal guardians to represent unaccompanied or separated children plays a vital role in enabling child victims of trafficking to access justice and remedies. Further, facilitating family reunification can be an important element of restitution.<sup>15</sup>

<sup>8</sup> UN General Assembly, Basic principles on the right to an effective remedy for victims of trafficking in persons, Annex to the Report by the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, 6 August 2014, A/69/269.

<sup>9</sup> Restitution includes restoration of liberty, including release of the victim from detention; enjoyment of human rights and family life, including reunification and contact with family members; safe and voluntary repatriation; temporary or permanent residence status, refugee status, complementary/subsidiary protection or third-country resettlement; recognition of the victim's legal identity and citizenship; restoration of the victim's employment; assistance and support to facilitate social integration or reintegration; return of property, such as identify and travel documents and other personal belongings.

<sup>10</sup> Compensation may cover damages for physical or mental harm; damages for lost opportunities, including employment, education and social benefits; reimbursement of costs of necessary transportation, child care or temporary housing; material damages and loss of earnings; moral or non-material damages; reimbursement of legal fees and other costs relating to the participation of the victim in the criminal justice process; reimbursement of costs incurred for legal, medical or other assistance.

<sup>11</sup> Rehabilitation includes medical and psychological care, legal and social services, shelter, counselling and linguistic support, independently of the capacity or willingness of the victims to co-operate in legal proceedings.

<sup>12</sup> Satisfaction includes effective measures aimed at the cessation of continuing violations; verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety, privacy and other interests of the victims of their families; an official declaration or a judicial decision restoring the dignity, reputation and rights of the victim; public apologies; judicial and administrative sanction against the perpetrators.

<sup>13</sup> Guarantees of non-repetition include ensuring the effective investigation, prosecution and sanctioning of traffickers; all measures necessary to protect victims from re-trafficking; providing or strengthening training of relevant officials; strengthening the independence of the judiciary; modifying practices that cause, sustain or promote tolerance to trafficking, including gender-based discrimination and situations of conflict and post-conflict; effectively addressing the root causes of trafficking; promoting codes of conduct and ethical norms for public and private actors; protecting legal, medical and other professionals and human rights defenders who assist victims.

<sup>14</sup> United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Adopted by General Assembly resolution 40/34 of 29 November 1985, available at: [https://www.unicef-irc.org/portfolios/documents/472\\_un-declaration-crime.htm](https://www.unicef-irc.org/portfolios/documents/472_un-declaration-crime.htm)

<sup>15</sup> UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 7-8. Available at: [http://icat.network/sites/default/files/publications/documents/Ebook%20ENG\\_0.pdf](http://icat.network/sites/default/files/publications/documents/Ebook%20ENG_0.pdf)

29. Civil society, including NGOs, trade unions, diaspora organisations and employer organisations, plays a vital role in enabling victims of THB to claim compensation and other remedies.<sup>16</sup> In this context, reference should be made to the international projects COMP.ACT - European Action on Compensation for Trafficked Persons<sup>17</sup> and Justice at Last - European Action for Compensation of Victims of Crime,<sup>18</sup> which aim to enhance access to compensation for trafficked persons.

30. The private sector should also play a role in enabling access to, as well as providing, remedies to trafficked persons, in accordance with the UN 'Protect, Respect and Remedy' Framework and the United Nations Guiding Principles on Business and Human Rights.<sup>19</sup> The role of businesses includes steps to ensure that their supply chains are free of trafficked labour, as well as the adoption and implementation of measures to facilitate access to remedies for victims for any harm that occurs. Further, businesses have the potential to help trafficked persons regain economic autonomy.<sup>20</sup> States should therefore ensure that business enterprises implicated in human trafficking are held responsible and take steps to reduce barriers that could lead to a denial of access to remedies.

31. Because human trafficking is often a transnational crime, effective international co-operation is essential for fulfilling the obligations with regard to the right to justice and effective remedies. This includes co-operation in tracing and seizing criminal assets, and in returning confiscated proceeds for the purpose of compensation.

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

32. Victims who are no longer under their traffickers' control generally find themselves in a position of great insecurity and vulnerability. Two common features of victims' situation are helplessness and submissiveness to the traffickers, due to fear and lack of information about how to escape their situation. Article 12, paragraph 1, sub-paragraph d, of the Convention provides that victims are to be given counselling and information, in particular as regards their legal rights and the services available to them, in a language that they understand. Further, pursuant to Article 15, paragraph 1, of the Convention, Parties must ensure that victims have access, as from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings, in a language they can understand.

33. The information that victims of trafficking must be provided with deals with essential matters, including availability of protection and assistance arrangements, the various options open to the victim, the risks they run, the requirements for legalising their presence in the Party's territory, the various possible forms of legal redress, how the criminal-law system operates (including the consequences of an investigation or trial, the length of a trial, witnesses' duties, the possibilities of obtaining compensation from persons found guilty of offences or from other persons or entities, and the chances of a judgment being fully and effectively enforced). The information and counselling should enable victims to evaluate their situation and make an informed choice from the various possibilities open to them.<sup>21</sup>

34. Many victims do not speak, or barely speak, the language of the country they have been brought to for exploitation. Ignorance of the language adds to their isolation and is one of the factors preventing them from claiming their rights. The provision of translation and interpretation, where needed, is an essential measure for guaranteeing access to rights, which is a prerequisite for access to justice. GRETA has stressed the need for ensuring the availability, quality and independence of interpreters.<sup>22</sup>

<sup>16</sup> OSCE Compensation for Trafficked and Exploited Persons in the OSCE Region, 2008, pp. 48-53.

<sup>17</sup> <http://www.compactproject.org/>

<sup>18</sup> <http://lastradainternational.org/about-lsi/projects/justice-at-last>

<sup>19</sup> United Nations Guiding Principles on Business and Human Rights, implementing the UN 'Protect, Respect and Remedy' Framework, Doc. A/HRC/17/31 (2011).

<sup>20</sup> UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 8-9.

<sup>21</sup> See Explanatory Report on the Convention, paragraphs 160-162.

<sup>22</sup> See GRETA's 8th General Report, paragraph 169, available at <https://rm.coe.int/8th-/168094b073>

35. Pursuant to the Slovak Criminal Procedure Code (Act 301/2005, hereafter "CPC"), the criminal prosecution body and courts are obliged to inform injured parties about their rights pursuant to the CPC and to enable them to fully exercise their rights. Articles 46-48 of the CPC regulate the rights of injured parties in criminal proceedings.<sup>23</sup> According to Article 49 of the CPC, the law enforcement authorities, upon first contact with injured parties, must provide them with information concerning their rights in criminal proceedings, including the right to claim compensation for damages from the offender.

36. Further, the Act on Victims of Crime and Amendments of Certain Rules (Act 274/2017, hereafter "the Victims Act"), which entered into force on 1 January 2019,<sup>24</sup> provides for the following rights of victims of crime: the right to information (including about the rights of victims under the Victims Act), the right to professional assistance, the right to legal aid, the right to protection against secondary or repeated victimisation and the right of victims of violent crimes to compensation. The Act concerns all victims of crime, but has numerous provisions concerning victims of THB in particular. For example, Article 2 of the Victims Act defines victims of THB as particularly vulnerable victims and, pursuant to Article 8, such victims have the right to protection from secondary or repeated victimisation, regardless of whether they enter the Programme of Support for Victims of THB or not.

37. To complement the Victims Act, the Prosecutor General has issued a methodological guidance for prosecutors on fulfilling their obligation to provide comprehensive information to victims of crime, on submitting complaints, organisations providing assistance and how to contact them, available health-care services and access to legal assistance, the right to interpretation and translation services, appeal procedures, compensation, mediation, reconciliation and reimbursement of fees in criminal proceedings. The Slovak authorities have affirmed that this guidance is followed in respect of all victims of THB.

38. Police officers and prosecutors have a legal duty to inform victims about their rights. However, according to civil society organisations, victims of THB are not systematically informed of the right to be granted a recovery and reflection period and the possibility to obtain a temporary residence permit.

39. Where needed, certified interpreters or translators must be used to convey the relevant information to victims. However, interpreters appointed by the Migration Office of the Ministry of the Interior to conduct interviews with asylum seekers and persons placed in immigration detention, who may include victims of trafficking, are reportedly often not sufficiently trained and sensitised as regards the issue of THB. The Slovak authorities have affirmed that these interpreters are bound by the Code of Ethics of interpreters in asylum proceedings, and have acquired experience through their work on interpreting interviews with vulnerable persons.

40. According to Article 46(8) of the CPC, victims of crime have the right to be informed by the Police about the advancement of the criminal proceedings. According to civil society sources, when it comes to cases involving child victims of trafficking, there is a lack of information to the families about the advancement of such proceedings. The Slovak authorities have indicated in their comments to GRETA's draft report that sometimes victims' relatives are involved or complicit in THB offences, and therefore such information may be withheld from them in order not to jeopardise the investigation. Such a decision has to be issued in writing, subject to strictly defined conditions, and it can be appealed.

41. Further, according to the Act on Illegal Employment (Act 82/2005), labour inspectors have the duty to inform illegally employed third-country nationals whose employment terms have not been respected about their right to claim any unpaid salaries from their employers and to have relevant payments sent to them in their countries of origin (also see paragraph 82).

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<sup>23</sup> Including the right to claim compensation, the right to be familiar with the content of the file in the criminal proceedings and the right to be informed about a possible release of the defendant.

<sup>24</sup> The Act constitutes a transposition of the European Union's Directive 2012/29/EU of 25 October 2012.

42. The Slovak authorities have indicated that in 2018, the Ministry of the Interior, in co-operation with the Ministry of Justice, the General Prosecutor's Office and the Slovak Catholic Charity developed the leaflet "Rights of Victims of THB in Criminal Proceedings". The leaflet is available only in Slovak. Further, within the project entitled "Stop Trafficking in Human Beings", the Slovak Catholic Charity visited the Humenné reception centre for asylum seekers monthly in 2019, interviewing 60 asylum seekers and informing possible victims of THB of their rights.

43. GRETA welcomes the issuance of guidance to prosecutors about their duty to provide information to victims of crime, including victims of THB. However, the provision of information to victims of THB appears to be done in a formalistic way, without making sure that they understand their rights and can effectively benefit from them. In this respect, reference is made to Constitutional Court Decision 759/2017 (see box in paragraph 71).

44. **GRETA considers that the Slovak authorities should take further steps to ensure that presumed victims of THB are given information to allow them to evaluate their situation and to make informed choices about the various legal possibilities available to them, and in particular:**

- **provide the information in a language that the victim can understand, as established by the Convention, which may necessitate the use of qualified interpreters;**
- **include specific information about the implications of being recognised as a victim of trafficking, in addition to general information on the rights of victims of crime, more specifically on the right to a recovery and reflection period and, where applicable, temporary residence, and the possibilities to receive legal aid and to claim compensation.**

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

45. Article 15(2) of the Convention obliges Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. As court and administrative procedure is often very complex, legal assistance is necessary for victims to be able to claim their rights. It is for each Party to decide the requirements for obtaining such free legal aid. Parties must have regard not only to Article 15(2) of the Convention, but also to Article 6 of the ECHR. Even though Article 6(3)(c) of the ECHR provides for free assistance from an officially appointed lawyer only in criminal proceedings, European Court of Human Rights case-law<sup>25</sup> also recognises, in certain circumstances, the right to free legal assistance in a civil matter on the basis of Article 6(1) of the ECHR. Thus, even in the absence of legislation granting free legal assistance in a civil matter, it is for the courts to assess whether, in the interest of justice, an applicant who is without financial means should be granted legal assistance if unable to afford a lawyer.

46. GRETA's reports highlight the value of a lawyer being appointed as soon as there are reasonable grounds for believing that a person is a victim of trafficking, before the person makes an official statement and/or decides whether to co-operate with the authorities. Early access to legal assistance is also important to enable victims to take civil actions for compensation and redress.<sup>26</sup>

<sup>25</sup> *Airey v. Ireland* judgment, 9 October 1979.

<sup>26</sup> See 8th General report on GRETA's activities, paragraph 167.



47. In the Slovak Republic, the provision of legal assistance and legal aid to victims of crimes, including victims of THB, is regulated by the Victims Act, which provides for the provision of legal information and representation in both criminal and civil proceedings, including in the context of pursuing compensation claims. Pursuant to Article 7 of the Victims Act, legal aid is given under the conditions stipulated in a separate regulation.

48. In practice, the Slovak Catholic Charity provides legal counselling and representation in matters related to the victim's rights and status, based on a contract with the Ministry of the Interior following a public procurement procedure to implement the Programme of Support and Protection of Victims of Human Trafficking (see paragraphs 211-212).<sup>27</sup> To enter the Victim Support Programme, a victim needs to give his/her consent and agree to certain conditions, including to break all contacts with the suspected perpetrators. Victims of THB who enter the Victim Support Programme, currently implemented by the NGO Slovak Catholic Charity, are entitled to legal assistance and free legal aid, which is offered regardless of whether they co-operate with the Police and prosecutors in the criminal proceedings. Victims who co-operate benefit from legal aid during the entire duration of the criminal proceedings, while legal assistance is limited to a maximum of 180 days (i.e. the duration of "tolerated stay") for those who do not co-operate. In 2018, legal assistance was provided to 30 victims of THB, 13 of whom were newly enrolled in the Victim Support Programme, amounting to a total of 825 hours. Victims receive legal assistance as regards criminal law, labour law and civil law (including family law), how to appeal decisions and how to claim compensation. The Slovak authorities have affirmed that victims of THB, who fall within the category of "particularly vulnerable victims" pursuant to the Victims Act, are entitled to receive specialised professional assistance pursuant to Article 5(4) of this Act, which includes legal aid, even if they do not enter the Victim Support Programme. However, GRETA notes that trafficking victims' access to legal assistance and aid in practice seems to be conditional on their entry into the Victim Support Programme, to which only about a third of all victims agree.

49. Legal assistance and legal aid can in principle be provided to victims of THB by other NGOs, such as the Human Rights League, which provides legal counselling to asylum seekers held in immigration detention centres. Until the end of 2019, the Human Rights League ran a project funded by the EU and the Ministry of the Interior, which included access to immigration detention facilities and legal counselling for applicants for international protection. However, in practice, the great majority of presumed victims of THB receive legal assistance from the NGO Slovak Catholic Charity, due to its contracts with the Government. Other NGOs, which rely on donors for their activities, focus less on victims of THB.

50. In addition to lawyers working for NGOs, there are some specialised lawyers who provide legal advice and representation to victims of trafficking. GRETA notes that one such lawyer successfully appealed to the Constitutional Court a decision not to address a trafficking victim's compensation claim within the criminal proceedings. This manifests the importance of victims of THB being supported by specialised lawyers.

51. GRETA was informed that lawyers representing victims under the state-funded legal aid programmes for victims of crime receive payments which are disproportionately low in relation to the volume of their actual work (see paragraph 164 on lawyers appointed for hearings of child victims). Decree 655/2004 of the Ministry of Justice regulates the remuneration of lawyers for the provision of legal services. For lawyers providing legal aid funded by the State, the standard fee per case is set at 130 Euros, but it may vary and reach up to 200 Euros depending on which law regulates the matter at hand.<sup>28</sup> Outside the legal aid context, a lawyer is free to agree on the fee with his or her client, as long as it is not contrary to *bonos mores*.

<sup>27</sup> The Victim Support Programme is currently being implemented by the NGO Slovak Catholic Charity and among other assistance covers the provision of legal counselling and related services such as interpretation, where needed.

<sup>28</sup> For example, the fee for advice concerning cases relating to the Labour Code is 150 Euros and for advice concerning the Civil Code, 200 Euros. Other fees can be viewed here (in Slovak language): <http://www.centrumpravnejpomoci.sk/wp-content/uploads/2019/05/Vyúčtovanie-TPZ.pdf>

52. The Centre for Legal Aid is financed by the Ministry of Justice, with offices in Bratislava and Košice. It does not provide counselling to victims in criminal proceedings, but only on civil matters. The Centre has assisted 12 victims of THB to declare personal bankruptcy in order to have their debts cancelled.

53. The Centre for Legal Aid also represents migrants in administrative and asylum procedures, including appeals against administrative detention decisions and negative asylum decisions, if they declare on their honour that they do not have the means to pay for other legal representation. The NGO Human Rights League usually visits immigration detention centres at least every second week, but due to concerns about contagious diseases following established deficiencies in the medical controls at the detention centres, it suspended its visits for about three months in 2019, but by the time of GRETA's visits to the Slovak Republic, the Human Rights League's visit to the immigration detention centres had resumed again.

54. GRETA notes that some victims of THB may have reasons for refusing to enter the Victim Support Programme (e.g. due to emotional attachment to the trafficker, which prevents them from breaking all contacts). Furthermore, failure to identify victims of trafficking, for example among asylum seekers, or failure to identify the victims of THB in a timely manner, at the time they face legal or administrative proceedings, puts their rights as victims of THB at risk. GRETA also stresses that it is crucial to provide victims with legal aid at the outset of the police investigation, including with a view to claiming compensation (see paragraph 71).

**55. GRETA considers that the Slovak authorities should ensure that the staff of the Centre for Legal Aid are provided with training on the rights of victims of THB.**

**56. Further, GRETA considers that the Slovak authorities should strengthen their efforts to facilitate and guarantee access to justice by granting access to legal assistance to all victims of THB, regardless of whether they have entered the Victim Support Programme or not.**

#### **4. Psychological assistance (Article 12)**

57. Human trafficking and exploitation may have serious psychological and physical consequences for the victims, including mental health problems and loss of self-esteem. Psychological assistance is needed to help victims of trafficking overcome the trauma they have been through, and to achieve a sustained recovery and social inclusion. Some victims require long-term therapeutic attention due to violence they have suffered. Every victim of trafficking should have a clinical assessment tailored to include an evaluation of their particular readiness for therapy, conducted by an experienced clinician.<sup>29</sup> In the case of trafficked children, specialist child psychologists should be employed.

58. The Victim Support Programme covers the provision of psychological counselling and psychotherapeutic services to victims of THB.<sup>30</sup> The Slovak Catholic Charity, which has been contracted by the Government to run this programme, employs a psychologist who makes a clinical psychological assessment of each victim, including an evaluation of the person's readiness for therapy. Psychotherapy and psychological assessment are provided by external providers with whom the Slovak Catholic Charity or its partner organisation the Greek Catholic Church (see paragraph 212) have agreements. According to information provided by the Slovak authorities, each victim included in the programme undergoes an initial assessment, with recommendations arising from that; however, experience shows that the interest of victims in continued therapy is rather low, or else they cannot undergo it due to serious health condition.

<sup>29</sup> See OSCE, *Trafficking in Human Beings Amounting to Torture and Other Forms of Ill-Treatment* (2013), Vienna, p.115.

<sup>30</sup> Psychological care is regulated by an internal regulation of the Ministry of the Interior, see paragraph 233.

59. Similar to other forms of assistance under the Victim Support Programme, the psychological assistance ends after 180 days or at the end of the criminal proceedings. A Slovak victim or a foreign victim with a residence permit beyond the tolerated stay (see paragraph 48) could theoretically get referred to further psychological assistance by a general practitioner, as long as they are covered by health insurance.

## **5. Access to work, vocational training and education (Article 12)**

60. Article 12, paragraph 4, of the Convention requires State Parties to enable victims of trafficking who are lawfully present in the country to have access to the labour market, vocational training and education. An important element of the recovery and successful social inclusion of trafficked persons is their economic empowerment, which can be achieved through job placement, microbusinesses and social enterprises.<sup>31</sup> GRETA has stressed the need to develop public-private partnerships with a view to creating appropriate work opportunities for victims of trafficking.<sup>32</sup>

61. In its second report GRETA noted that high unemployment rates in the Roma communities make the Roma particularly vulnerable to THB, due to inadequate support by labour offices, as well as vocational training programmes not being suited to long-term unemployed persons. GRETA notes that these challenges remain. The Slovak authorities have nevertheless highlighted measures taken to improve the situation. The Ministry of the Interior, represented by the Slovak Government Plenipotentiary for Romani Communities and the Central Office of Labour, Social Affairs and Family, signed in September 2017 a Memorandum of Understanding and Co-operation on Improvement of Employability and Employment Rates of the Citizens from Marginalised Roma Communities. Several projects have been implemented, targeting marginalised Roma communities and supporting the development of social services, community centres and pre-school education. The Ministry of Labour, Social Affairs and Family and its offices in the country also have projects for job seekers with low qualifications, the long-term unemployed and job seekers from Roma communities.

62. Foreign victims of trafficking, including those granted a tolerated stay due to the fact that they were illegally employed under particularly exploitative conditions, as well as those who have been granted permanent residence on the basis of Section 23a (1) (a) of Act 5/2004 on Employment Services, have the right to work in the Slovak Republic.

63. The Slovak Catholic Charity has established co-operation with an employment agency in Bratislava and with an integration centre run by the NGO Stopa.<sup>33</sup> Of the 15 victims of THB in the care of NGO Slovak Catholic Charity at the time of writing, four were employed. In the experience of the Slovak Catholic Charity, it is not difficult to find employment for victims of THB who have at least elementary level education. However, the Slovak Catholic Charity pointed out that persons who fall victim to THB are often vulnerable individuals living on the margins of society, including elderly persons who have been homeless for a long time, persons addicted to alcohol or drugs, with psychiatric illnesses or in a very bad health condition, who would not be able to find a job whatever the efforts. Nevertheless, it maintained, they can regain dignity through access to appropriate social services. Other NGOs met by GRETA considered difficulties in finding employment to be one of the main obstacles in the rehabilitation and reintegration of victims of THB into society. According to foreign victims of THB met during the visit, Slovak companies are reluctant to employ foreigners, in particular victims of trafficking.

<sup>31</sup> Rebecca Surtees, NEXUS Institute, *Re/integration of trafficked persons: supporting economic empowerment*, Issue paper No. 4, King Baudouin Foundation (2012).

<sup>32</sup> 8th General report on GRETA's activities, paragraph 183.

<sup>33</sup> <https://www.stopaslovensko.sk/en/>

64. **GRETA welcomes the fact that foreign victims of trafficking have the right to work in the Slovak Republic, as well as the initiatives aimed at promoting the employability of persons from marginalised communities. Nevertheless, GRETA considers that the Slovak authorities should take further steps to strengthen effective access to the labour market for victims of THB and their economic and social inclusion through the provision of vocational training, raising awareness among potential employers, and the promotion of micro-businesses, social enterprises and public-private partnerships with a view to creating appropriate work opportunities for all victims of trafficking, including foreign nationals and persons from disadvantaged socio-economic backgrounds.**

## **6. Compensation (Article 15)**

65. Article 15(3) of the Convention establishes a right of victims to compensation. The compensation is pecuniary and covers both material injury (such as the cost of medical treatment) and non-material damage (the suffering experienced). However, even though it is the trafficker who is liable to compensate the victim, in practice there is rarely full compensation whether because the trafficker has not been found, has disappeared or has declared him/herself bankrupt. Article 15(4) therefore requires that Parties take steps to guarantee compensation of victims. The means of guaranteeing compensation are left to the Parties, which are responsible for establishing the legal basis of compensation, the administrative framework and the operational arrangements for compensation schemes. In this connection, Article 15(4) suggests setting up a compensation fund or introducing measures or programmes for social assistance to, and social integration of, victims that could be funded by assets of criminal origin. Of relevance in this respect is the European Convention on the Compensation of Victims of Violent Crimes, pursuant to which when compensation is not fully available from other sources the State shall contribute to compensate those who have sustained serious bodily injury or impairment of health directly attributable to an intentional crime of violence, as well as the dependents of persons who have died as a result of such crime, even if the offender cannot be prosecuted or punished.

66. Compensation fulfils multiple purposes: payment of reparation for injury, loss or harm caused by the offender, access to justice, empowerment of victims, as well as being seen as a form of punishment and deterrence of traffickers. As such, compensation plays a crucial role in the fight against human trafficking, not only as an instrument of restorative justice, but also by way of prevention and recognition by States of their failure to meet their human rights obligations.

67. Victims often leave the country where they were exploited at the end of the criminal proceedings. This creates obstacles to making civil claims for compensation, which in addition are associated with a number of other barriers, such as high costs, unavailability of free legal aid and victim-support services, as well as the claimant bearing the burden of proof of the amount of the damage. Therefore, state parties should consider adopting a procedure through which victims are entitled to obtain a decision on compensation by the offender as part of the criminal trial, within a reasonable time.

68. In its second report, GRETA urged the Slovak authorities to adopt measures to facilitate and guarantee access to compensation for victims of trafficking. GRETA also considered that the Slovak authorities should ensure that the State compensation scheme is accessible to all victims of THB, regardless of their nationality and residence status.

69. As noted in paragraph 35, the law enforcement authorities, upon first contact with an injured party, must provide him/her with information concerning his/her rights in criminal proceedings, including the right to claim compensation for damages from the offender. Article 287 of the CPC provides the legal basis for the injured party to be awarded damages in criminal proceedings. An injured party must prove that s/he has suffered physical injuries as a result of the crime. The request for compensation must be filed before the end of the investigation and should state the reasons for the request and the amount of compensation requested. The calculation of compensation is regulated by the Victims Act.<sup>34</sup> A medical expert and/or a psychologist is asked to assess the extent of damage caused. Claims to moral damage are governed by Article 12(3) of the Victims Act. Victims of rape, sexual violence or sexual abuse are entitled to compensation for moral damages up to 10 times the monthly minimum wage (of approximately 500 Euros). There is no methodology for calculating compensation in cases of labour exploitation. The prosecutor plays no active role in the compensation process.

70. GRETA was informed that lawyers representing victims sometimes intervened late in the proceedings, in particular when victims have not agreed to enter the Victim Support Programme, which is problematic because of the requirement for victims to claim compensation before the end of the criminal investigation.

71. As already noted in GRETA's second report, criminal courts do not consider adjudicating claims for compensation to be their primary task and refer victims to claim compensation through civil proceedings, pursuant to Article 288 of the CPC. As a result, victims have to face the offenders again and must substantiate their claims by proving the damage. In this regard, GRETA welcomes the judgment of the Constitutional Court in a case of THB detailed below.

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<sup>34</sup> In particular, Article 3 (Compensation for pain): "(1) Compensation for pain is provided once; it must be proportionate to the health damage, the course of treatment or its consequences; (2) Compensation for pain is provided on the basis of a medical assessment (§ 7 and 8). The scoring rates for pain are set out in Annex no. 1, Sections I and II; (3) If some of the damage to health is not indicated in the rates referred to in paragraph 2, the rate of other damage to health with which it can best be compared in terms of pain shall be applied (...)" Article 4 (Compensation for social exclusion): "(1) Compensation for complaints of social exclusion is provided in a single payment; it must be proportionate to the nature of the consequences and their expected development, to the extent that the injured party's ability to pursue life and society is limited; (2) Compensation for complaints of social exclusion is provided on the basis of a medical opinion (§ 7 and 8). The scoring rates for complicated social exclusion are set out in Annex no. 1 in Sections II and IV." Article 5 (Amount of compensation for the pain and the amount of compensation for the complaint of social exclusion): "(1) In determining the amount of compensation for pain and the amount of compensation for social exclusion, it is based on the total number of points for which the pain or complaint of social exclusion was assessed in a medical opinion (§ 7 and 8).(2) The amount of compensation for the pain and the amount of compensation for social exclusion is determined by the amount of 2% of the average monthly salary of the employee in the economy of the Slovak Republic as determined by the Statistical Office of the Slovak Republic for the calendar year preceding the year in which the entitlement to compensation under paragraph 1 arose, for 1 point, the resulting amount is rounded up to the nearest whole euro upwards (...)" (unofficial translation).

**Constitutional Court Decision 759/2017 on referral of compensation claims to civil courts<sup>35</sup>**

The victim of THB grew up in an orphanage and was living in a shelter run by a charity. She was asked to sign a form declaring that she had received information about her rights as an injured party and that she did not claim damages since she had not suffered any physical harm.

Later, a person assisting the victim (but not a lawyer) sent a letter to the prosecutor, explaining that the victim had decided to claim damages in the criminal proceedings, and that she would quantify the value of her claim in these proceedings. This compensation claim was submitted in a timely manner, i.e. before the end of the pre-trial investigation. The District Court sentenced the perpetrator to four years' imprisonment for human trafficking, but referred the compensation claim to a civil court, stating that further evidence was needed to prove the grounds for the compensation claim, and that this had to be done separately from the criminal proceedings.

The victim, with the help of a lawyer specialising in human trafficking, appealed the decision to the Regional Court in respect of the District Court's referral of the compensation claim to a civil court. The argument raised by the lawyer of the injured party, and supported by the Constitutional Court, was that additional proceedings in a civil court may lead to secondary victimisation. The Regional Court of Prešov rejected the victim's appeal, stating that while the claim was submitted on time, it was incomplete as it failed to specify the amount of compensation claimed. The Regional Court further dismissed the victim's argument that her compensation claim had not been properly launched because she had not received proper legal advice at the pre-trial stage.

The victim's lawyer appealed the case to the Constitutional Court regarding the refusal of the criminal courts to address the compensation claim. On 5 February 2019, the Constitutional Court delivered its ruling. It stated that neither the District Court nor the Regional Court had taken into account the victim's vulnerability, as required by EU Directive 2011/36/EU, and had only provided her with formalistic legal information, which, given her vulnerable and obviously weak socio-economic position, was not sufficient to enable her to effectively exercise her rights.

The Constitutional Court noted that the victim during the pre-trial investigation had stated that she had suffered psychological harm, but that this had been ignored by the investigative authorities. The Constitutional Court criticised the District Court for not having taken the poor psychological state of the victim into account, despite the availability of an expert opinion in this regard, and for having referred the compensation claim to a civil court because this put the victim at risk of secondary victimisation. The Constitutional Court further criticised the Regional Court for having insisted on all formal requirements being fulfilled when the vulnerable victim launched her compensation claim.

The Constitutional Court concluded that the two criminal courts, by referring the victim to a civil court, had failed to fulfil their positive obligation to protect the human dignity and the private life<sup>36</sup> of the victim. The Constitutional Court quashed the decision of the Regional Court and remitted the compensation claim back to the Regional Court for decision. At the time of writing the case as referred back by the Constitutional Court is still pending in the Regional Court.

72. In principle, any victim is eligible to apply for compensation from the perpetrator, regardless of nationality or residence status, if the injury occurred in the Slovak Republic. However, lawyers met by the GRETA delegation indicated that in practice, it is difficult for victims who leave the country before or at the end of criminal proceedings to claim compensation. Referral of the compensation claim to civil proceedings makes it even less likely to obtain compensation.

<sup>35</sup> Decision III. ÚS 759/2017 of the Constitutional Court of the Slovak Republic

<sup>36</sup> As defined by Article 11 of the Civil Code: "A natural person has the right to the protection of his personal rights, in particular, life and health, civic honour, human dignity, privacy, his name and expressions of a personal nature".

73. A precondition for compensation from the perpetrator is that s/he is criminally liable. The maximum compensation possible is 50 times the minimum wage. At present 50 times the minimum wage corresponds to approximately 25 000 Euros. The most common way of determining the amount of compensation is to refer to an expert's report on the injuries or damages suffered by the victim, prepared for the purposes of criminal proceedings. If a victim dies as a result of the crime, the maximum compensation amount shall, based on Article 12(2) of the Victims Act, be paid *ex lege*.

74. GRETA was informed that, in practice, perpetrators are often without financial means and when not in prison, they are frequently unemployed, making them unable to pay any or all of the compensation they have been ordered to pay to the injured party. This leaves the injured party with no option but to claim state compensation, having exhausted the possibilities to claim compensation from the perpetrator in criminal and civil proceedings.

75. The Victims Act, which entered into force on 1 January 2019, replaced Act 255/1998 on Compensation to Victims of Violent Crimes. In accordance with the former Act, a state compensation scheme was set up. State compensation can be claimed when the perpetrators are not considered to be criminally liable, which has led to the termination of the criminal proceedings. The full list of criteria for terminating criminal proceedings are listed in Article 215 of the CPC.

76. To apply for state compensation, a victim must file an application for compensation to the Ministry of Justice within one year from the date of legal force of the relevant court decision.

77. Article 12(3) of the Victims Act foresees claims for state compensation for moral damage caused by THB or a sexual offence. Such claims can be submitted before the conclusion of criminal proceedings.

78. The compensation procedures for physical injury and moral damage are different in the sense that damages for a physical injury must be claimed and proven during the police investigation, whereas claims for moral damage can be sought directly from the Ministry of Justice, without prior court procedures. In line with Article 11 (4) of the Victims Act, state compensation can be claimed directly in cases of THB offences and sexual offences, without first attempting to seek damages for physical injuries from the perpetrator in court. Nonetheless, pursuant to Article 14 of the Victims Act, the amount of any State compensation awarded may be reduced if the victim has not first attempted to seek compensation from the perpetrator, either as part of the criminal proceedings or in separate civil procedures. Should the perpetrator later be able to pay compensation to the victim, the victim must return to the State any compensation received from it.

79. GRETA was informed that the maximum amount of state compensation for moral damages was 5 000 Euros.

80. Pursuant to Article 19 of the Victims Act, it is possible for victims from other EU countries to claim state compensation in the Slovak Republic after they have returned to their country of origin.

81. Article 10 (1) of the Victims Act refers to the right to state compensation of victims of violent crimes. In addition to Slovak and EU citizens, this right is also granted to those who have been granted asylum, supplementary protection, temporary asylum, residence permit or tolerated stay, if they have sustained bodily harm in the Slovak Republic.

82. Pursuant to Article 7(1), point (a) and point (c) of Act No. 82/2005 on Illegal Employment, a legal or natural person who has been fined for a violation of this act is obliged to pay the agreed salary to the person illegally employed and the costs associated with the delivery of the outstanding salary to the country to which the illegally employed person was returned or deported. Any foreigner, regardless of immigration status, is covered by this provision. The National Labour Inspectorate has not recorded any claims for unpaid earnings lodged by victims of THB.

83. The Slovak authorities informed GRETA that since the Victims Act entered into force, only one victim of THB has been awarded state compensation. The case concerned THB for the purpose of sexual exploitation in 2017. Because the victim was suffering from adverse health conditions, the Slovak Catholic Charity, which provided legal assistance and aid to her, considered that she was not in a condition to go through civil proceedings after the verdict in her case, and that it was highly unlikely that the perpetrator, who did not have any assets and was unemployed, would be able to pay compensation. The Slovak Catholic Charity thus submitted a request for state compensation to the Ministry of Justice, which awarded state compensation in the amount of 4 350 Euros for moral damage to the victim. Reportedly, the victim did not wish to claim compensation from the perpetrator, as she was afraid of him.

84. GRETA was also informed by the Slovak Catholic Charity about a case in which the court found four perpetrators guilty of THB for the purpose of forced prostitution and forced marriage, and a fifth one of fraud in the same case. The perpetrators were sentenced to suspended prison sentences ranging from two to three years. The court sentenced the perpetrators to pay the victim 6 180 Euros in compensation for material damage and referred the victim's claim for non-material damage to a civil court. In execution proceedings from May 2016, 307 Euros out of the 6 180 Euros for material damage were collected from the perpetrators. In October 2016 a civil law suit for compensation for damage to health and reputation<sup>37</sup> were launched, resulting in a civil court decision on 22 January 2019, sentencing the perpetrators to pay 17 160 Euros for having caused damage to the victim's health in the form of post-traumatic stress disorder, and 10 000 Euros for violation of "protection of personality". Execution proceedings started in April 2019, but on 13 August 2019 a report on these proceedings established that the perpetrators had no assets and that the sum due could not be collected. In September 2019 the victim, supported by the Slovak Catholic Charity, submitted an application to the Ministry of Justice for state compensation for health injuries and moral damage. On 15 January 2020, the Slovak Catholic Charity was asked by the Ministry of Justice, as the body deciding on state compensation, to supplement its application and send the medical assessment justifying the amount claimed for the bodily harm. **GRETA would like to be kept informed of the outcome of this case.**

85. In its second report, GRETA noted that the Ministry of the Interior, in co-operation with the Ministry of Justice, had produced a leaflet with information on possibilities to claim compensation by victims of THB. According to the Slovak authorities, the National Unit for Combating Illegal Migration of the Border and Alien Police distributes this leaflet to presumed victims of THB.

86. Pursuant to Article 50 of the CPC, law enforcement authorities are obliged to carry out financial investigations in order to check if the property of perpetrators has been gained through, or used in, criminal activities, and to forfeit any such property. Claims for damages caused by a criminal offence can, following a court decision, on the request of a prosecutor or the injured party, be secured against the property of the defendant (see also paragraph 96). No perpetrators' assets have been frozen in THB cases by the National Unit for Combating Illegal Migration of the Border and Alien Police (however, see paragraph 98).

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<sup>37</sup> Based on Article 11 of the Civil Code.



87. **GRETA welcomes the legislative developments in the area of state compensation, but is concerned that only one victim of THB has so far received compensation from the State. Moreover, almost no victims of THB have been paid compensation by perpetrators. GRETA urges the Slovak authorities to facilitate and guarantee access to compensation for victims of trafficking, including by:**

- **enabling all victims of trafficking, including irregular migrants, to exercise their right to compensation, by ensuring access to legal aid and legal assistance at the outset of the criminal proceedings;**
- **building the capacity of legal practitioners to support victims in claiming compensation;**
- **ensuring that the collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation of the victim, is part of the criminal investigations with a view to supporting compensation claims in court;**
- **including compensation in existing training programmes for the judiciary so that judges are encouraged to use all the possibilities the law offers them to uphold compensation claims;**
- **introducing a procedure through which victims are entitled to obtain a decision on compensation from the offender as part of the criminal trial and requiring courts to state, where applicable, why compensation is not considered;**
- **making full use of the legislation on the freezing and forfeiture of assets to secure compensation to victims of THB.**

## **7. Investigations, prosecutions, sanctions and measures (Articles 22, 23 and 27)**

88. One of the purposes of the Convention is to ensure the effective investigation and prosecution of THB. Article 27(1) of the Convention establishes that the investigation or prosecution of THB offences must not depend on victims' reports. The aim is to avoid traffickers' subjecting victims to pressure and threats in attempts to deter them from complaining to the authorities. Pursuant to Article 27(2), if the competent authority with which the complaint has been lodged decides that it does not itself have jurisdiction in the matter, then it must forward the complaint without delay to the competent authority of the Party in whose territory the offence was committed. Further, under Article 27(3), each Party shall ensure to non-governmental organisations and other associations which aims at fighting trafficking in human beings or protection of human rights, the possibility to assist and/or support the victim with his or her consent during criminal proceedings concerning the offence of trafficking in human beings.

89. Article 23 requires Parties to match their action to the seriousness of the offences and lay down criminal penalties which are "effective, proportionate and dissuasive". Further, paragraph 3 of Article 23 places a general obligation on Parties to adopt appropriate legal instruments enabling them to confiscate or otherwise deprive offenders (e.g. by so called "civil" confiscation) of the instrumentalities and proceeds of human trafficking criminal offences. As trafficking in human beings is nearly always engaged in for financial profit, measures depriving offenders of assets linked to or resulting from the offence are an effective anti-crime weapon. The confiscation of criminal assets is crucial for reinforcing the effect of the penalty, as well as ensuring the payment of compensation to the victim. It requires as a prerequisite to detect, identify and seize the illegal assets at the time of the criminal investigations and to have adequate procedures to do so. The identified, seized and confiscated illegal profits of trafficking should be used to compensate victims of trafficking, directly or through a victim compensation fund.

90. Further, Article 22 of the Convention requires Parties to ensure that legal persons can be held liable for human trafficking offences committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person who has a leading position within the legal person. Liability under this article may be criminal, civil or administrative.

91. The penalties envisaged for the offence of THB remain as described in the first and second GRETA reports, namely, the basic offence under Article 179 of the Slovak Criminal Code (CC) carries an imprisonment term of four to 10 years, while in the presence of aggravating circumstances as listed in Article 179, paragraph 3 to 5, of the CC, the offence may be punished with seven to 25 years of imprisonment, or a life sentence.

92. According to Articles 2(5) and 2(6) of the CPC, police officers and prosecutors are obliged to investigate *ex officio* crimes which come to their knowledge. By instruction of the Office of the Prosecutor General, prosecutors in first and second instance courts must inform the Office of the Prosecutor General about all THB cases they handle. However, the Office of the Prosecutor General does not supervise adjudication of THB cases in particular, but may intervene by issuing guidance in specific cases, for example if the case in question has received broad media attention.

93. Article 14 of the CPC lists the offences which are to be adjudicated by the Specialised Criminal Court, which include murder, organised crime, corruption and terrorism. THB cases may be adjudicated in the Specialised Criminal Court if they involve organised crime. There is the Special Prosecutor Office addressing cases to be adjudicated by the Specialised Criminal Court. There are no judges specialised in THB cases and neither are there prosecutors or judges specialised in cases involving child victims.

94. In its second report on the Slovak Republic, GRETA urged the Slovak authorities to exclude the offence of THB from the plea-bargaining procedure.<sup>38</sup> There have been no changes in legislation or in policies in this respect. In the context of plea-bargaining, the prosecutor is required by Article 232(3) of the CPC to defend the injured party's interest in the settlement, including as regards compensation. If the injured party fails to take part in negotiation of a plea-bargaining agreement, the extent and manner of damages can be discussed by the prosecutor with the accused alone. In the absence of an agreement on damages, the prosecutor makes a proposal for approval of a plea-bargaining agreement to the criminal court, and suggests that it refers the claim for damages or part of it to civil or other proceedings. While the injured party must be invited to discuss any plea-bargaining agreement and to state whether s/he agrees to it or not, including as regards compensation from the perpetrator, the injured party's consent to a plea-bargaining agreement is not necessary for the agreement to go ahead and be approved by a judge. Plea-bargaining agreements involving child victims do not differ in any significant ways from those concerning adult victims.

95. The offence of THB under Article 179 of the CC is one of the criminal offences for which the court may order the forfeiture of property as part of the punishment for the crime, in line with Article 58 (2) of the CC. In this case the confiscation is executed through insolvency laws and the State becomes the owner of the confiscated property. To avoid that a defendant transfers his or her property to another person or jurisdiction to make it unavailable for confiscation, the court and the Prosecutor's Office may secure the property of the accused already at the pre-trial stage, in line with Article 425 (1) of the CPC.

96. The CPC allows for the seizure of property or financial funds which are of relevance as evidence in criminal proceedings (Article 91), for example where such property has been used to commit crimes or can reasonably be considered to constitute proceeds of crime (Article 95). Once the prosecution in a criminal case has started, the prosecutor can order the seizure of assets (Article 95(1) of the CPC). The prosecutor may order assets to be seized even before the commencement of the prosecution, but in that case a judge must confirm the decision within 48 hours (Article 95(2) of the CPC). However, the Slovak authorities concede that such seizure is not used to the extent needed, partly because it is difficult for the Prosecutor's Office to prove that the suspect has acquired the property or funds by unlawful means. The authorities have provided two examples of THB cases in which property was seized. The first took

<sup>38</sup> As regulated by Article 232 of the CPC.

place in 2019, in an operation under the auspices of a Joint Investigation Team between the Slovak Republic and the UK, with cash and jewellery worth 27 666 Euros seized. In the second case, which was one of THB for the purpose of forced begging, 6 046 Euros in cash were seized as a result of a home search carried out by the police in April 2015.

97. As noted in paragraph 150 of the second GRETA report on the Slovak Republic, Articles 83(a) and 83(b) of the CC, envisage forfeiture of a sum of money or property for the involvement of a legal entity in criminal offences, including THB. Criminal liability of legal persons was established in 2016 with the adoption of Act No. 91/2016, which entered into force on 1 July 2016.

98. According to the authorities, financial investigations are always carried out as part of criminal investigations into THB. The Ministry of the Interior uses methodology developed in co-operation with the Presidium of the Police Corps, which has been available to the Police since January 2017.

99. According to information provided by the Slovak authorities, in 2015, a total of 23 defendants were prosecuted in nine THB cases; in 2016, 31 defendants were prosecuted in 14 cases; in 2017, 72 defendants were prosecuted in 19 cases; and in 2018, 53 defendants were prosecuted in 23 cases. There were 23 concluded criminal prosecutions in THB cases in 2015, 28 in 2016, 36 in 2017, and 30 in 2018. As regards convictions, 21 persons were convicted of THB in 2015, 4 in 2016, 15 in 2017 (of which 5 sentences were unconditional, ranging from 2 to 10 years), and 8 in 2018 (all of which were suspended).

100. Apart from custodial sentences, other sanctions which can be used in relation to THB crimes are financial penalties, confiscation of property, a ban on service provision, a ban on residence, and expulsion. According to a representative of the Office of the Prosecutor General met during the visit, the value of the proceeds of the crime in question is used to determine the severity of the crime and consequently the punishment.

101. Prosecutors met by GRETA pointed to the difficulties arising when victims of THB do not perceive themselves as victims, especially when no physical violence was involved, making it more challenging to prove the exploitation. Victims of THB, due to intimidation by perpetrators or as a result of misplaced loyalty to the offenders with whom they may have had an emotional relationship, are sometimes reluctant witnesses, or else they may change their testimony in favour of the defendants during criminal procedures. In the absence of other evidence, the prosecution is discontinued.

102. In the case 2T/4/2018 adjudicated by the District Court of Galanta, the court found the defendant guilty of human trafficking under Section 179 (1) of the CC and sentenced him to a suspended prison sentence of three years with a 30-month probation period. The court reduced the penalty due to what it considered to be the mitigating circumstances of the case, namely that the perpetrator confessed to the crime and expressed regret, while formally apologising to the victim.

103. Further, in the case 3T/16/2018, the District Court of Rimavská Sobota found the defendant guilty of human trafficking under Section 179 (1) (3) a), d), f) of the CC and sentenced him to a three-year suspended prison term, with a five-year probation period. THB under Article 179 (3) of the CC is punishable with seven to twelve years' imprisonment, but the court considered that mitigating circumstances prevailed because the perpetrator admitted the crime, expressed regret and had no previous criminal record, in addition to which the court took into account the difficult personal situation of the perpetrator, which in the court's opinion had not been self-inflicted.

104. Reference should also be made to a case adjudicated by the Specialised Criminal Court which involved Slovak women who were sent abroad by a modelling agency on the understanding that they would work as models, but the women also provided sexual services. The prosecution initiated a successful plea-bargaining in March 2014, resulting in suspended sentences for THB for all nine perpetrators, including two years of suspended imprisonment for the main perpetrator. In addition, the perpetrators were sentenced to fines ranging from 20 000 to 30 000 Euros and some of their assets were confiscated.

The sentences were lenient because of the mitigating circumstances of the perpetrators all confessing and the victims not considering themselves as victims, as they had agreed to the arrangements, including the provision of sexual services. The case was concluded before the Slovak legislation on corporate liability had entered into force in 2016. According to the judge from the Specialised Criminal Court met by GRETA, the modelling agency would have been prosecuted as well, as a legal person, had the case occurred after the entry into force of the new legislation.

105. GRETA notes that mitigating circumstances are regularly taken into account by judges, whereas aggravating circumstances, as defined in the Article 179 of the CC, appear not to be taken sufficiently into account. GRETA is concerned that even when defendants in THB cases have been found guilty, the sanctions have not always been commensurate to the impact this crime has on individuals and society (see examples of case law in paragraphs 102-104). The large majority of sentences imposed in the reporting period have been suspended (see paragraph 99).

106. Although precise statistics are not available because censuses in the Slovak Republic do not address ethnicity, it would appear that members of the Roma community are disproportionately affected by THB, including for the purpose of early, child or forced marriages. Since 2017, the law enforcement authorities have investigated such cases as THB cases for the purpose of forced marriage. However, GRETA was informed by representatives of civil society that some judges have expressed a certain tolerance in such cases, considering that they were "acceptable" in the cultural context of Roma communities.

107. According to civil society representatives met by GRETA, victims of THB are sometimes not taken seriously by the police when they provide information about abuse they have suffered, and thus the reported offences do not get investigated. NGOs working with vulnerable persons, such as persons engaged in prostitution, report that at times police officers have harassed or intimidated them, sometimes demanding sexual services. The Slovak authorities have maintained that no information concerning such unacceptable behaviour has been reported to the competent services, but should there be such reports, they would be investigated by the Inspection Service of the Ministry of the Interior.

108. GRETA was also informed that cases of THB are frequently qualified as other offences, as a result of which victims are not identified as victims of THB and do not benefit from the Victim Support Programme, even though they still have rights as victims of crime pursuant to the Victims Act.

109. Pursuant to Article 196 (1) of the CPC, a complaint in a criminal matter must be submitted to a public prosecutor or a police officer. The public prosecutor or police officer shall notify the Office of Special Prosecution of the filed criminal complaint without undue delay, if it relates to the jurisdiction of the Specialised Criminal Court (see paragraph 93). The public prosecutor or police officer shall issue a written confirmation of receipt of the criminal complaint filed by the victim, and such confirmation must contain the time and place of filing, the authority that received the criminal complaint, and the basic facts of the complaint. Where an oral criminal complaint is made by a victim, the public prosecutor or police officer shall provide a copy of the transcript of the complaint, if requested by the victim.

110. Should a victim of THB consider that the police are not carrying out any or sufficiently robust investigations, s/he may submit a complaint to the Office of the Public Prosecutor or the Public Defender of Rights (Ombudsman). Further, should a person consider that his/her human or fundamental rights or freedoms, as guaranteed by treaties to which the Slovak Republic is a party, have been violated, and that no remedies are available by addressing the police or the Office of the Public Prosecutor, s/he may submit a complaint to the Constitutional Court (see paragraphs 43 and 50). In case of children, such a complaint is to be submitted on their behalf by a legal counsellor appointed by a court to support them.

111. Victims of THB inscribed in the Victims Support Programme are accompanied by lawyers in court. NGOs assisting victims of THB can in addition appoint a support person to accompany victims in court, but the appointment of such a person is not compulsory. Child victims or witnesses, where their appearance in court is deemed necessary, must be accompanied by a legal representative.

112. GRETA is concerned by the lenient sentences given to traffickers and stresses that failure to convict traffickers and the absence of effective, proportionate and dissuasive sanctions, including such resulting from plea-bargaining procedures, undermines efforts to combat THB and guarantee victims' access to justice. GRETA further notes that not all complaints about possible THB cases are taken seriously by the Police and that if the Police and prosecutors made more extensive use of special investigation techniques and seizure of proceeds of crime or property used for it, including as evidence, this would increase the efficiency of investigations and ultimately successful prosecution of THB offences.

**113. GRETA considers that the Slovak authorities should take further steps to ensure that all possible human trafficking offences are promptly investigated, regardless of whether a complaint about the reported crime has been submitted and notwithstanding the cultural context of the crime, making use of special investigation techniques in order to gather evidence and not having to rely exclusively on testimony by victims or witnesses. In this context, the Slovak authorities should take steps to ensure that all complaints about possible THB offences are registered and complainants are treated respectfully by the police. Moreover, property used to commit crimes or which can reasonably be considered to constitute proceeds of crime should be seized to the largest extent possible.**

**114. Further, GRETA urges the Slovak authorities to take additional measures to ensure that THB cases lead to effective, proportionate and dissuasive sanctions. In this context, the authorities should continue providing training and develop the specialisation of investigators, prosecutors and judges to deal with human trafficking cases and to ensure that they are not re-qualified as other offences which carry lighter penalties and deprive victims of THB of access to protection, support and compensation.**

**115. In addition, GRETA reiterates its recommendation made in the second report that the offence of THB be excluded from the plea-bargaining procedure.**

## **8. Non-punishment provision (Article 26)**

116. Pursuant to Article 26 of the Convention, Parties must provide for the possibility of not imposing penalties upon victims of THB for their involvement in unlawful activities, to the extent that they have been compelled to do so. As previously stressed by GRETA, the criminalisation of victims of THB not only contravenes the state's obligation to provide services and assistance to victims, but also discourages victims from coming forward and co-operating with law enforcement agencies, thereby also interfering with the state's obligation to investigate and prosecute those responsible for THB.<sup>39</sup> Furthermore, GRETA has noted that the absence of a specific provision on the non-punishment of victims of trafficking entails a risk of differential treatment, depending on the prosecutor in charge of the case.

117. In its second report on the Slovak Republic, while welcoming the introduction of a specific legal provision concerning the non-punishment of victims of trafficking for offences they were forced to commit while being in a trafficked situation,<sup>40</sup> GRETA expressed concern that Article 215(d) of the CPC gives a rather narrow interpretation of the non-punishment clause. GRETA considered that the scope of the non-punishment provision should be extended to cover all offences which victims of THB were compelled to commit, including administrative and immigration-related offences.

<sup>39</sup> See 2nd General Report on GRETA's activities, paragraph 58.

<sup>40</sup> See paragraph 153 of GRETA's second report on the Slovak Republic.

118. As noted in the second GRETA report, pursuant to Article 215(2) of the CPC, a prosecutor may terminate the criminal prosecution of a minor offence committed by a person who is a victim of THB, sexual abuse or child pornography. "Minor offences" are defined in Article 10 of the CC as offences committed by negligence and offences carrying a maximum prison sentence of five years. This CPC article is reflected in Article 40 (1b) of the CC, which states that "the punishment of an offender may be waived if the offence is minor and was committed by a person under duress due to the fact that s/he was a victim of THB, sexual abuse or child pornography." GRETA notes that these provisions do not foresee the possibility of withdrawing prosecution and punishment for serious offences.

119. No guidance has been issued to police officers or prosecutors as regards the application of the non-punishment principle in THB cases. It appeared from meetings with prosecutors during the visit that the knowledge of the non-punishment principle was sometimes lacking.

120. Civil society representatives explained to GRETA that pursuant to Article 3(2) of the CPC, they are legally obliged to report any crimes they become aware of to the Police, which makes it difficult for NGO staff to speak to victims of certain forms of exploitation, such as THB for forced criminality, especially in circumstances in which the non-punishment provision risks not being applied.

**121. GRETA once again urges the Slovak authorities to strengthen efforts to ensure compliance with the non-punishment provision, by extending its scope to cover all offences which victims of THB were compelled to commit, including administrative and immigration-related offences, as well as issuing guidance to police officers and prosecutors.**<sup>41</sup>

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

122. Under Article 28 of the Convention, Parties must take the necessary measures to provide effective and appropriate protection from potential retaliation or intimidation to victims and witnesses of human trafficking, as well as to members of civil society organisations supporting victims during criminal proceedings and, where appropriate, to victims' family members. Intimidation of victims and witnesses is nearly always aimed at suppressing evidence against defendants. Effective protection can be of various types (physical protection, relocation, identity change...) and depends on the assessment of the risks that victims and witnesses run. In addition, Article 28(3) provides that a child victim shall be afforded special protection measures, taking into account the best interests of the child. Regarding the period during which the protection measures are to be provided, the Convention aims in a non-exhaustive manner at the period of investigation and of the proceedings or the period following them. The period in which protection measures have to be provided depends on the threats to the persons concerned. Moreover, because trafficking in human beings is often international and some countries are small, Article 28(5) encourages Parties to enter into agreements or arrangements with other countries so as to implement Article 28.

123. Further, Article 30 of the Convention requires Parties to adapt their judicial procedure so as to protect victims' privacy and ensure their safety, including special protection measures for child victims. While the measures provided for in Article 28 have to do with extra-judicial protection, the measures referred to in Article 30 are concerned with the procedural measures to be introduced. The following means can be used, in accordance with the European Convention on Human Rights and the case-law of the European Court of Human Rights, to achieve the objectives of Article 30: non-public hearings, audio-visual technology, recordings of testimony, and anonymous testimony.

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<sup>41</sup> See OSCE, Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking, 2013, available at: <https://www.osce.org/secretariat/101002?download=true>

124. In its second report, GRETA urged the Slovak authorities to make full use of the measures available to protect victims and witnesses of THB, and to take additional measures to ensure that they are adequately protected from potential retaliation or intimidation in the course of judicial proceedings, including by reviewing the practice of "direct confrontation" (i.e. cross-examination of victims in the presence of suspects) of victims with suspected traffickers, and by ensuring that child victims of THB are afforded special protection measures taking into account the best interests of the child.

125. The protection of victims of THB is primarily ensured by means of the Victim Support Programme, which is specifically established for such victims and is therefore considered by the authorities to be more suitable and adapted to their needs than the witness protection system established by Act 256/1998 on the Protection of Witnesses. There is a specialised unit within the Ministry of the Interior, which is responsible for applying witness protection measures pursuant to this Act, but such measures have never been applied to victims and witnesses of THB.

126. If the safety of victims or witnesses of crime cannot be ensured in other ways, and there is a threat to the life or health of the persons in question from perpetrators who may have committed serious crimes for which life prison sentences can be imposed, or from perpetrators who are involved in organised crime, protection and assistance is to be provided in accordance with Act No. 256/1998 on the Protection of Witnesses as amended. This protection may be extended to persons close to the witness. There is an internal document of the Ministry of the Interior (128/2010) with more detailed provisions on what forms the protection of victims and witnesses of crime may take, if granted.

127. According to Article 46(8) and 46(9) of the CPC, a victim of crime has the right to be informed about whether the accused or convicted perpetrator in his or her case remains in custody or not. The information is to be provided either at the request of the victim or if the police considers that there is a danger to the victim if the accused or convicted person is not in custody.

128. According to Article 2 of the Victims Act, all victims of THB are to be considered as particularly vulnerable victims. Pursuant to Article 8 of this Act, such victims have the right to protection from secondary victimisation or repeated victimisation. The responsibility for this protection lies mainly with the police, courts and organisations providing assistance to victims. According to Article 134 (4) of the CPC, the hearing of a particularly vulnerable victim is to be carried out using technical equipment for the recording of sound and images. The law enforcement authority shall ensure that the pre-trial interviewing of the victim is conducted by the same person, provided that this does not interfere with the conduct of the criminal proceedings, and as a general rule, by a person of the same sex as the person being interviewed. A psychologist or an expert who is questioned with regard to the subject of the hearing is added to the interview to contribute to the proper conduct of the hearing. The Slovak authorities have stated that victim protection measures are used to the largest extent possible, but female victims are sometimes interviewed by male investigators because there are only male investigators employed in some police districts of the Slovak Republic. The authorities acknowledge that victims are sometimes interviewed several times; they argued that this is due to the need to respect the procedural rights of defendants.

129. Pursuant to Article 136 (1) of the CPC, if there is a justified concern that the witness or a person close to them will be put at risk by stating the residence of the witness, the witness may be permitted to state their place of work or another address for the purpose of the procedures. Further, pursuant to Article 136 (2) of the CPC, if there is a justified concern that the disclosure of the identity, residence or place of residence of the witness will put their life, health or physical integrity at risk, or if there is such a risk to persons close to them, the witness may be permitted not to state their personal data at the court hearing, even though the witness must deposit proof of his or her identity with the Prosecutor's office. Further, Article 2(21) of the CPC was amended to strengthen the position of the victim in criminal proceedings by obliging the police and courts to in general pay particular attention to a victim's rights and needs.

130. According to the Victims Act, the Police and courts shall use appropriately adapted interviewing rooms, to the extent that their facilities allow it. A special interviewing room for child victims and other particularly vulnerable victims has been set up at the Police Academy, as well as by NGOs (in Žilina and Nitra), but the Police have reportedly been reluctant to use them (see also paragraph 162). The Slovak authorities acknowledge the shortage of special interviewing rooms at police stations, noting that the only available interviewing room, at the Police Academy, is used primarily for education purposes. By the end of 2021, two special rooms should be set up at the offices of the National Unit for Combating Illegal Migration of the Bureau of Border and Alien Police in Western and Eastern Slovakia. In total, 23 special interviewing rooms are to be built by the end of 2022.

131. **In order to protect victims' privacy and ensure their safety, GRETA urges the Slovak authorities to:**

- **set up a sufficient number of specially adapted interview rooms around the country and systematically use them to interview children and other vulnerable victims of THB, and ensure that testimony given in such rooms is used in court;**
- **to the extent possible, avoid cross-examination of the victim and the accused ("direct confrontation") and repeated questioning of victims in THB cases, and ensure the presence of a psychologist when vulnerable victims are being interviewed;**
- **ensure a sufficient number of female investigators to conduct interviews with female victims of THB.**

132. **GRETA also considers that the Slovak authorities should make full use of all available means of providing protection to victims and witnesses of THB, including the witness protection measures provided for by Act 256/1998.**

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

133. Under Article 29(1) of the Convention, Parties have to adopt the necessary measures to promote specialisation of persons or entities in anti-human-trafficking action and victim protection. Each country must have anti-trafficking specialists in sufficient numbers and endowed with appropriate resources. The staff of specialised authorities and coordinating bodies should, as far as possible, include both women and men. To combat trafficking effectively and protect its victims, it is essential that proper training is provided to relevant officials.

134. The National Unit for Combating Illegal Migration of the Border and Alien Police of the Police Corps Presidium is the main body responsible for investigating THB offences. It consists of five offices, namely the Department for Combating Trafficking in Human Beings, the Co-ordination Unit, and three operational entities, covering different geographical areas, with a total of 15 investigators specialised in THB.

135. All prosecutor offices have a prosecutor with responsibility for dealing with cases of vulnerable victims of sexual offences, including THB for the purpose of sexual exploitation. However, these prosecutors are not specialised in these crimes in any formal sense and have not systematically attended training about THB.



136. In 2018, 55 representatives of the Border and Alien Police of the Presidium of the Police were trained about identification of victims of THB, in three separate training sessions held in Bratislava, Banská Bystrica and Sobrance. According to the Slovak authorities, the Border and Alien Police are the authorities most likely to come into contact with possible victims of THB among third-country nationals, and these professionals have been trained on their obligation to inform presumed victims of THB about their rights and the availability of assistance measures. Further training of the police has been provided in a project entitled "Enhancing of Early Response by the Police Force in the Prevention and Identification of THB" as well as at an international symposium entitled Education and Training of the Police Corps Members in the area of Prevention and Identification of Trafficking in Human Beings, held 23-24 October 2019 in Bratislava.

137. Training on THB was organised by the Judicial Academy in 2015 and 2016, and a two-day training is included in its training programme for March 2020. The training is attended by judges, prosecutors, senior judicial officers, judicial candidates, legal candidates of the Prosecutor's Office and police investigators. The training covers support of victims of THB, the National Referral Mechanism, investigation and prosecution of THB.

138. Within the framework of the 2015-2018 National Programme for Combating Trafficking in Human Beings, labour inspectors and officials of the Labour, Social Affairs and Family Labour Offices were trained on THB and sensitised about the risks of THB run by vulnerable individuals in a labour context. The training was delivered by representatives of the Information Centre for Combating Trafficking in Human Beings and Crime Prevention, the National Unit of the Ministry of the Interior and the National Labour Inspectorate. The training was attended by 62 labour inspectors in 2016, 56 in 2017 and 51 in 2018 (the total number of labour inspectors is 329). It addressed matters such as rules related to posted workers and employment through temporary employment agencies. As part of this training, the members of the National Unit explained issues related to illegal employment and illegal residence of third-country nationals and possible interlinkages to THB.

139. Various other professional groups with a role in implementing the National Referral Mechanism have been trained by the Information Centre for Combating Trafficking in Human Beings and Crime Prevention, including child protection and social services, the Traffic Police Department and the Aliens Police, staff of the Ministry of the Defence responsible for training troops sent on missions abroad, staff of foster homes, educational facilities and psychological counselling centres, health-care professionals and NGOs. Within the framework of projects aimed at improving living conditions of marginalised Roma communities,<sup>42</sup> 30 employees of the Office of the Plenipotentiary for Roma Communities attended training entitled "the Fundamentals of THB" in May and June 2019.

140. Representatives of both non-State and State child residential institutions, including the one in Medzilaborce where unaccompanied child asylum seekers are placed, have undergone two-day training modules on THB, as have representatives of re-education centres, diagnostic centres and special education facilities for children. Similar training has been given to professionals working with legal protection of children and guardianship issues. These training sessions have been organised by the Ministry of the Interior in co-operation with the Ministry of Labour, Social Affairs and Family and the Association of Towns and Municipalities.

141. Teachers of ethics and history in primary and secondary schools have undergone two-day training sessions on THB. The Methodological and Pedagogical Centre under the Ministry of Education, Science, Research and Sport has prepared teaching materials related to preventing THB and other forms of abuse of children.<sup>43</sup>

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<sup>42</sup> "The National Project Field Social Work and Field Work in Municipalities with Marginalised Roma Communities", "the National Project Community Services in Cities and Villages with Marginalised Roma Communities" (i.e. the Community Centre, Low-Threshold Day Centre, Low-Threshold Social Service for Children and Family), and the "National Project Support of Pre-School Education of Children from Marginalised Roma Communities".

<sup>43</sup> Available at: <https://mpc-edu.sk/en/home>

142. Slovak diplomatic and consular staff are trained twice per year on identification of victims of THB, as well as on procedures for assisted voluntary return of such victims. The trainers are provided by the Ministry of the Interior and the Slovak Catholic Charity. Further, members of the Slovak armed forces are trained on THB before deployments abroad.

143. During its visit to the Slovak Republic, the GRETA delegation was told that many of the relevant professionals have only been trained in the context of particular projects limited in time, and therefore the training is not systematic or regular.

**144. GRETA welcomes the existence of police investigators specialised in THB crime and considers that the Slovak authorities should promote specialisation amongst other professional groups, such as prosecutors and judges.**

**145. Further, while welcoming the training provided already, GRETA considers that the Slovak authorities should take additional steps to ensure that all relevant professionals are trained regularly and systematically on preventing THB, identifying victims and referring them to assistance, as well as in prosecuting THB offenders. The training should be integrated in the regular training curricula of different professional groups, including law enforcement officials, prosecutors, judges, labour inspectors, social workers, child welfare staff, health-care staff, and diplomatic and consular staff.**

## **11. International co-operation (Article 32)**

146. Article 32 of the Convention requires parties to co-operate to the widest extent possible to prevent and combat THB, to protect and to provide assistance to victims, and to investigate and prosecute cases of THB. International co-operation between State Parties to the Convention is also essential for enabling access to effective remedies for victims of trafficking. Parties must co-operate with one another "to the widest extent possible". This principle requires them to provide extensive co-operation to one another and to minimise impediments to the smooth and rapid flow of information and evidence internationally. As regards international co-operation in criminal matters for the purposes of investigations or proceedings, the provisions of the Convention neither cancel nor replace the provisions of relevant international or regional instruments<sup>44</sup> on mutual legal assistance and extradition, reciprocal arrangements between Parties to such instruments and relevant provisions of domestic law concerning international co-operation.

147. The fifth National Programme against THB puts an emphasis on international co-operation, notably with the UK, which has been the main country of destination of Slovak victims.

148. Since 2013, the National Unit for Combating Illegal Migration of the Border and Alien Police of the Police Corps Presidium, which is responsible for investigating THB cases, has taken part in four Joint Investigation Teams (JITs) with the UK. The first case, which started in 2013, concerned trafficking of Slovak women for the purpose of sexual exploitation and forced marriage in the UK. It ended in 2017 and resulted in prison sentences of Slovak citizens ranging from 16 months to eight years. The second one, which is still ongoing, started in 2016 and also concerns sexual exploitation and forced marriage in the UK. The third one, still ongoing, started in 2017 and concerns THB for the purposes of labour and sexual exploitation in the UK. The fourth JIT, still ongoing, started in 2017 and concerns THB for the purpose of labour exploitation in the UK.

149. In 2018, the National Unit for Combating Illegal Migration of the Department of Alien Police requested legal assistance in 12 cases of transnational trafficking in human beings.

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<sup>44</sup> For example, the European Convention on Extradition, the European Convention on Mutual Assistance in Criminal Matters and its protocols, Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member states, the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

150. The Slovak Catholic Charity participates in the international network of faith-based non-governmental organisations RENATE, which promotes co-operation to help victims of THB.<sup>45</sup>

151. In the context of the Slovak Chairmanship of the OSCE in 2019, the Slovak authorities were co-organisers of the annual meeting of National Anti-trafficking Co-ordinators and Rapporteurs or equivalent mechanisms from OSCE and Council of Europe countries, which took place in Bratislava on 22-23 October 2019.

**152. GRETA welcomes the Slovak authorities' participation in multilateral and bilateral international co-operation, such as by means of JITs, and invites the Slovak authorities to strengthen international co-operation concerning the protection of victims of THB.**

## 12. Cross-cutting issues

### a. gender-sensitive proceedings

153. As noted in CEDAW General recommendation No. 33 on women's access to justice, discrimination against women, based on gender stereotypes, stigma, harmful and patriarchal cultural norms and gender-based violence, which affects women in particular, has an adverse impact on the ability of women to gain access to justice on an equal basis with men.<sup>46</sup>

154. Women encounter obstacles with respect to access to justice within and outside the legal system. Some of these obstacles are of a legal or institutional nature, while others have socio-economic and cultural grounds. The legal and institutional barriers include discriminatory or insensitive legal frameworks including legal provisions that are explicitly discriminatory; gender blind provisions that do not take into account women's social position; and gaps in legislation concerning issues that disproportionately affect women. On the socio-economic level the obstacles include lack of awareness of one's legal rights and legal procedures or of how to access legal aid, which can stem from gender differences in educational levels, and access to information. A further obstacle may be the lack of financial resources, including the means to pay for legal representation, legal fees, judicial taxes, transportation to courts or child care.<sup>47</sup> Such obstacles, and remedies to them, are listed in a Council of Europe training manual for judges and prosecutors on ensuring women's access to justice, as well as in the publication "Women's Access to Justice: Guide for Legal Professionals".<sup>48</sup>

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

### b. child-sensitive procedures for obtaining access to justice and remedies

156. Article 3 (8) of the Victims Act obliges the police, courts and victim support bodies to take account of the best interests of the child in trafficking cases involving children.

<sup>45</sup> More information about RENATE is available at: <https://www.renate-europe.net/>.

<sup>46</sup> CEDAW General recommendation No. 33 on women's access to justice, paragraph 8, CEDAW/C/GC/33 of 3 August 2015, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/33&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/33&Lang=en)

<sup>47</sup> Council of Europe training manual for judges and prosecutors on ensuring women's access to justice, page 13 available at <https://rm.coe.int/training-manual-women-access-to-justice/16808d78c5>

<sup>48</sup> Available at: <https://rm.coe.int/factsheet-womens-access-to-justice/16808ff44e>

157. The hearing of child victims of crime, including THB, is regulated by Article 135 of the CPC, pursuant to which the questioning of child witnesses should be done in a way which avoids repeated questioning, and should involve a psychologist or another appropriate expert, and, if necessary, a child protection professional, legal guardian or educator. As a general rule, repeated questioning of child witnesses should be avoided.

158. The child should be questioned in further proceedings only if necessary, in the preliminary hearing only with the consent of the public prosecutor. If it is likely that a second hearing of the child would be harmful to them, it should be conducted only in exceptional cases and only with the consent of their legal representative, and in cases under Article 48 (2), with the consent of their guardian.

159. Further, according to Article 125 (4) of the CPC, a "direct confrontation" (i.e. cross-examination) of a child victim/witness and a defendant is not permitted, regardless of the offence committed.

160. However, GRETA was told that, in practice, it is common to have at least two interviews, one at the beginning of the criminal proceedings and another one once charges have been pressed against a defendant. According to the Slovak authorities, this may occur because of the necessity to comply with the procedural rights of the accused.

161. In 2018 a project called "Special hearing rooms for child victims and other particularly vulnerable victims of crime" was launched in the Slovak Republic. The project is co-financed by the European Union's Internal Security Fund. In addition to the setting up of adapted hearing rooms, the project is aimed at increasing the professional competence of police officers in related investigations.

162. There are only three specially adapted interviewing rooms for child victims of crime in the Slovak Republic (see also paragraph 130). One of them is hosted by the Police Academy, but it is reportedly mainly used for training and study visits. Two NGOs also have specially adapted interviewing rooms, both of which were visited by GRETA: the Slniečko Crisis Centre in Nitra, and Náruč, a specialised NGO for support of sexually abused and trafficked children, located in Žilina. These interviewing rooms make it possible for different professionals to interview children at the same location. The recorded and transcribed interviews are used as evidence in court.

163. GRETA was informed that, in practice, the police are reluctant to make use of the special interviewing rooms, and conduct interviews with children at police stations. The Police Academy has for two years held training courses for police officers in how to interview children. However, civil society representatives considered that police officers still lacked sufficient training in this regard. At interviews with child victims of crime, a police investigator interviews the child in the presence of a prosecutor, a psychologist, the child's guardian, the defence lawyer and a statutory representative of the injured party; thus there are a number of persons present, which can be stressful for the child, especially if specially adapted interviewing rooms are not used.

164. GRETA was also informed that the role of court psychologists tends to be decisive in determining the credibility of a child witness. NGOs expressed the hope that criminal procedures would become more evidence-based as opposite to testimony-based, in order to relieve child witnesses of pressure.

165. Another concern of GRETA is that following amendments to the CPC, which entered into force on 1 January 2019, the previously obligatory child-care professional was replaced by two lawyers in the composition of professionals whose presence is mandatory at interviews with child victims. The reason for this, according to the Slovak authorities, is that childcare professionals do not have legal training enabling them to represent child victims' legal interests. However, according to information obtained during the visit, the lawyers in question rarely have training on how to deal with children, and since the remuneration they receive for this task is modest, they often have little interest in taking part. Because there is a shortage of persons representing the different professional groups required to be present when children are interviewed, criminal proceedings are often delayed or stalled. The Slovak authorities informed GRETA that the provisions on the mandatory presence of certain professionals when children are interviewed will be reviewed.

166. There is ongoing training of police officers on the rights and needs of child victims during criminal proceedings, and it is expected that 350 officers will have received such training by the end of 2021.

167. In 2015, Act 480/2002 on Asylum was amended, as well as other laws which concern vulnerable victims, including children.<sup>49</sup> As a result of these legislative changes, child asylum seekers, including possible victims of THB, are placed in children's homes, thereby preventing access to them by adult asylum seekers who could possibly be traffickers and offering better protection.

168. **GRETA urges the Slovak authorities to ensure that child victims of THB are afforded special protection measures in practice, including in the context of interviews, both as regards the competencies of the professionals present and the environment in which the interviews are conducted. In this context, GRETA refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, which recommend that all professionals working with children receive necessary interdisciplinary training on the rights and needs of children.**<sup>50</sup>

### c. role of businesses

169. In 2016, Act No. 82/2005 on Illegal Employment (Article 7b (5) et seq.) established a liability (co-responsibility for illegal employment) on the part of the corporation or other recipient of a service under a contract from a service provider who uses illegally employed natural persons. The sanction against the recipient for accepting a service or work carried out by illegally employed workers is a fine in the same amount as may be imposed on the contractor for violating the prohibition of illegal employment. By way of example, if a company in a neighbouring country to the Slovak Republic hires a worker under illegal employment terms and sends him to work at a company in the Slovak Republic, then both the sending and the receiving company may be the subject of corporate fines of between 2 000 and 200 000 Euros. Natural persons may be fined too.

170. On 13 November 2015, the Slovak Parliament adopted Act 91/2016 on Criminal Liability of Legal Persons, which entered into force on 1 July 2016. It aims to punish crimes occurring predominantly in areas such as international drug trade, human trafficking, sexual abuse, money counterfeiting and money laundering, data security and system integrity, preservation of the environment, terrorism, corruption and extremism.

171. GRETA was not informed of any specific initiatives to prevent and eradicate trafficking from companies' supply chains, to support the rehabilitation and recovery of victims, or to provide access to effective remedies explicitly aimed against THB.

<sup>49</sup> In particular, Articles 134 and 135 of the CPC (see paragraph 128, 157 and 159).

<sup>50</sup> [Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice](#) (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies).

172. **GRETA considers that the Slovak authorities should proactively engage with the private sector, in line with the UN Guiding Principles on Business and Human Rights<sup>51</sup> and Council of Europe Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business,<sup>52</sup> with a view to raising awareness of the important role and responsibility of businesses to prevent human trafficking in their supply chains, to support the rehabilitation and recovery of victims, and to provide access to effective remedies.**

#### **d. measures to prevent and detect corruption**

173. Trafficking in human beings may be engaged in by organised criminal groups, which frequently use corruption to circumvent the law, and money laundering to conceal their profits, but it can occur in other contexts. Consequently, other Council of Europe legal instruments are also relevant to combating human trafficking, in particular those designed to combat corruption, money laundering and cybercrime. The Council of Europe body with the main role to play in the fight against corruption is the Group of States against Corruption (GRECO). Its country reports are relevant in addressing structural shortcomings in preventing corruption, including potentially in a THB context.

174. Based on Government Resolution 585/2018 of 12 December 2018, a decision was taken to establish the position of National Anti-corruption Co-ordinator in order to monitor and set up policies for preventing corruption and identifying risk areas. According to the Slovak authorities, there is no evidence of corruption or related misconduct in the reference period by a public official in the context of THB.

175. According to the Slovak authorities, corruption in the police is a highly latent phenomenon. The manner in which police officers are involved in corruption is sophisticated and difficult to document, since it involves a specific group of perpetrators familiar with criminal tactics and techniques, investigative procedures and methods.<sup>53</sup> According to a Eurobarometer report on corruption for 2017, 45% of Slovak respondents felt that the taking of bribes and use of power for personal gain was widespread in the police, above the EU average, which stands at 31%<sup>54</sup> There is a Code of Conduct for the police forces, which includes provisions against corruption.<sup>55</sup> In its August 2019 report on the Slovak Republic, GRECO recommended that the fight against corruption within the police be strengthened by: (i) establishing an operational anti-corruption strategy on the basis of risk assessments identifying risk areas and measures to mitigate such risks and (ii) determining concrete measures for its implementation.

176. According to Article 14 of the CPC, all corruption cases are dealt with by the Specialised Criminal Court (see paragraph 93).

177. An anti-corruption programme was adopted by the Ministry of the Interior in August 2019 (linked to the Anti-Corruption Policy of the Slovak Republic for 2019 – 2023, adopted by Government Resolution No. 585/2018 of 12 December 2018) to minimise corruption risks, strengthen the integrity of both the organisation and individual officials in the fight against corruption, and awareness-raising in this area.<sup>56</sup> GRETA met representatives of the Anti-Corruption Unit of the National Crime Agency of the Presidium of the Police. The main task of this unit is to detect corruption, whereas other Police units are responsible for investigating such suspected instances of corruption. Each Government sector is obliged to develop its own anti-corruption programme. Further, there is a national anti-corruption policy, and software has been created for identifying sectors at risk of corruption and detect possible instances of corruption. The software is module-based, and it might be possible to add a module related to THB.

<sup>51</sup> [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

<sup>52</sup> [Recommendation CM/Rec\(2016\)3](https://rm.coe.int/cmrec20163) of the Committee of Ministers to member States on human rights and business, adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies.

<sup>53</sup> GRECO fifth evaluation round report on the Slovak Republic (GrecoEval5Rep(2018)9), paragraph 162, available at: <https://rm.coe.int/grecoeval5rep-2018-9-final-eng-slovakrep-public/168096d061>

<sup>54</sup> <https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/Survey/getSurveyDetail/search/corruption/surveyKy/2176>

<sup>55</sup> Regulation of the Minister of the Interior No. 3/2002 on the Code of Ethics of the Police Force.

<sup>56</sup> Available at: [https://www.bojprotikorupcii.gov.sk/data/files/7130\\_protikorupcna-politika-sr-2019-2023.pdf](https://www.bojprotikorupcii.gov.sk/data/files/7130_protikorupcna-politika-sr-2019-2023.pdf)

178. In 2011 the Slovak judiciary underwent a major reform aimed at addressing the low levels of trust in the judiciary amongst the population. The reform brought with it an obligation to publish all judicial decisions online, with some clearly defined exceptions. Positive results of the reform appear to include an increased speed of judicial decisions and an increased share of district court decisions confirmed by appeal courts. Nonetheless, public trust in the judiciary had not increased by 2016, when a poll was carried out.<sup>57</sup>

179. **GRETA considers that the Slovak authorities should include, as a matter of priority, measures against corruption in a THB context in the overall policies against corruption, as well as further develop the existing software by including a module related to THB.**

## V. Follow-up topics specific to the Slovak Republic

### 1. Measures to prevent THB for the purpose of labour exploitation

180. In 2015, Act 351/2015 on Transborder Co-operation in the Posting of Workers in the Performance of Work or Services was adopted.<sup>58</sup> This Act establishes joint responsibility in the Slovak Republic of the service provider and its direct subcontractor, who is the employer of the posted employee, as regards compliance with legislation on minimum wage and wage compensation rules for overtime work in the Slovak Republic. The legislation can be imposed across the EU, for example in case a company with a base in an EU country neighbouring the Slovak Republic illegally employs workers and then sends them to work for a company in the Slovak Republic.

181. The main objective of the labour controls by the national and regional labour inspectorates and associated bodies is to detect and investigate any cases of illegal employment under Act 82/2005, for instance work conducted by persons without a contract, or omissions by employers to register workers with the Social Insurance Company and/or to make related social insurance payments. The National Labour Inspectorate has prepared a methodological guideline for labour inspectorates on how to detect illegal employment, which lists indicators for THB and defines referral steps that labour inspectors should follow, should they detect any presumed victims of THB. The labour inspectors also verify the presence of work and related permits amongst third-country nationals.

182. In addition to regular labour inspections carried out solely by labour inspections, the National Labour Inspectorate, the Labour, Social Affairs and Family Headquarters, and the Border and Aliens Police perform joint inspections, in line with two 2013 agreements between these authorities on joint inspections and other joint action to fight illegal labour and employment. During such joint inspections the police mainly focus on searching for irregularly present aliens. The police are also tasked with identifying victims of THB, though they tend to take an approach of immigration control to such inspections.

183. The activities of temporary employment agencies may be exercised by a legal person or a natural person on the basis of an authorisation issued by the Centre for Labour, Social Affairs and Family. Under Article 30 (1) of the Employment Services Act, the temporary employment agency must ensure the protection of the workers it hires and seconds, as regards conditions of employment and work. Pursuant to the same instrument, employment intermediaries and temporary employment agencies must submit annual activity reports and by other means make it possible for the authorities to check compliance with applicable legislation. Violations of the Employment Services Act may be penalised with a fine of up to approximately 33 000 Euros. Further relevant legislation regulating secondments of employees and the activities of temporary employment agencies can be found in Act 5/2004 on Employment Services and on

<sup>57</sup> Let's Judge the Judges. How Slovakia opened its Judiciary to unprecedented Public Control by Samuel Spáč, Matej Šimalčík and Gabriel Šipoš, Transparency International Slovakia 2018, page 2.

<sup>58</sup> The law is a transposition of the Directive 96/71/EC concerning the posting of workers in the framework of the provision of services. Directive 96/71/EC was amended by Directive 2018/957 EU, but the Slovak legislation does not appear to have been updated accordingly.



Amendments to Some Laws as amended. Labour inspectors regularly inspect temporary employment agencies to verify compliance with applicable legislation.

184. Labour inspectors have undergone training related to posting of workers, temporary assignments and employment by temporary employment agencies, but not all labour inspectors have received training on THB (see paragraph 138).

185. Articles 58 and 58a of the Labour Code are meant to protect temporary employees. They have been amended to prohibit temporary employers from lending temporary workers onward to other temporary employers. Furthermore, pursuant to Article 58 (6) of the Labour Code, temporary secondments of employees to the same employer are limited to a maximum of 24 months. Further, temporarily seconded employees' terms and conditions of employment, including wages, must be at least equally favourable compared to other employees of the company to which they are seconded to work. This also applies to temporary employees seconded from other EU Member States to work at companies in the Slovak Republic. However, GRETA was told that this provision, due to ignorance or intentional breaches, is not always respected by companies seconding employees to the Slovak Republic from neighbouring countries. To ensure compliance with its own obligations, the company to which a seconded employee is sent by another company or temporary employment agency has, according to Article 58a(4) of the Labour Code, the right to request proof from the seconding company that the seconded employee has received the agreed wages and any other agreed form of compensation.

186. **While welcoming the legislation regulating temporary work, GRETA considers that the Slovak authorities should ensure that the relevant legislation is effectively enforced and should take further steps to prevent trafficking for the purpose of labour exploitation, including by:**

- **strengthening the monitoring of recruitment and temporary work agencies, as well as business supply chains;**
- **strengthening the monitoring of foreign companies which send workers to the Slovak Republic and controlling the authenticity and legality of work contracts and other relevant documentation;**
- **encouraging businesses sending or receiving posted workers to guarantee the protection of human rights, as well as the principle of vigilance and due diligence, including measures to secure traceability and transparency;**
- **continually assessing the implementation of legal provisions on corporate liability with regard to trafficking offences.**

## **2. Measures to prevent trafficking in children**

187. The statistics in paragraph 12 indicate an increase in the number of identified child victims of THB, including more cases of arranged, forced or sham marriages.



188. In October 2017, the national project "Support for the Protection of Children against Violence", which according to the Slovak authorities includes child victims of THB, was launched. The project aims at improving co-ordination between relevant professionals and institutions such as the police, the Office of the Public Prosecutor, courts, healthcare providers, schools and child protection bodies. As part of the project, the position of Co-ordinator for the Protection of Children against Violence was created in 2017. The co-ordinator organises training activities and meetings at regional level, involving relevant parts of the State administration, the police, educational facilities, municipalities and health care providers, as well as civil society representatives such as NGOs, religious associations and sport clubs. If there appears to be a higher number of child marriages in a region, that would be a topic for particular attention by the co-ordinator. Prevention of THB has been one of the topics addressed by the co-ordinator in the regions since she took up her duties in February 2018.

189. Following amendments made in 2015 to Act 480/2002 on Asylum and on Amendments to Some Laws, unaccompanied asylum-seeking children are to be accommodated in children's homes. According to the Slovak authorities, this is also a measure to prevent any threats from traffickers. Upon a motion from the Office of Labour, Social Affairs and Family, all asylum-seeking unaccompanied children are placed by court decision in the home for unaccompanied children in Medzilaborce, which operates under the Ministry of Labour, Social Affairs and Family. The home is located in a remote area close to the borders with Poland and Ukraine. The home employs a psychologist, a nurse, a social worker, a special-needs educator and 17 tutors. Interpreters are used for any important communications. In recent years, the number of children accommodated at the home has averaged 20, but in 2019, the number of newly-accommodated unaccompanied children rose to 76 (of whom 28 applied for asylum, 40 were granted tolerated residence, five were repatriated, one was voluntarily returned to the country of origin and two were over 18 years old). The Slovak authorities have indicated that the majority of these children have left the home, which operates an open regime, and that the police are immediately informed when a child absconds, in order to launch a search for them. At the time of writing, there were 12 children accommodated at the home.

190. Unaccompanied children are viewed as belonging to a vulnerable group at risk of being trafficked, and the possibility that the child has already been trafficked is always considered. All employees of the Office of Labour, Social Affairs and Family have undergone training on THB. The Slovak authorities have indicated that the Migration Office of the Ministry of the Interior pays special attention to the identification of victims of THB amongst unaccompanied asylum-seeking children. A work meeting was held at the Ministry of Labour, Social Affairs and Family in 2019 on the initiative of the Information Centre, concerning child victims of THB. The meeting was attended by representatives of the Ministry of the Interior (Information Centre and National Unit), representatives of social protection of children and social care services, the Ministry of Foreign and European Affairs, and the Centre for International Protection of Children and Youth.

191. The local branch of the Office of Labour, Social Affairs and Family of Medzilaborce acts as a guardian. All unaccompanied children at the Medzilaborce home are immediately registered in the Slovak health care system, to which they have the same access as any Slovak child.

192. The first ever Commissioner for Children in Slovakia was appointed in December 2015. This is an independent institution reporting to Parliament, with extensive powers to investigate cases, including to interview children. The Public Defender of Rights is also mandated to examine matters related to children's rights. The Public Defender of Rights has drafted a report on child-care institutions, which is available on the Slovak Parliament's website.<sup>59</sup>

193. Further, the Ministry of Education, Science, Research and Sport has provided guidance to schools, which includes chapters dealing with awareness-raising on, and prevention of, THB.

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<https://www.nrsr.sk/web/Default.aspx?sid=zakony/zakon&MasterID=6187>

194. **While noting the potentially important role which the Co-ordinator for the Protection of Children against Violence and the Commissioner for Children can play in respect of preventing and combating THB, GRETA considers that the Slovak authorities should continue making efforts to prevent child trafficking, including by sensitising and training child protection professionals across the country, raising children's awareness of their rights and the risks of human trafficking (including recruitment and abuse through Internet/social networks), paying particular attention to children leaving institutions, Roma communities and unaccompanied children.**

### **3. Measures to discourage demand**

195. As regards THB for the purpose of labour exploitation, the Slovak authorities consider labour inspections visiting company sites as a measure aimed at discouraging demand.

196. Other measures to discourage demand are undertaken by means of campaigns which on the one hand inform the public, including any particular target groups, about sentences given to traffickers, and on the other hand appeal to the conscience of potential users of services of victims of THB, by publishing accounts of the plight of trafficking victims.

197. The representatives of the Information Centre for Combating Trafficking in Human Beings and for Crime Prevention give presentations about THB to students in schools and universities, mainly aimed at preventing the target group from falling victim to THB. The presentations also serve to discourage any use of services of victims of THB.

198. GRETA recalls that pursuant to Article 19 of the Convention, Parties must consider making it a criminal offence to knowingly use the services of a victim of trafficking. This provision targets the client whether of a victim of trafficking for sexual exploitation or of a victim of forced labour or services, slavery or practices similar to slavery, servitude or organ removal. **GRETA considers that the Slovak authorities should adopt legislative measures to criminalise the use of services of a victim of trafficking, with the knowledge that the person is a victim of THB, regardless of the form of exploitation, as stipulated by Article 19 of the Convention.**

199. **Further, GRETA considers that the Slovak authorities should strengthen legislative, administrative, educational, social, cultural or other measures to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society, trade unions and the media, including by:**

- **implementing educational programmes at schools which stress the importance of gender equality and respect for the dignity and integrity of every human being, as well as the consequences of gender-based discrimination;**
- **raising awareness of trafficking and other forms of sexual and gender-based violence;**
- **working closely with the private sector, in line with the Guiding Principles on Business and Human Rights.<sup>60</sup> As regards the Guiding Principles, reference is made to the recommendation in paragraph 172.**

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<sup>60</sup> Implementing the United Nations "Protect, Respect and Remedy Framework", HR/PUB/11/04, United Nations, 2011, available at: [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

## 4. Identification of victims of THB

200. Labour inspectors are obliged to look for indicators of THB while investigating possible cases of illegal employment. Such indicators include whether the employees are in control of their own identification documents and whether the employee is free to speak freely to the labour inspectors without the presence of other persons at the workplace. Labour inspectors are obliged to inform the police if they discover that employees are forced to work, the work does not correspond to the work agreed on, workers' personal freedom is restricted, workers are being intimidated by their employer or middlemen, workers' wages are withheld or not paid in full or withdrawn from the bank account of the employee to pay alleged costs of travel, accommodation or the employment offer.

201. Pursuant to Article 150 of the Labour Code (311/2001), any employee has the right to file a complaint to the Labour Inspectorate, if they are injured due to a breach of regulations by the employer. However, upon discovering irregularly present and employed third-country citizens, labour inspectors in practice contact the Aliens Police and the irregular migrant is deported, which provides a disincentive for any irregular foreign workers to contact or even speak to labour inspectors about breaches of contract or regulations at a workplace (see paragraph 182). It would therefore appear that labour inspectors and other bodies participating in inspections of workplaces pursue objectives of immigration control with regard to third-country workers, rather than detecting cases of trafficking for the purpose of labour exploitation and referring presumed victims to assistance. **GRETA urges the Slovak authorities to sensitise labour inspectors and other relevant officials involved in labour inspections about THB for the purpose of labour exploitation and the rights of victims, and to instruct them to take a victim-centred approach, rather than one based on immigration control.**

202. According to a representative of the Migration Office of the Ministry of the Interior, asylum seekers are asked a set of questions meant to identify potential victims of THB in the context of determining what is referred to as their social profile. If these questions lead to suspicions about THB, more relevant questions are asked during the actual asylum interview. Leaflets for the purpose of self-identification by victims of THB are available in reception centres and other facilities where asylum seekers are present. The Slovak authorities have indicated that one asylum seeker was identified as a victim of THB in 2016, and was referred to the Victim Support Programme.

203. As noted in paragraph 209, the decisions taken by police officers about whether to place asylum seekers in open asylum reception centres or in detention centres appear rather arbitrary. According to Section 88a of Act 404/2011 on the Residence of Aliens and on Amendments to Certain Acts, asylum seekers may be kept in detention for up to six months, including in order to establish whether there are grounds for their asylum claims.<sup>61</sup>

204. The Centre for Legal Aid visits the two immigration detention centres, but only one of the two frequently and the other relatively rarely. The staff of the Centre for Legal Aid in Bratislava is not trained on indicators of THB, but GRETA noted that the staff of the Centre for Legal Aid in Kosice is more familiar with THB issues (see also paragraph 52).

205. The NGO Human Rights League provides legal counselling to asylum seekers held in the two immigration detention centres, and its staff is trained in detecting victims of THB. It usually visits the centres at least every second week, although, as noted in paragraph 53, a three-month break in visits occurred, caused by insufficient health checks of the detainees, revealed when a detainee was diagnosed with advanced tuberculosis. Subsequently, it emerged that the public health insurance company has stopped paying for pulmonological X-ray examinations. As of July 2019, comprehensive health checks have been carried out at the migration detention centres.

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<sup>61</sup> An English translation of the law can be found on the website of the Ministry of the Interior: <https://www.minv.sk/?residence-of-an-foreigner>

206. IOM has in the past provided training to staff in detention and reception centres on how to identify victims of THB, but not in recent years. According to civil society representatives, the current staff of the immigration detention centres do not appear to have been trained on THB.

207. According to a report by the international NGO Global Detention Project,<sup>62</sup> foreign victims of trafficking, including single women, who are not included in the Victim Support Programme, may be placed in the Medved'ov immigration detention centre pending expulsion. These detention facilities are deemed unsuitable for vulnerable persons, and none of the staff are trained in dealing with trauma.<sup>63</sup> No victims of THB have been formally identified since 2015 in the immigration detention centre in Medved'ov, which was visited by GRETA. According to the Head of the immigration detention centre, there had been some irregular migrants at the immigration detention centre who were considered as possible victims of THB. They were offered support but, as they only wanted to return to their home countries and were not interested in support measures in the Slovak Republic, they were kept at the centre until their deportation. At the time of GRETA's visit, there were 10 detainees, four of whom were asylum seekers. According to the Head of the immigration detention centre, there are at all times police officers present who speak English, German and Russian, and trained interpreters can be provided by the NGO Slovak Humanitarian Council, which can also arrange for psychologists to attend the detention centre. According to the Slovak authorities, the Slovak Humanitarian Centre, under a two-year contract with the Ministry of the Interior which entered into force as of 1 January 2020, continues to provide legal, social and psychological assistance to asylum seekers held at the Medved'ov migration detention centre. The NGO employs a social worker who has been trained in identification of victims of THB.

208. According to representatives of the Migration Office, the risk of re-trafficking could constitute a ground for asylum, based on humanitarian considerations.

209. As regards asylum decisions, the regional courts (administrative section) serve as the first instance of appeal and the Supreme Court as the second instance. The deadlines for appealing asylum decisions are short, namely 30 days as regards negative asylum decisions and 20 days if the decision is about the eligibility of the asylum application. As noted in paragraph 203, some of the asylum seekers in the Slovak Republic are placed in immigration detention centres. The decisions taken by the Border and Alien Police about whether to place asylum seekers in open asylum reception centres or in detention centres appear rather arbitrary. Given that many victims of trafficking in Europe are detected amongst asylum seekers, the absence of any systematic efforts to detect victims of THB amongst asylum seekers or even to provide reliable and timely legal information to asylum seekers, including on the rights of victims of THB, appears problematic. Furthermore, there are reportedly occasional problems with the quality and impartiality of the interpretation services.

**210. GRETA urges the Slovak authorities to pay increased attention to detecting victims of trafficking amongst asylum seekers and persons placed in immigration detention centres. In this context, further training on the identification of victims of trafficking should be provided to staff of reception centres and immigration detention centres, including medical staff present at, or visiting, such centres. The Slovak authorities should ensure that as soon as there are reasonable grounds to believe that a foreign national placed at the Medved'ov immigration detention centre is a victim of THB, he or she is moved to a shelter for victims of THB.**

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<sup>62</sup> <https://www.globaldetentionproject.org/>

<sup>63</sup> Global Detention Project Country Report; Immigration Detention in Slovakia: Punitive Conditions Paid for by the Detainees, January 2019, page 13. Available at: <https://www.globaldetentionproject.org/immigration-detention-slovakia-punitive-conditions-paid-detainees>

## 5. Assistance measures

211. On 1 January 2019 the new Regulation of the Ministry of the Interior of the Slovak Republic no. 144/2018 of 10 December 2018 on securing a programme for the support and protection of victims of trafficking in human beings entered into force. It repeals Regulation no. 180/2013 on the same matter.<sup>64</sup> The new Regulation, similarly to the one it replaced, provides that if on the basis of available information it may be concluded that a person is a victim of THB, the body having detected the victim should inform them about the Victim Support Programme and propose their inclusion in the programme. The regulation establishes procedures for assistance, including eventual assisted voluntary return of victims.

212. As noted previously, the responsibility for implementing all parts of the Victim Support Programme currently lies with the Slovak Catholic Charity, following Government calls for tenders for this purpose. In implementing the Victim Support Programme, the Slovak Catholic Charity has a partnership agreement with the Greek Catholic Church to provide some assistance services to victims of THB in the eastern parts of the Slovak Republic. In addition, the Slovak Catholic Charity has contracts with other service providers which provide specific services.

213. Assistance to victims of THB is divided into several phases. The first phase lasts 90 days, considered as a period for crisis intervention, during which victims who enter the Victim Support Programme receive accommodation, medical care, social counselling and assistance, material support, psychological counselling and legal counselling. In the second phase, also consisting of 90 days and referred to as an "integration period", the victims receive further counselling and training, as well as support in finding accommodation and employment. Beyond 180 days, if the victim co-operates in the criminal proceedings, the assistance can continue for the duration of the proceedings.

214. In 2018, Act 366/2018 amended the legislation on social and health insurance. These amendments facilitated the provision of public health insurance to victims of THB enrolled in the Victim Support Programme. According to Act 580/2004 on Health Care Insurance, a victim who has entered the Support Programme is entitled to full health care services. Victims who are not in the Programme are only entitled to emergency health care.

215. GRETA notes that in the years 2016-2018 only 57 out of 189 presumed victims of THB (30 %) agreed to enter the Victim Support Programme. GRETA is concerned about the low participation in the programme, which means that two thirds of all victims of THB are left without assistance, including legal assistance and medical care.

216. **GRETA considers that the Slovak authorities should examine the reasons for the low participation in the Victim Support Programme and ensure that all victims of trafficking receive assistance according to their needs.**

## 6. Identification of, and assistance to, child victims of trafficking

217. The Office of Labour, Social Affairs and Family has a statutory duty to report any suspected offences against a child to the police. If there is suspicion of THB, the National Unit for Combating Illegal Migration of the Border and Alien Police is to be contacted. So far one girl staying at the children's home in Medzilaborce (see paragraphs 189-191) was identified as a victim of THB; an investigation concerning another suspected girl victim of THB is underway. The 16-year old presumed girl victim of THB was receiving therapy and other forms of specialised assistance at the time of GRETA's visit to the Slovak Republic. The girl has been moved to the centre for children and families in Prešov, which is developing a specialisation in child victims of THB (see paragraph 221).

<sup>64</sup> See paragraph 83 of GRETA's second report on the Slovak Republic.

218. In order to harmonise the procedures of law enforcement agencies and child welfare officials a methodological tool was developed for the provision of assistance to victims of THB, with a special focus on children and foreigners. Further, there are guidelines on social protection measures for children, the wording of which was developed in co-operation with the Information Centre for Combating Trafficking in Human Beings and Crime Prevention of the Ministry of the Interior.

219. The Slovak authorities have not been able to provide GRETA with details about the circumstances in which most child victims of THB have been identified in the reporting period, but it seems probable that many of the identified child victims were identified by foreign authorities abroad. According to the Slovak authorities, the identification of a child victim of trafficking inside the Slovak Republic is carried out by Centres for Social Law Protection, in co-operation with NGOs working with victims of THB.<sup>65</sup> They may also be identified by the Border and Aliens Police when there are unaccompanied children crossing the border.

220. GRETA was told about one case in which a 12-year old Roma girl had been sold by her parents for 3500 Euros to the parents of a 14-year old boy, for the purpose of an arranged marriage. The girl was forced to move to live with the boy's family. A schoolteacher who had noticed marks on the girl's neck filed a complaint under the heading of "endangering moral upbringing". The social services took the girl from school to a crisis centre for children. The police started investigating the case as THB and the girl indicated her willingness to testify, despite pressure from her parents not to. The case was pending at the time of GRETA's visit.

221. The centre for children and families in Prešov has as of 1 January 2019 responsibility for, amongst other groups of vulnerable children, child victims of THB. It has capacity to accommodate a maximum of eight child victims of THB. Child victims of THB benefit from psychological and therapeutic support as well as educational support. There are 19 staff members with particular responsibility for child victims of THB at the centre, including a social worker, a special educator and a psychologist. The Prešov centre is developing a manual to be used in the care of child victims of THB, expected to be ready in March 2020. The Office of Labour, Social Affairs and Family is making efforts to arrange various training opportunities for the staff at the Prešov centre, in order to allow them to develop their specialisation in working with child victims of THB.

222. The amended version of the Act on Legal Protection of Children and Guardianship (Act 305/2005) entered into force in April 2018. The Act as amended aims to facilitate access to specialised assistance for children in need of particular protection, as well as to provide support to the children's families, while at the same time promoting de-institutionalisation as regards care of children in need of particular support and protection. The Act is meant to improve support of the children in their family context in a timely manner, before the difficulties have grown to a level in which the child would need to be taken out of the family and placed in a child-care institution. As part of this process, centres for children and families have been set up since 1 January 2019.

223. The Institute for Labour and Family Research was commissioned to prepare a study on the reasons why unaccompanied children abscond from child-care facilities. Unaccompanied children were interviewed for the study, as was the guardian at the children's home in Medzilaborce. One challenge in making the study was the limited number of unaccompanied children concerned, making the sample researched rather small. The results of the study are available on the website of the institute.<sup>66</sup> The Ministry of Labour, Social Affairs and Family was at the time of writing in the process of drawing operational conclusions from the study. **GRETA would like to be kept informed of the follow-up given to the study and its conclusions.**

<sup>65</sup> See paragraph 109 of the second GRETA report on the Slovak Republic.

<sup>66</sup> [https://www.ceit.sk/IVPR/images/IVPR/vyskum/2017/Fico/ivpr\\_mbs\\_interna\\_verzia2\\_net.pdf](https://www.ceit.sk/IVPR/images/IVPR/vyskum/2017/Fico/ivpr_mbs_interna_verzia2_net.pdf) (in Slovak language).



224. In its second report, GRETA invited the Slovak authorities to review its age assessment procedures, ensuring that the best interests of the child are effectively protected, and 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. To GRETA's knowledge, no such review has taken place. The Slovak authorities have affirmed that a carpal (wrist) X-ray is the most used and accepted method for age assessment. Based on the position of experts from health-care services, assessment techniques such as cognitive, behavioural and psychological assessment are not seen as sufficient. GRETA refers to the Council of Europe Parliamentary Assembly Resolution 2195 (2017) "Child-friendly age assessment for unaccompanied migrant children", which calls on Council of Europe member States, *inter alia*, to use only as a last resort dental or wrist x-ray examinations and all other invasive medical procedures for the purpose of determining the age of unaccompanied or separated migrant children, to ensure that all medical examinations are sensitive to the child's gender, culture and vulnerabilities and that the interpretation of results takes into account the child's national and social background as well as previous experiences; to prohibit, in all situations, the use of physical sexual maturity examinations for the purpose of determining the age of unaccompanied and separated migrant children, and whenever possible, to ensure that the procedure of age assessment is carried out by professionals acquainted with the children's ethnic, cultural and developmental characteristics.<sup>67</sup>

**225. GRETA welcomes the issuing of a methodological tool for the provision of assistance to victims of THB, with a special focus on children and foreigners, as well as guidelines on social protection measures for children and the specialisation of the centre for children and families in Prešov to deal with child victims of THB.**

**226. GRETA considers that the Slovak authorities should take steps to ensure that full use is made of the methodological tool and guidelines in training of relevant professionals.**

## **7. Recovery and reflection period and residence permit**

227. In its second report, GRETA concluded that the existing legal provisions do not satisfy the requirements of Article 13 of the Convention regarding the recovery and reflection period.

228. The legal situation has remained unchanged. The Act on Residence of Foreigners provides for "tolerated residence" which, according to the Slovak authorities, is equivalent to a recovery and reflection period for the purposes of the Convention. Pursuant to Article 58(2), point c, of this Act, a police department shall grant tolerated residence to a third-country national who is a victim of human trafficking, if he or she is at least 18 years old, and if there are no reasons for the refusal of an application as per Article 59(12).<sup>68</sup>

229. The police department or a person authorised by the Ministry of the Interior is responsible for informing the third-country national about the possibility and conditions for granting tolerated residence and the accompanying rights and duties. In relation to this provision, Article 59(1) states that "an application for the granting of tolerated residence as per Article 58(2), point c, shall be filed by the prosecuting authority on behalf of a third-country national." Pursuant to Article 58(4), point d, the duration of tolerated residence for victims of THB is up to 90 days, during which the person decides whether he/she would co-operate with the authorities in the investigation of the THB offence. This period can be extended by a further 30 days upon the request of a person authorised by the Ministry of the Interior.

<sup>67</sup> <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=24273>

<sup>68</sup> Pursuant to Article 59(12) of the Act on Residence of Foreigners, the grounds for refusing an application to grant tolerated residence are as follows: "a) a third-country national gives false or misleading data or submits falsified or counterfeited documents or a document of another person; b) does not fulfil the conditions for the granting of tolerated residence; c) a third-country national is an undesired person; d) s/he has not attached any document as per paragraph 3".

230. The Slovak authorities consider that the tolerated residence provided under Article 58 of the Act on Residence of Foreigners also serves the purpose of a residence permit for victims of THB. Article 59(6) of the Act on Residence of Foreigners states that a police department shall grant tolerated residence to victims of THB for at least 180 days if the presence of a third-country national in the Slovak Republic is necessary for the purpose of criminal proceedings. The residence permit can be renewed.

231. A tolerated stay may also be granted to a foreigner who has been illegally employed under particularly exploitative working conditions.

232. The Slovak authorities have referred to Internal Regulation No. 144/2018 of the Ministry of the Interior, which regulates the provision of assistance measures to third-country nationals who are victims of THB. According to the authorities, this internal regulation covers the tolerated residence permit conditions.

233. No third-country nationals have been granted tolerated stay as victims of THB in the period 2015-2019.

234. **GRETA once again urges the Slovak authorities to provide in the national legislation for a recovery and reflection period when there are reasonable grounds to believe that a person is a victim of human trafficking, as provided for in Article 13 of the Convention, and to ensure that all possible victims of trafficking are offered an effective recovery and reflection period, as well as all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.**



## **Appendix 1: List of GRETA's conclusions and proposals for action**

### **Topics related to the third evaluation round of the Convention**

#### ***Right to information***

- GRETA considers that the Slovak authorities should take further steps to ensure that presumed victims of THB are given information to allow them to evaluate their situation and to make informed choices about the various legal possibilities available to them, and in particular:
  - provide the information in a language that the victim can understand, as established by the Convention, which may necessitate the use of qualified interpreters;
  - include specific information about the implications of being recognised as a victim of trafficking, in addition to general information on the rights of victims of crime, more specifically on the right to a recovery and reflection period and, where applicable, temporary residence, and the possibilities to receive legal aid and to claim compensation (paragraph 44).

#### ***Legal assistance and free legal aid***

- GRETA considers that the Slovak authorities should ensure that the staff of the Centre for Legal Aid are provided with training on the rights of victims of THB (paragraph 57);
- Further, GRETA considers that the Slovak authorities should strengthen their efforts to facilitate and guarantee access to justice by granting access to legal assistance to all victims of THB, regardless of whether they have entered the Victim Support Programme or not (paragraph 58).

#### ***Access to work, vocational training and education***

- GRETA welcomes the fact that foreign victims of trafficking have the right to work in the Slovak Republic, as well as the initiatives aimed at promoting the employability of persons from marginalised communities. Nevertheless, GRETA considers that the Slovak authorities should take further steps to strengthen effective access to the labour market for victims of THB and their economic and social inclusion through the provision of vocational training, raising awareness among potential employers, and the promotion of micro-businesses, social enterprises and public-private partnerships with a view to creating appropriate work opportunities for all victims of trafficking, including foreign nationals and persons from disadvantaged socio-economic backgrounds (paragraph 64).

#### ***Compensation***

- GRETA welcomes the legislative developments in the area of state compensation, but is concerned that only one victim of THB has so far received compensation from the State. Moreover, almost no victims of THB have been paid compensation by perpetrators. GRETA urges the Slovak authorities to facilitate and guarantee access to compensation for victims of trafficking, including by:
  - enabling all victims of trafficking, including irregular migrants, to exercise their right to compensation, by ensuring access to legal aid and legal assistance at the outset of the criminal proceedings;
  - building the capacity of legal practitioners to support victims in claiming compensation;

- ensuring that the collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation of the victim, is part of the criminal investigations with a view to supporting compensation claims in court;
- including compensation in existing training programmes for the judiciary so that judges are encouraged to use all the possibilities the law offers them to uphold compensation claims;
- introducing a procedure through which victims are entitled to obtain a decision on compensation from the offender as part of the criminal trial and requiring courts to state, where applicable, why compensation is not considered;
- making full use of the legislation on the freezing and forfeiture of assets to secure compensation to victims of THB (paragraph 87).

### ***Investigations, prosecutions, sanctions and measures***

- GRETA considers that the Slovak authorities should take further steps to ensure that all possible human trafficking offences are promptly investigated, regardless of whether a complaint about the reported crime has been submitted and notwithstanding the cultural context of the crime, making use of special investigation techniques in order to gather evidence and not having to rely exclusively on testimony by victims or witnesses. In this context, the Slovak authorities should take steps to ensure that all complaints about possible THB offences are registered and complainants are treated respectfully by the police. Moreover, property used to commit crimes or which can reasonably be considered to constitute proceeds of crime should be seized to the largest extent possible (paragraph 113);
- GRETA urges the Slovak authorities to take additional measures to ensure that THB cases lead to effective, proportionate and dissuasive sanctions. In this context, the authorities should continue providing training and develop the specialisation of investigators, prosecutors and judges to deal with human trafficking cases and to ensure that they are not re-qualified as other offences which carry lighter penalties and deprive victims of THB of access to protection, support and compensation (paragraph 114);
- GRETA reiterates its recommendation made in the second report that the offence of THB be excluded from the plea-bargaining procedure (paragraph 115).

### ***Non-punishment provision***

- GRETA once again urges the Slovak authorities to strengthen efforts to ensure compliance with the non-punishment provision, by extending its scope to cover all offences which victims of THB were compelled to commit, including administrative and immigration-related offences, as well as issuing guidance to police officers and prosecutors (paragraph 121).

### ***Protection of victims and witnesses***

- In order to protect victims' privacy and ensure their safety, GRETA urges the Slovak authorities to:
  - set up a sufficient number of specially adapted interview rooms around the country and systematically use them to interview children and other vulnerable victims of THB, and ensure that testimony given in such rooms is used in court;
  - to the extent possible, avoid cross-examination of the victim and the accused ("direct confrontation") and repeated questioning of victims in THB cases, and ensure the presence of a psychologist when vulnerable victims are being interviewed;
  - ensure a sufficient number of female investigators to conduct interviews with female victims of THB (paragraph 131).

- GRETA also considers that the Slovak authorities should make full use of all available means of providing protection to victims and witnesses of THB, including the witness protection measures provided for by Act 256/1998 (paragraph 132).

### ***Specialised authorities and co-ordinating bodies***

- GRETA welcomes the existence of police investigators specialised in THB crime and considers that the Slovak authorities should promote specialisation amongst other professional groups, such as prosecutors and judges (paragraph 144);
- Further, while welcoming the training provided already, GRETA considers that the Slovak authorities should take additional steps to ensure that all relevant professionals are trained regularly and systematically on preventing THB, identifying victims and referring them to assistance, as well as in prosecuting THB offenders. The training should be integrated in the regular training curricula of different professional groups, including law enforcement officials, prosecutors, judges, labour inspectors, social workers, child welfare staff, health-care staff, and diplomatic and consular staff (paragraph 145).

### ***International co-operation***

- GRETA welcomes the Slovak authorities' participation in multilateral and bilateral international co-operation, such as by means of JITs, and invites the Slovak authorities to strengthen international co-operation concerning the protection of victims of THB (paragraph 152).

### ***Child-sensitive procedures for obtaining access to justice and remedies***

- GRETA urges the Slovak authorities to ensure that child victims of THB are afforded special protection measures in practice, including in the context of interviews, both as regards the competencies of the professionals present and the environment in which the interviews are conducted. In this context, GRETA refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, which recommend that all professionals working with children receive necessary interdisciplinary training on the rights and needs of children (paragraph 168).

### ***Role of businesses***

- GRETA considers that the Slovak authorities should proactively engage with the private sector, in line with the UN Guiding Principles on Business and Human Rights and Council of Europe Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business, with a view to raising awareness of the important role and responsibility of businesses to prevent human trafficking in their supply chains, to support the rehabilitation and recovery of victims, and to provide access to effective remedies (paragraph 172).

### ***Measures to prevent and detect corruption***

- GRETA considers that the Slovak authorities should include, as a matter of priority, measures against corruption in a THB context in the overall policies against corruption, as well as further develop the existing software by including a module related to THB (paragraph 179).

## **Follow-up topics specific to the Slovak Republic**

### ***Developments in the institutional and policy framework for action against human trafficking***

- GRETA reiterates its recommendation from the second evaluation report and considers that the Slovak authorities should examine the possibility of establishing an independent National Rapporteur or designating an already existing independent mechanism for monitoring the anti-trafficking activities of state institutions (paragraph 15);
- GRETA welcomes the adoption of the fifth National Programme against Trafficking in Human Beings, covering the years 2019-2023, and considers that adequate funding should be ensured for its implementation (paragraph 22);
- Given the absence of an independent National Rapporteur, GRETA considers that the Slovak authorities should commission an external, independent evaluation of the implementation of the National Programme (paragraph 23).

### ***Measures to prevent THB for the purpose of labour exploitation***

- While welcoming the legislation regulating temporary work, GRETA considers that the Slovak authorities should ensure that the relevant legislation is effectively enforced and should take further steps to prevent trafficking for the purpose of labour exploitation, including by:
  - strengthening the monitoring of recruitment and temporary work agencies, as well as business supply chains;
  - strengthening the monitoring of foreign companies which send workers to the Slovak Republic and controlling the authenticity and legality of work contracts and other relevant documentation;
  - encouraging businesses sending or receiving posted workers to guarantee the protection of human rights, as well as the principle of vigilance and due diligence, including measures to secure traceability and transparency;
  - continually assessing the implementation of legal provisions on corporate liability with regard to trafficking offences (paragraph 186).

### ***Measures to prevent trafficking in children***

- While noting the potentially important role which the Co-ordinator for the Protection of Children against Violence and the Commissioner for Children can play in respect of preventing and combating THB, GRETA considers that the Slovak authorities should continue making efforts to prevent child trafficking, including by sensitising and training child protection professionals across the country, raising children's awareness of their rights and the risks of human trafficking (including recruitment and abuse through Internet/social networks), paying particular attention to children leaving institutions, Roma communities and unaccompanied children (paragraph 194).

### ***Measures to discourage demand***

- GRETA considers that the Slovak authorities should adopt legislative measures to criminalise the use of services of a victim of trafficking, with the knowledge that the person is a victim of THB, regardless of the form of exploitation, as stipulated by Article 19 of the Convention (paragraph 198);

- GRETA considers that the Slovak authorities should strengthen legislative, administrative, educational, social, cultural or other measures to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society, trade unions and the media, including by:
  - implementing educational programmes at schools which stress the importance of gender equality and respect for the dignity and integrity of every human being, as well as the consequences of gender-based discrimination;
  - raising awareness of trafficking and other forms of sexual and gender-based violence;
  - working closely with the private sector, in line with the Guiding Principles on Business and Human Rights (paragraph 199).

### ***Identification of victims of THB***

- GRETA urges the Slovak authorities to sensitise labour inspectors and other relevant officials involved in labour inspections about THB for the purpose of labour exploitation and the rights of victims, and to instruct them to take a victim-centred approach, rather than one based on immigration control (paragraph 201);
- GRETA urges the Slovak authorities to pay increased attention to detecting victims of trafficking amongst asylum seekers and persons placed in immigration detention centres. In this context, further training on the identification of victims of trafficking should be provided to staff of reception centres and immigration detention centres, including medical staff present at, or visiting, such centres. The Slovak authorities should ensure that as soon as there are reasonable grounds to believe that a foreign national placed at the Medved'ov immigration detention centre is a victim of THB, he or she is moved to a shelter for victims of THB (paragraph 210).

### ***Assistance measures***

- GRETA considers that the Slovak authorities should examine the reasons for the low participation in the Victim Support Programme and ensure that all victims of trafficking receive assistance according to their needs (paragraph 216).

### ***Identification of, and assistance to, child victims of trafficking***

- GRETA welcomes the issuing of a methodological tool for the provision of assistance to victims of THB, with a special focus on children and foreigners, as well as guidelines on social protection measures for children and the specialisation of the centre for children and families in Prešov to deal with child victims of THB (paragraph 225).
- GRETA considers that the Slovak authorities should take steps to ensure that full use is made of the methodological tool and guidelines in training of relevant professionals (paragraph 226).

### ***Recovery and reflection period and residence permit***

- GRETA once again urges the Slovak authorities to provide in the national legislation for a recovery and reflection period when there are reasonable grounds to believe that a person is a victim of human trafficking, as provided for in Article 13 of the Convention, and to ensure that all possible victims of trafficking are offered an effective recovery and reflection period, as well as all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period (paragraph 232).

## **Appendix 2: List of public bodies, intergovernmental organisations and civil society organisations met during the visit**

### **Public bodies**

- Ministry of the Interior, including:
  - National Co-ordinator for the Field of Combating Trafficking in Human Beings, State Secretary of the Ministry of the Interior
  - Information Centre for Combating Trafficking in Human Beings and Crime Prevention
  - Bureau of the Border and Alien Police
  - National Unit of Combating Illegal Migration, Department of Alien Police of the Presidium of the Police Force
  - Anti-Corruption Unit of the National Crime Agency (Presidium of the Police Force)
  - Criminal Police and National Crime Agency
- Ministry of Justice
- Ministry of Labour, Social Affairs and Family
- Ministry of Health
- National Labour Inspectorate
- Office of the Prosecutor General
- Regional Prosecutor's Offices in Žilina and Košice
- Specialised Criminal Court
- Regional Court (Galanta)
- District Court (Nitra)
- Judicial Academy
- Unit for Prevention of Corruption (Governmental Office)
- Centre for Legal Aid
- National Council (Parliament), Human Rights and Ethnic Minorities Committee
- Public Defender of Rights
- Office of the Plenipotentiary for Roma Communities

### **Intergovernmental organisations**

- International Organization for Migration

### **Civil society organisations**

- Centre for Research on Ethnicity and Culture
- Civil Association PRIMA
- Naruc
- People in Need Slovakia
- Slovak Catholic Charity (Caritas)

## **Government's comments**

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

GRETA engaged in a dialogue with the Slovak 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 Slovak authorities on 9 April 2020 and invited them to submit any final comments. The comments of the authorities, submitted on 19 May 2020, are reproduced hereafter.

Head of the Information Centre for  
Trafficking in Human Beings and for Crime  
Prevention of the Ministry of the Interior of  
the Slovak Republic

**Martina PUSSOVÁ**

Bratislava 15<sup>th</sup> May 2020  
Reg. No.: IC-3-084/2020

Dear Ms. Executive Secretary,

In relation to your letter of 9 April 2020 forwarded to our office with a copy of the final report adopted by the Group of Experts on Action against Trafficking in Human Beings within the third evaluation round on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, on behalf of the Slovak national rapporteur, I enclose herewith the final comments by Slovak authorities.

We will be awaiting publication of the final report as well as adoption of the recommendations by the Committee of the Parties to the Convention. In the subsequent period we will do our utmost to work towards the improvements based on the recommendations outlined in the final report.

Yours sincerely,



Dear Ms.

**Petya Nestorova**  
Executive Secretary  
Council of Europe Convention on  
Action against Trafficking in Human Beings

**Strasbourg**



## Government's Comments on the Final GRETA Report on the Slovak Republic

**(16.) The Information Centre for Combating Trafficking in Human Beings and Crime Prevention of the Ministry of the Interior maintains its role as National Rapporteur for THB. In 2015 the Centre was placed directly under the Office of the State Secretary within the structure of the Ministry of the Interior, in order to facilitate communication in THB matters. As previously noted by GRETA, the key features of National Rapporteurs' mechanisms within the meaning of Article 29, paragraph 4, of the Convention should be the ability to critically monitor the efforts and effectiveness of all state institutions, including national co-ordinators, and to that end maintain a constant exchange with civil society, the research community and other relevant stakeholders. A structural separation between these monitoring functions and executive functions makes possible an objective evaluation of the implementation of anti-trafficking legislation, policy and activities, identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations. GRETA reiterates its recommendation from the second evaluation report and considers that the Slovak authorities should examine the possibility of establishing an independent National Rapporteur or designating an already existing independent mechanism for monitoring the anti-trafficking activities of state institutions.**

In the current institutional setting, the Information Centre always approaches the members of the Expert Group for the Area of the Fight against THB (the "Expert Group") when it prepares materials monitoring the trends in the area of combating the THB and assessing the work of public institutions meeting the duties arising out of the National Programme against THB. The permanent members of the Expert Group also include the representatives of the non-governmental sector and the international organisation. Because of the rules applicable to the review of comments, we could not afford to ignore any critical attitudes if we received critical comments on the materials submitted to the Expert Group members for review, and this also applies to the non-governmental sector or the international organisation. Furthermore, to identify troublesome areas of help provided to the victims of THB, the Information Centre proposes setting up permanent or ad hoc work groups. The Information Centre itself is confronted with the need to solve both legislative and non-legislative measures in the area of fight against THB which need to be promoted in cooperation with the state administration, public sector, local governments or the commercial sector. Although the Information Centre is a part of the Slovak Ministry of the Interior and is funded by it, we believe that the fact that we open the issues emphasised by the non-governmental sector and assessment mechanisms proves that we analyse these identified problems in cooperation with relevant experts and, at the same time, show that their resolution is in our interest. The cooperation with the non-governmental sector is very valuable and irreplaceable, because these organisations are able to identify and nail down certain issues. And we can support these assertions of ours by specific measures. If the Information Centre learns about activities of various entities in the area of the fight against THB or project funding opportunities, it shares that information with the non-governmental sector. As a member of the Expert Group, the Information Centre would appreciate more proposals and critical comments from the non-governmental sector and the international organisation within the review procedure applied to the Expert Group's materials and meetings.

**(21.) There is no dedicated budget for the implementation of the National Programme, but all responsible authorities are expected to finance their actions from their ordinary budgets. Overall, there is an estimated 300 000 Euros of State funding explicitly available for the Ministry of the Interior's work related to THB, out of which some 80 % is earmarked for the Victim Support Programme.**

The above mentioned estimated state funding for the issue of THB available for the Ministry of the Interior's work relates to the yearly budget of the Ministry of the Interior.

**(23.) Further, given the absence of an independent National Rapporteur, GRETA considers that the Slovak authorities should commission an external, independent evaluation of the implementation of the National Programme.**

The National Programme is evaluated every year on the Ministry of the Interior's initiative. The annual reports on the National Programme implementation for each calendar year are subject to review procedure in the Expert Group. The Expert Group then takes cognizance of the final version. The resolution of the Slovak Government approving the National Programme implies an obligation to evaluate all National Programme tasks at the end of the programming period. This evaluation for the entire programming period is first reviewed by the Expert Group, and then subjected to the intradepartmental and interdepartmental review procedure. Once the interdepartmental review procedure is finished and all comments incorporated and evaluated, the final material is submitted to the Slovak Government for deliberation.

We would like to note here that in accordance with Article 5(1) of the Slovak Government's Rules of Procedure passed by the Resolution No. 512 of the Slovak Government of 13 June 2001 with reference to Article (3) of the Guidelines for the Preparation and Submission of Materials to the Slovak Government for Deliberation the material may be submitted by the members of the Government, the Head of the Government Office, the chairmen of other central bodies of the Slovak state administration, the Slovak General Prosecutor, the Governor of the National Bank of Slovakia, the Chairman of the Supreme Audit Office of the Slovak Republic, or the General Manager of the Social Insurance Agency, or other individuals, if a special law or a decision of the Government so implies, or if permitted by the Prime Minister.

This means that the system set for submission of materials to the Slovak Government assures the eligibility of the National Rapporteur in the process of passing a resolution on the evaluation of the National Programme by the Slovak Government. This is why an external entity would not be eligible to implement the intradepartmental and interdepartmental review procedure and submit the material to the Slovak Government.

**(38.) Police officers and prosecutors have a legal duty to inform victims about their rights. However, according to civil society organisations, victims of THB are not systematically informed of the right to be granted a recovery and reflection period and the possibility to obtain a temporary residence permit.**

The issue of THB is a part of the National Unit's scope of responsibilities. The National Unit has material jurisdiction over the THB crimes in accordance with Article 179 of the Criminal Code within the meaning of Article 6(1)(g) of the Regulation No. 175/2010 of the Slovak Minister of the Interior laying down the jurisdiction of the Police departments and the units of the Slovak Ministry of the Interior over detection of crimes, identification of perpetrators, and the procedure undertaken in a criminal proceedings as amended. The National Unit's police officers inform victims of their rights in a criminal proceeding every time they meet them and also when the victim asks about it. Victims are also informed of their option to enter the Programme, and if the individual – victim does not spontaneously decide to join the Programme during the first contact, the National Unit's officers give the victims the contact details of the organisation helping the victims of THB or refer them to the National Help Line for the victims of trafficking in human beings in case they decide to join the Programme at a later time. The victims of THB may join the Programme even if they do not cooperate with the law enforcement authorities. If they decide to cooperate later on, they may remain in the Programme during the entire duration of the criminal proceeding until the court issues a final judgement.

The information about the option to grant a tolerated residence permit only applies to the victims who are nationals of a third country. In this case, the victim of THB is eligible to be granted a tolerated residence permit under Article 58 of Act on Residence of Foreigners. However, this option has not been used yet. Two victims to THB coming from a third country have been formally identified within criminal proceedings during the relevant period in Slovakia – one woman from Serbia who was identified in Slovakia only formally and went back to her home country and did not wish to remain in the country of exploitation. The second victim was from Afghanistan, is a child, and was entrusted to the care of the Centre for Children and Families in Medzilaborce by a judgement of the Bratislava II District Court. The child is

currently a party to the asylum residence permit proceeding. The Programme was also joined by two identified victims coming from third countries, namely from Ukraine and the Philippines. But they applied for an immediate assisted voluntary return to the country of origin, which they were granted.

The Slovak General Prosecution stresses on the matter that whereas they do not have the information which was used for drafting the report within the 3<sup>rd</sup> evaluation round of Slovakia based on civil organisations, it should repeatedly be emphasised that the legal obligation to inform the victim to THB, including child victims, is obligatory and applies to all areas of assistance.

**(43.) GRETA welcomes the issuance of guidance to prosecutors about their duty to provide information to victims of crime, including victims of THB. However, the provision of information to victims of THB appear to be done in a formalistic way, without making sure that they understand their rights and can effectively benefit from them. In this respect, reference is made to Constitutional Court Decision 759/2017 (see box in paragraph 71).**

The General Prosecution stresses that the judgement No. 759/2017 of the Constitutional Court that was issued in a specific case prior to the effective date of the law governing the victims of crimes (effective as of 1 January 2018) and the follow-up guideline for prosecutors cannot be taken as executed formally. That judgement does not provide a complex view of the issue and the width of the information provided. As regards the compensation of damages, we would like to say that the verdict is a part of a judgement in a criminal proceeding which is adjudicated by a court.

**(44.) GRETA considers that the Slovak authorities should take further steps to ensure that presumed victims of THB are given information to allow them to evaluate their situation and to make informed choices about the various legal possibilities available to them, and in particular:**

- **provide the information in a language that the victim can understand, as established by the Convention, which may necessitate the use of qualified interpreters;**

Victims are provided all minutes in their mother tongues they understand and the procedural action is also interpreted by an interpreter, if necessary. All actions are made in accordance with the Act No. 301/2005 Coll. Criminal Procedure Code and the Act No. 300/2005 Coll. Criminal Code.

Article 28 of the Criminal Procedure Code requires to invite interpreters and translators, if necessary, to provide translation and interpreting services in criminal matters if the interviewed person says that he or she does not understand the language or the proceeding or if he or she does not speak that language.

Also the Programme provides the victims with translation/interpreting service and as the data concerning the services provided to the THB victims in 2018 show, this service was widely used.

- **include specific information about the implications of being recognised as a victim of trafficking, in addition to general information on the rights of victims of crime, more specifically on the right to a recovery and reflection period and, where applicable, temporary residence, and the possibilities to receive legal aid and to claim compensation.**

All the above provided information relating to the legal aid, right to compensation of damages, and the option to join the Programme is also provided to the injured persons in written form if they are interviewed within a criminal proceeding. The information relating to the right to be granted residence permit is only provided to the victims who do not have a legal status in Slovakia.

The Regulation No. 144/2018 of the Ministry of the Interior on the Programme includes in the list of services provided to the victims of THB the information about the tolerated residence, the option of international protection, and the option of financial compensation (Article 10(1)(n) and (o) – services included in the Programme). This information should be provided to the victims of THB both by the representatives of the non-governmental sectors which supplies the services under the Programme, and the members of the National Unit, the Migration Office of the Ministry of the Interior, the investigator and commissioned members of the Police (law enforcement authorities), and by other units, facilities and organisations under the competence of the Ministry of the Interior (Article 2(g) – entities included in the Programme). To improve the implementation of the above Regulation, awareness-raising trainings are organised within the Ministry of the Interior covering the Programme and its implementation – National Unit, Migration Office of the Ministry of the Interior, service of the Border and Alien Police. These trainings must be repeatedly included in the plan of trainings. We realise that one-off training is not enough both due to staff turnover, amendments to the regulation itself, and the advancements in the provision of care.

**(48.) In practice, the Slovak Catholic Charity provides legal counselling and representation in matters related to the victim's rights and status, based on a contract with the Ministry of the Interior following a public procurement procedure to implement the Programme of Support and Protection of Victims of Human Trafficking (see paragraphs 211-212).<sup>69</sup> To enter the Victim Support Programme, a victim needs to give his/her consent and agree to certain conditions, including to break all contacts with the suspected perpetrators. Victims of THB who enter the Victim Support Programme, currently implemented by the NGO Slovak Catholic Charity, are entitled to legal assistance and free legal aid, which is offered regardless of whether they co-operate with the Police and prosecutors in the criminal proceedings. Victims who co-operate benefit from legal aid during the entire duration of the criminal proceedings, while legal assistance is limited to a maximum of 180 days (i.e. the duration of "tolerated stay") for those who do not co-operate. In 2018, legal assistance was provided to 30 victims of THB, 13 of whom were newly enrolled in the Victim Support Programme, amounting to a total of 825 hours. Victims receive legal assistance as regards criminal law, labour law and civil law (including family law), how to appeal decisions and how to claim compensation. The Slovak authorities have affirmed that victims of THB, who fall within the category of "particularly vulnerable victims" pursuant to the Victims Act, are entitled to receive specialised professional assistance pursuant to Article 5(4) of this Act, which includes legal aid, even if they do not enter the Victim Support Programme. However, GRETA notes that trafficking victims' access to legal assistance and aid in practice seems to be conditional on their entry into the Victim Support Programme, to which only about a third of all victims agree.**

Victims have several possibilities to access legal aid. In practice, victims make use of legal aid within the Victim Support Programme, then logically access to legal aid within the Victim Support Programme is conditional on their entry into the Victim Support Programme.

**(53.) The Centre for Legal Aid also represents migrants in administrative and asylum procedures, including appeals against administrative detention decisions and negative asylum decisions, if they declare on their honour that they do not have the means to pay for other legal representation. The NGO Human Rights League usually visits immigration detention centres at least every second week, but due to concerns about contagious diseases following established deficiencies in the medical controls at the detention centres, it suspended its visits for about three months in 2019, but by the time of GRETA's visits to the Slovak Republic, the Human Rights League's visit to the immigration detention centres had resumed again.**

<sup>69</sup> The Victim Support Programme is currently being implemented by the NGO Slovak Catholic Charity and among other assistance covers the provision of legal counselling and related services such as interpretation, where needed.

The Police Detention Centre for Foreigners (the "Detention Centre") in Medved'ov stresses the following comment:

We communicate with the Centre for Legal Aid at their initiative by phone and electronically to discuss legal representation if the detained person applies for it by filling up contact forms. This legal representation treats filing an appeal against the decision on detention and, in the second instance, against the decision rejecting asylum or supplementary protection. We do not have any knowledge of any other activities of the Centre for Legal Aid in our Detention Centre.

The workers of the NGO Human Rights League visited clients in 2019 who were detained in the Detention Centre in Medved'ov based on their requests and represented those clients based on power of attorney in the asylum proceedings. The frequency of visits was as requested by the clients, and the detained person may contact his or her lawyer anytime and the lawyer thus has an opportunity to also identify a potential victim of THB. Another NGO which operates within the KOMPAS project and which covers for supplementary services to persons detained in the Detention Centre Medved'ov is the Slovak Humanitarian Council. According to the project coordinator the staff assigned to the project includes a social worker trained in the identification of THB, a psychologist and they also provide an interpreter. These workers maintain personal contact with the detained individuals. As regards the employees of the Detention Centre Medved'ov, besides the Police officers daily contact with the detained individuals is also maintained by the employee assigned to the role of an independent consultant who takes care of the needs of the detained individuals, and a nurse.

**(54.) GRETA notes that some victims of THB may have reasons for refusing to enter the Victim Support Programme (e.g. due to emotional attachment to the trafficker, which prevents them from breaking all contacts). Furthermore, failure to identify victims of trafficking, for example among asylum seekers, or failure to identify the victims of THB in a timely manner, at the time they face legal or administrative proceedings, puts their rights as victims of THB at risk. GRETA also stresses that it is crucial to provide victims with legal aid at the outset of the police investigation, including with a view to claiming compensation (see paragraph 71).**

Breaking all contact with the criminal environment is one of the conditions for a victim to join the Programme. It is always an individual decision of the victim to break free from the criminal environment, and the services under the Programme provided by the non-governmental sector aim to help the victims to overcome and come to terms with the trauma stemming from THB, and become a part of society again. The right to receive legal aid is warranted to the victims of THB as particularly vulnerable victims under Article 5 of Act No. 274/2017 on victims of crimes. It incorporates general as well as specialised professional assistance. Legal aid also is one of the services provided to the victims of THB within the Programme.

**(56.) Further, GRETA considers that the Slovak authorities should strengthen their efforts to facilitate and guarantee access to justice by granting access to legal assistance to all victims of THB, regardless of whether they have entered the Victim Support Programme or not.**

There is also a possibility for all victims of crime, including victims of THB, to be provided with legal advice and support via external partners in information offices or contact offices in all Slovak districts within the national project "Improving access of victims of crime to services".

**(57.) Human trafficking and exploitation may have serious psychological and physical consequences for the victims, including mental health problems and loss of self-esteem. Psychological assistance is needed to help victims of trafficking overcome the trauma they have been through, and to achieve a sustained recovery and social inclusion. Some victims require long-term therapeutic attention due to violence they have suffered. Every victim of trafficking should have a clinical assessment tailored to include an evaluation of their**

**particular readiness for therapy, conducted by an experienced clinician.<sup>70</sup> In the case of trafficked children, specialist child psychologists should be employed.**

Specialization "child psychologist" does not exist in the system of specialized disciplines and system of certified professional activities in the branch of healthcare. There is only a specialization in discipline "clinical psychology, advisory psychology, work and organizational psychology". Child psychology does not exist even as a certified professional activity.

Psychologists in specialized disciplines "clinical psychology and advisory psychology" focus on psycho-diagnostics, psychotherapy and assessment work with child patients, or with the parents or carers, without necessity to be specialized for work with child patients.

There are also psychologists in Slovakia who perform their specialized activities within educational and social system.

Within schools, there is a category of "psychologist and school psychologist" which is defined in the legislation for the area of education – in Article 24(1) of the Act No. 138/2019 Coll. on Pedagogical Employees and Specialized Employees amending certain other acts. They perform activities at schools (school psychologist) or schooling facilities (psychologist) in accordance with Article 130(5) of the Act No. 245/2008 Coll. on Education (School Act) amending certain other acts as amended.

Psychologist working with children in the Centres of pedagogical-psychological advice and prevention focus on children and adolescents from the view of continuum health – disorder. Psychologists working with children at schools in the context of school – family (not from clinical point of view).

Research, prevention, psycho-diagnostics and psycho-educational activities are in the scope of Research Centre of Child Psychology and Patopsychology.

**(59.) Similar to other forms of assistance under the Victim Support Programme, the psychological assistance ends after 180 days or at the end of the criminal proceedings. A Slovak victim or a foreign victim with a residence permit beyond the tolerated stay (see paragraph 48) could theoretically get referred to further psychological assistance by a general practitioner, as long as they are covered by health insurance.**

There is also a possibility for all victims of crime, including victims of THB, to be provided with legal advice and support via external partners in information offices on contact offices in all Slovak districts within the national project ""Improving access of victims of crime to services".

**(62.) Foreign victims of trafficking, including those granted a tolerated stay due to the fact that they were illegally employed under particularly exploitative conditions, as well as those who have been granted permanent residence on the basis of Section 23a (1) (a) of Act 5/2004 on Employment Services, have the right to work in the Slovak Republic.**

Reasoning under point 63 is misleading in relation to the cited provision of law, please, note that the correct reading of the point should be as follows: Based on the Article 23a(1)(ac) of Act No. 5/2004 Coll. on employment services and on amendments and supplements to certain acts an employer may employ a third country national whose tolerated residence was extended on the grounds that he or she is a victim of THB (tolerated residence extended on the basis of Article 58(1) letter c) and Article 59(1) of Act No. 404/2011 Coll. on residence of foreigners as amended) or, as provided under Article 23a(1)(ae) of the mentioned act, employer may employ a third country national who was granted tolerated residence permit due to illegal employment under particularly exploitative conditions, if his or her presence is necessary for the purposes of criminal proceeding (tolerated residence granted on the basis of Article 58(2) of Act No. 404/2011 Coll. on residence of foreigners amended by Act No. 108/2018 Coll.).

<sup>70</sup> See OSCE, *Trafficking in Human Beings Amounting to Torture and Other Forms of Ill-Treatment* (2013), Vienna, p.115.

**(68.) In its second report, GRETA urged the Slovak authorities to adopt measures to facilitate and guarantee access to compensation for victims of trafficking. GRETA also considered that the Slovak authorities should ensure that the State compensation scheme is accessible to all victims of THB, regardless of their nationality and residence status.**

The proposed measures to facilitate and guarantee access to compensation for victims of THB were addressed by passing the Act No. 274/2017 Coll. on victims of crimes and on amendments and supplements to certain acts which entered into force on 1 January 2018. The conditions of compensation of the victims of crimes are treated under the third part (Articles 10 through 22) in accordance with GRETA's requirements.

**(69.) As noted in paragraph 35, the law enforcement authorities, upon first contact with an injured party, must provide him/her with information concerning his/her rights in criminal proceedings, including the right to claim compensation for damages from the offender. Article 287 of the CPC provides the legal basis for the injured party to be awarded damages in criminal proceedings. An injured party must prove that s/he has suffered physical injuries as a result of the crime. The request for compensation must be filed before the end of the investigation and should state the reasons for the request and the amount of compensation requested. The calculation of compensation is regulated by the Victims Act.<sup>71</sup> A medical expert and/or a psychologist is asked to assess the extent of damage caused. Claims to moral damage are governed by Article 12(3) of the Victims Act. Victims of rape, sexual violence or sexual abuse are entitled to compensation for moral damages up to 10 times the monthly minimum wage (of approximately 500 Euros). There is no methodology for calculating compensation in cases of labour exploitation. The prosecutor plays no active role in the compensation process.**

The injured party is a person who suffered harm to health, property loss, moral or other damage, or whose other rights or freedoms protected by law were breached or jeopardised by the crime.

The claim for compensation against the perpetrator within the criminal proceedings needs to be raised by the injured party before the investigations are closed. It must be accompanied by justification and calculation. Evidence proving justification of the claim for compensation should indicate causality between the crime and damage caused (i.e. the damage was caused by the crime). The claim is decided by the court based on Civil Code (provisions for compensation under Article 420 and following are applied, in this case Article 444 of Civil Code which says that pain of the damaged person and his/her social impairment are compensated in case of harm to health.) The harm to health may be physical or mental. Calculation of the harm to health is based on Act No. 437/2004 Coll. on the compensation for pain and compensation for social impairment. The amount of compensation is calculated based on the scores in the medical assessment of pain and social impairment. In case the injured party did not claim within the criminal proceedings or the claim was not decided, he/she may claim the compensation against the perpetrator of the crime in civil proceedings.

<sup>71</sup> In particular, Article 3 (Compensation for pain): "(1) Compensation for pain is provided once; it must be proportionate to the health damage, the course of treatment or its consequences; (2) Compensation for pain is provided on the basis of a medical assessment (§ 7 and 8). The scoring rates for pain are set out in Annex no. 1, Sections I and II; (3) If some of the damage to health is not indicated in the rates referred to in paragraph 2, the rate of other damage to health with which it can best be compared in terms of pain shall be applied (...)" Article 4 (Compensation for social exclusion): "(1) Compensation for complaints of social exclusion is provided in a single payment; it must be proportionate to the nature of the consequences and their expected development, to the extent that the injured party's ability to pursue life and society is limited; (2) Compensation for complaints of social exclusion is provided on the basis of a medical opinion (§ 7 and 8). The scoring rates for complicated social exclusion are set out in Annex no. 1 in Sections II and IV." Article 5 (Amount of compensation for the pain and the amount of compensation for the complaint of social exclusion): "(1) In determining the amount of compensation for pain and the amount of compensation for social exclusion, it is based on the total number of points for which the pain or complaint of social exclusion was assessed in a medical opinion (§ 7 and 8).(2) The amount of compensation for the pain and the amount of compensation for social exclusion is determined by the amount of 2% of the average monthly salary of the employee in the economy of the Slovak Republic as determined by the Statistical Office of the Slovak Republic for the calendar year preceding the year in which the entitlement to compensation under paragraph 1 arose, for 1 point, the resulting amount is rounded up to the nearest whole euro upwards (...)" (unofficial translation).

Based on Victims Act, any victim of violent crime is entitled to compensation by the state. Claims to moral damage are governed by the provision of Article 12(3) of the Victims Act. In case of a crime of THB, rape, sexual violence or sexual abuse, the victim of a violent crime is entitled to receive compensation for the moral damage amounting to ten times the minimum wage.

National Unit stresses that as regards compensation of the victims of THB and the claim to such compensation, the law enforcement authorities are obligated to investigate the property the perpetrators possess and also check whether such property was gained or used in criminal activity. The law enforcement authorities are obligated to forfeit the property in both cases. They also are obligated to investigate in loss, material or non-material, caused to a victim of crime. Then it is upon the court to decide what to do with such property. The compensation of the victims of crimes is governed under Act No. 247/2017 Coll. on victims of crimes, which falls under the responsibility of the Ministry of Justice. The methodology applied to the calculation of compensation is not in the hands of the Police investigators. It is calculated by qualified experts in accordance with the guidelines and laws in force.

**(70.) GRETA was informed that lawyers representing victims sometimes intervened late in the proceedings, in particular when victims have not agreed to enter the Victim Support Programme, which is problematic because of the requirement for victims to claim compensation before the end of the criminal investigation.**

Victims may enter the Victim Support Programme, and if they do so, it may happen before or during criminal proceedings. If lawyers intervened late, it has nothing to do with the Victim Support Programme but the cause is that victims were not interested in legal aid. Claim for compensation and access of victims to legal aid is not the obligation but their right.

**(79.) GRETA was informed that the maximum amount of state compensation for moral damages was 5,000 Euros.**

On the basis of Article 12(3) of the Victims Act, a victim of violent crimes, including THB is entitled to state compensation for moral damages in amount of tenfold minimum wage. Current minimum wage in Slovakia is 580 Euros for 2020 and in the past it was 520 Euros in 2019, 480 Euros in 2018, 435 Euros in 2017, 405 Euros in 2016, 380 Euros in 2015. Amount for state compensation is calculated from the amount of minimum wage for the year when the crime of THB was committed.

**(84.) GRETA was also informed by the Slovak Catholic Charity about a case in which the court found four perpetrators guilty of THB for the purpose of forced prostitution and forced marriage, and a fifth one of fraud in the same case. The perpetrators were sentenced to suspended prison sentences ranging from two to three years. The court sentenced the perpetrators to pay the victim 6,180 Euros in compensation for material damage and referred the victim's claim for non-material damage to a civil court. In execution proceedings from May 2016, 307 Euros out of the 6,180 Euros for material damage were collected from the perpetrators. In October 2016 a civil law suit for compensation for damage to health and reputation<sup>72</sup> were launched, resulting in a civil court decision on 22 January 2019, sentencing the perpetrators to pay 17,160 Euros for having caused damage to the victim's health in the form of post-traumatic stress disorder, and 10,000 Euros for violation of "protection of personality". Execution proceedings started in April 2019, but on 13 August 2019 a report on these proceedings established that the perpetrators had no assets and that the sum due could not be collected. In September 2019 the victim, supported by the Slovak Catholic Charity, submitted an application to the Ministry of Justice for state compensation for health injuries and moral damage. On 15 January 2020, the Slovak Catholic Charity was asked by the Ministry of Justice, as the body deciding on state compensation, to supplement its application and send the medical assessment justifying the amount claimed for the bodily harm. GRETA would like to be kept informed of the outcome of this case.**

<sup>72</sup> Based on Article 11 of the Civil Code, see page 17.



SVK comment: Decision of the Ministry of Justice of the Slovak Republic on provision of compensation No. 17716/2020/143 dated 26 February 2020 was delivered to Caritas Slovakia on 3 March 2020. It says that the compensation to claimant legally represented by Caritas Slovakia was admitted in amount of 16,885 Euros.

**(85.) In its second report, GRETA noted that the Ministry of the Interior, in co-operation with the Ministry of Justice, had produced a leaflet with information on possibilities to claim compensation by victims of THB. According to the Slovak authorities, the National Unit for Combating Illegal Migration of the Border and Alien Police distributes this leaflet to presumed victims of THB.**

The National Unit stresses that they give advice to the injured person (victim) during interrogations and they distribute the leaflet by the Police officers of the National Unit.

**(87.) GRETA welcomes the legislative developments in the area of state compensation, but is concerned that only one victim of THB has so far received compensation from the State. Moreover, almost no victims of THB have been paid compensation by perpetrators. GRETA urges the Slovak authorities to facilitate and guarantee access to compensation for victims of trafficking, including by:**

- **enabling all victims of trafficking, including irregular migrants, to exercise their right to compensation, by ensuring access to legal aid and legal assistance at the outset of the criminal proceedings;**

The Victim Support Programme is not the only option the victims of THB have. If the victim of THB does not wish to join the Programme, assistance may be provided in accordance with the Victims Act. The Victims Act provides that the victim of THB is considered as a particularly vulnerable victim and such victim is subject to the provisions treating assistance under Article 5(4) of the Victims Act (specialised professional assistance). The specialised professional assistance to a particularly vulnerable victim includes general professional assistance, including legal aid during the exercise of the rights the victim is bestowed under this Act, and legal aid during the exercise of the rights of the victim having the status of an injured person or witness in a criminal proceeding.

Another possibility for victims who did not join the Programme to access justice is currently guaranteed by way of points of contact – the so-called information offices for the victims of crimes in each region, they may turn to. The Ministry of the Interior set up a Crime Prevention department at the Office of the Minister of the Interior, the objective of which is to implement system measures and activities in three key areas of crime prevention, i.e. in the social, situational and victimisation areas (focusing on the help for victims of crimes).

- **building the capacity of legal practitioners to support victims in claiming compensation;**
- **ensuring that the collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation of the victim, is part of the criminal investigations with a view to supporting compensation claims in court;**

In a criminal proceeding, the injured person, including a victim of THB, has a right to a compensation of damage from the accused caused by the crime. He or she may also ask the court to impose an obligation to compensate that damage upon the accused in the judgement. This claim must be lodged by the injured person before the end of investigations and it must clearly state the reasons and the amount of the claim to compensation.

The investigator tries to calculate within the criminal proceeding the compensation, financial loss caused to the victim or the amount by which the perpetrator enriched himself or herself. Investigators therefore conduct financial investigations in a majority of THB cases in order to establish the financial situation, property of the perpetrator and bank transactions made by the perpetrator.

- **including compensation in existing training programmes for the judiciary so that judges are encouraged to use all the possibilities the law offers them to uphold compensation claims;**
- **introducing a procedure through which victims are entitled to obtain a decision on compensation from the offender as part of the criminal trial and requiring courts to state, where applicable, why compensation is not considered;**
- **making full use of the legislation on the freezing and forfeiture of assets to secure compensation to victims of THB.**

The General Prosecution stresses that we consider GRETA's recommendations as regards the compensation within the existing legislation to be transparent and appropriate. Further legislative changes leading to a more profound approach to the compensation of victims are probable to be made in future depending on the requirements of the legislation.

**(93.) Article 14 of the CPC lists the offences which are to be adjudicated by the Specialised Criminal Court, which include murder, organised crime, corruption and terrorism. THB cases may be adjudicated in the Specialised Criminal Court if they involve organised crime. There is the Special Prosecutor Office addressing cases to be adjudicated by the Specialised Criminal Court. There are no judges specialised in THB cases and neither are there prosecutors or judges specialised in cases involving child victims.**

Considering the system of criminal codes, structure and index of crime development, the General Prosecution stresses that there has been no reason to change the Article 14 of the Criminal Procedure Code as regards the jurisdiction or set-up of specialised judges and prosecutors in THB and child victims.

**(95.) The offence of THB under Article 179 of the CC is one of the criminal offences for which the court may order the forfeiture of property as part of the punishment for the crime, in line with Article 58 (2) of the CC. In this case the confiscation is executed through insolvency laws and the State becomes the owner of the confiscated property. To avoid that a defendant transfers his or her property to another person or jurisdiction to make it unavailable for confiscation, the court and the Prosecutor's Office may secure the property of the accused already at the pre-trial stage, in line with Article 425 (1) of the CPC.**

The Slovak legal system does not know "insolvency law", so it would be advisable to adjust the reading of point 95 with the current legal situation. From the view of logic we would suggest to reorder the second and third sentence.

**(96.) The CPC allows for the seizure of property or financial funds which are of relevance as evidence in criminal proceedings (Article 91), for example where such property which has been used to commit crimes or can reasonably be considered to constitute proceeds of crime (Article 95). Once the prosecution in a criminal case has started, the prosecutor can order the seizure of assets (Article 95(1) of the CPC). The prosecutor may order assets to be seized even before the commencement of the prosecution, but in that case a judge must confirm the decision within 48 hours (Article 95(2) of the CPC). However, the Slovak authorities concede that such seizure is not used to the extent needed, partly because of the difficulty that the Prosecutor's Office must prove that the suspect has acquired the property or funds by unlawful means. The authorities have provided two examples of THB cases in which property was seized. The first took place in 2019, in an operation under the auspices of a Joint**

**Investigation Team between the Slovak Republic and the UK, with cash and jewellery worth 27,666 Euros seized. In the second case, which was one of THB for the purpose of forced begging, 6,046 Euros in cash were seized as a result of a home search carried out by the police in April 2015.**

Article 91 of the CPC relates to seizure of property and Article 95 of the CPC relates to seizure of funds. Pursuant to Articles 91 – 95 of the CPC, property or funds shall be seized for the purposes of the criminal proceedings within pre-trial proceedings.

Article 423 of the CPC relates to the procedure of confiscation of property within the court proceedings, and it reads as follows: After the decision of the court to impose confiscation of property becomes forceable, a copy of a judgement without justification shall be sent by the presiding judge of the bankruptcy court where the place of the respective court is situated which decided at the first instance, in order to proceed on the basis of a special law.

There is also Article 425 of the CPC which allows for seizure of property by a prosecutor (in pre-trial proceedings) or by the court for later confiscation of property.

Identical procedure applies in the procedure of confiscation of a thing based on Article 428 of the CPC.

**(97.) As noted in paragraph 150 of the second GRETA report on the Slovak Republic, Articles 83(a) and 83(b) of the CC, envisage forfeiture of a sum of money or property for the involvement of a legal entity in criminal offences, including THB. Criminal liability of legal persons was established in 2016 with the adoption of Act No. 91/2016, which entered into force on 1 July 2016.**

Article 83 of the CC includes 3 paragraphs which should be taken into account in the text.

**(101.) Prosecutors met by GRETA pointed to the difficulties arising when victims of THB do not perceive themselves as victims, especially when no physical violence was involved, making it more challenging to prove the exploitation. Victims of THB, due to intimidation by perpetrators or as a result of misplaced loyalty to the offenders with whom they may have had an emotional relationship, are sometimes reluctant witnesses, or else they may change their testimony in favour of the defendants during criminal procedures. In the absence of other evidence, the prosecution is discontinued.**

A victim's attitude as presented in this section could lead to frustration of the purpose of criminal proceeding whereas the victims themselves often do not see themselves as victims and this also influences their attitude to the criminal proceeding and unwillingness to cooperate with law enforcement authorities. It sometimes happens that once the criminal proceeding has been closed, the victim returned to the criminal environment in which the victim had lived before the criminal proceeding and did not take it as detrimental. This attitude is substantially determined by the environment in which the victim lives and by his or her legal awareness.

**(105.) GRETA notes that mitigating circumstances are regularly taken into account by judges, whereas aggravating circumstances, as defined in the Article 179 of the CC, appear not to be taken sufficiently into account. GRETA is concerned that even when defendants in THB cases have been found guilty, the sanctions have not always been commensurate to the impact this crime has on individuals and society (see examples of case law in paragraphs 102-104). The large majority of sentences imposed in the reporting period have been suspended (see paragraph 99).**

According to Article 179 of the Criminal Code, the THB crime is a crime punishable with a prison sentence of 4 to 10 years. According to the Criminal Procedure Code, the sentence may be postponed on probation if the sentence is less than 3 years (suspension of the prison sentence on probation) or 2 years. It is clear here that suspended sentence if the accused is found guilty of THB crime may only be given if statutory conditions are met. Such conditions basically include admission of guilt or plea-bargain agreement. Making use of these procedural processes, the accused waives the right to have his or her matter heard/proved in a court within a judicial proceeding and, concurrently, waives the procedural rights to appeal or use of extraordinary remedies. Such a decision is final and cannot be reviewed later on at the suggestion of the sentenced person. A benefit coming from this procedure is the option to impose a sentence below the minimum level, although such a sentence must not be inappropriate. This is to be adjudicated by the court.

**(106.) Although precise statistics are not available because censuses in the Slovak Republic do not address ethnicity, it would appear that members of the Roma community are disproportionately affected by THB, including for the purpose of early, child or forced marriages. Since 2017, the law enforcement authorities have investigated such cases as THB cases for the purpose of forced marriage. However, GRETA was informed by representatives of civil society that some judges have expressed a certain tolerance in such cases, considering that they were “acceptable” in the cultural context of Roma communities.**

The cultural context of the so-called arranged marriages particularly applies to the community of Wallachian Romas. It is their genuine tradition. The families of children arrange marriage, the boy's father pays a symbolical price to the girl's father for bringing her up and the money is used to prepare the wedding ceremony. The marriage is sealed and considered valid in the eyes of the community after the so-called ceremonial act. This means that the marriage is entered into within the community without meeting the legislative requirement in the form of civil or religious marriage ceremonies. The girl then starts living with the boy's family.

The law enforcement authorities (National Unit's investigators) have addressed cases of such marriages since 2017, if they learn about them, as THB cases for forced marriage. In these cases, the girl is forced to live in the boy's/husband's family and have a married life with him with everything that belongs to it.

**(107.) According to civil society representatives met by GRETA, victims of THB are sometimes not taken seriously by the police when they provide information about abuse they have suffered, and thus the reported offences do not get investigated. NGOs working with vulnerable persons, such as persons engaged in prostitution, report that at times police officers have harassed or intimidated them, sometimes demanding sexual services. The Slovak authorities have maintained that no information concerning such unacceptable behaviour has been reported to the competent services, but should there be such reports, they would be investigated by the Inspection Service of the Ministry of the Interior.**

Investigators are obliged to decide each criminal complaint within a statutory period of 30 days. They have to give reasons for why investigation into the relevant matter cannot be initiated, and the lawfulness of the decision is at all times checked by the prosecutor who may, if the prosecutor does not identify with the investigator's decision, instruct the investigator to initiate criminal prosecution on the relevant matter. The National Unit does not have any knowledge about actions of Police officers which would however make investigation impossible, or who would harass or intimidate victims or even demand sexual services. If the NGOs have such information, they are obligated to report it to the Police. The conduct of Police officers would be checked by the Inspection Service Office of the Ministry of the Interior.

**(108.) GRETA was also informed that cases of THB are frequently qualified as other offences, as a result of which victims are not identified as victims of THB and do not benefit from the Victim Support Programme, even though they still have rights as victims of crime pursuant to the Victims Act.**

The National Unit does not have any information that THB cases would be often qualified as other offences. Both the operative workers and the investigators of the National Unit are the first ones who wish to investigate all THB cases they learn about. We occasionally have a case in which the supervising prosecutor instructs the investigator in the initial stage of criminal prosecution of a THB crime to continue to examine (investigate) the case as other offence, e.g. as a crime of procuring and blackmail. Sometimes we also have an occasional case when the case starts to be investigated by the county investigator as a crime of procuring and, again, the supervising prosecutor instructs him or her to change the matter based on its features to a THB crime and forward it to a specialised unit having jurisdiction over investigation of the crimes of THB, the National Unit. If the victim has a status other than the victim of THB in a criminal proceeding investigated as other crime, such victim cannot join the Programme. But the rights of the victim resulting from Act No. 274/2017 Coll. on victims of crimes are not jeopardised by it and the victim is fully eligible to exercise them.

The General Prosecution stresses that legal qualification of the offence depends on the evidence-taking results. The conduct may also have features of a crime of human smuggling under Article 355 of the Criminal Code or a crime of procuring under Article 367 of the Criminal Code and other crimes. The concurrence of these crimes is not excluded under the Criminal Code, and therefore the motive (cause) of perpetrator's actions needs to be carefully investigated into.

**(110.) Should a victim of THB consider that the police are not carrying out any or sufficiently robust investigations, s/he may submit a complaint to the Office of the Public Prosecutor or the Public Defender of Rights (Ombudsman). Further, should a person consider that his/her human or fundamental rights or freedoms, as guaranteed by treaties to which the Slovak Republic is a party, have been violated, and that no remedies are available by addressing the police or the Office of the Public Prosecutor, s/he may submit a complaint to the Constitutional Court (see paragraphs 43 and 50). In case of children, such a complaint is to be submitted on their behalf by a legal counsellor appointed by a court to support them.**

We would like to specify the text of the point in regard to the sentence: "Should a victim of THB consider that the police are not carrying out any or sufficiently robust investigations, s/he may submit a complaint to the Office of the Public Prosecutor or the Public Defender of Rights (Ombudsman)."

Based on Article 3 (2) of the Act No. 564/2001 Coll. on the Public Defender of Rights, the competence of the Public Defender of the Rights does not relate to decision-making power of police investigators. It means that if there are reasonable grounds to believe that police investigator does not conduct criminal proceedings or does not do act thoroughly within criminal proceedings, the Public Defender of Rights is not competent to examine that. Otherwise, the competences would be exceeded as such competence lies on a police investigator. In relation to investigation and criminal proceedings, the Public Defender of the Rights is competent to examine the procedure performed by police investigator only when a person would have reasonable grounds to believe that investigation or criminal proceedings leads to inaction and undue delays.

That is why we would propose to reformulate the text accordingly: "Should a victim of THB consider that the police are inactive in investigation or criminal proceedings and infringement of fundamental right to address the matter without undue delay occurs, s/he may submit a complaint to the Office of the Public Prosecutor or the Public Defender of Rights (Ombudsman)."

**(112.) GRETA is concerned by the lenient sentences given to traffickers and stresses that failure to convict traffickers and the absence of effective, proportionate and dissuasive sanctions, including such resulting from plea-bargaining procedures, undermines efforts to combat THB and guarantee victims' access to justice. GRETA further notes that not all complaints about possible THB cases are taken seriously by the Police and that extended use by the latter and prosecutors of special investigation techniques and seizure of proceeds of crime or property used for it, including as evidence, would increase the efficiency of investigations and ultimately successful prosecution of THB offences.**

The General Prosecution stresses that the sentences given fully reflect the punishment criteria within the statutory limits, and suspended sentences awarded particularly in the event of first offence is fully in line with the principles of special and general prevention. Here, we hold a different opinion to the GRETA's opinion on inadequacy and leniency of the sentences given.

**(113.) GRETA considers that the Slovak authorities should take further steps to ensure that all possible human trafficking offences are promptly investigated, regardless of whether a complaint about the reported crime has been submitted or of the cultural context of the crime, making use of special investigation techniques in order to gather evidence and not having to rely exclusively on testimony by victims or witnesses. In this context, the Slovak authorities should take steps to ensure that all complaints about possible THB offences are registered and complainants are treated respectfully by the police. Moreover, property used to commit crimes or which can reasonably be considered to constitute proceeds of crime should be seized to the largest extent possible.**

The police officers of the National Unit searching for THB cases of all forms across the entire Slovakia continue to collect other information and evidence once they suspect a THB crime. When they document such information and evidence to a sufficient extent, they file a written petition to the investigator at the National Unit to initiate criminal prosecution without the injured person being requested to file a criminal complaint. Having reviewed all evidence collected, the National Unit's investigator then decides the initiation of criminal prosecution. Whereas the operative workers consult the suspicion of THB with the investigator as early as in the stage of operative review, it cannot happen that a criminal prosecution for a THB crime would not be initiated once the petition is issued.

The National Unit stresses that the THB cases are investigated into proactively, fast enough, and no unnecessary obstructions have been noticed in the investigation proceedings.

The General Prosecution stresses in connection with documentation of THB crimes that all notices of suspected criminal activity have been documented and addressed in accordance with the law, establishing the objective state of facts, and employing equivalent approach to complainants.

**(115.) In addition, GRETA reiterates its recommendation made in the second report that the offence of THB be excluded from the plea-bargaining procedure.**

GRETA's recommendation from the second report concerning exclusion of THB crimes from the mitigating factor pleading procedure does not have any ground in the existing Slovak legislation, and neither is it included in the legislative plan of tasks for the upcoming period.

**(128.) According to Article 2 of the Victims Act, all victims of THB are to be considered as particularly vulnerable victims. Pursuant to Article 8 of this Act, such victims have the right to protection from secondary victimisation or repeated victimisation. The responsibility for this protection lies mainly with the police, courts and organisations providing assistance to victims. According to Article 134 (4) of the CPC, the hearing of a particularly vulnerable victim is to be carried out using technical equipment for the recording of sound and images. The law enforcement authority shall ensure that the pre-trial interviewing of the victim is conducted by the same person, provided that this does not interfere with the conduct of the criminal proceedings, and as a general rule, by a person of the same sex as the person being interviewed. A psychologist or an expert who is questioned with regard to the subject of the hearing is added to the interview to contribute to the proper conduct of the hearing. The Slovak authorities have stated that victim protection measures are used to the largest extent possible, but female victims are sometimes interviewed by male investigators because there are only male investigators employed in some police districts of the Slovak Republic. The authorities acknowledge that victims are sometimes interviewed several times; they argued that this is due to the need to respect the procedural rights of defendants.**

In relation to the question of the female investigators of Police Force we would like to add that departments without female investigators are not numerous, it is rather exceptional state of temporary nature. The term "defendant" is used in court proceedings, so we would rather propose to use the term "accused" when it relates to criminal proceedings, also in several other points of the report.

**(130.) According to the Victims Act, the Police and courts shall use appropriately adapted interviewing rooms, to the extent that their facilities allow it. A special interviewing room for child victims and other particularly vulnerable victims has been set up at the Police Academy, as well as by NGOs (in Žilina and Nitra), but the Police have reportedly been reluctant to use them (see also paragraph 162). The Slovak authorities acknowledge the shortage of special interviewing rooms at police stations, noting that the only available interviewing room, at the Police Academy, is used primarily for education purposes. By the end of 2021, two special rooms should be set up at the offices of the National Unit for Combating Illegal Migration of the Bureau of Border and Alien Police in Western and Eastern Slovakia. In total, 23 special interviewing rooms are to be built by the end of 2022.**

We would like to point out that the police may make use of the specialised interviewing rooms (NGOs in Žilina and Nitra) only when they are technically convenient and satisfactory. Audio-visual recording must be in a required quality for the purposes of criminal proceedings. If the quality is not satisfactory, the police cannot make use of the premises. Such a problem occurs in Nitra. In Žilina, they have invested into technical equipment, so the police started to make use of them. The word "reluctant" would be better to delete and replace in accordance with the above mentioned text.

**(131.) In order to protect victims' privacy and ensure their safety, GRETA urges the Slovak authorities to:**

- **set up a sufficient number of specially adapted interview rooms around the country and systematically use them to interview children and other vulnerable victims of THB, and ensure that testimony given in such rooms is used in court;**

Slovakia does not have a network of specially adapted interviewing rooms to interview children and other vulnerable victims yet. These procedural actions are made in conditions made as optimum for the victim as possible and not reminding the victims of the previous traumatising experience; the video and audio recording can be used in court in full extent, and the conditions of this action are defined in the provision of Article 135(1) through (5) of the Criminal Procedure Code.

- **to the extent possible, avoid cross-examination of the victim and the accused ("direct confrontation") and repeated questioning of victims in THB cases, and ensure the presence of a psychologist when vulnerable victims are being interviewed;**

National Unit's investigators follow existing legislation in force upon procedural steps taken. Provision of Article 125(5) of Criminal Procedure Code excludes the use of confrontation of a witness who became a victim of exhaustive list of crimes, including THB. In case of witnesses younger than 18 it is impossible to perform confrontation without taking a crime into account (Article 125(4) of Criminal Procedure Code). Criminal Procedure Code imposes obligation to provide for the presence of a psychologist upon the interview of a witness – particularly vulnerable victim witness (based on the Act on Victims of Crime – victim of THB is a particularly vulnerable victim) about circumstances that may, in relation to personal relations, relationship to a perpetrator or dependence on perpetrator, nature and circumstances of a crime prejudice physical or mental integrity of a victim or put a victim into risk of secondary victimisation. Breach of the above mentioned procedural provisions would result in illegal performance of the evidence and consequent possibility to jeopardise or refuse evidence in criminal proceedings. Such a case would be a procedural irregularity

of an individual, not of a victim protection system in criminal proceedings. However, prohibition of repeated interview of a victim may be in collision with the perpetrator's right of defence, so it is necessary that law enforcement authority or a court consider balance in application of these two contradictory principles.

- **ensure a sufficient number of female investigators to conduct interviews with female victims of THB.**

**(132.) GRETA also considers that the Slovak authorities should make full use of all available means of providing protection to victims and witnesses of THB, including the witness protection measures provided for by Act 256/1998.**

Since the Programme is specifically set for the victims of THB, our view is that it is a more suitable, sensitive and complex mechanism of assistance and support for victims of THB. This is the main reason why the institute for the protection of witnesses has not been used yet.

**(135.) All prosecutor offices have a prosecutor with responsibility for dealing with cases of vulnerable victims of sexual offences, including THB for the purpose of sexual exploitation. However, these prosecutors are not specialised in these crimes in any formal sense and have not systematically attended training about THB.**

Although Slovakia does not have prosecutors who would be specialised primarily in THB, the prosecutors and judges regularly attend workshops and trainings organised by the Ministry of the Interior, Judicial Academy and they also attend events in this area organised abroad.

**(139.) Various other professional groups with a role in implementing the National Referral Mechanism have been trained by the Information Centre for Combating Trafficking in Human Beings and Crime Prevention, including child protection and social services, the Traffic Police Department and the Aliens Police, staff of the Ministry of the Defence responsible for training troops sent on missions abroad, staff of foster homes, educational facilities and psychological counselling centres, health-care professionals and NGOs. Within the framework of projects aimed at improving living conditions of marginalised Roma communities,<sup>73</sup> 30 employees of the Office of the Plenipotentiary for Roma Communities attended training entitled "the Fundamentals of THB" in May and June 2019.**

The Office of the Plenipotentiary for Roma Communities has 10 regional offices.

**(145.) Further, while welcoming the training provided already, GRETA considers that the Slovak authorities should take additional steps to ensure that all relevant professionals are trained regularly and systematically on preventing THB, identifying victims and referring them to assistance, as well as in prosecuting THB offenders. The training should be integrated in the regular training curricula of different professional groups, including law enforcement officials, prosecutors, judges, labour inspectors, social workers, child welfare staff, health-care staff, and diplomatic and consular staff.**

The specialised investigators of the National Unit attend trainings, conferences and workshops every year at a national and international level and we believe that this annual variability of trainings (not their repeating every year) improves their specialisation and the opportunity to compare experiences with colleagues dealing in THB in other EU member states as well as other third countries. The operative workers from executive departments and officers working at the Fight against THB department attend trainings each year as well. They equally attend all kinds of trainings, conferences, workshops and work meetings which prove to be most efficient instrument to increase their qualification in the THB area when

<sup>73</sup> "The National Project Field Social Work and Field Work in Municipalities with Marginalised Roma Communities", "the National Project Community Services in Cities and Villages with Marginalised Roma Communities" (i.e. the Community Centre, Low-Threshold Day Centre, Low-Threshold Social Service for Children and Family), and the "National Project Support of Pre-School Education of Children from Marginalised Roma Communities".



talking about applicability at work. The National Unit's opinion is that more frequent attendance of investigators, operative workers or officers from the Fight against THB department at trainings and other forms of education would be at the expense of their work on THB cases they investigate and review.

The relevant experts are trained regularly, and the training corresponds to the educational needs of judges and prosecutors in conjunction with the existing judicial practice. Lecturers in these events include judges, prosecutors, and the members of the Police Force, entities which take part in identification of THB cases and subsequent prosecution of the perpetrators. The education of the above target groups also covers broad diapason of themes corresponding to the relevant issue. Also, the selected themes address both theoretical and practical aspects, and attention is also paid to the solution of practical examples.

The training of experts in the area of THB prevention, identification of victims of THB and the programmes of help for victims of THB is also incorporated into the qualification improvement system designed for the employees of the bodies and institutions of the department of Labour, Social Affairs and Family. Besides internal educational or training activities and methodological guidance which are organised by the competent specialised units of the Head Office of Labour, Social Affairs and Family, the cyclical professional preparation is specifically focused on proactive identification of these risk groups and raising awareness about the options of protection, assistance and help for the victims of THB implemented particularly in cooperation with the Crime Prevention section of the Ministry of the Interior and the Information Centre. The education events make use of the methodological materials dealing in the identification of and assistance for victims of THB with special emphasis on children and foreigners.

Trainings for various professional groups will continue to be organised within the Ministry of the Interior's jurisdiction in accordance with the trainings plan for individual years.

The General Prosecution stresses that in spite of GRETA'S assertion about the educational activities for judges, prosecutors and investigators of the Police Force which GRETA assessed as not systematic and not regular, the General Prosecution believes that the educational activities allow the law enforcement authorities and courts to sufficiently familiarize with the relevant issue.

**(148.) Since 2013, the National Unit for Combating Illegal Migration of the Border and Alien Police of the Police Corps Presidium, which is responsible for investigating THB cases, has taken part in four Joint Investigation Teams (JITs) with the UK. The first case, which started in 2013, concerned trafficking of Slovak women for the purpose of sexual exploitation and forced marriage in the UK. It ended in 2017 and resulted in prison sentences of Slovak citizens ranging from 16 months to eight years. The second one, which is still ongoing, started in 2016 and also concerns sexual exploitation and forced marriage in the UK. The third one, still ongoing, started in 2017 and concerns THB for the purposes of labour and sexual exploitation in the UK. The fourth JIT, still ongoing, started in 2017 and concerns THB for the purpose of labour exploitation in the UK.**

The second above mentioned JIT ended in 2018 while 4 defendants were sentenced to imprisonment ranging from 7 to 12 years. The latter mentioned 2 JITs continued their work also in 2019. In June 2019 agreement on the fifth JIT was concluded between the UK and Slovakia in relation to THB for the purpose of forced labour of Slovak nationals in the UK.

**(152.) GRETA welcomes the Slovak authorities' participation in multilateral and bilateral international co-operation, such as by means of JITs, and invites the Slovak authorities to strengthen international co-operation concerning the protection of victims of THB.**

The National Unit has been actively involved in 5 JITs since 2013.

The General Prosecution assesses the participation of the Slovak authorities in international cooperation as satisfactory and remains open to also establish cooperation by means of JIT, if conditions for that are met.

Due to lack of secure channels for exchanging personal data internationally in the field of protection of THB victims specifically (not in relation to investigation and criminal proceedings) within transnational referral mechanism by governmental authorities, we cooperate with embassies of the Slovak Republic abroad only as they are a part of the national referral mechanism. NGO providing assistance to victims of THB in Slovakia cooperate with its foreign counterparts.

**(158.) The child should be questioned in further proceedings only if necessary, in the preliminary hearing only with the consent of the public prosecutor. If it is likely that a second hearing of the child would be harmful to them, it should be conducted only in exceptional cases and only with the consent of their legal representative, and in cases under Article 48 (2), with the consent of their guardian.**

We would like to point out also Article 135 (3) of the CPC which is not taken into account. For instance, reference to legal representative is missing.

**(160.) However, GRETA was told that, in practice, it is common to have at least two interviews, one at the beginning of the criminal proceedings and another one once charges have been pressed against a defendant. According to the Slovak authorities, this may occur because of the necessity to comply with the procedural rights of the accused.**

The National Unit stresses that they do not examine victims repeatedly out of their own will. Repeated examination of a witness of the injured (victim, but not a child) is often ordered by the supervising prosecutor. This particularly happens when the charge is brought against the perpetrator(s). The prosecutor justifies it by referring to the violation of the rights of the accused who has right to be present at such procedural action or to choose a legal representative for such action. If it is possible to avoid repeated examination of the victim and prevent thus secondary victimisation, the victim is not examined repeatedly. So, if repeated interviews of a victim before charges and after charges have been pressed against a defendant, they are performed only in order to properly provide and preserve right of defence of the defendant.

See also comment under point 131.

**(161.) In 2018 a project called "Special hearing rooms for child victims and other particularly vulnerable victims of crime " was launched in the Slovak Republic. The project is co-financed by the European Union's Internal Security Fund. In addition to the setting up of adapted hearing rooms, the project is aimed at increasing the professional competence of police officers in related investigations.**

The project is financed by the European Union by 75 % share. We would like to add information that non-investment part of the project is education involving training and specialized preparation of police officers so that police officers know to identify a victim and his/her needs, to communicate with the victim for the purposes of criminal proceedings and to treat the victim with dignity and respect. Educational part of the project started in April 2019 and is about to continue in the following years.

**(163.) GRETA was informed that, in practice, the police are reluctant to make use of the special interviewing rooms, and conduct interviews with children at police stations. The Police Academy has for two years held training courses for police officers in how to interview children. However, civil society representatives considered that police officers still lacked sufficient training in this regard. At interviews with child victims of crime, a police investigator interviews the child in the presence of a prosecutor, a psychologist, the child's guardian, the defence lawyer and a statutory representative of the injured party; thus there are a number of persons present, which can be stressful for the child, especially if specially adapted interviewing rooms are not used.**

The National Unit's police-officers have been trained in conducting interview with a traumatised victim. In 2018 and 2019 they were also trained within the course titled "Particularly vulnerable victims of crime, investigation and approach to victim" organized by the Police Force Academy and The Criminal Police Bureau of Presidium of Police Force.

See also our comment under point 130.

**(165.) Another concern of GRETA is that following amendments to the CPC, which entered into force on 1 January 2019, the previously obligatory child-care professional was replaced by two lawyers in the composition of professionals whose presence is mandatory at interviews with child victims. The reason for this, according to the Slovak authorities, is that childcare professionals do not have legal training enabling them to represent child victims' legal interests. However, according to information obtained during the visit, the lawyers in question rarely have training on how to deal with children, and since the remuneration they receive for this task is modest, they often have little interest in taking part. Because there is a shortage of persons representing the different professional groups required to be present when children are interviewed, criminal proceedings are often delayed or stalled. The Slovak authorities informed GRETA that the provisions on the mandatory presence of certain professionals when children are interviewed will be reviewed.**

We have identified incorrect interpretation of Article 135 of the CPC. Article 165 of the CPC defines when and whose presence on the steps of criminal proceedings is facultative only and who provides legal services (e.g. guardian being an advocate).

**(168.) GRETA urges the Slovak authorities to ensure that child victims of THB are afforded special protection measures in practice, including in the context of interviews, both as regards the competencies of the professionals present and the environment in which the interviews are conducted. In this context, GRETA refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice, which recommend that all professionals working with children receive necessary interdisciplinary training on the rights and needs of children.<sup>74</sup>**

As regards specialised preparation and trainings of police officers who should take into consideration the rights and needs of a child victim in the course of criminal proceeding, a specialised education of the selected members of the Police Force conducting investigation or reduced investigation has been provided from 8 April 2019 by the Police Academy in Bratislava. All investigators at the National Unit have been trained also in conducting interviews with particularly vulnerable victims. The National Unit makes use of all accessible protection measures and means.

General Prosecutor's Office would like to inform that they are about to start to build 2 specialized interviewing rooms in Bratislava and Humenné, financed from the European funding.

**(182.) In addition to regular labour inspections carried out solely by labour inspections, the National Labour Inspectorate, the Labour, Social Affairs and Family Headquarters, and the Border and Aliens Police perform joint inspections, in line with two 2013 agreements between these authorities on joint inspections and other joint action to fight illegal labour and employment. During such joint inspections the police mainly focus on searching for irregularly present aliens. The police are also tasked with identifying victims of THB, though they tend to take an approach of immigration control to such inspections.**

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<sup>74</sup> [Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice](#) (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies).

Market operator joint controls are performed in order to ensure regulation and monitoring of entrepreneurial sphere, identify THB victims and foreigners with illegal residence in the Slovak Republic. Typology of controlled market operators is planned in advance on the basis of inputs from the National Labour Inspectorate and the Centre for Labour, Social Affairs and Family (based on inspections and previous control practice) as well as the Border and Aliens Police Bureau of Presidium of Police Force (based on operational information on THB suspicions and illegal employment of foreigners).

**(186.) While welcoming the legislation regulating temporary work, GRETA considers that the Slovak authorities should ensure that the relevant legislation is effectively enforced and should take further steps to prevent trafficking for the purpose of labour exploitation, including by:**

- **strengthening the monitoring of recruitment and temporary work agencies, as well as business supply chains;**
- **strengthening the monitoring of foreign companies which send workers to the Slovak Republic and controlling the authenticity and legality of work contracts and other relevant documentation;**
- **encouraging businesses sending or receiving posted workers to guarantee the protection of human rights, as well as the principle of vigilance and due diligence, including measures to secure traceability and transparency;**
- **continually assessing the implementation of legal provisions on corporate liability with regard to trafficking offences.**

The General Prosecution stresses that along with the GRETA's recommendation in the area treating temporary work it would also be suitable to strengthen activities relating to the work of hiring agencies, trade or supplier chains, etc. from the perspective of holding legal persons liable in criminal sense, and checking the authenticity and lawfulness of employment contracts and other documentation.

**(191.) The local branch of the Office of Labour, Social Affairs and Family of Medzilaborce acts as a guardian. All unaccompanied children at the Medzilaborce home are immediately registered in the Slovak health care system, to which they have the same access as any Slovak child.**

The authority of social-legal protection of children and guardianship performs the function of a guardian for unaccompanied children on the basis of court decision.

**(201.) Pursuant to Article 150 of the Labour Code (311/2001), any employee has the right to file a complaint to the Labour Inspectorate, if they are injured due to a breach of regulations by the employer. However, upon discovering irregularly present and employed third-country citizens, labour inspectors in practice contact the Aliens Police and the irregular migrant is deported, which provides a disincentive for any irregular foreign workers to contact or even speak to labour inspectors about breaches of contract or regulations at a workplace (see paragraph 182). It would therefore appear that labour inspectors and other bodies participating in inspections of workplaces pursue objectives of immigration control with regard to third-country workers, rather than detecting cases of trafficking for the purpose of labour exploitation and referring presumed victims to assistance. GRETA urges the Slovak authorities to sensitise labour inspectors and other relevant officials involved in labour inspections about THB for the purpose of labour exploitation and the rights of victims, and to instruct them to take a victim-centred approach, rather than one of based on immigration control.**

Police officers at the National Unit participating at the market operators joint controls are experts in identification of THB victims, so they are able to guarantee sensitive approach to controlled people who may be THB victims at the same time.

**(220.) GRETA was told about one case in which a 12-year old Roma girl had been sold by her parents for 3,500 Euros to the parents of a 14-year old boy, for the purpose of an arranged marriage. The girl was forced to move to live with the boy's family. A schoolteacher who had noticed marks on the girl's neck filed a complaint under the heading of "endangering moral upbringing". The social services took the girl from school to a crisis centre for children. The police started investigating the case as THB and the girl indicated her willingness to testify, despite pressure from her parents not to. The case was pending at the time of GRETA's visit.**

We would like to replace the sentence: "The social services took the girl from school to a crisis centre for children." by the following sentence: "The girl was placed in the Centre for Children and Family (the crisis centres function as the Centre for Children and Family as of 1 January 2019)."

**(234.) GRETA once again urges the Slovak authorities to provide in the national legislation for a recovery and reflection period when there are reasonable grounds to believe that a person is a victim of human trafficking, as provided for in Article 13 of the Convention, and to ensure that all possible victims of trafficking are offered an effective recovery and reflection period, as well as all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.**

In the Slovak legislation, reflection period (tolerated stay) is understood to be a period of maximum of 90 days during which a third country national who is a victim of THB and aged over 18 decides whether he/she would co-operate with the authorities in the investigation of the THB offence, pursuant to Article 58(3) of the Act on Residence of Foreigners (based on the Act No. 108/2018 Coll. which amends the Act No. 404/2011 Coll. on Residence of Foreigners as amending certain other acts, as amended and which amends other acts, before stipulated under Article 58(4), point d of the Act No. 404/2011 Coll. on Residence of Foreigners amending certain other acts, as amended), as stated under point 229. In our opinion, reflection period (tolerated stay) is incorporated in the national legislation expressis verbis. Respective articles of the Act on Residence of Foreigners stated under points 228 – 231 define the processes performed by the police department in relation to reflection period (tolerated stay) and tolerated residence permit under the mentioned act but do not comprise measures of protection. Slovak authorities will need to consider to adjust national legislation in order to fully cover the issue of recovery and reflection period for all victims of THB in a piece of legislation from the view of protection measures for victims of THB.