



EVALUATION REPORT

ANDORRA

Third evaluation round

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

GRETA

Group of Experts
on Action against
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, Andorra has continued to develop its legislative, institutional and policy framework to prevent and combat trafficking in human beings. The first national action plan against trafficking in human beings, entitled a "Strategic Policy on Combating Trafficking in Human Beings 2021-2023", was adopted in March 2021. This document takes into account the previous recommendations by GRETA and represents a significant step forward for Andorra's effective implementation of the Convention. Further, the criminalisation of trafficking in human beings was broadened to cover forced labour, forced services and forced begging. As a result, Andorran law now covers all the purposes of exploitation set out in the Convention. The report also highlights a number of other improvements made by the authorities since GRETA's second assessment.

For the first time since the Convention's entry into force in respect of Andorra, a presumed victim of trafficking in human beings for the purpose of sexual exploitation was identified in Andorra in 2021. While the courts ultimately decided not to classify the offence as trafficking in human beings, GRETA welcomes the efforts made to treat the person concerned as a presumed victim of trafficking. Although no victims of trafficking have been formally identified, GRETA considers that there are risks of labour exploitation in the sectors of domestic work, seasonal work, construction and agriculture. The authorities were also attentive to possible cases of human trafficking for the purpose of forced criminality, in particular cigarette smuggling.

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.

GRETA welcomes the efforts made by the Andorran authorities to guarantee victims' right to information, in particular through the issuing of a document to inform victims of trafficking of their rights and another document intended for professionals on the provision of information to victims. GRETA considers that the authorities should take additional measures to ensure that victims are proactively provided with information on the full range of their rights.

The latest version of the Regulation on the right to defence and legal technical assistance, adopted in March 2021, expressly provides that victims of trafficking are entitled to free legal aid in legal proceedings, regardless of their nationality or residence status, as soon as they are identified. GRETA welcomes this development and considers that the authorities should ensure that legal assistance is systematically provided. In this respect, the authorities should encourage the Andorran Bar Association to develop training on trafficking in human beings for lawyers who may provide legal aid to victims of trafficking.

Under Andorra's legislative framework, victims of trafficking may claim compensation from the traffickers by joining the criminal proceedings or by bringing the matter before the civil courts. GRETA welcomes the obligation incumbent on the public prosecutor to initiate civil action on behalf of victims of trafficking. Noting that it is difficult to assess the effectiveness of Andorra's provisions for the compensation of victims of trafficking given the absence of cases confirmed by the courts, GRETA considers that the Andorran authorities should take further steps to guarantee effective access to compensation for victims, in particular by setting up a fund enabling the compensation of trafficking victims by the State in the event of the perpetrators defaulting.

GRETA welcomes the authorities' efforts to ensure that the first presumed case of trafficking in human beings in Andorra was investigated and brought to justice. However, it is concerned that the courts may have a restrictive interpretation of what constitutes trafficking in human beings. Furthermore, it would appear that victims of exploitation or trafficking do not press charges for fear of losing their job or not finding another. As in practice the opening of an investigation depends on a complaint from the victim, or at least their co-operation in the proceedings, there are no cases of human trafficking going before the courts. GRETA considers that the Andorran authorities should ensure that human trafficking offences are

proactively and promptly investigated, regardless of whether a complaint is filed by the victim, and are prosecuted as such, rather than as lesser offences.

GRETA welcomes the efforts made to develop training for professionals likely to intervene in cases of trafficking in human beings, notably in co-operation with France and Spain. Since 2019, joint training courses on trafficking have been held in Andorra for the professionals concerned. GRETA considers that the authorities should continue to develop specialised knowledge among the professionals involved in anti-trafficking action, ensure that training on human trafficking is regular, systematic and targeted, and make sure that professionals have adequate tools and resources at their disposal.

Furthermore, GRETA welcomes the introduction of specific provisions on the non-punishment of victims of trafficking and considers that the authorities should continue their efforts by providing training and guidance to professionals on the scope of the principle of non-punishment.

Various measures for the protection of victims and witnesses of trafficking in human beings may be taken in judicial proceedings. In cases where the victim is a child, specific protection measures must also be taken, such as the presence of a psychologist at hearings, audio and video recording of interviews and the absence of cross-examination to avoid direct confrontation with the alleged perpetrator.

The report also examines progress made in implementing previous GRETA recommendations on selected topics.

To facilitate the detection of cases of trafficking for the purpose of labour exploitation, a list of indicators was adopted and circulated within the Labour Inspectorate. On the other hand, no specific training on the Labour Inspectorate's role in detecting potential victims was organised. Despite the increase in Inspectorate staff, GRETA is concerned about the low number of inspections carried out at the Labour Inspectorate's own initiative, i.e., not in response to a complaint or a work accident. It is also concerned that legislation on the labour market could encourage labour exploitation or even trafficking in human beings, and that owing to immigration laws and policies, victims might be reluctant to report their situation to the authorities for fear of being deported. GRETA urges the Andorran authorities to build awareness specifically among migrant workers of the risks linked to trafficking and strengthen the capacities and resources of labour inspectors in order to increase the number of inspections carried out at the Inspectorate's own initiative.

GRETA commends the efforts made by the Andorran authorities to prevent and detect situations of abuse against vulnerable children. However, GRETA considers that the authorities should include information on the risks of trafficking in human beings in general awareness-raising campaigns aimed at children. It also asks the authorities to review the age assessment procedures applicable to any child trafficking victims, taking account of Recommendation CM/Rec(2022)22 of the Committee of Ministers to member States on human rights principles and guidelines on age assessment in the context of migration.

With regard to the identification of victims of trafficking, GRETA welcomes the training offered to professionals and the adoption of a list of indicators providing guidance for detecting and identifying potential victims. However, it notes that no co-operation has been forged with civil society in this respect and is concerned that there is no proactive detection of victims in connection with procedures to deport foreign nationals. GRETA urges the Andorran authorities to take additional measures to detect and identify potential victims of trafficking in human beings, including among migrant workers and people in an irregular situation, by developing co-operation with civil society organisations and professional training.

GRETA reiterates its concerns over the highly restrictive conditions governing access to residence permits for trafficking victims. As the legislation stands, obtaining a work permit is a prerequisite for the issue of a residence permit to a victim and not vice versa. GRETA therefore urges the Andorran authorities to change the legislation so that victims of trafficking can obtain residence permits without having to submit evidence of recruitment to work by a company legally established in Andorra, in conformity with Article 14 of the Convention.

I. Introduction

1. The Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) entered into force for Andorra on 1 July 2011. GRETA’s first evaluation report¹ on Andorra was published on 18 September 2014, and the second evaluation report² on 3 July 2019.
2. On the basis of GRETA’s second report, on 18 October 2019 the Committee of the Parties to the Convention adopted a recommendation to the Andorran authorities, requesting them to inform the Committee of measures taken to comply with the recommendation within a one-year period. The report submitted by the Andorran authorities was considered at the 27th meeting of the Committee of the Parties (4 December 2020) and was made public³.
3. On 2 May 2022, GRETA launched the third round of evaluation of the Convention in respect of Andorra by sending the questionnaire for this round to the Andorran authorities. The deadline for submitting the reply to the questionnaire was 5 September 2022 and the authorities’ reply was received on that date.
4. In preparation of the present report, GRETA used the reply to the third-round questionnaire by the Andorran authorities and the above-mentioned report submitted by them in reply to the Committee of the Parties’ recommendation. An evaluation visit to Andorra took place from 13 to 15 December 2022 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 Thomas Ahlstrand, member of GRETA;
 - Ms Nathalie Martin, member of GRETA;
 - Ms Parvine Ghadami, Administrator in the Secretariat of the Convention;
 - Ms Daniela Ranalli, Administrator in the Secretariat of the Convention.
5. During the visit, the GRETA delegation held consultations with the Secretary of State for Justice and the Interior, Mr Joan Antoni León Peso, the Secretary of State for Economy and Business, Mr Eric Bartolomé, as well as with officials of the Ministry of Justice and the Interior, the Ministry of Foreign Affairs, and the Ministry of Social Affairs, Youth and Equality. It also met members of law enforcement agencies, the Public Prosecutor’s Office and the Labour Inspectorate, judges, as well as child protection and social services professionals.
6. Separate meetings were held with the Ombudsman (*Raonador del Ciutadà*), Mr Marc Vila, and members of Parliament (*Consell General*). The delegation also spoke to representatives of non-governmental organisations (NGOs) and a trade union, lawyers and representatives of the Andorran Bar Association.
7. In the course of the visit, the GRETA delegation visited a centre housing vulnerable children in Andorra la Vella (“La Gavernera” educative accommodation centre).
8. The list of the national authorities, NGOs and other organisations with which the delegation held consultations is set out in Appendix II to this report. GRETA is grateful for the information provided by them.

¹ <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680630c61>

² <https://rm.coe.int/report-concerning-the-implementation-of-the-council-of-europe-conventi/1680a03449>

³ <https://rm.coe.int/cp-2020-08-andorra/1680a09ae1>

9. GRETA wishes to thank the Andorran authorities for their excellent co-operation, and particularly Ms Eva Garcia Lluelles, Head of Department, and Ms Marta Villagrasa Noguera, Legal Officer, in the International Relations and Legal Co-operation Department of the Ministry of Justice and the Interior.

10. The draft version of the present report was approved by GRETA at its 48th meeting (27-30 June 2023) and was submitted to the Andorran authorities for comments. The authorities' comments were received on 29 September 2023 and were taken into account by GRETA when considering and adopting the final report at its 49th meeting (13-17 November 2023). The final report covers the situation up to 17 November 2023; 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 Andorra

11. For the first time since the Convention's entry into force in respect of Andorra, a presumed victim of trafficking in human beings (THB) for the purpose of sexual exploitation was identified in Andorra in 2021. A woman originating from a Latin American country and resident in Spain had been recruited online to engage in prostitution in Andorra la Vella. She was identified by the police as a presumed victim of THB after a report about violence was received by the police, but did not wish to benefit from a recovery and reflection period. The case was finally not classified as trafficking in human beings by the courts on grounds that not all the constituent elements of the offence were established. Further information on this case is provided in paragraph 85.

12. Due to the strong demand for foreign labour in the country, the risk of labour exploitation continues to be a concern. Several sectors have been identified by the authorities and civil society as being at risk, such as domestic work, seasonal work, construction and agriculture (see paragraph 145). At the time of the visit, the working conditions of African and Latin American migrants seconded to Andorra by foreign companies were a cause for concern (see paragraph 152). The authorities were also reportedly attentive to possible cases of THB for the purpose of forced criminality (smuggling cigarettes between France and Andorra).

13. The Andorran authorities reiterated their view that the absence of human trafficking cases was down to the fact that the country had neither an airport nor a train station, was not part of the Schengen area and therefore kept control of its borders, and had a small territory where pimping and the facilitation of prostitution were criminalised. However, GRETA considers that the absence of identified victims of THB does not necessarily reflect the reality of the situation. As emphasised in the previous evaluation rounds, the lack of targeted awareness-raising and proactive detection of victims, the absence of research on trafficking in human beings, and the underestimation of potential THB cases and their classification as other criminal offences are all factors that may explain the lack of identified victims.

III. Developments in the legal, institutional and policy framework for action against trafficking in human beings

14. Action against trafficking in human beings continues to be governed mainly by Law 9/2017 of 2 May 2017 on measures for action against trafficking in human beings and protection of victims.⁴ During the reporting period, several laws and regulations were adopted to strengthen the legal framework and improve support for victims of trafficking.

15. Law 45/2022 of 22 December 2022 amending the Criminal Code (CC) broadened the scope of the crime of trafficking in human beings to include situations of forced labour, forced services and forced begging, established clearer penalties for cases involving child victims, and introduced a specific provision on the non-punishment of victims of THB (see paragraphs 77, 80 and 91). The law also strengthened the legal framework for offences committed on the Internet or through new technologies, for example by providing for heavier penalties for facilitating prostitution via the internet or social media.⁵ Decree 98/2021 of 24 March 2021 approving the Regulation on the right to legal defence and technical assistance introduced access to free legal assistance for victims of THB (see paragraphs 44-45).

16. On 21 September 2022, Andorra acceded to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol).

17. A reform of the Ombudsperson institution, which is empowered to receive individual complaints (including from victims of trafficking), may be implemented in the near future. The Venice Commission has already issued an opinion at the request of the Andorran Government.⁶

18. With regard to the institutional framework, the Action Protocol for the Protection of Victims of Trafficking in Human Beings (hereinafter, the "Action Protocol"), adopted in June 2018, continues to ensure co-ordination between the relevant stakeholders and to set out the procedures to be followed in case of detection of potential victims. It specifies that the police (and, in particular, the Crimes against Persons Unit) is the sole authority empowered to formally identify victims. The Unit for the Care of Victims of Trafficking in Human Beings (SAVTEH), established under the Ministry of Social Affairs by the aforementioned Law 9/2017, is responsible for providing multidisciplinary assistance to adult victims. On 18 May 2022, a protocol was signed between the SAVTEH and the Andorran Employment Service to improve victims' access to the labour market (see paragraph 57). Support for children who would be identified as victims of trafficking remains under the Child and Adolescent Protection Service (Ministry of Social Affairs).

19. The first national action plan to combat trafficking in human beings was adopted on 3 March 2021. Entitled "Strategic Policy on Combating Trafficking in Human Beings 2021-2023"⁷ (hereinafter, "Strategic Policy"), the document sets out preventive measures such as public awareness-raising and professional training, victim assistance and protection measures, legislative and procedural changes, as well as co-ordination and co-operation measures. It refers to the recommendations made by GRETA in the previous evaluation rounds. The implementation of the plan is being monitored by a working group bringing together the relevant ministries and services under the co-ordination of the Ministry of Justice and the Interior. The latter has drawn up the first monitoring report on the implementation of the action plan, published in 2022.⁸

⁴ See, in particular, paragraphs 14 and 15 of GRETA's second evaluation report in respect of Andorra.

⁵ https://www.consellgeneral.ad/ca/activitat-parlamentaria/lleis-aprovades/llei-45-2022-del-22-de-desembre-qualificada-de-modificacio-de-la-llei-9-2005-del-21-de-febrer-qualificada-del-codi-penal/at_download/PDF (in Catalan).

⁶ [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2022\)033-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2022)033-e)

⁷ <https://rm.coe.int/annexe-i-to-andorra-s-reply-to-greta-s-3rd-round-questionnaire-orienta/1680a875e4> (in French).

⁸ <https://rm.coe.int/annexe-ii-to-andorra-s-reply-to-greta-s-3rd-round-questionnaire-inform/1680a875e3> (in Catalan).

20. GRETA welcomes the adoption of the Strategic Policy and the fact that it refers to its recommendations from the previous evaluation rounds of the Convention. This document represents a significant step forward enabling Andorra's effective implementation of the Convention. GRETA notes, however, that some of the envisaged measures are very general and look more like objectives. Furthermore, there does not appear to be a specific budget for the implementation of the Strategic Policy, nor is an independent evaluation envisaged at the end of its implementation. GRETA also notes that civil society organisations, in particular trade unions, were not involved in the adoption of the Strategic Policy and have no role in monitoring its implementation. The authorities explained that this was because there were no NGOs specifically dealing with THB.

21. **GRETA considers that the Andorran authorities should:**

- **undertake and support research on THB-related issues in order to assess the nature of the phenomenon and provide an evidence base for future policy measures;**
- **involve civil society organisations (including victims' associations and trade unions) in the monitoring and implementation of the Strategic Policy and the adoption of future anti-trafficking policies (see also the recommendation in paragraph 185);**
- **introduce an independent evaluation of the implementation of the Strategic Policy and other anti-THB projects, as a tool for assessing the impact of the activities and planning future policies and measures to combat THB.**

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

1. Introduction

22. 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.

23. 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.⁹

24. According to the Basic principles on the right to an effective remedy for victims of trafficking in persons,¹⁰ the right to an effective remedy is considered to include restitution,¹¹ compensation,¹² rehabilitation,¹³ satisfaction¹⁴ and guarantees of non-repetition.¹⁵ 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,¹⁶ 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,

⁹ *Rantsev v. Cyprus and Russia*, no. 25965/04, ECHR 2010. [add references]

¹⁰ 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, available at: <https://undocs.org/A/69/269>

¹¹ 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 identity and travel documents and other personal belongings.

¹² 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.

¹³ 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.

¹⁴ 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.

¹⁵ 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.

¹⁶ 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

as well as the Council of Europe Committee of Ministers Recommendation CM/Rec(2023)2 on rights, services and support for victims of crime.¹⁷

25. 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 confiscation of the assets of traffickers, which could be used to fund State compensation schemes for victims.

26. 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.¹⁸

27. Civil society, such as NGOs, trade unions, diaspora organisations and employer organisations, plays a vital role in enabling victims of THB to claim compensation and other remedies.¹⁹ In this context, reference should be made to the international projects COMP.ACT - European Action on Compensation for Trafficked Persons²⁰ and Justice at Last - European Action for Compensation of Victims of Crime,²¹ which aim to enhance access to compensation for trafficked persons.

28. 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.²² 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.²³ 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.

29. 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.

¹⁷ Council of Europe Committee of Ministers Recommendation CM/Rec(2023)2 on rights, services and support for victims of crime, available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=0900001680aa8263

¹⁸ UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 7-8.

¹⁹ OSCE Compensation for Trafficked and Exploited Persons in the OSCE Region, 2008, pp. 48-53.

²⁰ <http://www.compactproject.org/>

²¹ <http://lastradainternational.org/about-lsi/projects/justice-at-last>

²² United Nations Guiding Principles on Business and Human Rights, implementing the UN 'Protect, Respect and Remedy' Framework, Doc. A/HRC/17/31 (2011).

²³ UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 8-9.

2. Right to information (Articles 12 and 15)

30. 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.

31. 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.²⁴

32. 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.²⁵

33. In Andorra, Article 8 of the 2018 Action Protocol for the Protection of Victims of Trafficking in Human Beings provides that after the initial police interview, "if it is established that there are reasonable grounds or indications to consider a person as a victim of trafficking in human beings, the person shall be informed of all his/her rights". Reference is made to the provision of information on the conditions of access to free legal assistance. The information must be provided to victims in a language they understand, if necessary with the assistance of an interpreter. In addition, Article 9 of the Action Protocol provides that, once identified, victims of THB must be informed of their rights and of the services to which they may have access under Law 9/2017 (see paragraph 177).

34. With regard to children, Article 75, paragraph 3 of the Law 14/2019 of 15 February 2019 on the rights of children and adolescents provides that children must be informed of their rights in criminal proceedings, in particular, the right to free legal aid, of the services to which they may have access and of the course of the proceedings.

35. Once a victim of THB has been identified, the contact person designated by the competent authority of the Ministry of Social Affairs (for adults, the Equality Policy Unit, and for children, the Child and Adolescent Protection Service, see paragraph 179) is responsible for assisting that person in any administrative procedures, including by providing information on his/her rights. Victims may also receive information from the SAVTEH and the emergency hotline (number 181). One of the functions of the latter is to provide information and advice to the general public in cases of gender violence, trafficking in human beings or other situations of violence (see paragraph 180).

²⁴ See Explanatory Report on the Convention, paragraphs 160-162.

²⁵ See 8th General report on GRETA's activities, paragraphs 168-169.

36. As part of the Strategic Policy, a document to inform THB victims of their rights was drafted in 2022. It lists various rights of victims, such as the recovery and reflection period, the right to legal aid, the right to protection during the investigation and criminal proceedings and the specific rights of child victims. It is intended for distribution to potential victims as soon as they come into contact with the authorities. A document for professionals on the provision of information to victims was also prepared. GRETA welcomes the adoption of these documents, which aim to make it easier to inform victims who would be detected in Andorra of their rights. It notes, however, that further information should be added to the document for victims, which does not include some core rights, such as the right to compensation or the principle of non-punishment. At the time of GRETA's visit, the document did not contain any explanation about what the recovery and reflection period means for victims in an irregular situation, and it was only available in Catalan.

37. A leaflet for potential victims containing information about THB, how to avoid risks, a presentation of the SAVTEH and the emergency hotline number 181 was produced in 2018 and is available in several languages (Catalan, English, French, Spanish and Ukrainian).²⁶ Similar information is also available in Catalan on the Ministry of Social Affairs' website.²⁷

38. In criminal proceedings, if victims do not speak the language in which they are being questioned, their statements must be taken with the assistance of a court-appointed interpreter (Article 73 of the Code of Criminal Procedure, CCP). Interpretation costs are borne by the State. There is a government list of sworn interpreters and translators and a more comprehensive list compiled by the judiciary. The lists of sworn interpreters and translators of the Autonomous Community of Catalonia (Spain) may also be used when necessary. Several interlocutors stated that, as a general rule, access to interpreters was not an issue in Andorra, except for some languages such as Chinese.

39. Under Law 9/2017, victims are also entitled to a translation and interpretation service provided by the SAVTEH, in particular for their administrative procedures or for the purposes of civil or administrative proceedings. GRETA was informed that the SAVTEH had concluded a contract with a private translation and interpretation company for this purpose.

40. GRETA welcomes the efforts made to guarantee the right to information of victims of THB and considers that the Andorran authorities should take additional measures to ensure that presumed victims of THB are proactively provided with information as soon as they come into contact with a competent authority. The information should take into account the victim's age, maturity, intellectual and emotional capacity, literacy and any mental, physical or other disability which may affect the victim's ability to understand. It should be provided regardless of the victim's ability or willingness to co-operate in criminal proceedings and should refer to the right to a recovery and reflection period, the services and support measures available, the right to legal aid, the compensation procedure and other relevant civil and administrative remedies and procedures.

41. GRETA also considers that the authorities should improve the information provided in the document on the rights of victims of THB, so that it covers all the rights of victims (including the right to join the criminal proceedings as civil party, the right to compensation and the principle of non-punishment), is available in several languages, presents the essence of these rights in a straightforward manner and explains how to exercise them.

²⁶ Leaflet available in [French](#) and in [English](#).

²⁷ <https://www.aferssocials.ad/igualtat>

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

42. 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 procedures are 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-law²⁸ 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 civil matters, 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.

43. 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.²⁹

44. In Andorra, the Regulation on the right to defence and legal technical assistance governs access to legal assistance before the courts in civil, administrative and criminal matters and before the police in criminal matters. The latest version of this Regulation, approved by Decree 98/2021 of 24 March 2021, expressly provides that victims of THB are entitled to legal aid for "all legal proceedings resulting directly or indirectly from their status as a victim".³⁰ Legal aid includes the proceedings for the execution of sentences, and covers legal costs and expert fees. Under the Regulation (Article 18, paragraph 3), this right is guaranteed to all victims, regardless of their nationality or residence status, as soon as they are identified.

45. Under Article 19 paragraph 4 of the Regulation, legal aid is free of charge, i.e. paid for by the State, for all victims of THB.

46. Legal aid is provided by lawyers appointed by the judiciary and listed by the Andorran Bar Association as duty lawyers (*torn de guàrdia*) or *ex officio* lawyers (*torn d'ofici*). GRETA was informed that lawyers on these lists must have at least two years' professional experience and are required to undergo specific training on criminal procedure. As mentioned in the second report, the Bar Association does not provide any specialised training on THB, nor is there any plan to develop such training in the future, which is due to the lack of THB cases.³¹ According to the authorities, lawyers were invited, via the Bar Association, to attend the anti-trafficking training organised by the authorities in 2022 (see paragraph 109).

47. Free legal information and advice are also available through the SAVTEH or the weekly free advice consultations run by the Bar Association, which are open to any person, including victims of THB.³²

48. GRETA was concerned to learn that in the possible case of THB detected in May 2021 (see paragraph 85), the alleged victim did not have access to a lawyer while being interviewed by the police, nor was she informed of this right. The authorities claim that this omission was due to a lack of awareness of the 2021 Regulation on the Right to Defence and Legal Technical Assistance, as it had only recently been adopted.

²⁸ *Airey v. Ireland* judgment, 9 October 1979.

²⁹ See 8th General report on GRETA's activities, paragraph 167.

³⁰ <https://leslleis.com/R20210324B> (in Catalan).

³¹ See paragraph 27 of GRETA's second report on Andorra.

³² See paragraph 72 of GRETA's second report on Andorra.

49. **While welcoming the adoption of Decree 98/2021 which enshrines the right to legal aid for victims of trafficking in human beings, GRETA considers that the Andorran authorities should step up their efforts to guarantee the right to legal assistance and free legal aid for trafficking victims in an effective manner, in particular by:**

- **ensuring that legal assistance is systematically provided as soon as there are reasonable grounds for believing that a person is a victim of trafficking and before he/she has to decide whether or not to co-operate with the authorities and/or make an official statement;**
- **raising awareness among law enforcement officials, prosecutors and judges of the right of victims of trafficking in human beings to legal assistance and free legal aid;**
- **encouraging the Andorran Bar Association to develop training on trafficking in human beings for lawyers who may provide legal aid to victims of THB.**

4. Psychological assistance (Article 12)

50. 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 achieve a sustained recovery and social inclusion. Some victims require long-term therapeutic attention due to the violence that 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.³³ In the case of trafficked children, specialist child psychologists should be employed.

51. In Andorra, under Article 8 of Law 9/2017, victims identified by the authorities are entitled to receive psychological assistance both during and after the recovery and reflection period, as well as to fully reimbursed health care. These measures may not be made contingent upon the willingness of victims to testify in criminal proceedings. GRETA notes that the right to psychological assistance is referred to in the documents on victims' rights (see paragraph 36).

52. Pursuant to the Action Protocol, the contact person designated by the competent authority of the Ministry of Social Affairs after the identification of the victim (see paragraph 177) is responsible for arranging free psychological assistance for that person. According to the authorities, this assistance would be provided by a psychologist or a psychiatrist as appropriate, and for as long as necessary.

53. Psychological assistance would also be provided to child victims, whether they are placed in foster care or in *La Gavenera* educative accommodation centre (see paragraphs 163-164).

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

54. 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.³⁴ GRETA has stressed the need to develop public-private partnerships with a view to creating appropriate work opportunities for victims of trafficking.³⁵

³³ OSCE, *Trafficking in Human Beings Amounting to Torture and Other Forms of Ill-Treatment* (2013), Vienna, p.115.

³⁴ Rebecca Surtees, NEXUS Institute, *Re/integration of trafficked persons: supporting economic empowerment*, Issue paper No. 4, King Baudouin Foundation (2012).

³⁵ 8th General report on GRETA's activities, paragraph 183.

55. In Andorra, the right of victims of trafficking in human beings to have access to work or vocational training is not enshrined in Law 9/2017 or the Action Protocol. With regard to access to education, the aforementioned law refers to access to the education system for children of compulsory school age (6-16 years) as one of the rights of victims of THB (or children of adult victims of trafficking). The information material on victims' rights (see paragraph 36) refers to the right of victims to "seek access to the labour market, vocational training and education".

56. According to the authorities, victims are allowed to work during the recovery and reflection period (with a duration of 30 days, renewable).³⁶ After this period, victims of THB must have a job in order to obtain a residence permit (see paragraph 186). This means that victims would have to find work before the end of the recovery and reflection period, which seems very difficult in such a short period of time and given the state of physical and psychological health of some victims.

57. A protocol signed between the SAVTEH and the Andorran Employment Service (*Servei d'Ocupació d'Andorra*, SOA), published on 22 May 2022, aims to make it easier for victims to find work. It establishes a procedure for communication and co-ordination between the two bodies and for the provision of assistance to victims. Under the protocol, the SAVTEH must refer the case of a THB victim seeking employment to the SOA, which must then assign a dedicated careers adviser to assist the victim in registering with the SOA and finding work. The assistance includes a personal analysis of the victim's occupational profile, proposals for activities and programmes, and personalised measures to improve employability, including through vocational training.

58. With regard to access to education, in practice, the designated contact person within the Child and Adolescent Protection Service is responsible for ensuring that child victims have access to schooling. Whether placed in foster care or in the educative accommodation centre (*La Gavernera*), child victims of trafficking would benefit from compulsory schooling (6-16 years) and, if necessary, Catalan language classes and psycho-pedagogical support.

59. While welcoming the signing of the protocol between the SAVTEH and the Andorran Employment Service, GRETA considers that the Andorran authorities should ensure that any persons identified as victims of trafficking have effective access to the labour market.

6. Compensation (Article 15)

60. 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.

³⁶ See paragraph 91 of GRETA's second report on Andorra.

61. 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 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.

62. 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.

63. As noted in GRETA's previous reports,³⁷ in Andorra, anyone found guilty of a criminal offence also bears civil liability for compensation for the damage suffered (Article 94 of the CC). A victim of trafficking may claim compensation from the trafficker(s) either by joining the criminal proceedings as accusing party alongside the public prosecutor (*acusació particular o privada*) or as a civil party seeking damages (*actor civil*). The request may be made at any time until the prosecution presents the charges (indictment). Victims may also claim compensation independently of the criminal proceedings by bringing the matter before the civil courts, but they must wait until the criminal proceedings have been closed by a final judgment or an order to dismiss. The public prosecutor is obliged to initiate civil action in parallel with the criminal proceedings, unless the victim him/herself has filed a civil suit or has expressly waived civil claims.³⁸ GRETA welcomes the obligation incumbent on the public prosecutor to initiate civil action on behalf of victims of trafficking.

64. The compensation covers the physical, psychological and pecuniary damage suffered by victims of trafficking. The amount of compensation is decided on case-by-case basis by the court, taking into account medical, psychological and psychiatric assessments, as well as all costs incurred by the victim as a result of the crime. According to the authorities, the age of the victim and his/her chances of recovery are taken into account.

65. Victims bringing civil actions must be represented by lawyers registered with the Andorran Bar Association, regardless of whether the action is brought in criminal or civil proceedings. As noted in paragraphs 44-45, victims of trafficking are entitled to free legal aid under the conditions set out in the 2021 Regulation on the right to legal defence and technical assistance. According to the Andorran authorities, even if foreign victims have returned to their country of origin, claims for compensation may be made through their lawyers.

66. Victims of THB for the purpose of labour exploitation who wish to recover the wages withheld by the trafficker(s) may apply to the civil courts, which have jurisdiction over labour law. According to the Andorran authorities, this provision applies to all persons, including those in an irregular situation and/or without an employment contract.

67. According to the Action Protocol, as soon as victims of trafficking are identified, they should be informed of their right to compensation and their right to seek damages. However, these rights are not clearly explained in the information material on victims' rights.

68. Financial investigations are carried out by the police (Specialist Economic Crime Unit), with the authorisation of the investigating judge, whenever it is necessary to obtain information from a financial entity or a natural or legal person subject to professional secrecy rules. In addition, the Andorran Financial Intelligence Unit is an independent body responsible, among other things, for gathering information on

³⁷ See paragraph 99 of GRETA's second report on Andorra and paragraph 80 of GRETA's first report on Andorra.

³⁸ Articles 14 to 21 of the Code of Criminal Procedure.

suspicious capital movements and prosecuting those responsible for money laundering and terrorist financing offences punishable by a custodial sentence.

69. In the event of a conviction, the judicial authority is obliged to order the confiscation of the assets or proceeds from the crime of trafficking in human beings (Article 70 of the CC).³⁹ The authority may also seize financial assets if there are sufficient objective reasons to believe that they are the proceeds of crime (Article 116 of the CCP). This measure may be taken from the first stage of the proceedings. However, the purpose of the provisional seizure measure is to ensure that the assets are confiscated, and compensation to victims is not paid from the confiscated assets. As another interim measure, the judge may grant financial assistance, in the form of an advance payment, to victims or their economic dependants, at the expense of those indicted of the crimes (Article 118 of the CCP).

70. If the offender does not pay the victim the compensation decided by the court, the court may order the seizure of the offender's assets and earnings in civil proceedings. If the amount is insufficient to cover all of the respective financial penalties, the order of precedence for paying those penalties is as follows: 1) reparation of damages and compensation for the harm caused; 2) legal costs; 3) fines. This underscores the priority given to compensation and reparation of damages (Article 176 of the CCP).⁴⁰

71. There is still no legal basis for paying state compensation to victims if the perpetrator defaults, such as a fund, for example.⁴¹ Although Andorra is not a party to the European Convention on the Compensation of Victims of Violent Crimes, GRETA notes that a recent recommendation of the Committee of Ministers of the Council of Europe considers that member States should set up a state compensation mechanism for victims of intentional, violent crimes committed on their territory.⁴²

72. It is difficult to assess the effectiveness of Andorra's provisions for the compensation of victims of THB given the absence of cases confirmed by the courts. In the sole presumed case of THB identified in Andorra, where the judge ultimately decided not to classify the offence as trafficking in human beings (see paragraph 85), the Court of First Instance ordered the perpetrators jointly and severally to pay the victim the sum of €5 400 in compensation for non-pecuniary damage. According to the authorities, this amount was paid to the victim.

73. **GRETA considers that the Andorran authorities should take further steps to facilitate and guarantee effective access to compensation for victims of trafficking, in particular by:**

- **informing victims in an appropriate and systematic manner about their right to seek compensation in criminal or civil proceedings (in line with the recommendations in paragraphs 40 and 41);**
- **ensuring that victims are provided with legal assistance and free legal aid from the initiation of the proceedings in order to exercise their right to compensation (in line with the recommendation in paragraph 49);**
- **ensuring that the collection of evidence of the harm suffered by the victim, including the financial gain from the exploitation of the victim, is part of the investigation with a view to supporting compensation claims in court;**
- **setting up a fund for state compensation of trafficking victims in the event of the perpetrator(s) defaulting.**

³⁹ See paragraphs 100 and 103 of GRETA's second report on Andorra.

⁴⁰ See paragraph 100 of GRETA's second report on Andorra.

⁴¹ See paragraph 104 of GRETA's second report on Andorra.

⁴² Recommendation CM/Rec(2023)2 of the Committee of Ministers to member States on rights, services and support for victims of crime adopted on 15 March 2023 and its Explanatory Memorandum, available at:

https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680aa8263

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

74. One of the purposes of the Convention is to ensure the effective investigation and prosecution of THB. Article 27(1) establishes that the investigation or prosecution of THB offences must not depend on victims' reports. The aim is to avoid traffickers' subjecting victims to intimidation so as 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 aim at fighting trafficking in human beings or the protection of human rights, the possibility to assist and/or support the victim (subject to his or her consent) during criminal proceedings concerning the offence of trafficking in human beings.

75. Article 23 requires Parties to match their actions to the seriousness of the offences and lay down criminal penalties which are "effective, proportionate and dissuasive". Furthermore, 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 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. The identified, seized and confiscated illegal profits of trafficking should be used to compensate victims of trafficking, directly or through a victim compensation fund.

76. 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.

77. Since Law 9/2017 on measures to combat trafficking in human beings and protect victims came into force, trafficking in human beings for the purpose of sexual exploitation (Article 157*bis* CC), trafficking in human beings for the purpose of organ removal (Article 121*bis* CC) and trafficking in human beings for the purpose of slavery or servitude (Article 134*bis* CC) have been criminal offences under Andorran law.⁴³ Law 45/2022 adopted on 22 December 2022 (see paragraph 15) extended the scope of the offence to include trafficking for the purpose of forced labour, forced services and forced begging (new Article 134*bis* CC). There is no specific reference in the Criminal Code to trafficking for the purpose of illegal activities, which, as already pointed out in GRETA's second report, could potentially expose THB victims to prosecution and not allow application of the principle of non-punishment.⁴⁴

78. The provisions criminalising THB do not specify that the trafficking victim's consent to the envisaged exploitation is irrelevant, despite this principle forming an integral part of the Convention's definition of trafficking in human beings. GRETA considers that it would be beneficial to expressly state in legislation that consent is irrelevant to determining whether the crime of trafficking in human beings has been committed. Setting out this pivotal principle in law could facilitate its use by investigators, prosecutors and judges when dealing with cases of human trafficking and be conducive to a more consistent approach. Consent is an important factor at different stages of human trafficking cases, for instance: if victims refuse to self-identify as they consider that they consented to exploitation; when taking a decision on whether to investigate and prosecute a case as THB where the victim apparently consented to exploitation; when deciding on the penalty for offenders where it is asserted that the victim gave consent.⁴⁵

⁴³ See paragraph 111 of GRETA's second report on Andorra.

⁴⁴ See paragraph 114 of GRETA's second report on Andorra.

⁴⁵ UNODC, Issue Paper, The role of "consent in the Trafficking in Persons Protocol, page 80. Available at: www.unodc.org/documents/human-trafficking/2014/UNODC_2014_Issue_Paper_Consent.pdf

79. **While welcoming the efforts made to transcribe all the purposes of trafficking set out in the Convention in domestic law, GRETA considers that the Andorran authorities should make express provision that a trafficking victim's consent to the exploitation envisaged is irrelevant (Article 4.b of the Convention) and ensure that trafficking for the purpose of forced criminality may be subject to prosecution and criminal convictions.**

80. Irrespective of the purpose of exploitation, trafficking in human beings carries a sentence of two to six years' imprisonment. Aggravating circumstances for sentencing under general criminal law apply when the victims are particularly vulnerable because of their age, physical or mental condition or disability, when the offences are committed by public officials in the exercise of their duties, or by an organisation or association of more than two persons.⁴⁶ In addition, since the entry into force of the aforementioned Law 45/2022, it is expressly provided that when the victims of THB are under 18 years of age or are particularly vulnerable because of their physical or mental condition or disability, the upper half of the range of penalties, i.e. four to six years' imprisonment, must be applied. Mitigating circumstances may be considered, such as the co-operation of the accused in the proceedings, the early offer of compensation to the victims⁴⁷ or the fact that the convicted person is under 21 years of age.⁴⁸

81. Only natural persons may be held criminally liable in Andorra. However, the court may impose sanctions on legal persons, including placing the company in receivership or liquidation, suspending its activities or prohibiting it from receiving public aid.⁴⁹ The Financial Intelligence Unit (UIFAND) has expressed its support for the introduction of criminal liability for legal persons⁵⁰ and GRETA has been informed that consideration is being given as to how the legal framework could be amended. **GRETA considers that the authorities should continue their efforts to introduce criminal liability for legal persons, as this is an important element in improving the criminal justice response in the fight against human trafficking.**

82. Criminal investigations may be initiated *ex officio* or on the basis of a complaint from the victim, as provided for in Article 14 of the CCP. Under this same article, NGOs may take legal action to defend collective interests, but not individual interests⁵¹ (unlike NGOs specialising in the defence of women's rights, which may bring proceedings to defend the individual interests of victims of gender-based or domestic violence).⁵²

83. The investigation of trafficking in human beings is the responsibility of the Crimes against Persons Unit of the Police, which, by decision of the investigating judge, may use special investigative techniques including phone-tapping or the interception of other forms of communication⁵³ and controlled deliveries.⁵⁴ Undercover work may be carried out for certain crimes listed in Article 122 ter of the CCP, such as terrorism or child sexual abuse, but does not appear to be permitted in THB investigations.⁵⁵

84. The plea-bargaining procedure cannot be used in THB cases pursuant to Articles 163 and following of the CCP.

85. As mentioned above, the Andorran courts heard the first case of alleged trafficking in human beings in 2022. Further information on this case is provided in the box below.

⁴⁶ Article 30 of the Criminal Code.

⁴⁷ Article 29 of the Criminal Code.

⁴⁸ Article 4, Law of 22 April 1999.

⁴⁹ Article 71 of the Criminal Code.

⁵⁰ Gerard del Castillo, "[La Uifand demana que la persona jurídica tingui responsabilitat penal](#)", Diari d'Andorra, 16 May 2021 (in Catalan)

⁵¹ See paragraph 105 of GRETA's first report on Andorra.

⁵² Law No. 1/2015 of 15 January 2015 on eradicating gender-based violence and domestic violence.

⁵³ Article 87 of the Code of Criminal Procedure.

⁵⁴ Article 122bis of the Code of Criminal Procedure.

⁵⁵ See paragraph 128 of GRETA's second report on Andorra and paragraph 106 of GRETA's first report on Andorra.

Reference: High Court of Justice, Judgment 22-2022 of 28 October 2022

Facts:

Victim: a woman of foreign nationality resident in Spain.

Defendants: two individuals (a man and a woman, both Spanish residents of foreign nationality).

Type of exploitation: trafficking in human beings for the purpose of sexual exploitation.

Other notable facts: online recruitment and use of platforms for sexual services.

The victim, who was in financial difficulty, was recruited by the defendants after replying to an advertisement placed on a social network specialising in adult content (*mileroticos.com*) offering work in prostitution in Andorra. The victim travelled to Andorra at her own expense. The defendants rented a flat in Andorra la Vella on an online rental platform and arranged to find clients on a dating website (*passion.com*). Although the rate initially agreed with the victim was €200/hour, of which the defendants would receive 50%, the rate negotiated with the clients was ultimately lower. At the end of the first day, a violent argument broke out between the victim, who wanted to leave with the money she had earned so far, and the defendants, who refused to pay her and demanded that she continue to provide the services that they had already agreed to provide to new clients.

Proceedings: The investigation was opened in May 2021 after a neighbour called the emergency services of the police to report violence. The Court of First Instance (*Tribunal des Corts*) delivered its judgment on 29 June 2022. The parties (prosecution and defence) appealed to the High Court of Justice, which delivered its judgment on 29 October 2022. The criminal proceedings lasted one year and five months. The victim quickly returned to her country of residence and did not testify at the trial. She was not assisted by a lawyer and did not act as civil party.

Charges: at first instance, the defendants were charged with:

- trafficking in human beings for the purpose of sexual exploitation (Article 157*bis* of the CC);
- wilful assault and battery (Article 115.2 of the CC);
- promoting prostitution (Article 151.1 of the CC);
- pimping (Article 152.1 of the CC), with the circumstance of having profited from it (Article 153 of the CC);
- theft by violence and intimidation (Article 204 of the CC).

Judgment: The defendants were convicted of wilful assault and battery, promoting prostitution and pimping. Classification as trafficking in human beings was rejected at first instance and on appeal on the grounds that one of the elements of the offence (namely, the element of means) had not been established. According to the judgment of the High Court of Justice:

- deception could not be established by the fact that the agreement to pay €200/hour was not honoured, as the defendants had no experience of pimping and could not have realised that the agreed price was excessive or unrealistic;
- the advertisement used to recruit the victim was not targeted at women or particular groups because of their vulnerability, and the existence of the victim's debts, of which the defendants were unaware, was not sufficient to place the victim in a vulnerable situation;
- violence or coercion was not used to recruit, transport or relocate the victim, but took place subsequently, during the dispute over the payment for sexual services and whether the victim should continue to provide them.

Sentences: The defendants' sentences were reduced on appeal. The man was sentenced to five years' imprisonment and fined €3 000. The woman received two and a half years' imprisonment and a €3 000 fine. Account was taken of the fact that she was under 21 years of age at the time of the offences, that her participation in the committing of the offences was lesser, and that she was under the influence of her co-perpetrator spouse. An ancillary penalty was imposed, ordering the defendants to refrain from contacting the victim for 10 years and banning them from entering Andorran territory for 20 years.

Compensation: The Court of First Instance ordered the defendants jointly and severally to pay the victim the sum of €5 140.85 by way of compensation for non-pecuniary damage suffered as a result of the aforementioned crimes, which was confirmed on appeal.

86. GRETA was also informed that an investigation into the alleged use of electronic means for the purpose of recruiting victims of trafficking had been opened, but had not been successful. In addition, at the time of GRETA's visit, the Government's attention was drawn to the situation of seconded foreign workers in the construction sector, whose working and living conditions were in breach of Andorran law and contrary to human dignity (see paragraph 152). According to the authorities' comments on the draft report, criminal proceedings had been brought against the manager for the offences (*delictes menors*) of imposing degrading or dangerous and abusive working conditions (Articles 249 and 250 of the CC). The case, which concerns some 10 victims, is being investigated. **GRETA wishes to be kept informed of the progress of this case.**

87. GRETA also learned of a case of alleged labour exploitation in 2020 that received a lot of media attention.⁵⁶ Following a serious accident suffered by an agricultural worker, criminal proceedings were brought against the farm manager. It emerged that the worker, a foreign national, had been recruited by the manager, for whom he had worked for seven years, without a contract of employment, residence permit or social security cover. He worked from 6.30 am to 8 pm (i.e. 13 and a half hours a day), with no day off, only one weekly rest period on Sunday afternoons and no annual leave. For some time, he lived in a small, unheated room in the manager's home, with the rent being deducted directly from his salary. Each month he received €1 200 net in cash (which corresponds to less than €3 per hour). The forensic report drawn up as part of the legal proceedings found that the victim had a mild intellectual disability and difficulties in reasoning. Although these facts constitute severe exploitation, the farm manager was convicted of the offence of imposing abusive working conditions (Article 250 of the CC) and sentenced to two months' imprisonment after a summary trial before a single judge. The determination of civil liability was ongoing when the authorities sent their comments on the draft report, stating that the victim had received 15 000 euros as an advance payment. Furthermore, his administrative situation had been regularised and he had been granted a residence and work permit valid for several years, as well as having 100% of his health costs covered and benefiting from other material assistance measures.

88. GRETA welcomes the efforts of the authorities to ensure that the first presumed case of trafficking in human beings in Andorra has been brought to justice. However, it is concerned that the courts may have a restrictive interpretation of what constitutes trafficking in human beings. Several interlocutors also stressed that many victims of exploitation or THB would not press charges for fear of losing their job or not finding another (see also paragraph 154). As in practice the opening of an investigation depends on a complaint from the victim, or at least their co-operation in the proceedings, there are no cases of THB going before the courts.

89. **GRETA considers that the Andorran authorities should take measures to strengthen the criminal justice response to THB, including by:**

- **ensuring that human trafficking offences for all forms of exploitation are proactively and promptly investigated, regardless of whether a complaint is filed by the victim;**
- **making use of special investigation techniques in order to gather material, documentary, financial and digital evidence, and not having to rely exclusively on testimony by victims or witnesses;**

⁵⁶

https://www.ara.ad/societat/treballador-explotat-auvinya-exculpa-propietaris_1_1185488.html

- **ensuring that human trafficking offences are prosecuted as such, rather than as lesser offences, every time the circumstances of the case allow this, and lead to effective, proportionate and dissuasive sanctions for those convicted;**
- **strengthening training and awareness-raising among law enforcement officials, prosecutors and judges on trafficking in human beings, including the various constituent elements of the crime.**

8. Non-punishment provision (Article 26)

90. 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.⁵⁷ 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.

91. In Andorra, significant developments took place during the reference period with regard to the non-punishment principle. The reform of the Criminal Code resulting from Law 45/2022 of 22 December 2022 introduced a non-punishment provision in the various articles criminalising THB (Articles 157*bis*, 121*bis* and 134*bis* of the CC). It is now stipulated in each of these articles that "victims of trafficking in human beings shall be exempt from criminal liability for criminal offences committed in a situation of exploitation, provided that their participation was a direct consequence of the situation of violence, intimidation, deception or abuse to which they were subjected, or that one of the circumstances of exemption from liability provided for in Article 27 of the Criminal Code applies".⁵⁸

92. Article 27 of the CC provides for various grounds for exemption from criminal responsibility, including "an act motivated by insurmountable fear".⁵⁹ In its previous evaluation, GRETA expressed its concern that the notion of "insurmountable fear" might not cover all situations encountered by victims of THB and might make it difficult to apply the non-punishment principle. The conditions for the establishment of "insurmountable fear" have recently been clarified by case-law as follows: "the existence of a malevolent force which places the subject in a situation of fear, that this fear is caused by an actual fact which is insurmountable, in the sense that it cannot be controlled or mastered by the average person, and that fear was the sole motive for the act".⁶⁰

93. In administrative law matters, under Article 7 of Law 9/2017, during the recovery and reflection period and during the identification procedure, the victim may not be subject to any police measures.

94. Taking into account the recent introduction of a non-punishment provision, neither the Action Protocol nor the information documents for victims and professionals refer to the principle of non-punishment of victims. Furthermore, it does not appear that this issue was addressed during the training sessions on THB in 2019, 2021 and 2022.

⁵⁷ See GRETA's 2nd General Report, paragraph 58.

⁵⁸ Unofficial translation.

⁵⁹ See paragraph 123 of GRETA's second report on Andorra.

⁶⁰ High Court of Justice of Andorra, Judgment of 15 September 2022, No. 15-2022.

95. GRETA welcomes the introduction of a specific provision on the non-punishment of victims of THB, in line with its previous recommendation, which should remove the difficulties associated with the application of the concept of “insurmountable fear”. **GRETA considers that the Andorran authorities should continue their efforts by providing training and guidance to law enforcement officials, prosecutors and judges on the scope of the principle of non-punishment.**

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

96. 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.

97. 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 are concerned with extra-judicial protection, Article 30 addresses the procedural measures to be introduced. The following means can be used, in accordance with the European Convention on Human Right and the case-law of the European Court of Human Rights, to achieve the objectives of Article 30: non-public hearings, audiovisual technology, recordings of testimony, and anonymous testimony.

98. Arrangements for the protection of victims and witnesses of trafficking in human beings in Andorra have remained unchanged.⁶¹ Under the Action Protocol (Articles 5, 6, 8 and 9), where there are reasonable grounds to suspect that an individual is a victim of trafficking, and for the entire duration of the identification procedure, the protection and support measures provided for in the Protocol are applicable, as are any measures required to safeguard the potential victim’s rights and ensure that all contact is broken off with the trafficking entourage. Furthermore, once a trafficking victim has been identified, the competent authorities must carry out an assessment of the risks faced by the victim and take all necessary measures to provide appropriate protection against any acts of reprisal or intimidation, during and after the investigation and the judicial proceedings, including through the protection of the victim’s personal data and, where applicable, physical protection. Interviews with victims must be confidential and carried out in a manner suited to the victim’s age, gender and personal circumstances.

99. During the criminal proceedings, protection measures may be taken by the court, on a recommendation by the Police, the Prosecutor’s Office or the social services. In particular, an order banning the accused from contacting the victim may be imposed during the investigation phase.⁶² Victims may have their identity protected by a pseudonym and give testimony *in camera* or by videoconference in order to avoid cross-examination (direct confrontation) with the accused. GRETA was informed that the use of videoconferencing was widespread. Moreover, during interviews or hearings, the presence of a social services educator and a psychologist may be requested, and a member of civil society may assist the victim if the latter so wishes.

⁶¹ See paragraphs 134-137 of GRETA’s 2nd report on Andorra; paragraphs 109-111 of GRETA’s 1st report on Andorra.
⁶² Articles 110.2 d and 111 of the Code of Criminal Procedure.

100. In cases where the victim is a child, specific protection measures must be taken pursuant to the Law on the rights of the child and the Action Protocol (see paragraphs 128 and following).

101. The protection of victims during the proceedings is mentioned both in the information documents on victims' rights (see paragraph 36) and during the annual training on THB.

102. In the presumed THB case detected in 2021, at her request the victim did not participate in a cross-examination or testify in a hearing. In addition to handing them prison sentences, the court banned the perpetrators from contact with the victim for 10 years (see paragraph 85).

103. **GRETA invites the Andorran authorities to continue ensuring that all measures to protect victims of criminal offences are made effectively available to victims and witnesses of trafficking in human beings in order to avoid them being subjected to intimidation and reprisals during the investigation as well as during and after the court proceedings.**

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

104. 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.

105. Within the Police Department, investigations into THB cases are carried out by the Crimes against Persons Unit (employing five persons, including three women) which is competent among other things for offences against children, violent offences, violence against women and domestic violence. The Financial and Economic Crime Investigation unit is tasked with investigating crimes involving money laundering, offences of a socio-economic nature and gambling-related offences, identifying criminal assets and handling international rogatory commissions linked to white-collar crime. Finally, there is a group specialised in cybercrime.⁶³

106. The Prosecutor's Office comprises the Prosecutor General, six deputy prosecutors (two women and four men) and two trainee deputy prosecutors, including one additional post created by Law 38/2022 of 1 December 2022 amending the Law on Justice. According to a report of the Justice Administration Inspection Service dating from 2020, the Prosecutor's Office would need 11 prosecutors to be able to function effectively. Although there is no specialisation as such within the Prosecutor's Office, there are contact prosecutors (*procureur référent*) for certain crimes, notably for violence against women, trafficking in human beings, financial offences and cybercrime. The contact prosecutor is tasked with co-ordinating any THB cases brought to the attention of the Prosecutor's Office, acting as the point of contact for various international networks and participating in awareness-raising and training initiatives in the sphere of THB.

107. Where judicial investigation is concerned, there is a general section and a specialised section, with the latter being competent for crimes against the free movement of persons, crimes linked to prostitution, drug trafficking or money laundering or crimes committed by a criminal organisation.⁶⁴ This specialised section currently has three investigating judges. Depending on the cases involved, the investigation of THB cases may fall within the specialised section's remit (trafficking for the purpose of exploitation of prostitution or committed by a criminal organisation). At the trial stage, trafficking in human beings is tried by the *Tribunal de corts* at first instance and by the *Tribunal Superior* on appeal.

⁶³ See the organigramme of the Police: <https://www.policia.ad/ca/la-policia/estructura-organitzativa/>

⁶⁴ Article 50.6 of the Law on Justice.

108. The co-ordination of the actions of the government and institutions in the area of THB is handled by the International Relations and Legal Co-operation Department of the Ministry of Justice and the Interior, which has two staff members.

109. There is no systematic training on trafficking in human beings for relevant professionals, but general joint training was provided in 2019, 2021 and 2022 on the occasion of the European and World days against trafficking in human beings (18 October and 30 July). By way of example, a training given by the co-ordinator of Barcelona's Municipal Anti-trafficking Unit took place in 2019 for 50 members of staff involved in the detection of THB cases and the protection of victims (police officers, prosecutors, labour inspectors, social services and child welfare professionals). In 2022, a new training course was taught by a lecturer from Lleida University (Spain) to over 100 people working in the police, the Prosecutor's Office, the courts, the health sector, child protection, social services, the Labour Inspectorate and the Ministry of Justice and the Interior. This covered the definition of trafficking in human beings in international and nation law, the profiles of victims and traffickers, and the detection and protection of victims in the light of the experience of Spanish courts.

110. Members of the Prosecutor's Office and judges may also attend training courses on trafficking in human beings run in France by the French National School for the Judiciary and in Spain by the Judicial School (for judges) or the Centre for Legal Studies (for members of the Prosecutor's Office), and specific courses can also be organised by these foreign judicial schools on request. Members of the Police, the Customs Service and the Immigration Service also undergo training to detect fake documents organised each year by the French National Police. Finally, GRETA was informed that the Council of Europe's HELP course on trafficking in human beings has been disseminated within the services concerned for self-study purposes.

111. During the visit, several professionals called for more specific training focusing on their role in combating trafficking in human beings, particularly as regards the detection of victims and the conducting of investigations.

112. **GRETA welcomes the efforts made to develop training on trafficking in human beings, notably in co-operation with France and Spain, and considers that the Andorran authorities should continue to develop specialised knowledge of professionals in the fight against trafficking in human beings, and in particular:**

- **ensure that training on trafficking in human beings is regular, systematic and targeted, providing specific guidance geared to the role of each profession in the detection, identification and protection of victims and/or the conducting of judicial proceedings. Such training could be integrated in the regular training programmes of the different professions;**
- **ensure that professionals have adequate tools and human and material resources at their disposal so that investigations, prosecutions and judgments in the area of THB are effective.**

11. International co-operation (Article 32)

113. 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 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 engage in extensive co-operation with 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 Convention neither cancels nor replaces relevant international or regional instruments⁶⁵ on mutual legal assistance and extradition, reciprocal arrangements between Parties to such instruments and relevant provisions of domestic law concerning international co-operation.

114. The Principality of Andorra is party to numerous multilateral conventions, notably the United Nations Convention against Transnational Organized Crime and, since 22 September 2022, its Additional Protocol to prevent, suppress and punish trafficking in persons, especially women and children. It is also party to the Council of Europe Convention on Cybercrime and the first Additional Protocol thereto. Andorra is a member of the IBERRED network, which brings together the states of Latin America, Spain and Portugal, and has specific points of contact regarding trafficking in human beings.

115. In addition, to facilitate judicial co-operation with other countries, Andorra is party to the European conventions on mutual assistance in criminal and civil matters, as well as on extradition. No bilateral conventions on mutual judicial assistance have been concluded with France or Spain, but there are agreements on police co-operation.⁶⁶ Since 2018, a co-operation agreement has made it possible to deploy joint Andorran and French customs patrols at the border in order to combat trafficking in cigarettes.⁶⁷ Andorra is also a member of INTERPOL, which facilitates international police co-operation in THB cases where required. A new working agreement was concluded between Andorra and Europol in September 2021 and will be operational once the technical installations enabling secure exchanges of information are in place.

116. In the event of a THB victim voluntarily returning to their country of origin, the Action Protocol points out that bilateral co-operation is required between the host State and the State of origin in order to protect the victim against the risk of reprisals by the traffickers. In the presumed case of THB detected in 2021, GRETA was informed that an international letter rogatory was sent to the Spanish authorities and was executed immediately.

117. There is a substantial level of technical co-operation with France and Spain, notably for the training of members of Andorra's police and judiciary (see paragraph 110) and for the secondment of French or Spanish judges to the High Court of Justice and the Constitutional Court.

118. There is no co-operation agreement between the Andorran Labour Inspectorate and its foreign counterparts, which GRETA regrets given the concerns over the exploitation of foreign workers in Andorra.

119. GRETA was informed that between 2019 and 2022 the Andorran Government made voluntary contributions amounting to 80,000 euros to the United Nations Voluntary Trust Fund for Victims of Human Trafficking and the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery.

120. **GRETA welcomes the efforts made by the Andorran authorities in the areas of international co-operation and invites them to pursue those efforts, particularly with other countries' labour inspectorates and/in connection with trafficking for the purpose of labour exploitation.**

⁶⁵ 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.

⁶⁶ Agreement between Andorra and France on cross-border co-operation in policing and customs matters, 2014; Agreement between Andorra and France on co-operation in crime-fighting and security, 2015

⁶⁷ <https://www.20minutes.fr/societe/2239375-20180318-pyrenees-patrouilles-franco-andorranes-douaniers-lutter-contre-traffic-cigarettes>

12. Cross-cutting issues

a. gender-sensitive criminal, civil, labour and administrative proceedings

121. As noted in the Committee on the Elimination of Discrimination against Women (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.⁶⁸ The Council of Europe Gender Equality Strategy 2018-2023 notes that while accessing justice might be difficult for everyone, it is even more so for women, due to gender inequality in society and in the justice system, and therefore one of the objectives of the Strategy is to ensure the equal access of women to justice.⁶⁹ GRETA notes that in the case of trafficking in human beings, gender stereotypes, prejudices, cultural barriers, fear and shame impact women's access to justice, and these barriers may persist during investigations and trials. This is particularly true for some groups of women, such as victims of gender-based violence, migrant women, refugee and asylum-seeking women, women from ethnic minorities and women with disabilities. 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.⁷⁰ 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".⁷¹

122. In recent years, the Andorran authorities have endeavoured to integrate a gender perspective into public policies, particularly through the adoption of the 2018 White Paper on Equality and Law 13/2019 of 15 February 2019 on equal treatment and non-discrimination. Under the General Rules of Parliament of 7 February 2019, all draft and proposed legislation studied must be accompanied by a report demonstrating that the text includes a gender perspective. As Law 9/2017 on measures for action against trafficking in human beings was adopted prior to those initiatives, it does not contain any gender-specific provisions.

123. The Action Protocol stipulates that interviews with a (potential) THB victim must take place insofar as possible "in an environment that is favourable to the victim in the light of their age, gender and personal circumstances". It refers to the World Health Organisation's 2003 Ethical and safety recommendations for interviewing trafficked women.⁷² Once identified, trafficking victims are referred to the SAVTEH, which comes under the Equality Policy Department (Ministry of Social Affairs and the Civil Service and State Secretariat for Equality and Citizen Participation), and according to the authorities, has staff who are particularly sensitised on gender equality issues.

124. Since the passing of Law 1/2015 of 15 January 2015 on eradicating gender-based violence and domestic violence, in-service training on these forms of violence has been mandatory for the professionals concerned. This training is provided by the Equality policies department and tackles a variety of topics such as the different concepts of violence, gender stereotyping, the consequences of violence for women and their entourage (particularly their children), means of early detection, good practices for the conducting of interviews with victims and the various possible pathways for escaping violence.⁷³

⁶⁸ 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

⁶⁹ Council of Europe Gender Equality Strategy 2018-2023, pp.24-26, <https://rm.coe.int/prems-093618-gbr-gender-equality-strategy-2023-web-a5/16808b47e1>

⁷⁰ Council of Europe training manual for judges and prosecutors on ensuring women's access to justice, p. 13, available at: <https://rm.coe.int/training-manual-women-access-to-justice/16808d78c5>

⁷¹ Available at: <https://rm.coe.int/factsheet-womens-access-to-justice/16808ff44e>

⁷² World Health Organization, Zimmerman, Cathy and Watts, Charlotte (2003), WHO ethical and safety recommendations for interviewing trafficked women. <https://apps.who.int/iris/handle/10665/42765>

⁷³ See paragraphs 76-79 of GREVIO's Baseline Evaluation Report on Andorra (2020).

125. GRETA takes note of CEDAW's concluding recommendations (2019) stating that Andorra must step up its efforts to develop gender equality training for government departments and professionals and to remove the barriers to access to justice faced by women and girls.⁷⁴ According to the authorities, between 2019 and 2023, 27 training sessions on identifying gender-based violence, care for victims, equality in the corporate environment or prevention of secondary victimisation were provided for law enforcement staff, healthcare staff, civil servants, lawyers and members of the judiciary, as well as companies and media. GRETA welcomes the organisation of training on gender issues and stresses the importance of it being provided on a regular and systematic basis.

126. GRETA considers that the authorities should further develop training for members of law enforcement agencies, prosecutors and judges on the conducting of interviews with victims following a gender-sensitive approach.

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

127. As soon as a potential child victim THB is detected, he/she must be referred to the Specialised Children and Adolescents Protection Service (Ministry of Social Affairs, Youth and Equality) in order to receive appropriate care. As mentioned in the previous GRETA report, the Action Protocol for the protection of victims of trafficking in human beings lays down a set of special protection measures for child victims with a view to safeguarding the best interests of the child.⁷⁵

128. If the victim is an unaccompanied child, the Action Protocol stresses the need for paying attention to the situation of the child who is considered to be particularly vulnerable, designating a legal representative, as well as establishing the child's identity and locating his/her family. The rules applicable to guardianship are now set out in Law 30/2022 of 31 July 2022 on the person and the family, but the system remains unchanged.⁷⁶ The police services send a report to the duty judge who appoints a legal guardian for the child.

129. If there are doubts as to a victim's age and reasonable grounds to believe that they are under 18 years of age, the Action Protocol states that they must be presumed to be a minor and granted special protection measures pending verification of their age. According to the previous GRETA report, age is assessed via several physical examinations (of the bones, teeth and genitals). There is no age assessment following a multidisciplinary approach and taking psychological and developmental factors into account, contrary to the Council of Europe Committee of Ministers Recommendation CM/Rec(2022)22.⁷⁷ GRETA is concerned that the practice of examining the genitals, considered as a particularly demeaning method for determining a person's age, continues to be applied. According to the aforementioned recommendation, "any method involving nudity or the examination, observation or measurement of the genitalia or intimate parts should be prohibited during the process of age assessment".

130. The 2018 Action Protocol states that additional protection measures must be taken when interviewing and questioning children during criminal investigations and judicial proceedings. Interviews must take place in suitable conditions, with the prosecutor present, while ensuring respect for the presumption of minority if there are doubts regarding the person's age. Law 14/2019 of 15 February 2019 introduced changes relating to the protection of children during judicial proceedings. Under Article 75 of that law, children must be informed of their rights (notably of the right to free legal aid), how the procedure works and what services are available to them. Statements and the taking of evidence must not result in any secondary victimisation of children.

⁷⁴ Concluding observations of the Committee on the Elimination of Discrimination against Women on Andorra, published on 13 November 2019, CEDAW/C/AND/CO/4.

⁷⁵ See paragraphs 74-80 of GRETA's 2nd report on Andorra.

⁷⁶ See paragraph 78 of GRETA's 2nd report on Andorra.

⁷⁷ Recommendation CM/Rec(2022)22 of the Committee of Ministers to member States on human rights principles and guidelines on age assessment in the context of migration.

131. The Andorran authorities stated that, pursuant to the previously mentioned law, during the hearing of a child victim, the questions are put to the child via a psychologist and the accused is not present. Furthermore, audio and video recordings are systematically made of the hearing and played in court ("pre-trial evidence"). The Ministry of Social Affairs has two rooms in which such recordings can be made. Generally speaking, the application of child protection measures in judicial proceedings was seen as positive by interlocutors met during the visit.

132. Article 76 of Law 14/2019 stipulates the creation of a public facility that avoids secondary victimisation and renders possible the practice of pre-trial evidence, affords the necessary attention and support to child victims and facilitates the co-ordination of professionals. The authorities envisage this facility along the lines of the Barnahus model (Children's House). In their comments on the draft GRETA report, submitted in September 2023, the Andorran authorities stated that inter-ministerial work in this connection was still in progress.

133. Members of the judiciary must undergo mandatory initial and in-service training on dealing with children in judicial proceedings, which is available in France or Spain. Law enforcement officers also have access to training on this subject.

134. GRETA considers that the Andorran authorities should review the age assessment procedures applicable to any child trafficking victims detected in Andorra, taking account of Recommendation CM/Rec(2022)22 of the Committee of Ministers to member States on human rights principles and guidelines on age assessment in the context of migration.

c. role of businesses

135. In its second report, GRETA urged the Andorran authorities to work in close collaboration with the private sector to raise awareness of trafficking for the purpose of labour exploitation, and strengthen corporate social responsibility.⁷⁸

136. There is no national action plan for implementing the Guiding Principles on Business and Human Rights, contrary to the recommendation of the United Nations, and there are no projects under way regarding the due diligence of companies to avoid human rights violations in their supply chains. Moreover, no awareness-raising actions specifically aimed at companies have been undertaken with respect to human trafficking issues or human rights in general. Nevertheless, information about these issues may have reached company managers through the general awareness-raising campaigns on the occasion of the World and European days against trafficking in human beings.

137. GRETA notes the lack of initiatives run in conjunction with companies regarding their role in combating trafficking in human beings and protecting victims, at a time when the phenomenon of labour exploitation is a cause for growing concern in Andorra.

⁷⁸ See paragraph 44 of GRETA's 2nd report on Andorra.

138. **GRETA considers that the Andorran authorities should strengthen their co-operation with the private sector and raise companies' awareness of their responsibility and the important role they have to play in preventing and eradicating trafficking in human beings, including in supply chains. GRETA refers in this connection to the United Nations Guiding Principles on Business and Human Rights⁷⁹ and to Council of Europe Committee of Ministers recommendations CM/Rec(2016)3 on human rights and business and CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation.⁸⁰**

d. measures to prevent and detect corruption

139. Trafficking in human beings can occur in various contexts. Human traffickers may form part of organised criminal groups, which frequently use corruption to circumvent the law, and money laundering to conceal their profits. Consequently, other Council of Europe legal instruments, in particular those designed to combat corruption, money laundering and cybercrime, are also relevant to combating human trafficking. 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.

140. In Andorra, corruption and influence peddling are criminalised by Articles 380 to 386 of the CC. Furthermore, under Article 30 of the CC, the fact that a crime of trafficking in human beings was committed by an official in the exercise of their duties or by taking advantage of their position constitutes an aggravating circumstance for criminal liability.

141. There is no national strategy specifically dedicated to combating corruption. Since 2008, the Unit for Preventing and Combating Corruption of the Ministry of Justice and the Interior has been tasked with driving and co-ordinating government action in this field. Its objectives are to train professionals, carry out studies, frame and implement public policies, devise and disseminate codes of conduct within the civil service, improve the regulations governing conflicts of interest, protect whistleblowers and achieve transparency in administration, as well as develop international co-operation.⁸¹

142. In its interim compliance report on Andorra on preventing corruption in respect of parliamentarians, judges and prosecutors (2021), GRECO considered that progress had been made in implementing its recommendations and removed the country from the list of states whose level of compliance was deemed globally unsatisfactory. That said, some recommendations remained pending, particularly with regard to the composition of the High Council of Justice and the setting up of a body to advise judges and prosecutors on ethics.⁸²

143. **GRETA invites the Andorran authorities to include measures to combat corruption in the context of trafficking in human beings in public anti-corruption policies.**

⁷⁹ http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_FR.pdf

⁸⁰ [Recommendation CM/Rec\(2016\)3](#) of the Committee of Ministers to member States on human rights and business, adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies.

[Recommendation CM/Rec\(2022\)21](#) of the Committee of Ministers to member States on preventing and combating trafficking in human beings for the purpose of labour exploitation and [Explanatory Memorandum](#), adopted by the Committee of Ministers on 27 September 2022 at the 1444th meeting of the Ministers' Deputies.

⁸¹ <https://www.interior.ad/tasques-i-objectius> (in Catalan).

⁸² <https://rm.coe.int/quatrieme-cycle-d-evaluation-prevention-de-la-corruption-des-parlement/1680a4c90a>

V. Follow-up topics specific to Andorra

1. Measures to prevent and combat trafficking for the purpose of labour exploitation

144. In its second report, GRETA urged the Andorran authorities to take further steps aimed at preventing THB for the purpose of labour exploitation, including by raising awareness among professionals, the general public and migrant workers, and to ensure that the mandate of labour inspectors enable them to contribute to preventing and detecting cases of trafficking. It also considered that the authorities should increase their efforts to proactively identify victims of THB for the purpose of labour exploitation.⁸³

145. No cases of THB for the purpose of labour exploitation have been detected in Andorra. Nevertheless, there are risks of exploitation in some sectors, notably domestic work, seasonal work (in hotels, catering outlets and ski resorts), agriculture and construction.

146. Apart from the awareness-raising on the occasion of the World and European anti-trafficking days, there are no specific initiatives aimed at raising awareness of THB for the purpose of labour exploitation, notably amongst migrant workers. No documents warning of the risks of exploitation and trafficking are issued to migrants employed in the sectors considered to be at risk, for example when they apply for or collect visas or residence permits. Further, as pointed out in paragraph 134, there are no specific awareness-raising measures aimed at employers.

147. The authorities stated that, in order to prevent exploitation, when applications are made for visas or residence permits, Immigration Service staff are required to check the working conditions stipulated in the contract (in particular the wages and working hours) and their conformity with Andorran legislation. Similarly, the Labour Inspectorate holds daily consultations on labour law which are made accessible to as many people as possible. On the other hand, GRETA notes that the Labour Inspectorate's website does not provide information on labour-related rights which is easy to understand and available in foreign languages, but merely a list of hyperlinks to the applicable legislation.⁸⁴

148. According to the Law establishing the Labour Inspectorate (1984) and the Regulations governing the sanctioning procedure (2015), the Labour Inspectorate is competent for checking compliance with Andorran legislation in the sphere of labour law and health and safety at work legislation. It conducts workplace inspections, at its own initiative or acting on a report, examines the documentation received or obtained and imposes administrative sanctions for any failure to comply with legislation. Joint inspections may be carried out with the Border and Foreigners Police if there are suspicions that individuals in an irregular situation are being employed. As mentioned in the first report, domestic labour is expressly excluded from the Labour Inspectorate's remit (Article 2 of the 1984 law).⁸⁵ While temporary work or employment agencies are not specifically mentioned in the Labour Inspectorate's remit, inspections were nevertheless carried out in seven such agencies in 2022 and 2023, resulting in sanctioning procedures. Draft regulations are being drawn up on temporary work agencies.

149. At the time of the visit, the Labour Inspectorate comprised a head of department and eight inspectors (compared to five in 2018) for 37,683 salaried workers and 10,726 companies legally established in Andorra.⁸⁶ Despite the increase in Inspectorate staff, the concerns expressed by GRETA during the previous evaluation round still appear to be topical: inspections on the ground are few and usually in response to a complaint or a work accident, and inspections carried out at the Labour Inspectorate's own initiative are in the minority. According to the information provided during the visit, of a total of 80 inspections, 21 were carried out at the Inspectorate's own initiative in 2022.

⁸³ See paragraphs 44 and 62 of GRETA's 2nd report on Andorra.

⁸⁴ <https://www.treball.ad/servei-inspeccio-tramits> (in Catalan).

⁸⁵ See paragraph 65 of GRETA's 1st report on Andorra.

⁸⁶ 2021 data.

150. The Action Protocol recognises the role of the Labour Inspectorate in the detection of potential cases of trafficking for the purpose of labour exploitation. It states that labour inspectors can undertake the necessary measures and checks with a view to detecting situations of labour exploitation. If there are indications of THB, the Inspectorate must immediately notify the Prosecutor's Office and the Police and send them a report summarising the facts, the individuals involved, the evidence obtained and any other useful information.⁸⁷ To facilitate detection of cases of trafficking for the purpose of labour exploitation, a list of indicators was adopted as part of the Strategic Policy (see paragraph 170). It has been circulated within the Labour Inspectorate and comprises specific indicators on trafficking for the purpose of labour exploitation.

151. On the other hand, no specific training on the Labour Inspectorate's role in detecting potential victims is organised for labour inspectors. Similar to other professionals likely to come into contact with THB victims, the Inspectorate's staff were invited to the training courses organised in 2019, 2021 and 2022 (see paragraph 107), but trafficking for the purpose of labour exploitation was not specifically dealt with. Furthermore, it appears that, other than the list of indicators mentioned in the previous paragraph, no documentation giving guidance specifically for detecting situations of labour exploitation and trafficking is provided to Labour Inspectorate staff.

152. There are concerns that legislation on the labour market could encourage labour exploitation or even trafficking in human beings. Several interlocutors mentioned the situation of foreign workers recruited in their country of origin (notably Peru) by a Spanish company and seconded to an Andorran construction company. These workers had complained to the Labour Inspectorate that their conditions of employment were in breach of Andorran legislation (48-hour working week and pay below the national minimum wage) and of the commitments they had entered into in their country of origin. Following checks by the Police, it emerged that the workers' living conditions in the accommodation provided by that company could be considered as contrary to human dignity (overcrowding, no electricity or food refrigeration). Opinions diverged as to whether Andorran labour law applied to these workers' situation. However, the government considered that, as the legislation stood, their contracts were governed by the law of their country of origin and it was not possible to apply the minimum guarantees provided for in Andorran legislation nor for the Labour Inspectorate to intervene. On the other hand, as stated in paragraph 86, criminal proceedings were brought against the manager for imposing degrading or dangerous and abusive working conditions. A similar situation concerning 12 temporary workers from Argentina has been reported to the authorities by the Association of Argentinians of Andorra.

153. In order to remedy these shortcomings, an amendment to Immigration Service Regulations (RSI) dated 22 December 2022 makes it possible to reinforce the preliminary checks carried out on the situation of foreign companies' workers in connection with applications for temporary residence and work permits.⁸⁸ Under the new Article 19 of the RSI, an application lodged for a temporary residence or work permit for less than six months must include a copy of the work contract, and that contract "shall meet the non-negotiable minimum requirements currently applicable to employees and employers in the sphere of labour in the Principality of Andorra". The worker must receive a salary equal to or higher than the guaranteed minimum wage applicable for the sector concerned. GRETA welcomes these legislative amendments, but notes that the situation of seconded workers continues to fall outside the Labour Inspectorate's remit.

154. As already mentioned in the second report, Andorra's laws and policies on immigration are particularly rigid, and this could place potential trafficking victims in a particularly precarious and vulnerable situation and therefore make them dependent on the traffickers.⁸⁹ Victims might be reluctant to report their situation to the authorities for fear of being deported. The risks of exploitation are also heightened by the labour market situation: given the country's size, the number of employers is limited

⁸⁷ See paragraph 39 of GRETA's 2nd report on Andorra.

⁸⁸ Decree 550/2022, of 22 December 2022, approving the Immigration Service Regulations. https://www.bopa.ad/bopa/034151/Pagines/GR20221222_16_12_47.aspx (in Catalan)

⁸⁹ See paragraphs 40 and 41 of GRETA's 2nd report on Andorra.

and a worker could easily be given a bad reputation. This results in many individuals agreeing to working conditions that are contrary to the legislation or contrary to human dignity, for fear of losing their job and not getting another.

155. Finally, as mentioned in paragraphs 87-88, there are major concerns that situations of exploitation or trafficking for the purpose of labour exploitation are being prosecuted and punished on the basis of less serious offences, such as the offence of imposing abusive working conditions. The criminalisation of trafficking in human beings for the purposes of forced labour and forced service introduced by Law 45/2022 of 22 December 2022 (see paragraph 77) should make it possible to improve the judicial response. However, in order for this legislative step to be fully effective and efficient, it must be accompanied by efforts to train professionals and raise their awareness.

156. **GRETA urges the Andorran authorities to take further steps to prevent and combat trafficking for the purpose of labour exploitation, and in particular to:**

- **broaden the Labour Inspectorate's remit to cover domestic work, temporary work, employment agencies and the work carried out by migrants seconded to Andorran companies;**
- **increase the number of inspections carried out at the Inspectorate's own initiative in the sectors considered to be at risk from labour exploitation and trafficking in human beings;**
- **strengthen the capacities and resources of labour inspectors so that they can be actively involved in the prevention of trafficking for the purpose of labour exploitation and the detection of potential victims;**
- **set up safe reporting mechanisms and effective complaint mechanisms for workers so that victims of abuse or exploitation can submit their case without fear of reprisals;**
- **build awareness among the general public and, more specifically, migrant workers of the risks linked to trafficking for the purpose of labour exploitation and the rights of trafficking victims;**
- **strengthen co-operation with trade unions and the private sector in preventing and combating trafficking for the purpose of labour exploitation.**

2. Measures to prevent trafficking in children, identify child victims of trafficking and assist these children

157. In its second report, GRETA considered that the Andorran authorities should take additional measures to prevent trafficking in children, including trafficking committed online, and provide professionals with training and guidance on proactively detecting and identifying child victims of trafficking in human beings.⁹⁰

⁹⁰ See paragraphs 46 and 84 of GRETA's 2nd report on Andorra.

158. Law 14/2019 of 15 February 2019 on the rights of children and adolescents provides the legislative framework for child protection. It places public authorities under obligation to take steps to prevent the ill-treatment of children, including by tackling structural causes such as poverty, socio-economic vulnerability or discrimination. The law defines ill-treatment as “any form of violence, physical or psychological, such as corporal punishment, negligence, sexual abuse, violence that is gender-based, domestic or committed against family members and sexual exploitation, labour exploitation or committed for any purpose, including via information and communication technologies”.

159. Pursuant to the law, a 2022-2026 National Plan for Children and Adolescents was presented by the authorities in October 2022.⁹¹ It entails organising information campaigns on children’s rights, running programmes for children suffering from addiction, developing measures to facilitate young people’s access to work and housing, and training children and young people to use new technologies responsibly. However, it does not include any measure aimed at preventing trafficking in children, whereas the Strategic Policy adopted in March 2021 envisaged the inclusion of a specific section on trafficking in human beings. In February 2023, as part of “Safer Internet week”, a member of the police gave a talk to children and their families aimed at raising awareness of the risks and crimes to which children are exposed on social networks.⁹²

160. Law 14/2019 places public authorities under obligation to take measures to improve the detection of, and support for, children in a situation of vulnerability. Two tools aimed at professionals were adopted in November 2020: a “Notification and welfare procedure applicable in risk situations involving children and adolescents” (“PAS”) and a “Protocol for immediate action where there is evidence or founded suspicion of abuse, sexual assault or acute physical violence against children and adolescents” (“PAI”). The first of these relates to all risk situations for children, while the second one focuses specifically on cases of physical or sexual abuse. They lay down obligations to notify the authorities and procedures to be implemented, and set out lists of indicators. The main measures contained in these two tools are presented in a Guide on children at risk.⁹³ GRETA notes that these documents make no specific mention of the risk of trafficking in children, but grooming is mentioned in the PAI.

161. Arrangements for identifying victims of THB among children remain unchanged.⁹⁴ Under the Action Protocol, once a THB victim is identified by the Crimes against Persons Unit of the police, that unit must notify the Child and Adolescent Protection Service so that it designates a contact person tasked with assisting the child during the identification procedure, the granting of a recovery and reflection period and the provision of assistance services. As stated in paragraph 170, a detailed list of indicators for identifying THB victims has been adopted by the authorities, which includes specific indicators relating to child victims.

162. The Action Protocol provides for special protection measures for child victims to safeguard the best interests of the child. In particular, it is stipulated that assistance, support and protection must be provided immediately and must ensure the child’s physical and mental integrity and education. If a child is to be repatriated to his/her country of origin, a risk assessment must be carried out, and repatriation may not be carried out if it is not in the child’s best interests. Finally, as stated in paragraphs 128-131, additional protection measures must be taken during hearings and questioning, and specific action is stipulated if there are doubts over the individual’s age or the child is unaccompanied.

⁹¹ <https://www.govern.ad/educacio-i-ensenyament-superior/item/13567-el-pla-nacional-de-la-infancia-i-adolescencia-entrara-en-funcionament-a-principis-del-2022> (in Catalan).

⁹² <https://www.policia.ad/ca/noticies/proteccio-de-menors/2023/02/08/6968/la-policia-exposa-els-perills-als-quals-s-enfronten-els-menors-a-traves-de-les-pantalles-en-la-setmana-de-la-internet-segura/> (in Catalan).

⁹³ <https://www.aferssocials.ad/infancia/notificacio-d-una-situacio-de-risc-d-un-infant-o-adolescent> (in Catalan).

⁹⁴ See paragraphs 74-78 of GRETA’s 2nd report on Andorra.

163. The legislation prioritises keeping child victims in their family environment. If doing so would be harmful to the child or the child is unaccompanied, the judge will opt to place the child with a foster family or in a facility for children if this is in the child's best interest. For a victim who reaches 18 years of age, assistance would continue to be provided by the Guidance Service for vulnerable young people of the Ministry of Social Affairs which is there to help 16 to 25 year-olds who need specific support in fundamental areas (housing, health, training, etc).

164. GRETA once again visited the educative accommodation centre ("La Gavernera") in Andorra la Vella which would take in children identified as trafficking victims. It is a non-closed reception facility divided into three units catering for different age groups (0 to 6 years, 7 to 11 years and 12 to 18 years). It has a team of 36 staff (compared to 27 during the second evaluation). The support provided is personalised, with a tutor being designated for each child and an individual educational programme drawn up. At the time of the visit, 14 children were housed in the centre, and a growing number of children in risk situations are cared for each year.

165. GRETA was informed that one young person of Moroccan nationality suspected of trafficking cigarettes, for whom there were doubts as to whether he was a trafficking victim, was taken into care by child protection officials and accompanied during his interview with the police. After a few days, it was concluded that this young person was over 18 years of age and, at his own request, he left the flat in which he was being accommodated. Despite a request from GRETA, the Andorran authorities have not provided any information on the follow-up to this case or the reasons why it was not classified as a case trafficking.

166. GRETA commends the efforts made by the Andorran authorities to prevent and detect situations of child abuse. However, it regrets that no action has been taken specifically regarding the risk of trafficking in human beings. **GRETA considers that the Andorran authorities should take additional measures to prevent and combat trafficking in children, and in particular to:**

- **include information on the risks of trafficking in human beings in general awareness-raising campaigns aimed at children;**
- **step up efforts to detect and proactively identify child victims of trafficking and continue to develop training for professionals who may come into contact with potential THB victims among children.**

3. Identification of victims of trafficking

167. In its second report, GRETA considered that the Andorran authorities should increase their efforts to proactively identify victims of THB and provide indicators for the identification of victims of THB to all professionals who may come into contact with possible victims.⁹⁵

168. Arrangements for identifying victims of trafficking have remained unchanged.⁹⁶ The Action Protocol for the protection of victims of trafficking in human beings designates the Crimes against Persons Unit as the body competent to formally identify victims. The identification procedure must be triggered as soon as "there are reasonable grounds or indications to consider a person as a victim of trafficking in human beings", and the SAVTEH (or the Child and Adolescent Protection Service if a child is involved) must be notified immediately so that it can designate a contact person responsible for assisting the victim during the identification procedure, the granting of the recovery and reflection period and the provision of assistance services.

⁹⁵ See paragraph 63 of GRETA's 2nd report on Andorra.

⁹⁶ See paragraph 59 of GRETA's 2nd report on Andorra.

169. The Action Protocol points out that anyone with knowledge of a possible case of trafficking in human beings must inform the competent authorities. In the event of the Police, the Labour Inspectorate, the Border and Foreigners Police, other public services (welfare, health, education) or NGOs detecting a potential victim, they have an obligation to notify the Crimes against Persons Unit and the Prosecutor's Office. The emergency hotline number 181 (see paragraph 180) is available for victims or witnesses to report possible cases, but it has not received any calls relating to THB since being set up in 2007.

170. The appendix to the Action Protocol provides a list of questions which can be used to detect victims of THB. During the second evaluation, GRETA considered this list as inadequate for effective identification of THB victims, as it was very short and superficial.⁹⁷ A much longer list of indicators has been drawn up since then in connection of the implementation of the Strategic Policy. It is based on the UNODC⁹⁸ and ILO indicators⁹⁹ and comprises general and specific indicators for the identification of victims of different forms of trafficking (sexual exploitation, labour exploitation and others), including among domestic workers and children.¹⁰⁰ GRETA welcomes the adoption of the list of indicators which provides guidance for professionals for detecting and identifying potential victims.

171. For the first time since the previous evaluation, professionals likely to intervene in cases of trafficking in human beings (police officers, prosecutors, judges, labour inspectors, social services, health and education staff, members of associations) were invited to joint training on THB in 2019, 2021 and 2022 (see paragraph 109). It appears from the 2022 training programme that several topics relating to identification were covered, such as the profile of victims and traffickers, the use of indicators and the difficulties encountered in detection.

172. As there is no administrative detention of foreigners nor procedure for requesting asylum in Andorra,¹⁰¹ the question of detecting THB victims on such occasions does not arise. The Andorran authorities stated that they were attentive to the detection of victims during border controls, in procedures to expel foreigners in an irregular situation or when considering applications for temporary residence and work permits (see also paragraphs 147 and 155). However, there are no specific guidelines to help Border and Foreigners Police staff and Immigration Service staff to detect trafficking victims. Several interlocutors criticised the hurried nature of the deportation procedure and the lack of assessment of vulnerability and/or risks of trafficking in the event of a forced return to the country of origin.

173. No co-operation has been forged with civil society organisations, including trade unions, with a view to facilitating the detection and identification of victims. As previously mentioned, there are no NGOs specialised in the area of trafficking in human beings in Andorra. GRETA reiterates that the Convention emphasises the necessity of setting up strategic partnerships with civil society organisations. Such organisations are very often the first point of contact with potential victims or groups that are particularly vulnerable and are therefore well placed to assist the authorities in their tasks of detecting and identifying victims.

174. GRETA welcomes the efforts made by the authorities to provide guidance and develop training for professionals who may come into contact with potential victims, which was without doubt a contributing factor in the identification of the first presumed victim of THB. However, it is concerned that this single case is not a reflection of the reality of the THB situation in the country because of persistent shortfalls in the proactive detection and identification of victims. As previously mentioned, there is a lack of training and guidance geared to the specific roles played by each category of professionals in detecting trafficking victims. GRETA is concerned that trafficking for the purpose of labour exploitation is underestimated by the authorities (see paragraphs 154 and 155). The same applies to trafficking for the purpose of forced

⁹⁷ See paragraph 60 of GRETA's 2nd report on Andorra.

⁹⁸ https://www.unodc.org/documents/human-trafficking/HT_indicators_F_LOWRES.pdf.

⁹⁹ https://www.ilo.org/global/topics/forced-labour/publications/WCMS_203832/lang-en/index.htm.

¹⁰⁰ https://www.aferssocials.ad/images/stories/docs/Indicadors_TEH_Gov_And.pdf (in Catalan).

¹⁰¹ The right of asylum is included in the Andorran Constitution, but there is no law on asylum or any procedure for requesting it. International protection may nevertheless be granted on a case-by-case basis and, as a result of the war in Ukraine, around 300 Ukrainian nationals have been taken in by Andorra.

criminality at a time when the country is experiencing a constant rise in cases of cigarette trafficking.¹⁰² These might involve trafficking victims recruited and exploited by traffickers to undertake this illegal activity. GRETA is also concerned that there is no proactive detection of victims in connection with procedures to deport persons in an irregular situation.

175. GRETA urges the Andorran authorities to take additional measures to detect and identify potential victims of trafficking in human beings, and in particular to:

- **step up the detection and proactive identification of trafficking victims, including among migrant workers and persons in an irregular situation;**
- **ensure that, before any expulsion from Andorra, a prior assessment of the risks is carried out, taking full account of the risks of trafficking or re-trafficking on return, in compliance with the obligation of *non-refoulement*. GRETA refers in this connection to its Guidance note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection;¹⁰³**
- **develop co-operation with civil society organisations to facilitate the detection and identification of trafficking victims.**

176. GRETA also considers that the Andorran authorities should develop training and provide guidance to professionals who may come into contact with THB victims on the role they have to play in detecting and identifying victims (see also the recommendation in paragraph 126).

4. Assistance to victims

177. Law 9/2017 enshrines the right to assistance for trafficking victims and guarantees a range of assistance services which victims may access once they have been identified (Articles 8, 9 and 10). Assistance includes financial benefits such as the covering of basic needs (food, hygiene, accommodation and clothing), health cover with 100% reimbursement of health expenses, access to the educational support system, and the covering of expenses relating to an assisted return to the country of origin. It also includes home care services and accommodation, including with a foster family, and assistance services via a telephone helpline and the Unit for the Support of Victims of Trafficking in Human Beings (SAVTEH). This unit comes under the Ministry of Social Affairs, Youth and Equality and is tasked with providing medical and psychological assistance, legal assistance and advice, as well as translation and interpreting services. The law stipulates that assistance services shall extend to the children of THB victims of minor age and also that, during the recovery and reflection period, services may not be made conditional upon the victims' willingness to testify in criminal proceedings.

178. Under the Action Protocol, as soon as trafficking victims are identified, they must be informed of the assistance services to which they are entitled, and this is reiterated in the information document for victims and professionals (see paragraph 36). In the event of a trafficking victim encountering difficulties in proving their victim status and accessing assistance measures, a certificate attesting to that status can be issued by the authorities, at the request of the victim or their representative (Article 7 of the Action Protocol).

¹⁰² <https://www.sudouest.fr/international/europe/espagne/pyrenees-un-contrebandier-de-tabac-retrouve-mort-en-andorre-a-2-300-metres-d-altitude-1882846.php> or <https://www.ladepeche.fr/article/2018/11/06/2901426-mort-froid-cigarettes-frontiere-andorre-passeur-20-ans-identifie-parents.html>

¹⁰³ <https://rm.coe.int/guidance-note-on-the-entitlement-of-victims-of-trafficking-and-persons/16809ebf44>

179. In practice, as soon as a THB victim is identified by the Crimes against Persons Unit of the Police, that unit must notify the SAVTEH in the case of an adult victim, or the Child and Adolescent Protection Service in the case of a child, so that the necessary assistance measures can be launched. A contact person within one or other of these services will then be tasked with assisting the victim in obtaining assistance services. As stated in the second report, the contact person acts as an administrator, co-ordinating the different professionals responsible for providing assistance to the victim (a lawyer for legal matters, a psychologist for care, a social worker for accommodation etc).

180. The SAVTEH has a staff of three: a social welfare specialist (who will be the designated contact person), a psychologist and a legal officer. It receives victims from 8 am to 5.30 pm from Monday to Thursday and from 8 am to 3.30 pm on Fridays. A 24/7 emergency hotline is also available on the number 181, a universal number covering other helplines (such as the Support Service for Victims of Gender-Based Violence and the Service for Victims of Domestic and Family Violence).

181. Where accommodation for adult victims is concerned (for children, see paragraphs 163-164), the Andorran authorities stated that they had five flats for victims of gender-based or domestic violence or THB victims. These flats are secure and their location is kept secret. People stay in them for six to nine months on average. However, GRETA understands that these flats would not be used to accommodate male trafficking victims. In an emergency, for example if a trafficking victim is detected during the night, they may be temporarily put up in a hotel. This was the case with the presumed victim identified in 2021.

182. The staff of the SAVTEH were invited to participate in training on trafficking in human beings organised in 2019, 2021 and 2022, but it appears that this training was not compulsory and did not touch on assistance for victims.

183. One of the measures provided for in the Strategic Policy is to ensure that the professionals in the services and focal points assisting victims possess documentation providing information on assisting and protecting trafficking victims. As mentioned in paragraph 36, a document for professionals on the provision of information to victims was prepared in 2022.

184. It does not appear that any co-operation with victim support associations (such as those providing support to victims of gender violence) or other civil society organisations is envisaged with a view to assisting trafficking victims. GRETA reiterates that the Convention expressly recognises the role of civil society organisations, including where assistance for trafficking victims is concerned. The NGOs can help victims access the assistance and support they are entitled to and provide a safe, neutral environment in which victims can recover.¹⁰⁴

185. **GRETA considers that the Andorran authorities should pursue their efforts to develop the assistance available to THB victims, and in particular to:**

- **reinforce training for the professionals of the SAVTEH so that the assistance they provide is specialised and tailored to victims' needs;**
- **develop co-operation with civil society organisations in connection with the provision of assistance to victims of trafficking in human beings.**

¹⁰⁴ See 8th General report on GRETA's activities, paragraph 205.

5. Residence permits

186. The legislation governing trafficking victims' right to residence in the country has remained unchanged.¹⁰⁵ Law 9/2017 amended the immigration legislation by providing for the possibility for victims of trafficking to apply for a residence permit. Accordingly, once the recovery and reflection period has expired, a trafficking victim who is a foreign national may apply for a residence and work permit if it is "necessary owing to the individual's personal situation resulting from being a victim of trafficking in human beings" or "because they must co-operate with the investigation or criminal proceedings prompted by a crime of trafficking in human beings". However, the granting of a permit is dependent on evidence that the victim was recruited to work by a company legally established in Andorra. The rules on quotas and criteria of social cohesion or priority given to certain nationalities, required for the recruitment of salaried foreigners in Andorra¹⁰⁶, are not applicable to victims of trafficking. Permits are granted for an initial duration of one year and are renewable three times for successive two-year periods, making seven years in total. Renewable 10-year permits may be granted thereafter.

187. GRETA reiterates its concerns over the highly restrictive conditions governing access to residence permits for trafficking victims.¹⁰⁷ As the legislation stands, obtaining a job is a prerequisite for a victim of THB to obtain a residence permit and not vice versa. This means that a trafficking victim would have to find a job during the recovery and reflection period (of 30 days, renewable) to be able to stay in Andorra, which is by no means certain within such a limited time span. The fact that the rules on quotas do not apply or that a co-operation agreement has been concluded between the SAVTEH and the Andorran Employment Service to make it easier for victims to look for jobs (see paragraph 57) is not enough to allay GRETA's concerns. It is very difficult if not impossible for some trafficking victims to work after the recovery and reflection period owing to their state of physical and psychological health. Making the obtaining of a residence permit conditional on having proof of employment could be in contradiction with Article 14 of the Convention, which leaves no room for discretion as regards the two scenarios for granting residence permits to trafficking victims.

188. GRETA urges the Andorran authorities to change the legislation so that victims of THB can obtain residence permits without having to submit evidence of recruitment to work by a company legally established in Andorra, in conformity with Article 14 of the Convention.

¹⁰⁵ See paragraph 95 of GRETA's 2nd report on Andorra.

¹⁰⁶ The Principality of Andorra applies quotas for the employment of foreign salaried workers, set by sector of activity in relation to the country's employment needs. In the interests of fostering social cohesion, preference is given to the employment of foreigners already resident in Andorra. The nationals of certain countries have priority, notably France, Spain and Portugal. Next in line are the nationals of other EU countries and finally, the nationals of other countries.

¹⁰⁷ See paragraph 95 of GRETA's 2nd report on Andorra.

Appendix 1 – List of GRETA’s conclusions and proposals for action

The position of the proposals for action in the text of the report is shown in parentheses.

Topics related to the third evaluation round of the Convention

Right to information

- GRETA welcomes the efforts made to guarantee the right to information of victims of THB and considers that the Andorran authorities should take additional measures to ensure that presumed victims of THB are proactively provided with information as soon as they come into contact with a competent authority. The information should take into account the victim’s age, maturity, intellectual and emotional capacity, literacy and any mental, physical or other disability which may affect the victim’s ability to understand. It should be provided regardless of the victim’s ability or willingness to co-operate in criminal proceedings and should refer to the right to a recovery and reflection period, the services and support measures available, the right to legal aid, the compensation procedure and other relevant civil and administrative remedies and procedures (paragraph 40);
- GRETA also considers that the authorities should improve the information provided in the document on the rights of victims of THB, so that it covers all the rights of victims (including the right to join the criminal proceedings as civil party, the right to compensation and the principle of non-punishment), is available in several languages, presents the essence of these rights in a straightforward manner and explains how to exercise them (paragraph 41).

Legal assistance and free legal aid

- While welcoming the adoption of Decree 98/2021 which enshrines the right to legal aid for victims of trafficking in human beings, GRETA considers that the Andorran authorities should step up their efforts to guarantee the right to legal assistance and free legal aid for trafficking victims in an effective manner, in particular by:
 - ensuring that legal assistance is systematically provided as soon as there are reasonable grounds for believing that a person is a victim of trafficking and before he/she has to decide whether or not to co-operate with the authorities and/or make an official statement;
 - raising awareness among law enforcement officials, prosecutors and judges of the right of victims of trafficking in human beings to legal assistance and free legal aid;
 - encouraging the Andorran Bar Association to develop training on trafficking in human beings for lawyers who may provide legal aid to victims of THB (paragraph 49).

Access to work, vocational training and education

- While welcoming the signing of the protocol between the SAVTEH and the Andorran Employment Service, GRETA considers that the Andorran authorities should ensure that any persons identified as victims of trafficking have effective access to the labour market (paragraph 59).

Compensation

- GRETA considers that the Andorran authorities should take further steps to facilitate and guarantee effective access to compensation for victims of trafficking, in particular by:
 - informing victims in an appropriate and systematic manner about their right to seek compensation in criminal or civil proceedings (in line with the recommendations in paragraphs 40 and 41);
 - ensuring that victims are provided with legal assistance and free legal aid from the initiation of the proceedings in order to exercise their right to compensation (in line with the recommendation in paragraph 49);
 - ensuring that the collection of evidence of the harm suffered by the victim, including the financial gain from the exploitation of the victim, is part of the investigation with a view to supporting compensation claims in court;
 - setting up a fund for state compensation of trafficking victims in the event of the perpetrator(s) defaulting (paragraph 73).

Investigations, prosecutions, sanctions and measures

- While welcoming the efforts made to transcribe all the purposes of trafficking set out in the Convention in domestic law, GRETA considers that the Andorran authorities should make express provision that a trafficking victim's consent to the exploitation envisaged is irrelevant (Article 4.b of the Convention) and ensure that trafficking for the purpose of forced criminality may be subject to prosecution and criminal convictions (paragraph 79);
- GRETA considers that the authorities should continue their efforts to introduce criminal liability for legal persons, as this is an important element in improving the criminal justice response in the fight against human trafficking (paragraph 81);
- GRETA considers that the Andorran authorities should take measures to strengthen the criminal justice response to THB, including by:
 - ensuring that human trafficking offences for all forms of exploitation are proactively and promptly investigated, regardless of whether a complaint is filed by the victim;
 - making use of special investigation techniques in order to gather material, documentary, financial and digital evidence, and not having to rely exclusively on testimony by victims or witnesses;
 - ensuring that human trafficking offences are prosecuted as such, rather than as lesser offences, every time the circumstances of the case allow this, and lead to effective, proportionate and dissuasive sanctions for those convicted;
 - strengthening training and awareness-raising among law enforcement officials, prosecutors and judges on trafficking in human beings, including the various constituent elements of the crime (paragraph 89).

Non-punishment provision

- GRETA considers that the Andorran authorities should continue their efforts by providing training and guidance to law enforcement officials, prosecutors and judges on the scope of the principle of non-punishment (paragraph 95).

Protection of victims and witnesses

- GRETA invites the Andorran authorities to continue ensuring that all measures to protect victims of criminal offences are made effectively available to victims and witnesses of trafficking in human beings in order to avoid them being subjected to intimidation and reprisals during the investigation as well as during and after the court proceedings (paragraph 103).

Specialised authorities and co-ordinating bodies

- GRETA welcomes the efforts made to develop training on trafficking in human beings, notably in co-operation with France and Spain, and considers that the Andorran authorities should continue to develop specialised knowledge of professionals in the fight against human trafficking, and in particular:
 - ensure that training on trafficking in human beings is regular, systematic and targeted, providing specific guidance geared to the role of each profession in the detection, identification and protection of victims and/or the conducting of judicial proceedings. Such training could be integrated in the regular training programmes of the different professions;
 - ensure that professionals have adequate tools and human and material resources at their disposal so that investigations, prosecutions and judgments in the area of THB are effective (paragraph 112).

International co-operation

- GRETA welcomes the efforts made by the Andorran authorities in the areas of international co-operation and invites them to pursue those efforts, particularly with other countries' labour inspectorates and/or in connection with trafficking for the purpose of labour exploitation (paragraph 120).

Gender-sensitive criminal, civil, labour and administrative proceedings

- GRETA considers that the authorities should further develop training for members of the law enforcement agencies, prosecutors and judges on the conducting of interviews with victims following a gender-sensitive approach (paragraph 126).

Child-sensitive procedures for obtaining access to justice and remedies

- GRETA considers that the Andorran authorities should review the age assessment procedures applicable to any child trafficking victims detected in Andorra, taking account of Recommendation CM/Rec(2022)22 of the Committee of Ministers to member States on human rights principles and guidelines on age assessment in the context of migration (paragraph 134).

Role of businesses

- GRETA considers that the Andorran authorities should strengthen their co-operation with the private sector and raise companies' awareness of their responsibility and the important role they have to play in preventing and eradicating trafficking in human beings, including in supply chains. GRETA refers in this connection to the United Nations Guiding Principles on Business and Human Rights and to Council of Europe Committee of Ministers recommendations CM/Rec(2016)3 on human rights and business and CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation (paragraph 138).

Measures to prevent and detect corruption

- GRETA invites the Andorran authorities to include measures to combat corruption in the context of trafficking in human beings in public anti-corruption policies (paragraph 143).

Follow-up topics specific to Andorra

Developments in the legal, institutional and policy framework for action against trafficking in human beings

- GRETA considers that the Andorran authorities should:
 - undertake and support research on THB-related issues in order to assess the nature of the phenomenon and provide an evidence base for future policy measures;
 - involve civil society organisations (including victims' associations and trade unions) in the monitoring and implementation of the Strategic Policy and the adoption of future anti-trafficking policies (see also the recommendation in paragraph 185);
 - introduce an independent evaluation of the implementation of the Strategic Policy and other anti-THB projects, as a tool for assessing the impact of the activities and planning future policies and measures to combat THB (paragraph 21).

Measures to prevent and combat trafficking for the purpose of labour exploitation

- GRETA urges the Andorran authorities to take further steps to prevent and combat trafficking for the purpose of labour exploitation, and in particular to:
 - broaden the Labour Inspectorate's remit to cover domestic work, temporary work, employment agencies and the work carried out by migrants seconded to Andorran companies;
 - increase the number of inspections carried out at the Inspectorate's own initiative in the sectors considered to be at risk from labour exploitation and trafficking in human beings;
 - strengthen the capacities and resources of labour inspectors so that they can be actively involved in the prevention of trafficking for the purpose of labour exploitation and the detection of potential victims;
 - set up safe reporting mechanisms and effective complaint mechanisms for workers so that victims of abuse or exploitation can submit their case without fear of reprisals;
 - build awareness among the general public and, more specifically, migrant workers of the risks linked to trafficking for the purpose of labour exploitation and the rights of trafficking victims;
 - strengthen co-operation with trade unions and the private sector in preventing and combating trafficking for the purpose of labour exploitation (paragraph 156).

Measures to prevent trafficking in children, identify child victims of trafficking and assist these children

- GRETA considers that the Andorran authorities should take additional measures to prevent and combat trafficking in children, and in particular to:
 - include information on the risks of trafficking in human beings in general awareness-raising campaigns aimed at children;

- step up efforts to detect and proactively identify child victims of trafficking and continue to develop training for professionals who may come into contact with potential THB victims among children (paragraph 166).

Identification of victims of trafficking

- GRETA urges the Andorran authorities to take additional measures to detect and identify potential victims of trafficking in human beings, and in particular to:
 - step up the detection and proactive identification of trafficking victims, including among migrant workers and people in an irregular situation;
 - ensure that, before any expulsion from Andorra, a prior assessment of the risks is carried out, taking full account of the risks of trafficking or re-trafficking on return, in compliance with the obligation of *non-refoulement*. GRETA refers in this connection to its Guidance note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection;
 - develop co-operation with civil society organisations to facilitate the detection and identification of trafficking victims (paragraph 175);
- GRETA also considers that the Andorran authorities should develop training and provide guidance to professionals who may come into contact with THB victims on the role they have to play in detecting and identifying victims (see also the recommendation in paragraph 126) (paragraph 176).

Assistance to victims

- GRETA considers that the Andorran authorities should pursue their efforts to develop assistance that could be provided to THB victims, and in particular to:
 - reinforce training for the professionals of the SAVTEH so that the assistance they provide is specialised and tailored to victims' needs;
 - develop co-operation with civil society organisations in connection with assistance for victims of trafficking in human beings (paragraph 185).

Residence permit

- GRETA urges the Andorran authorities to change the legislation so that victims of THB can obtain residence permits without having to submit evidence of recruitment to work by a company legally established in Andorra, in conformity with Article 14 of the Convention (paragraph 188).

Appendix 2 – List of public bodies, non-governmental organisations and other organisations with which GRETA held consultations

Public bodies

- Ministry of Justice and the Interior
 - o State Secretariat for Justice and the Interior
 - o Department of Justice and the Interior
 - o Police Department
 - o Department of Immigration
- Ministry of Presidency, Economy and Business
 - o State Secretariat for Economy and Business
 - o Labour Inspectorate
- Ministry of Foreign Affairs
- Ministry of Social Affairs, Youth and Equality
 - o Department of Social Affairs
 - o Department for Children, Adolescents and Youth
 - o Equality policies department
 - o Department responsible for the educative accommodation centre (La Gavarnera)
- Ombudsman (*Raonador del Ciutadà*)
- Parliament (*Consell General*)
- Public Prosecutor's Office
- Court of First Instance (*Battlia*)
- Court of First Instance (*Tribunal de Corts*)
- Court of Appeal (*Tribunal Superior*)

NGOs and other organisations

- Andorran Bar Association
- Association of Andorran Women
- Association of Ukrainians in Andorra
- Association UNICEF Andorra
- Caritas Andorrana
- *Fundació Privada Tutelar*
- Trade Union of Andorra (USDA)

Government's comments

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

GRETA engaged in a dialogue with the Andorran 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 Andorran authorities on 27 November 2023 and invited them to submit any final comments. The comments of the authorities, submitted on 15 January 2024, are reproduced hereafter (in French only).



Govern d'Andorra
Ministeri de Justícia i Interior

Commentaires du Gouvernement d'Andorre sur le rapport du GRETA **[GRETA(2024)01prov]**

Le Gouvernement d'Andorre pense que le document envoyé par le Secrétariat le 27 novembre 2023 reflète globalement l'esprit et le contenu de la visite réalisée par l'équipe du GRETA. Le Gouvernement est satisfait, car des nombreuses actions ont déjà été entreprises et réalisées, à peine quelques mois après cette visite, et que le rapport du GRETA servira de feuille de route pour les actions à venir. Ainsi, les réponses et les efforts qui seront faits pour apporter des réponses au rapport dans sa version finale devraient être très positifs pour tous les acteurs concernés : le GRETA et les autorités andorranes.

Toutefois, à ce stade, le Gouvernement d'Andorre transmet au GRETA ci-après les commentaires sur ce projet de rapport. Tous les départements concernés ont répondu et avancé leurs remarques. Les commentaires concernent dans quelques cas des erreurs factuelles (titre, noms, etc.), des fautes de frappe ou d'orthographe qui ont été prises en compte par le GRETA dans la version finale du rapport, mais aussi des questions de fond ou de forme parce que la rédaction ne reflète pas réellement la situation et le Gouvernement considère qu'il faudrait compléter et préciser certains passages ou, peut-être, les réécrire de manière légèrement différente.

§ 21. Le Gouvernement apprécierait des précisions sur la première recommandation : par quoi la recherche sur les questions liées à la traite doit-elle être réalisée ? L'université en Andorre a une dimension et des domaines d'enseignement (et donc de recherche) fort limités. Comment devrait se matérialiser cette recherche ?

En ce qui concerne les associations avec les organisations de la société civile, nous pouvons considérer comme une nouveauté le fait que des réunions ont été organisées avec l'Institut andorran de la femme, qui a accepté d'être un nouvel acteur à la table de travail sur l'orientation stratégique. Du même, l'Institut a fait connaître cette année 2023 sur ses réseaux sociaux les deux campagnes annuelles de commémoration de la journée contre la traite des êtres humains.

L'Institut andorran de la femme (*Institut Andorrà de les Dones*) est une entité de droit public, dotée d'une personnalité juridique et d'un patrimoine propre. L'Institut a été créé conformément à l'article 27 de la Loi 6/2022, du 31 mars, pour l'application effective du droit à l'égalité de traitement et des chances et à la non-discrimination entre les femmes et les hommes, et il est régi par les organes suivants : le Secrétariat général, composé d'une personne ayant une expérience reconnue dans le domaine de l'égalité de traitement et des chances entre les femmes et les hommes, qui est responsable de la direction de l'Institut, ainsi que du personnel affecté au Secrétariat général ; le Comité exécutif, composé de la Secrétaire générale nommé par le Gouvernement, et de quatre autres personnes, dont une personne nommée par le Conseil général, une personne nommée par le Gouvernement,

une personne nommée sur proposition des sept *Comuns* d'Andorre, **et une personne nommée par les organisations féministes autorisées à exercer leurs activités en Andorre.** (Pour plus d'informations, voir également les commentaires concernant le paragraphe 184).

En ce qui concerne le dernier point, le Gouvernement apprécierait aussi des précisions. À l'égard de comment et par qui devrait se matérialiser cette évaluation ?

§ 36 et 41. Pour la campagne de commémoration de la Journée mondiale contre la traite des êtres humains de cette année (30 juillet 2023), le Ministère de la justice et de l'intérieur, le Ministère des affaires sociales et de la fonction publique et le Secrétariat d'État à l'égalité et à la participation citoyenne ont, parmi d'autres actions, produit une nouvelle version du document « Quels sont mes droits en tant que victime de traite d'êtres humains ? »¹ et diffusé le nouveau document sur les médias sociaux et sur les sites web du gouvernement et des ministères concernés. Pour faciliter sa diffusion, le document a été doté d'un format diptyque et d'une structure beaucoup plus simple et visuelle, mettant en évidence chacun des droits énumérés à l'aide de puces et de symboles. Il convient également de noter que ce document contient des informations sur le délai de rétablissement et de réflexion, ainsi que sur le droit de se constituer en partie civile. En outre, la traduction du document (dans le même format plus visuel) a également été faite dans les langues suivantes : anglais², français³, espagnol⁴ et ukrainien⁵.

Outre la diffusion lors de la campagne, ces documents, dans toutes les langues, sont disponibles en permanence sur le site web du ministère en charge des affaires sociales (<https://www.aferssocials.ad/igualtat>).

En ce qui concerne la recommandation du paragraphe 41, mentionner également que l'Institut andorran de la femme a préparé un document avec les ressources pour les personnes résidant en Andorre appelé « **Que faire en cas de harcèlement, de violence à l'égard des femmes ou de lésions ?** »⁶.

Ce document peut également s'avérer très utile pour les victimes de la traite des êtres humains, car il met en commun des ressources. Il est actuellement traduit en espagnol, en anglais, en français, et en anglais, en plus de la version originale en catalan.

§ 37. La brochure du SAVTEH a bien été créée en 2018, mais il convient de noter qu'elle a été mise à jour, tant en termes de contenu que d'image, en 2022, et qu'elle a été traduite dans les cinq langues mentionnées.

¹ https://www.aferssocials.ad/images/stories/Campanyes/trafic/victima-drets_CAT.pdf

² https://www.aferssocials.ad/images/stories/Campanyes/trafic/victima-drets_ANG.pdf

³ https://www.aferssocials.ad/images/stories/Campanyes/trafic/victima-drets_FRA.pdf

⁴ https://www.aferssocials.ad/images/stories/Campanyes/trafic/victima-drets_CAST.pdf

⁵ https://www.aferssocials.ad/images/stories/Campanyes/trafic/victima-drets_UCR.pdf

⁶ https://irp.cdn-website.com/cb103d82/files/uploaded/Recursos%20per%20a%20persones%20residentes_IAD_5%20idiomes-1ae84af2.pdf

§ 40. Le Gouvernement apprécierait que cette recommandation soit plus précise, parce qu'elle est formulée de telle manière que la recommandation elle-même n'est pas claire. Une autre solution pourrait consister à considérer ce paragraphe comme faisant partie du texte du rapport, sans qu'il s'agisse d'une recommandation en tant que telle (et il ne devrait donc pas être en gras).

§ 47. Le Service d'orientation juridique et sociale doit également être pris en compte. Ce service est régi par le Décret 262/2022, du 22 juin 2022, qui approuve le Règlement du Service de médiation et d'orientation de l'Administration de la justice, et ses principales fonctions sont les suivantes :

- Il offre une attention personnalisée et un premier conseil juridique aux citoyens qui s'adressent au service, et les informe des ressources et mécanismes institutionnels, professionnels et réglementaires qui sont à leur disposition pour exercer et défendre leurs droits et intérêts.

- Il oriente les victimes de délits et d'infractions pénales (*contravencions penals*), si nécessaire, vers les administrations, institutions ou professionnels compétents.

§ 49. En ce qui concerne la recommandation relative à la formation des avocats, le Gouvernement transmet toujours toutes les recommandations au Barreau des Avocats d'Andorre, ainsi que toute formation que nous recevons ou offrons et qui pourrait les intéresser.

§ 59. Comme déjà mentionné dans les commentaires au rapport provisoire, le Service Andorran de l'Emploi offre, en plus du circuit ordinaire, un service spécialisé pour l'insertion dans le marché du travail des collectifs vulnérables, dont feraient partie les victimes de traite des êtres humains qui seraient identifiées. Ce service mobilise des professionnels dans les domaines de l'orientation, la prospection auprès des entreprises, et le suivi dans le lieu de travail, afin que les personnes suivies puissent accéder à un emploi.

§ 81. Le Gouvernement d'Andorre travaille activement pour devenir part de la UNCAC, qui implique un certain nombre de changements législatifs, parmi lesquels, l'introduction de la responsabilité pénale des personnes morales.

De même, et mentionné dans le rapport de manière incomplète, le Code pénal de la Principauté prévoit que la réglementation des personnes pénalement responsables repose sur le principe de la personnalité du droit pénal et, pour le moment, rejette toute forme de responsabilité directe des personnes morales.

Le système de sanctions pénales est complété par une série de conséquences accessoires, qui peuvent être infligées aux personnes physiques mais également aux personnes morales. Le Gouvernement souhaite simplement rappeler que les sanctions mentionnées dans le rapport n'en sont qu'une partie, l'article 71 du CP en prévoyant plusieurs autres.

§ 83. Les crimes spécifiques énumérés à l'article 122 ter du CPP sont les suivants : crimes liés à la drogue, aux armes à feu, à la fausse monnaie, au proxénétisme, au terrorisme, à la vente d'enfants, à la prostitution infantile et à la pédopornographie, au trafic d'organes humains et au blanchiment d'argent ou de valeurs, ou aux infractions sous-jacentes qui en sont à l'origine, ou aux délits (*delictes menors*) de corruption et de trafic d'influence. Cela dit, bien que le crime de traite des êtres humains ne soit pas expressément mentionné, certains crimes qui peuvent être étroitement liés le sont.

§ 86. Le rapport est resté à un stade antérieur en ce qui concerne la manière dont l'enquête sur ces dossiers a fini par être conclue.

En effet, dans le premier cas, il a été analysé si, dans le cas des travailleurs d'entreprises étrangères temporairement déplacés en Andorre dans le cadre d'une prestation de services, les conditions contractuelles contenues dans les contrats de travail formalisés dans les pays d'origine étaient régies, principalement le Pérou. L'interprétation était ambiguë et c'est pour cette raison que le Règlement sur l'Immigration a été modifié, afin que les travailleurs puissent apporter les contrats de travail au Service d'Immigration et pouvoir vérifier si les conditions de travail des travailleurs déplacés étaient conformes à la réglementation du travail andorrane. Durant cette période et face à une analyse complémentaire de la réglementation du travail andorrane applicable, on arrive à la conclusion que les conditions minimales établies par la réglementation nationale du travail étaient applicables à tous les travailleurs qui effectuaient leur travail dans la Principauté d'Andorre. Grâce à l'application du droit du travail andorran et à un processus d'enquête plus approfondi, des pratiques de formalisation et d'exécution de contrats en violation flagrante de la loi ont été mises en évidence. Le Service d'Inspection du Travail a ouvert un total de huit dossiers de sanctions répartis entre quatre entreprises, dont quatre pour violations de divers aspects de la réglementation du travail en vigueur et les quatre autres pour violations de la loi sur la sécurité et la santé au travail.

Dans le cadre de cette campagne d'inspection, le Service d'Inspection du Travail a effectivement, comme le détaille le rapport, transmis des informations au Parquet andorran, par l'intermédiaire du Bureau Juridique du Gouvernement. Ils ont attiré leur attention sur une série de pratiques de la part des dirigeants d'une entreprise qui, à leur avis, pourraient constituer un délit. De plus, il a également ouvert un dossier administratif disciplinaire contre cette entreprise pour la vérification d'une série de violations administratives. Il convient de préciser que dans ce cas il ne s'agissait pas de travailleurs déplacés pour le compte d'une entreprise étrangère dans le cadre d'un contrat de prestation de services, mais de travailleurs, venant du Pérou, qui dans ce cas avaient été directement embauchés par la société andorrane.

§ 89. En ce qui concerne la deuxième recommandation de ce paragraphe, voir le commentaire relatif au paragraphe 83.

Par ailleurs, et en référence à la dernière recommandation, il convient de noter que lors de la journée de formation du 18 octobre 2022 (dans le cadre de la campagne de la Journée européenne contre la traite des êtres humains), le Dr. Marc Salat a donné une formation centrée, parmi d'autres, les éléments constitutifs de l'infraction. Cette session a été suivie par des juges, des procureurs et des officiers de police.

§ 112. En rapport avec les ressources humaines, signaler que la Police a augmenté son personnel, avec 14 personnes, à partir de 2022.

Par ailleurs, et dans le cadre du « Pla de xoc » approuvé par la Loi 38/2022, du 1^{er} décembre, de modification de la Loi Qualifiée de la Justice, le Conseil Supérieur de la Justice a également augmenté ses effectifs* :

BATLLIA

- 5 postes de *secrétaire judiciaire* (greffiers) (2 postes occupés par 1 fonctionnaire + 1 intérimaire), les autres étant en cours de sélection.

- 13 postes d'officiers (*oficials*) (7 pourvus par 7 intérimaires) et tous en cours de sélection.

PARQUET GÉNÉRAL

- 1 poste de procureur adjoint (pourvu)
- 1 poste de greffier (pourvu)
- 5 postes administratifs (pourvus)

* Il s'agit des nouveaux postes, autres que ceux mentionnés dans le rapport.

§ 122. Sur ce point, il est également intéressant de mentionner la Loi 6/2022, du 31 mars, pour l'application effective du droit à l'égalité de traitement et des chances et à la non-discrimination entre les femmes et les hommes.⁷

Cette Loi exprime la volonté politique d'éliminer l'inégalité structurelle dont souffrent les femmes dans tous les domaines de la vie, pour parvenir à une société plus juste et démocratique. La Loi part du Livre Blanc de l'égalité, promu ces dernières années par le Conseil Général avec le soutien et la collaboration du Gouvernement et de l'Institut d'Études Andorranes. Le but du Livre blanc consistait à compiler et à analyser toutes les informations sur la situation réelle en matière d'égalité en Andorre, afin de pouvoir identifier des priorités permettant de promouvoir une culture d'égalité dans le pays.

La Loi 6/2022 entend atteindre précisément le but spécifique de garantir l'égalité effective des femmes et des hommes dans tous les domaines de la vie sociale et, dans ce sens, elle complète et renforce la Loi 13/2019.

En ce sens, l'article 56, dans le but de réduire de plus en plus l'écart professionnel entre les hommes et les femmes, établit l'obligation pour toutes les entreprises de tenir un registre annuel des indicateurs, en faisant la distinction entre les entreprises de 50 employés ou plus et les entreprises de moins de 50 employés, ainsi que l'obligation d'enregistrer les données et les indicateurs dans le registre public correspondant.

C'est la raison pour laquelle le Règlement relatif au registre public des données et des indicateurs sur l'écart professionnel entre les hommes et les femmes⁸ a été approuvé en novembre 2023. Pour plus d'informations, le Gouvernement a publié un article d'information en octobre 2023, qui peut être consulté sur le lien suivant : <https://www.govern.ad/presidencia-economia-i-empresa/item/16043-es-presenta-el-reqlament-de-registre-de-la-bretxa-salarial-davant-del-consell-economic-i-social>

§ 126. En ce qui concerne le sujet mentionné, les cours de formation suivants ont été dispensés précédemment :

1) Comme déjà mentionné dans les commentaires au rapport provisoire, les **autorités judiciaires et le Parquet** ont reçu les formations connexes suivantes :

⁷ Voir la version française de cette loi [ici](#).

⁸ https://www.bopa.ad/Documents/Detail?doc=GD_2023_11_23_09_07_00

A.- Séminaire sur la violence de genre et la violence domestique. Analyse, tant sur le plan civil que pénal, de la Loi 1/2015, du 15 janvier, pour l'éradication de la violence de genre et de la violence domestique. Référence à la CEDAW.

Date 29 et 30 septembre 2023

Sessions coordonnées par Alexandra Teres, juge et Ivan Alis, Procureur adjoint.

Cette activité s'est déroulée en deux sessions. Dans la première, il y a eu une présentation par les intervenants (deux heures) suivie d'un travail de groupe. Lors de la seconde session, une séance commune a été organisée entre tous les participants dans le but de définir des lignes directrices communes.

Séance de travail commune, le 30/09 : travail de réflexion visant à préciser les protocoles d'action commune en la matière.

B.- High level event. Women in Justice for Justice. Organisé par l'UNODC. Il s'agissait d'une conférence avec différents intervenants. Entre autres, Ghada Waly, directrice exécutive de l'UNODC, Alma Zadic, ministre autrichienne de la justice et Kimberly Prost, juge à la Cour pénale internationale. L'événement était modéré par Annika Markovic.

C.- « Enquête et contentieux dans les cas de mort violente de femmes (fémicide) » organisé par la Direction générale de la formation et de l'école du ministère public d'Argentine.

D.- Formation des formateurs sur la violence à l'égard des femmes. Elle a été organisée par le gouvernement et s'est déroulée les 20, 25 et 27 octobre 2022.

2) Certains membres de la **Police** ont reçu les formations connexes suivantes :

2020

- 57 officiers de police ont suivi un cours sur la violence sexiste du Gouvernement.

2022

- 1 agent du Groupe des crimes contre les personnes a suivi un cours sur la violence à l'égard des femmes, formation des formateurs du Gouvernement.

- 2 agents du Groupe des crimes contre les personnes ont participé à la XXXIIe édition des « Conférence de spécialistes des femmes et des enfants. Violence domestique de genre » à Madrid.

- 2 commandants ont suivi le cours « La police en tant qu'acteur clé dans la lutte contre la violence sexiste et sexuelle » à Madrid.

2023

- 4 agents ont commencé un cours sur les soins aux victimes de violence sexiste dispensé par le Gouvernement, qui devrait s'achever en 2024.

- 6 *inspecteurs majeurs* ont suivi une formation sur la violence vicariante, qui est exercée sur les enfants et/ou les parents du partenaire ou les partenaires pour leur nuire psychologiquement, à Madrid.

3) En novembre 2023, le Secrétariat d'État à l'égalité et à la participation citoyenne a organisé une formation spécifique sur les politiques d'égalité pour **le Chef du Gouvernement, les Ministres et les Secrétaires d'État liés au Chef du**

Gouvernement. Pour plus d'informations, le Gouvernement a publié un article d'information, qui peut être consulté sur le lien suivant : <https://www.govern.ad/altres-noticies/item/16203-el-cap-de-govern-i-els-ministres-reben-una-formacio-especialitzada-en-politiques-d-igualtat>

§ 129 et 134. Au cours du mois de septembre 2023, la Recommandation du Comité des Ministres du Conseil de l'Europe CM/Rec (2022)22 a été traduite en catalan⁹ et diffusée à l'ensemble du Service de médecine légale et juridique du Ministère de la Justice et de l'Intérieur.

§ 132. Un groupe de travail a été constitué au dernier trimestre 2023 composé de représentants de la *Batllia* (section instruction et section juvénile), du Parquet, de la Police, du *Tribunal de Corts*, du Département de Médecine Légale du Ministère de la Justice et de l'Intérieur et l'Unité de protection de l'enfance et de l'adolescence du Ministère des Affaires sociales et de la fonction publique pour développer le modèle Barnahus dans le pays. Actuellement, il existe déjà des équipements pour prévenir la victimisation secondaire des enfants et adolescents victimes d'abus sexuels ou de violences physiques dans lesquels sont effectués des tests ou des déclarations préconstitués mais nous voulons avancer dans l'optimisation de la coordination - intégration des tous les agents afin d'améliorer ce processus et de se rapprocher du modèle Barnahus.

§ 143. Le Gouvernement apprécierait des précisions sur cette recommandation. De quel type de mesures s'agit-il ?

Il convient de noter qu'au cours des deux dernières années, des progrès ont été réalisés en termes d'actions de prévention de la corruption. En particulier, la Loi 38/2022, du 1^{er} décembre, de modification de la Loi Qualifiée de la Justice a été adoptée l'année dernière, ce qui permettra au Conseil supérieur de la justice d'adopter un code d'éthique pour ses membres.

De même, en 2022, le Conseil Général a adopté son propre code et en 2023, deux autres ont été adoptés : l'un concernant les membres du gouvernement et les hauts responsables et l'autre concernant la Police. Il est également prévu qu'un code de conduite pour les membres du Centre pénitentiaire soit approuvé le 2024.

§ 145. Est-ce que le GRETA pourrait préciser la motivation pour la mention du secteur de l'agriculture en particulier ?

L'agriculture est un secteur peu important dans l'économie du pays, plutôt un secteur de témoignage. De plus, contrairement à d'autres pays, il n'y a pas de travailleurs saisonniers dans ce secteur.

En tout état de cause, si le GRETA souhaite parler avec le Département d'agriculture, le Gouvernement reste à disposition pour faciliter cet échange et donner plus d'informations au GRETA.

§ 146. Bien qu'à l'heure actuelle, le service de l'immigration ne dispose d'aucun document spécifique sur les risques d'exploitation et de traite des êtres humains, il met à la disposition de tous, dans l'espace public, le triptyque du SAVTEH en format physique.

⁹ Voir [ici](#) la traduction.

§ 151. Au cours du mois de janvier 2023, la Recommandation CM/Rec (2022)21 du Comité des Ministres aux États membres sur la prévention et la lutte contre la traite des êtres humains à des fins d'exploitation par le travail, a été diffusée à l'ensemble du personnel de l'Inspection du Travail.

§ 156. Concernant le problème posé par l'impossibilité de contrôle des conditions de travail par l'Inspection du Travail dans le domaine du service domestique :

Au-delà de l'impossibilité, dans le cas des résidences privées, de pouvoir procéder à des contrôles « sur place » sans l'autorisation préalable du ménage employeur mis en examen, rien n'empêche que employeurs soient cités à comparaître dans les bureaux du Service de l'Inspection du Travail dans le cadre d'une éventuelle inspection, soit d'office, soit à la demande d'une partie suite à une plainte.

En ce qui concerne l'opportunité d'augmenter les inspections d'office, liée à la nécessité d'élargir le corps des inspecteurs du travail :

L'augmentation des inspections d'office à caractère général, et aussi de manière plus particulière dans les secteurs d'activité susceptibles d'être générateurs d'éventuelles situations de risque potentiel dans le champ d'intervention proposé par le GRETA, devient nécessaire pour permettre la détection d'éventuelles irrégularités qui se produisent dans le domaine de l'entreprise et qui n'arrivent pas par voie de plaintes auprès de l'Inspection du Travail. En ce sens, afin de pouvoir entreprendre avec des garanties l'augmentation du travail qu'entraînerait l'éventuelle augmentation des contrôles de bureau et les assister avec la réponse nécessaire et obligatoire que le service doit donner aux plaintes formalisées, aux accidents du travail en dans lequel il intervient et d'autres tâches qui font partie de l'activité actuelle du service, le gouvernement a prévu une augmentation du nombre d'inspecteurs du travail, avec la mise à disposition de deux inspecteurs supplémentaires, en plus de la couverture des postes vacants, pour l'année 2024. Parallèlement, des travaux sont menés sur la modernisation des systèmes de gestion afin de gagner en efficacité et en efficience.

Une autre question abordée par le rapport est la recherche de synergies et de collaborations avec les agents économiques, principalement les syndicats. En effet, notre système normatif régit la constitution des organisations syndicales et leurs fonctions représentatives, tant dans le cadre des organes de représentation unitaire des entreprises que de la représentation institutionnelle, en fonction de la condition des organisations syndicales à caractère représentatif et plus représentatif qu'elles peuvent atteindre dans les termes et conditions légalement établis. Malheureusement, dans la pratique, le niveau de pénétration syndicale dans notre structure d'entreprise est actuellement faible. C'est pour cette raison que le Gouvernement a encouragé le dialogue social à travers le Conseil économique et social. Un organisme où sont représentés les syndicats, les employeurs et le gouvernement, qui agit comme médiateur afin d'approfondir l'échange d'opinions entre les agents, en lui fournissant des ressources matérielles et humaines, dans le but de parvenir à des accords de travail. Sans aller plus loin, fin 2023 l'augmentation du salaire minimum, que le gouvernement a augmenté du 7%, et des salaires entre le salaire minimum et le salaire moyen, que le gouvernement a augmenté du 4,6% après les principes d'accord (non matérialisé par écrit), entre employeurs et syndicats.

Le Gouvernement et les acteurs sociaux (syndicats et patronat) sont, dans le cadre du Conseil Économique et Social, dans un processus de réflexion et d'étude pour tenter de découvrir les causes qui provoquent cette situation, au-delà de la petite dimension de nos entreprises. , et proposer des mesures concrètes pour lutter contre le faible niveau de

participation des travailleurs, tant dans l'activité syndicale elle-même que dans les organes de représentation unitaires des entreprises, afin d'inverser la situation actuelle.

Et c'est une question importante, car une plus grande participation des travailleurs aux syndicats peut leur donner une plus grande représentativité et leur donner un plus grand rôle dans la négociation collective, mais aussi dans la prise en charge de toute une série de tâches liées à l'information et au conseil des travailleurs par rapport à leurs droits du travail.

§ 175. Pour la dernière recommandation de ce paragraphe, voir les commentaires suivants relatifs au paragraphe 184.

§ 184 et 185. Dans ce sens, et comme mentionné dans les commentaires du paragraphe 21, des réunions ont été organisées avec l'Institut andorran de la femme, qui a accepté d'être un nouvel acteur à la table de travail sur l'orientation stratégique.

Sa mission fondamentale est de promouvoir la participation des femmes à la vie politique, culturelle, économique et sociale dans les mêmes conditions et avec les mêmes chances que les hommes, par la promotion, le contrôle et l'évaluation des actions des autorités publiques et des entreprises opérant sur le territoire andorran.

En outre, ses fonctions comprennent, parmi d'autres, les suivantes :

- Vérifier que la Principauté d'Andorre respecte les obligations découlant de la ratification des conventions internationales sur l'égalité de traitement et des chances et la non-discrimination entre les femmes et les hommes.
- Agir en tant qu'organe consultatif auprès du Conseil général, du Gouvernement et des *Comuns*, ainsi que d'autres organes de l'administration publique qui le prévoient.
- Collaborer aux consultations et aux propositions de l'Observatoire de l'égalité qui étudie la situation des femmes dans tous les domaines de la vie, identifie les inégalités entre les sexes et propose des mesures correctives.
- Conseils aux entreprises sur la création de plans d'égalité.
- Actions de formation sur l'égalité de traitement et la non-discrimination fondée sur le sexe, préparation de guides et de manuels de référence pour promouvoir la mise en œuvre de plans et de mesures d'égalité dans les entreprises et les administrations publiques, y compris des mesures de prévention et de lutte contre le harcèlement sexuel et le harcèlement fondé sur le sexe.
- Réaliser et proposer des campagnes de sensibilisation à différents niveaux du secteur public sur l'égalité de traitement et des chances entre les femmes et les hommes et sur la non-discrimination.
- Promotion des relations avec d'autres organisations internationales de femmes et représentation des femmes d'Andorre dans toutes les réunions et débats publics nationaux et internationaux sur les femmes.

Pour plus d'informations, veuillez consulter leur site web au lien suivant : <https://www.iad.ad/>