



GRETA
GROUP OF EXPERTS
ON ACTION AGAINST
TRAFFICKING IN HUMAN BEINGS

GRETA(2022)10

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

SECOND EVALUATION ROUND

Adopted 28 June 2022

Published 27 October 2022

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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Preamble

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

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

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

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

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

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

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

I. Introduction

1. The Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) entered into force for Belarus on 1 March 2014. The first evaluation of the implementation of the Convention by Belarus took place in 2016-2017. Following the receipt of Belarus’ reply to GRETA’s first questionnaire on 3 February 2016, a country evaluation visit was organised from 18 to 22 April 2016. The draft report on Belarus was examined at GRETA’s 27th meeting (28 November - 2 December 2016) and the final report was adopted at GRETA’s 28th meeting (27-31 March 2017). Following the receipt of the Belarusian authorities’ comments, GRETA’s final report was published on 3 July 2017.¹

2. In its first evaluation report, GRETA noted that Belarus had taken a number of steps to develop the legal, policy and institutional framework for action against trafficking in human beings (THB). However, GRETA considered that the authorities should improve the coordination of anti-trafficking activities, and increase the involvement of civil society in the planning and implementation of national policies. While welcoming the efforts made in Belarus to raise awareness of human trafficking, GRETA considered that the authorities should strengthen prevention through social and economic empowerment measures for groups vulnerable to trafficking. GRETA welcomed the introduction of a new regulation on the identification of victims of trafficking, but urged the authorities to ensure that, in practice, the identification of victims is not linked to establishing the commission of a criminal offence of trafficking. GRETA also urged the authorities to specifically define in law the recovery and reflection period, and to adopt measures to facilitate and guarantee access to compensation for victims, including the creation of a State compensation scheme. Moreover, GRETA considered that the Belarusian authorities should take additional measures to ensure that THB offences are prosecuted as such and lead to proportionate and dissuasive sanctions.

3. On the basis of GRETA’s report, on 13 October 2017 the Committee of the Parties to the Convention adopted a recommendation to the Belarusian authorities, requesting them to report back on the measures taken to comply with this recommendation by 14 October 2019.² The report submitted by the Belarusian authorities was considered at the 26th meeting of the Committee of the Parties (12 June 2020). The Committee of the Parties decided to transmit the authorities’ report to GRETA for consideration and to make it public.³

4. On 31 March 2020, GRETA launched the second round of evaluation of the Convention in respect of Belarus by sending the questionnaire for this round to the Belarusian authorities. The deadline for submitting the reply to the questionnaire was 15 September 2020. Belarus submitted its reply on 10 September 2020.⁴

¹ Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Belarus, GRETA(2017)16, available at: <https://rm.coe.int/greta-2017-16-fgr-byr-en/168072f2bf>

² Recommendation CP(2017)26 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Belarus, adopted at the 21st meeting of the Committee of the Parties, available at: <https://rm.coe.int/cp-2017-26-byr-en/168075e9b9>

³ Report submitted by the Belarusian authorities on measures taken to comply with Committee of the Parties Recommendation CP(2017)26 on the implementation of the Convention on Action against Trafficking in Human Beings, available at: <https://rm.coe.int/cp-2019-02-belarus/16809eb4d7>

⁴ Reply by Belarus to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties, second evaluation round, available at: <https://rm.coe.int/reply-from-belarus-to-the-questionnaire-for-the-evaluation-of-the-impl/1680a0b8c1>

5. In preparation of the present report, GRETA used the reply to the questionnaire by the Belarusian authorities, the above-mentioned report submitted by them to the Committee of the Parties, and information received from civil society. The organisation of an evaluation visit to Belarus was repeatedly postponed due to the sanitary and travel restrictions imposed as a consequence of the COVID-19 pandemic. The visit, which finally took place from 28 September to 1 October 2021, was carried out by a delegation composed of:

- Ms Ia Dadunashvili, member of GRETA;
- Mr Georgios Vanikiotis, member of GRETA;
- Mr Roemer Lemaître, Administrator in the Secretariat of the Convention.

6. The visit took place during a period marked by the unprecedented arrival of tens of thousands of migrants to Belarus, raising concerns about heightened risks of human trafficking (see paragraphs 99-104). The GRETA delegation tried to collect relevant information, however, Belarusian officials, in particular representatives of the State Border Committee, failed to engage in a meaningful dialogue with GRETA (see paragraph 101). GRETA also asked to visit facilities for the accommodation of migrants, but was informed that a facility in Brest belonging to the State Border Committee had been closed down two years previously.

7. GRETA was unable to hold meetings with most of the civil society actors involved in action against human trafficking, due to the fact that they had been dissolved or their representatives had left Belarus for fear of persecution (see paragraph 196).

8. GRETA stresses that the provision of accurate and reliable information, and enabling its delegations to visit locations and speak with relevant persons, including from civil society, in order to assess the situation, are an indispensable part of State Parties' obligation under the Convention to co-operate with GRETA.

9. During the visit, the GRETA delegation met Mr Hennadz Kazakevich, Deputy Minister of the Interior, as well as officials from the Ministry of the Interior, the Ministry of Labour and Social Protection, the Ministry of Health, the Ministry of Justice, the Ministry of Education, the Ministry of Foreign Affairs, the State Border Committee, the Investigative Committee, the General Prosecutor's Office and the Supreme Court.

10. In addition to meetings in Minsk, the GRETA delegation travelled to Brest where it met representatives of relevant regional and local authorities and law enforcement agencies.

11. Furthermore, the GRETA delegation met lawyers of the Minsk Bar Association. It also held meetings with officials of the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR) in Minsk. In addition, the GRETA delegation held an online meeting with Ms Anais Marin, the UN Special Rapporteur on the Situation of Human Rights in Belarus.

12. In the course of the visit, the GRETA delegation visited the rehabilitation centre for victims of human trafficking in Minsk, run by the IOM, and the crisis room of the territorial centre of social protection in Brest, which can accommodate victims of human trafficking.

13. The list of the national authorities and other organisations with which the delegation held consultations is set out in the Appendix to this report. The NGOs consulted by GRETA requested not to be named because of the current climate of persecution of civil society activists in Belarus.

14. GRETA acknowledges the assistance provided by the contact person appointed by the Belarusian authorities to liaise with GRETA, Ms Dzyana Kankalovich, Senior Inspector at the International Law Unit of the Department for International Co-operation of the Ministry of the Interior.

15. The draft version of the present report was approved by GRETA at its 43rd meeting (28 March - 1 April 2022) and was submitted to the Belarusian authorities for comments. The authorities' comments were received on 8 June 2022 and were taken into account by GRETA when adopting the final report at its 44th meeting (27 June - 1 July 2022). The report covers the situation up to 1 July 2022; 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 the final conclusions.

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

1. Emerging trends in trafficking in human beings

16. Belarus is a country of origin, transit and destination for trafficked persons. In the period 2017 - 2021 the Ministry of the Interior formally identified a total of 753 persons (487 women, 21 men, 188 girls and 57 boys) as victims of human trafficking and related crimes.⁵ The yearly number of identified victims remained stable in the period 2017-2020 (131 victims in 2017, 142 in 2018, 128 in 2019 and 108 in 2020) before increasing sharply in 2021 (244 victims).⁶ The percentage of children among the formally identified victims rose to 32.5 %, compared to 20.4% during the preceding five-year period, and in 2021 alone, the percentage of children was almost 50% (118 out of 244 cases). The overwhelming majority of the identified victims were trafficked for the purpose of sexual exploitation (731 victims or 97%), and the remainder for labour exploitation. Almost all of the identified victims were Belarusian citizens. The authorities identified one foreign victim of sexual exploitation in 2020 (a woman from Ukraine) and three in 2021 (women from the Republic of Moldova, the Russian Federation and Ukraine). More than 80% of identified victims, including all but four of the children, were exploited within Belarus. In case of exploitation abroad, the places of destination were EU countries, the Russian Federation, Turkey and countries of the Middle East.

17. The authorities have also provided statistics on the number of presumed victims, i.e. persons who may have suffered from THB and related offences, which include the above-mentioned formally identified victims. Out of a total of 1 351 presumed victims in the period 2017-2021, law enforcement bodies detected 62.2% (840 persons, including 245 children) and specialised NGOs and IOM, 37.8% (511 persons, including 72 children). Approximately 70% were presumed victims of sexual exploitation and 30% of labour exploitation. Law enforcement bodies detected the bulk of the presumed victims of sexual exploitation (78.7%), while presumed victims of labour exploitation were overwhelmingly detected by NGOs and IOM (76.6%).

18. Sexual exploitation has remained the prevalent form of exploitation of identified victims, but the methods of traffickers have changed, with an increased use of online recruitment and exploitation, in particular during the COVID-19 pandemic. There have been no identified victims of trafficking for the purpose of labour exploitation among the roughly 20 000 foreign workers in Belarus.⁷ Representatives from NGOs and international organisations indicated that the authorities continued to neglect labour exploitation of foreign workers in Belarus and Belarusian nationals abroad. Further, trafficking for the purpose of forced begging has remained largely undetected, with only one reported case in the period 2017-2021.

⁵ As noted in GRETA's first report on Belarus, pursuant to the 2012 Law "On Combating Trafficking in Human Beings", victims of the following criminal offences listed in the Criminal Code are identified as victims of trafficking: Article 181 ("trafficking in human beings"), Article 181¹ ("using slave labour"), Article 182 ("abduction"), Article 171 ("exploitation or facilitation of prostitution"), Article 171¹ ("involving in prostitution or forcing to continue practicing prostitution"), Article 187 ("illegal acts to provide employment abroad") and Article 343¹ ("production and distribution of pornographic material or items depicting a child"). The Belarusian authorities do not provide a breakdown of the identified victims per article, which makes it difficult to know how many persons were identified as victims of THB as defined in Article 4 of the Convention (see also paragraph 44).

⁶ By way of comparison, during the period covered by GRETA's first report (2012-2016), the Ministry of the Interior identified 760 persons as victims of trafficking and related offences (209 in 2012, 149 in 2013, 97 in 2014, 121 in 2015 and 184 in 2016).

⁷ In 2019 there were 20 862 foreign workers in Belarus, with 75% of them coming from four countries: Russia (6 741), China (4 318), Ukraine (3 145) and Uzbekistan (1 336), see Ministry of Foreign Affairs of Belarus, *Voluntary Review of the Implementation of the Global Compact for Safe, Orderly and Regular Migration by the Republic of Belarus*, 2020, page 9, available from < <https://migrationnetwork.un.org/country-regional-network/europe-north-america> >

19. Throughout the summer and autumn of 2021, tens of thousands of migrants, mainly from Iraq and Syria, but also from African and Asian countries, were lured into Belarus with false promises of easily crossing into the EU. Many of them remained stuck for prolonged periods of time on or near the borders with Poland, Lithuania and Latvia, without being able to claim asylum and have an assessment of their vulnerabilities.⁸ This unprecedented movement of migrants creates heightened risk of abuses, including trafficking in human beings (see paragraphs 100-105). All the information available leads GRETA to conclude that the Belarusian authorities have not only failed to prevent trafficking of foreign nationals through Belarus, but have actively encouraged it and in doing so, may have themselves contributed to trafficking in human beings.

2. Developments in the legal framework

20. In the period following the first evaluation by GRETA, there were no major changes to the 2012 Law "On Combating Trafficking in Human Beings". Law No. 82 of 4 January 2021 "On Amending Laws on Advertising Issues" amended Article 16 of the Law on Combating THB (which prohibits placing advertisements for studies abroad without the advertiser having obtained the permission of the Ministry of Education and the Ministry of Internal Affairs). In addition, Law No. 171 of 9 January 2019 "On Amendments and Additions to Certain Codes of the Republic of Belarus" amended the catalogue of additional sanctions stated in the Criminal Code (CC) for several offences, including THB. However, as detailed in paragraphs 157-164, the CC was not revised in line with the recommendations contained in GRETA's first report.

21. Articles 221 and 333(2¹) of the Criminal Procedure Code (CPC) concerning the interviewing of children were amended, providing for mandatory audio and video recording of interviews with victims and witnesses, who are children below the age of 14, and the possibility to use these recordings at trial *in lieu* of in person testimony, as well as the possibility to use child-friendly rooms to interview children (see paragraphs 182 and 183).

22. Furthermore, Government Decree No. 439 of 29 July 2020 amended the procedure for identifying victims of trafficking stipulated in Government Decree No. 485 of 11 June 2015 (hereinafter "Victim Identification Regulation"), in particular introducing a simplified identification procedure in certain cases. It further clarified the applicability of the 30-day reflection and recovery period, independently of the victim's consent to participate in the identification procedure and/or any criminal investigation. These amendments are discussed in detail in paragraphs 107 and 137.

3. Developments in the institutional framework

23. The institutional framework for action against THB has not undergone changes since the first evaluation by GRETA. Pursuant to Article 12, paragraph 2, of the Law "On combating trafficking in human beings", the Ministry of the Interior is responsible for the co-ordination of the relevant public authorities and other organisations in combating THB. It is also in charge of co-ordinating the identification of victims of THB and their referral for assistance, protection and rehabilitation. The Ministry's Main Department for Drug Control and Combating Trafficking in Human Beings is the lead law enforcement agency on action against THB, with divisions at regional, city and district levels.

24. The Prosecutor General's Office is responsible for the co-ordination of law enforcement activities, including in the field of action against THB, and leads this work through the national and local co-ordination meetings on combating crime and corruption.

⁸ Since August 2021 dozens of applications, accompanied by requests for interim measures, were lodged with the European Court of Human Rights on behalf of migrants stuck at or near the border, see < <https://hudoc.echr.coe.int/eng-press?i=003-7202976-9785391> >. As Belarus is not a member of the Council of Europe, only Latvia, Lithuania and Poland were named as respondent states in these cases, for example, ECtHR, *R.A. and Others v. Poland* (41120/21), < <https://hudoc.echr.coe.int/eng?i=001-212823> > and < <https://hudoc.echr.coe.int/eng?i=001-212823> >

25. In its first report, GRETA noted that no systematic exchange of information took place between the two co-ordination mechanisms, led respectively by the Ministry of the Interior and the General Prosecutor's Office. **GRETA considers that the Belarusian authorities should consolidate the co-ordination of anti-trafficking activities at national level by ensuring regular exchange of information between all public bodies involved in the prevention of THB, the identification and assistance to victims, and the prosecution of traffickers. The establishment of the post of National Co-ordinator on action against THB, supported by a dedicated office, would significantly strengthen co-ordination.**

26. Article 26 of the Law on Combating THB designates the Minister of the Interior as National Anti-trafficking Rapporteur, whose role is defined in the law as studying and analysing the application of anti-trafficking legislation, providing information to other countries and international organisations, engaging in international co-operation, and submitting to the Council of Ministers an annual report on the effectiveness of the anti-trafficking measures taken with recommendations for legislative amendments. In GRETA's view, the key features of National Rapporteurs' mechanisms within the meaning of Article 29(4) of the Convention should be the ability to critically monitor the efforts and effectiveness of all state institutions, including national co-ordinators, in the anti-trafficking field and to that end maintain a constant exchange with civil society, the research community and other relevant stakeholders. A structural separation between these monitoring functions and executive functions makes possible an objective evaluation of the implementation of anti-trafficking legislation, policy and activities, identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations. **GRETA considers that the Belarusian authorities should examine the possibility of establishing an independent National Rapporteur for monitoring the anti-trafficking activities of State institutions and making recommendations to persons and institutions concerned (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).**

27. One drawback of the anti-trafficking institutional framework of Belarus is the limited and decreasing involvement of civil society. NGOs are not represented in the national co-ordinating structures. They are sometimes represented in the regional multi-disciplinary groups (MDGs),⁹ which still lack a legal basis. GRETA understands that an NGO proposal to institutionalise the MDGs when the Victim Identification Regulation was amended in July 2020 was not accepted. The frequency of the MDG meetings depends on the availability of financial support from donors, and in the absence of such support, no meetings are held. Since August 2020 NGO participation in the MDGs has dropped significantly in the wake of systematic repression of civil society in Belarus (see paragraphs 195-199). NGOs have been involved in the advisory council and the planning and coordination group of the international technical assistance project entitled "Strengthening the capacity of the Republic of Belarus in the field of combating trafficking in human beings", led by IOM.

4. National Action Plan to Combat Trafficking in Human Beings

28. There has been no dedicated National Action Plan to combat THB in Belarus since 2013. Some anti-trafficking activities are included in the Programme to Combat Crime and Corruption for 2020-2022, approved by the Republican Co-ordinating Meeting to Combat Crime and Corruption on 18 December 2019. Contrary to the previous programme for 2017-2019, the current programme has no separate section on action against human trafficking. Instead, THB is included in the section entitled "Prevention and suppression of crimes against public safety, acts of terrorism, manifestations of extremism, Nazism, countering organised crime, and human trafficking." The Programme to Combat Crime and Corruption for 2020-2022 envisages activities to raise public awareness on THB, increase the knowledge of law enforcement officials, and develop international co-operation. It also includes plans to enhance the legislation, including a proposed amendment to the Law on the Rights of the Child barring persons convicted of THB related offences from working with children which has been approved by the upper house of the National Assembly of Belarus (Council of the Republic).

⁹ GRETA's first report on Belarus, paragraph 28.

29. On 17 February 2017, the Council of Ministers of Belarus adopted the fifth National Action Plan for Ensuring Gender Equality in the Republic of Belarus for 2017-2020, which was relevant to action against THB and included activities aimed at increasing the knowledge of law enforcement officials, judges, medical staff and other stakeholders, as well as support for the nationwide toll-free help lines on domestic violence and THB. The sixth National Action Plan, covering the period 2021 to 2025, calls for strengthening the National Referral Mechanism for victims of THB and raising the awareness of young people about the risks of trafficking.

30. On 22 September 2017, the Council of Ministers of Belarus adopted the National Action Plan for the Improvement of the Situation of Children and the Protection of Their Rights for 2017-2021. One of the sections of this plan is dedicated to combating domestic violence and human trafficking, envisaging activities to strengthen the child protection system, raise awareness, combat child sexual abuse material, and use innovative ways to help children in difficult economic and life circumstances.

31. There has been no independent evaluation of the implementation of the anti-trafficking activities included in the Programme on Combating Crime and Corruption or other national action plans.

32. GRETA notes that, to be effective, national action against human trafficking must be comprehensive and multi-sectoral, taking on board the required multidisciplinary expertise. While there is no provision in the Convention specifically on National Action Plans, the purposes of the Convention (Article 1), which include designing a comprehensive framework for the protection and assistance of victims and witnesses, the requirement to develop effective policies and programmes to prevent THB (Article 5 of the Convention), and the requirement of co-ordinated action (Article 29(2) of the Convention), can only be met if State Parties adopt comprehensive policies, in the form of a strategy, action plan or some other policy document, against trafficking in human beings, covering prevention, protection of victims, prosecution of traffickers, and partnerships.

33. GRETA considers that the Belarusian authorities should adopt a separate national action plan to combat THB and commission an independent evaluation of the implementation of the anti-trafficking activities included in the Programme on Combating Crime and Corruption.

5. Training of relevant professionals

34. In its first evaluation report on Belarus, GRETA welcomed the creation of the International Training Centre on Migration and Combating Trafficking in Human Beings within the Academy of the Ministry of the Interior, and invited the Belarusian authorities to use this training platform to disseminate information about legislative changes, new trends and the application of the National Referral Mechanism.

35. During the reporting period, the International Training Centre has conducted numerous courses and other events on THB, involving over 400 law enforcement officers, prosecutors, judges, as well as officials from foreign countries. For example, on 5-7 June 2019, the Centre organised an advanced training course entitled "Detection and documentation of crimes related to trafficking in human beings for the purpose of labour exploitation", with 27 participants. On 10-14 and 24-28 February 2020, an advanced training course on "Combating human trafficking for the purpose of sexual exploitation of children and violence against children on the Internet" took place, with 83 participants. A number of courses were offered online during the COVID-19 pandemic.

36. Training on combating THB for future police officers is provided at the Academy of the Ministry of the Interior, including on the methodology for investigating human trafficking. The Institute of the State Border Committee provides training on the legal framework for countering human trafficking and the characteristics of potential victims of THB.

37. In 2020, 79 staff of the social protection authorities received training on providing assistance to victims of domestic violence and human trafficking at the Republican Institute for Advanced Training and Retraining of Employees of the Ministry of Labour and Social Protection. In May and June 2021, more than 120 officials from various social services were trained by IOM, in co-operation with the Ministry of Labour and Social Protection on identification and reintegration of trafficking victims. Similar training sessions were held in the spring of 2022.

38. During the evaluation visit, a judge from the Supreme Court informed GRETA that judges regularly receive training at the Institute for Retraining and Qualification Upgrading of Judges, Prosecutors and Legal Professionals. Although there is no separate course on THB due to the low number of cases of THB, the topic is reportedly covered by other courses.

39. Belarusian officials also attended training abroad, for example on 16-29 June 2019 officials of the Investigative Committee attended a training on combating human trafficking along migration routes in Nur-Sultan, Kazakhstan. On 26 and 27 September 2019, they participated in an international roundtable on "Strengthening the potential for effective cooperation in combating trafficking in human beings" in Shymkent, Kazakhstan.

40. At the same time, GRETA notes with concern that most labour inspectors have not attended training on THB because the Ministry of Labour and Social Protection, who is responsible for the selection of course participants, did not consider it necessary as the detection of THB cases is not part of labour inspectors' mandate (see paragraph 64).

41. While welcoming the activities of the International Training Centre on Migration and Combating Trafficking in Human Beings, **GRETA considers that the Belarusian authorities should expand the range of professionals covered by training to include labour inspectors, social workers, health-care staff and educational professionals.**

42. **Furthermore, GRETA considers that the Belarusian authorities should ensure that training concerning THB is embedded in the core training curricula of prosecutors and judges, and is aimed at strengthening victims' rights and improving the effectiveness of prosecutions and convictions, and guaranteeing the right to effective access to compensation to victims.**

6. Data collection and research

43. Statistical data on the number of formally identified victims of THB and related offences are collected by the Ministry of the Interior. The Ministry gathers data from law enforcement agencies, other state bodies, NGOs and IOM on the number of persons who may have suffered from THB or related offences. Statistics on the number of criminal cases and convictions into THB and related offences is collected by, respectively, the Ministry of the Interior and the Supreme Court. In addition, the IOM Office in Belarus gathers information on the victims who were provided with assistance by IOM (see paragraph 119).

44. GRETA notes that the statistics on identified and presumed victims collected by the Ministry of the Interior do not separate THB from related offences (see paragraphs 16 and 17). Furthermore, although data on formally identified victims of THB and related offences is disaggregated by sex, data on presumed victims is not. No disaggregation concerning country of origin and/or destination is provided. It is impossible to track how many formally identified victims were initially detected by law enforcement bodies or by NGOs and IOM.¹⁰ Furthermore, no information is provided on the outcome of the criminal cases opened by the investigative authorities (e.g. how many cases are closed and on which legal grounds; how many cases are transferred to the Prosecutor's Office and subsequently sent for trial).

45. GRETA urges the Belarusian authorities to develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical data on presumed and identified victims of trafficking and measures to protect and promote their rights, on compensation claimed and awarded to victims, as well as on the investigation, prosecution and adjudication of human trafficking cases. Statistics regarding victims should be collected from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination.

46. In its first report, GRETA considered that the Belarusian authorities should conduct and support research on THB-related issues as an important source of information for the evaluation of current programmes and for planning future policy measures. According to GRETA, areas where more research was needed included trafficking for the purpose of labour exploitation, trafficking of foreign nationals to Belarus, the misuse of the Internet for the commission of THB, including through social networks, and risk groups vulnerable to trafficking, such as population of economically disadvantaged regions in Belarus, Roma communities and children without parental care.

47. In their reply to the Committee of the Parties' Recommendation CP(2017)26, the Belarusian authorities referred to research carried out by the Academy of the Ministry of the Interior, the Scientific and Practical Centre for Strengthening Law and Order of the General Prosecutor's Office, the Investigative Committee and several other ministries and state research institutions. For example, in 2017-2018 the Academy of the Ministry of the Interior conducted research on the use of operational-search activities to combat human trafficking, and published research papers, among others on "Responsibility for the trafficking in children in the legislation of the post-Soviet countries" and "Methods of investigation of trafficking in human beings."

48. In 2019 the Investigative Committee and the NGO "Business Women's Club" conducted a study on the effectiveness of the child-friendly interview rooms (see paragraph 184).¹¹ The study found that only five out of 22 interview rooms had been used to interview child victims or witnesses of THB and related offences. At some facilities the technical equipment was broken or missing due to a lack of funding. The study also found that there was no comprehensive regulation on the operation of the child-friendly interview rooms. As a result, children had to be questioned again and sometimes in a non-child-friendly environment.

49. The authorities have also referred to articles being published by staff of the Investigative Committee, such as "Using general tactics of interrogation of victims in criminal cases related to human trafficking" and "Interaction of investigators with non-governmental organisations in the investigation of crimes of a sexual nature".

¹⁰ As stated in paragraphs 112 and 125, only presumed victims detected by the Ministry of the Interior are subsequently formally identified as victims of THB and related crimes by the Ministry of the Interior.

¹¹ Kamenetsky, Suzdaleva and Istomova, *Recommendations on the Results of the Study on the Effectiveness of the Child-Friendly Interview Rooms, Ways to Improve Them and Increase Their Use*, Minsk, 2020.

50. While welcoming the above-mentioned research, GRETA notes with concern that no research has been conducted on THB for labour exploitation. **GRETA considers that the Belarusian authorities should conduct and support further research on different aspects of THB, in particular trafficking for labour exploitation, trafficking of foreign nationals to Belarus, and the misuse of the Internet for the commission of THB, including through social networks.**

III. Article-by-article findings

1. Prevention of trafficking in human beings

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

51. During the reporting period, the Belarusian authorities have continued to inform the general public and targeted groups about the problem of THB. Mass media, including national TV, regularly air social advertisements on safe travel and stay abroad and the prevention of sexual abuse of children. Information about the risks of THB is widely distributed through advertisements in airports, railway stations and the Minsk subway network. The Ministry of the Interior's website has a section on THB, providing an overview of measures taken in Belarus to combat THB.

52. Together with the Ministry of Education and with the financial assistance from international donors and private partners, the website < www.kids.pomogut.by > was developed, one focus of which is the prevention of sexual exploitation of children. In co-operation with the UNDP office in Belarus, the authorities produced video messages on the risks of human trafficking and placed billboards in areas of the capital with a high concentration of persons engaged in prostitution.

53. The Ministry of Health and the Ministry of Labour and Social Protection are responsible for awareness-raising events and the distribution of information materials at health care institutions, social services departments and youth clubs, to sensitise medical staff, social workers and adolescents about, among others, the problem of human trafficking.

54. NGOs specialising in combating human trafficking indicated that in 2017-2020 they conducted more than 1 650 events (lectures, training and other activities), involving some 27 500 people, to raise awareness about THB. For example, in 2019 the NGO "Province" organised a "living library" enabling more than 300 people in the city of Borisov to learn about THB through personal conversations. Every year the Belarusian Red Cross Society organises events targeting pupils and students, as well as their teachers and parents, to sensitise them about the risk of human trafficking.

55. The hotline on safe migration and countering THB ("8 801 201 5555" or "113") is operated by staff of the NGO "Business Women's Club" and also offers online consultations via social media (Facebook, Telegram, V Kontakte). The hotline received more than 20 000 calls in the period 2017-2021, but only 50 calls directly concerned THB. At the request of the NGO "Business Women's Club" the Investigative Committee developed a methodology to test the NGO's staff operating the hotline.

56. There used to be another hotline, for victims of domestic violence and THB, which was suspended in July 2021 after its operator, the NGO "Gender Perspectives," was raided and subsequently dissolved by the authorities (see paragraph 196).

57. Despite these awareness-raising measures, GRETA notes that a survey carried out by the NGO "Social Changes" found that two-thirds of respondents either did not know or were indifferent about the risk of trafficking. It would appear that THB has slipped off the public agenda in Belarus, especially in the last two years, resulting in a decrease in funding opportunities for organisations working around THB. Moreover, to GRETA's knowledge, there has been no significant impact assessment of the above-mentioned awareness-raising measures.

58. GRETA considers that the Belarusian authorities should increase their efforts to raise awareness about human trafficking, targeting the general public as well as specific at-risk groups, and conduct impact assessments of awareness-raising campaigns.

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

59. As noted in paragraph 16, THB for labour exploitation accounted for only 3% of formally identified victims of THB and related offences in Belarus in 2017-2021. However, the proportion was much higher (30%) among presumed victims. The overwhelming majority (76.6%) of them were discovered by NGOs and IOM, and the majority were exploited abroad.

60. Law No. 225 of 30 December 2010 "On External Labour Migration," which is applicable to both Belarusians working abroad and foreigners working in Belarus, includes a number of measures to prevent THB for the purpose of labour exploitation. In particular, the law and further implementing regulations introduced a licensing scheme and minimum requirements for recruitment agencies assisting Belarusians and permanent residents of Belarus seeking employment abroad, as well as for agencies assisting foreigners wanting to work in Belarus.

61. The Department of Citizenship and Migration of the Ministry of the Interior is responsible for managing a licensing scheme for agencies providing employment abroad. GRETA was informed that 291 recruitment agencies had obtained a license and prior to the COVID-19 pandemic, they used to send abroad some 9 000 workers per year (two-thirds of them men). During the pandemic the number of Belarusians travelling abroad for work dropped and only 104 agencies remained operational. According to the authorities, 18 Belarusian workers filed a complaint against a recruitment agency in 2019, seven in 2020, and four in the first nine months of 2021, but none of these complaints concerned THB. No license was withdrawn for alleged involvement in human trafficking during the reporting period.

62. GRETA was informed that the vast majority of Belarusian citizens who travelled abroad to work did so without passing through a licensed recruitment agency. Pursuant to Article 11 of the Law "On External Labour Migration", citizens and permanent residents of Belarus are free to leave the country to work abroad without using a licenced recruitment agency. In that case they can opt to notify their local authority about their plans to move abroad for work and register a copy of their employment contract (Article 12 of the Law "On External Labour Migration"). However, GRETA was told that this rarely occurred.

63. The Ministry of Labour and Social Protection has been responsible for running a register of agencies recruiting foreign workers to work in Belarus since 2017. On 1 June 2020 there were 181 such registered agencies (108 legal entities and 73 individual entrepreneurs). In 2019 there were 20 862 registered foreign workers in Belarus, mainly from Russia (32%), China (20%) and Ukraine (14%). The biggest group were manual labourers (30%), followed by skilled workers (15%).¹²

¹² See footnote 7.

64. Labour inspectors are responsible for detecting violations of the Labour Code and occupational safety and health regulations, but have no mandate to detect cases of THB. If labour inspectors encounter violations of the immigration legislation, they are obliged to inform the Ministry of the Interior, which is competent to investigate such violations. As noted in paragraph 40, most labour inspectors have not attended training on THB. There is no specialised state body in Belarus that can proactively detect cases of THB for the purpose of labour exploitation among migrant workers. The latter are afraid to complain to the police, who are responsible for checking migrant workers' documents. Information about mechanisms for protecting the rights of migrant workers is not readily available from the website of the Department of the State Labour Inspectorate.¹³

65. According to the Belarusian authorities, the Ministry of the Interior, the State Border Committee, the Ministry of Labour and Social Security and other state bodies, on some occasions in co-operation with NGOs and international organisations, have taken measures to disseminate information about safe employment abroad through distribution of information booklets and awareness-raising campaigns in the press and on social media (see paragraph 51). Furthermore, in 2019 the NGOs "Gender Perspectives" and "La Strada" organised a media campaign about THB for the purpose of labour exploitation targeted at people seeking employment in Poland. GRETA was informed that during the COVID-19 pandemic both Belarusian citizens abroad and foreign citizens in Belarus who contacted the hotline for safe migration and countering THB (see paragraph 55), requested information about border closures or sought assistance concerning employers' attempts to fire them without pay for bogus sanitary reasons.

66. While welcoming the initiatives to raise awareness about THB for the purpose of labour exploitation, GRETA is concerned that the Programme to Combat Crime and Corruption for 2020-2022 (see paragraph 28) includes no significant measures to prevent and combat THB for the purpose of labour exploitation. GRETA further notes a tendency to treat potential cases of THB for the purpose of labour exploitation as labour disputes (see paragraph 112).

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

- **including the prevention and detection of THB for the purpose of labour exploitation in the mandate of the Department of the State Labour Inspectorate;**
- **providing all labour inspectors with specialised training on THB for the purposes of labour exploitation, as well as ensuring adequate financial and technical means so that they can be actively engaged in the prevention of THB in all sectors of the economy throughout the country, including by means of unannounced inspections;**
- **strengthening the supervision of recruitment agencies and reviewing the legislative framework for any loopholes that may limit protection or preventive measures;**
- **raising awareness amongst migrant workers regarding the risks of THB for the purpose of labour exploitation and provide effective access to confidential complaint mechanisms for protecting their rights;**
- **sensitising relevant officials, including police officers, prosecutors, judges, staff of local administrations, social workers and other professionals likely to come into contact with victims of trafficking for labour exploitation about the signs and risks of THB and the rights of victims;**

¹³ < git.gov.by > The Department of the State Labour Inspectorate is a structural subdivision under the Ministry of Labour and Social Protection and has territorial subdivisions across Belarus. According to the Belarusian authorities' comments on the draft GRETA report the number of labour inspectors is classified information.

- **enhancing co-operation with trade unions, civil society and the private sector to raise awareness of trafficking for the purpose of labour exploitation, prevent trafficking in supply chains and strengthening corporate social responsibility, drawing on the Guiding Principles on Business and Human Rights¹⁴ and Recommendation CM/Rec(2016)3 on human rights and business.¹⁵**

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

68. In its first report, GRETA urged the Belarussian authorities to take further steps to address the particular vulnerability to trafficking of children.

69. As noted in paragraph 16, children accounted for 32.5% of the officially identified victims of THB and related offences in 2017-2021; all but four of them were exploited in Belarus.

70. The Ministry of the Interior's Main Department for Drug Control and Combating Trafficking in Human Beings and the General Prosecutor's Office participate in the National Commission on Children's Rights, which monitors the activities of state and non-state actors in the field of protection of children's rights and oversees the implementation of the National Action Plan for the Improvement of the Situation of Children and the Protection of Their Rights for 2017-2021 (see paragraph 30). Every year the Ministry of Education collects information from all state bodies responsible for implementing the action plan and submits a report to the Council of Ministers of Belarus. The report for 2019 included a proposal to set up a national mechanism to provide assistance to children who have suffered from sexual violence, and the adoption of an Interior Ministry plan of activities aimed at the protection of children from sexual violence, *inter alia*, by expanding the capacity of law enforcement bodies to combat online child sexual abuse. According to the Belarussian authorities' comments on the draft GRETA report, plans to set up a new national mechanism to provide assistance to child victim of sexual violence were dropped in February 2022 due to the sufficient number of existing assistance tools, in particular the "Plan of organisational, analytical, practical and other measures to protect children from sexual abuse and exploitation for 2020-2022."

71. The Belarussian authorities have referred to a number of measures to reduce children's vulnerability to trafficking: the registration of all children born on the territory of Belarus; strict rules on (foreign) adoption; access to free education and health care for all children in Belarus; increased capabilities to combat the exploitation of children online and the training of different specialists working with children on THB and THB related issues.

72. In accordance with Chapter 19 of the Code on Marriage and Family, parents must register the birth of a child no later than three months after the child is born. In case of death of the parents or impossibility to register the birth of a child for other reasons, registration may be carried out upon application by relatives, other persons or an authorised representative of a health-care institution in which the child was born or is kept. However, GRETA was informed that many Roma women give birth at home and their children may not be issued with birth certificates.¹⁶ Absence of identity documents creates obstacles to access health care. In their comments on the draft GRETA report, the authorities have stated that registration of all children at birth, in particular from socially vulnerable groups, is ensured by the relevant legislative framework in Belarus.

¹⁴ < http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf >

¹⁵ < https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805c1ad4 >

¹⁶ < [The life of the Belarussian Roma: Unvarnished truth \(spring96.org\)](http://www.spring96.org/) >

73. The Belarusian authorities informed GRETA that in every educational institution there were “legal corners” where pupils and students, as well as their parents, can find information on various issues, including THB, and where to turn to for further assistance. More information is provided on different websites, for example < www.mir.pravo.by >. During the evaluation visit, a representative of the Ministry of Education told GRETA that prevention of THB was discussed in the class “Safety Basics”. With the support of the IOM and USAID, the Business Women’s Club “Bona”, an NGO based in the town of Kobrin, developed a board game entitled “No to Modern Slavery” which aims to prevent THB. Further, law enforcement officers visit schools and give talks on the regulations for travel and working abroad.

74. Since 2017 IOM has organised an annual youth summer camp called “Learn. Act. Share”, coinciding with the World Day against Trafficking in Persons (30 July).¹⁷ In July 2019 the IOM and UNICEF offices in Belarus and the Ministry of the Interior launched an information campaign “Teach Children to See Lies,” which focused on the prevention of sexual exploitation of children.¹⁸

75. Together with UNICEF and UNFPA, the Belarusian authorities have established 53 adolescent-friendly centres to provide timely assistance to adolescents in difficult life circumstances. Through various activities the centres aim to instil a healthy lifestyle in adolescents who practice risky behaviour. A manual on “Schemes of interaction in assisting adolescents” was developed to improve the professional skills of staff at these centres. Furthermore, on 15 January 2019 Government Decree No. 22 “On recognising children in socially dangerous situations” was adopted and on 1 October 2019 the Ministry of Education issued Guidelines for interagency action to identify and assist children in socially dangerous situations, including inspections by social protection services.

76. During the evaluation visit GRETA was told that the Ministry of the Interior constantly informed education and tourism agencies about the risks of exploitation of children and continued to monitor humanitarian programmes which organise travel abroad for children affected by the Chernobyl nuclear disaster.

77. A number of training activities relevant to the prevention of trafficking of children have been organised in the reporting period. For instance, in 2017 the Investigative Committee and the NGO “Business Women’s Club”, with financial support from the US Embassy, implemented a project on protection of the rights of children who suffered from sexual violence and THB. Five one-day regional seminars were held and a final seminar took place in Minsk on 19 October 2017. The project also produced a flyer with basic internet safety rules for educational institutions and a calendar with tips for parents. In 2018-19 the Investigative Committee, together with the UNICEF Office in Belarus, organised several training activities on ways to counter online child sexual abuse material, including practical exercises on the use of specialized software. The Investigative Committee participated in interdisciplinary seminars with school psychologists and attended courses at the International Training Centre on Migration and Combating Trafficking in Human Beings (see paragraph 35). The General Prosecutor’s Office participated in several meetings, for example in October 2019 they attended a regional exchange in Kyiv on “Protection of the rights of the child in the context of return and reintegration”. According to the Ministry of Health in 2019 14 326 people (health professionals, parents with children younger than three and educational workers) were trained in 10 training centres across Belarus about creating a safe living environment for children.

¹⁷ IOM, [Young generation contributes to counter-trafficking efforts](#), 12 August 2021.

¹⁸ IOM, [‘Teach Children to See Lies’ Warns Belarus Campaign](#), 26 July 2019.

78. Representatives of NGOs informed GRETA that they were not consulted in the preparation of the National Action Plan for the Improvement of the Situation of Children and the Protection of Their Rights for 2017-2021, and that the child protection system in Belarus, in particular in rural areas, still lacks properly trained professionals to effectively prevent trafficking in children. These concerns were also raised during the latest periodic review of Belarus by the UN Committee on the Rights of the Child ("CRC") in 2020.¹⁹ The CRC recommended that the Belarusian authorities develop a legislative framework to deal with children in migration situations, including unaccompanied and separated children. NGO representatives also indicated that local police, health and educational staff frequently disclosed children's confidential personal data, leading to re-victimisation and further eroding the already low level of trust in state institutions among vulnerable groups (see paragraph 134).

79. While welcoming the measures taken by the Belarusian authorities to prevent trafficking in children, **GRETA urges the authorities to strengthen their efforts, in particular by:**

- **developing programmes to reduce children's vulnerability to THB, in particular children placed in or leaving child-care institutions, children from rural areas and children in Roma communities;**
- **strengthen the role and capacity of the child protection system to prevent trafficking in children and alert other relevant stakeholders to possible cases of trafficking;**
- **developing a legislative framework to deal with children in migration situations, including unaccompanied and separated children.**

80. **Further, GRETA considers that the Belarusian authorities should continue sensitising teachers, social workers, staff of child protection institutions, health care professionals and legal guardians to the risks of THB and how to prevent trafficking in children, and consult NGOs when developing programmes and legislation in this respect.**

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

81. In its first report, GRETA considered that the Belarusian authorities should further strengthen the prevention of THB through social and economic empowerment measures for groups vulnerable to THB. GRETA noted that such measures should be based on the root causes of THB (economic and social conditions, gender inequality, gender-based violence, vulnerability of children and absence of employment opportunities) and should aim to decrease and ultimately eliminate these causes.

82. According to the Belarusian authorities, the system of state-funded social services described in detail in GRETA's first evaluation report has constantly been improved. Families with children and people in difficult economic and life circumstances can receive allowances (both cash and non-cash aid) from the State, and benefit from assistance under the State Programme on Social Security and Promotion of Employment of the Population for 2016-2020, Law No. 125 of 15 June 2006 "On Employment of the Population of the Republic of Belarus" and Presidential Decree No. 41 of 19 January 2019 "On State Targeted Social Assistance". According to the Ministry of Labour and Social Protection, in 2019 the authorities provided assistance in the employment of 22 000 women, or approximately two thirds of the total of unemployed women, and about 300 000 people received some form of targeted social assistance.

¹⁹ CRC, [Concluding Observations regarding Belarus](#), UN Doc. CRC/C/BLR/CO/5-6, paragraphs 12b, 25-26 & 28a.

83. According to civil society representatives, state welfare programmes have little practical impact on persons vulnerable to THB as due to a deep distrust towards state institutions in Belarus, persons would not apply. The lack of trust is exacerbated by disclosure of confidential personal data (see paragraph 134), punishment for certain forms of “undesirable social behaviour” (for example, a tax on social “parasites”, introduced in 2015, but largely repealed in 2017), as well as state officials’ informal mindset that people in difficult life situations (poverty, unemployment, domestic abuse) are at least partially themselves to blame for their situation (compare paragraph 112).

84. Since 2000 Belarus has had a National Council for Gender Policy, chaired by the Minister of Labour and Social Protection, and consisting of representatives from legislative, executive and judicial authorities, as well as members from academia and civil society. Its main task is the co-ordination of gender policy in Belarus.²⁰ However, Belarus has not adopted specific legislation on domestic violence, and state assistance schemes often overlook the specific needs of victims of domestic violence. The fifth and sixth National Action Plans for Ensuring Gender Equality in the Republic of Belarus (see paragraph 29) did not include a roadmap to adopt legislation criminalising domestic violence. In this connection, GRETA refers to the 2019 letter of the rapporteur on follow-up of the UN Committee on the Elimination of Discrimination Against Women (“CEDAW”), finding that Belarus failed to implement CEDAW’s recommendation to criminalise gender-based violence specifically.²¹ GRETA is particularly concerned by the recent suspension of the national hotline for victims of domestic violence (see paragraph 56).

85. GRETA considers that the Belarusian authorities should take further measures to strengthen the prevention of THB through social, economic and other measures for groups vulnerable to THB. Further efforts should be made to promote gender equality, combat gender-based violence, including domestic violence, and stereotypes.

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

86. GRETA notes that while THB for the purpose of organ removal as defined by the Convention and organ trafficking as defined by Articles 4 to 8 of the Council of Europe Convention against Trafficking in Human Organs²² are distinct crimes, they share similar root causes, such as shortage of organs to meet demand for transplantation and poor economic and other conditions that put persons in a vulnerable position. Therefore, measures to prevent organ trafficking can help prevent trafficking for the purpose of organ removal and the reverse is also true.²³ Among the necessary preventive measures, GRETA underlines the importance of a robust and transparent domestic system for the removal and transplantation of human organs and the need for training of health-care professionals. GRETA also stresses the importance of conducting a thorough investigation of each case where there is information or suspicion of trafficking for the purpose of organ removal, paying attention to the abuse of the vulnerability of the “donor” and ensuring that “donors” are treated as victims of trafficking in human beings.

87. In Belarus, THB for the purpose of organ removal is criminalised under Article 181 of the CC. Further, Articles 163 and 164 of the CC criminalise coercion of a donor and the violation of transplant procedures, and Article 348 of the CC criminalises the removal of an organ or a tissue from a deceased donor.

²⁰ As noted in GRETA’s first report on Belarus, in 2016 the UN Committee on the Elimination of Discrimination Against Women (hereinafter “CEDAW”) criticised both the scope of the mandate of the National Council for Gender Policy and the fact that it met only twice per year, see [2016 CEDAW Concluding Observations on Belarus](#), UN Doc. CEDAW/C/BLR/CO/8, paragraph 12.

²¹ CEDAW, [Follow-up letter sent to the State party](#), 9 September 2019.

²² CETS No. 216.

²³ See [“Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs”, Joint Council of Europe/United Nations Study](#) (2009), in particular pages 55-56; “Trafficking in human beings for the purpose of organ removal in the OSCE region: Analysis and Finding”, OSCE Occasional Paper No. 6 (2013).

88. The legal framework regulating the transplantation of human organs and tissues consists of Law No. 28 of 4 March 1997 "On Transplantation of Human Organs and Tissues" (with amendments in 2007, 2012, 2015 and 2019), Government Decree No. 904 of 16 July 2007 (as amended in 2008) and several regulations of the Ministry of Health.²⁴ The supervision of the medical care and recovery of donors and recipients of organs, as well as the management and control over the list of people awaiting transplants, are the responsibility of the Ministry of Health.²⁵ Pursuant to the legislation, only kidney and partial liver transplantations are allowed from living donors, who must give informed consent in writing and are entitled to compensation for expenses related to restore one's health. Children can only donate bone marrow and stem cells.

89. The Belarusian authorities informed GRETA that measures to prevent THB for the purpose of organ removal were included in the general awareness-raising activities carried out by the Ministry of Health and the Ministry of the Interior.

90. In the course of the evaluation visit, the Head of the Unified Transplant Registry told GRETA that there were no cases of THB for the purpose of organ removal in Belarus during the reporting period, and no cases of Belarusians travelling abroad to donate organs has been detected. According to the authorities, relevant medical staff receive regular training on the legislation concerning transplantation of organs and are under an obligation to inform law enforcement authorities of any violations.

91. GRETA considers that the Belarusian authorities should sensitise the general public about the risks of THB for the purpose of organ removal and continue to train health-care professionals and law enforcement officials, drawing attention to the need to monitor offers to sell or buy human organs and report any suspected cases.

f. Measures to discourage demand (Article 6)

92. In the first report, GRETA considered that the Belarusian authorities should enhance their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with NGOs, trade unions, international organisations and the private sector. GRETA further invited the authorities to consider criminalising the use of services which are the object of exploitation as defined in Article 4 of the Convention, with the knowledge that the person is a victim of THB.

93. According to the Belarusian authorities, some of the educational and awareness-raising activities referred to in paragraphs 51-54 were designed to discourage demand for services of victims of THB.

94. The use of services of victims of THB, with the knowledge that the person is a victim, is still not criminalised in Belarusian law (see paragraph 165).

95. GRETA notes that according to the available statistics (see paragraph 16), more than 80% of identified victims were trafficked and exploited within Belarus, which warrants the adoption of targeted measures to address the demand side of human trafficking.

²⁴ The full list of relevant orders of the Ministry of Health appears in the [Reply](#) by Belarus to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties, second evaluation round, pages 53 and 54.

²⁵ The Unified Transplant Registry created in 2012 includes information about donors, recipients and persons who in accordance with the procedure established by law declared their objection to the collection of organs for transplantation after death.

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

- **raising awareness of the responsibility and the important role of the media and advertising companies in tackling demand which leads to human trafficking;**
- **continuing to implement educational programmes in schools which stress the importance of gender equality and respect for the dignity and integrity of every human being and the consequences of gender-based discrimination;**
- **promoting awareness among businesses, strengthening corporate social responsibility and preventing trafficking in supply chains.**

g. Border measures (Article 7)

97. According to information provided by the Belarusian authorities, border guards seek to detect potential victims of THB through careful verification of travel documents and brief interviews, as well as by applying risk profiles. As a result, the State Border Committee has transmitted information concerning 62 persons to the relevant subdivisions of the Ministry of the Interior. In 2019-2020, the State Border Committee transmitted to the Main Department for Drug Control and Combating Trafficking in Human Beings for follow-up 28 names, including 22 Belarusian persons possibly involved in the sex industry, four persons (three Belarusians and one Iraqi national) identified as potential recruiters in the sex industry, and two persons (one Iraqi national and one Iranian national) identified as potential consumers in the sex industry. Further, a joint operation by officers from the Ministry of the Interior and the State Border Committee in June 2019 resulted in the arrest of a Belarusian national who offered two girls (born in 2011 and 2013) for sexual exploitation through the internet.

98. The State Border Committee of Belarus continues to use the standard operating procedures (SOPs) on identification and referral of victims of THB developed in 2015 in co-operation with the EU and the UN. The State Border Committee also uses the EU FRONTEX manual "Training of border guards in the field of combating human trafficking" to train border guards. Further, the Belarusian authorities have drawn up guidelines for airport staff and employees at commercial airlines on how to detect and respond to potential cases of THB, in accordance with International Civil Aviation Organisation (ICAO) Guidelines for Training Cabin Crew on Identifying and Responding to Trafficking in Persons.²⁶ On 3 August 2020 the Aviation Department of the Ministry of Transportation and Communication approved the curricula of the training course "Aviation Safety for Flight Crew Members of Passenger Aircraft," which included measures to identify potential victims of THB.

99. The authorities have continued their co-operation in the area of prevention of THB with the border guard services of other countries. For instance, within the framework of the international technical assistance program "SURKAP-2", an agreement was signed in December 2016 with the Border Guard Service of Ukraine to exchange information about the detention of irregular migrants along the joint border.

²⁶ ICAO Circular No. 352, available from < <https://www.icao.int/safety/airnavigation/OPS/CabinSafety/Pages/Trafficking-in-Persons.aspx> >

100. As noted in paragraph 19, throughout the summer and autumn of 2021, tens of thousands of migrants, mainly from the Middle East (Iraq and Syria), but also from other Asian and some African countries, flew to Minsk and subsequently tried to cross the Belarusian border into Latvia, Lithuania and Poland. There are reports that State-controlled travel agencies in Belarus lured migrants to Belarus, promising them an onward passage to the EU for the price of 15 000 – 20 000 euros. This large-scale movement of migrants took place after the EU announced additional sanctions against Belarusian officials and assets in late May 2021 (on top of sanctions imposed in October 2020 following the disputed presidential elections and the crackdown on peaceful protests). The Belarusian authorities repeatedly stated that they would no longer prevent foreigners from crossing Belarus' land borders with EU countries Latvia, Lithuania and Poland.²⁷ Poland alone reported almost 40 000 attempts to cross its border from Belarus in 2021, compared to just 122 in 2020.²⁸ In Germany, police reported that more than 11 000 migrants arrived in Germany in 2021 after transiting through Poland from Belarus, with more than 95% of those cases occurring between August and November 2021.²⁹

101. Concerned by the risks of human trafficking which come with the massive, uncontrolled movement of migrants, GRETA sought more information from the Belarusian authorities during the evaluation visit to Belarus on the steps taken to prevent THB through border control measures. According to representatives of the State Border Committee met during the visit, it could not be totally excluded that trafficking and smuggling occurred at the border, although traffickers/smugglers were certainly not based inside Belarus, and no victims of trafficking had been identified. Asked about the unprecedented influx of foreigners into the country in times of a global pandemic, the State Border Committee alleged that they were not migrants but "tourists in possession of valid papers to enter Belarus" who enjoyed "freedom of movement on Belarusian territory".³⁰ Further, in their comments on the draft GRETA report, the Belarusian authorities stated that in 2021, the conditions for entry into Belarus for the purpose of tourism were simplified for citizens from states in the Middle East and North and Central Africa. According to the authorities' comments, when applying for entry documents, citizens of these countries declared that the purpose of their travel to Belarus was exclusively tourism, purchasing tourist vouchers and booking hotel accommodation, however, "some of these tourists attempted to leave the Republic of Belarus ignoring the previously stated purpose of entering Belarus and the migration legislation".

102. In late November 2021, a UN Human Rights Team was refused entry to Belarus but managed to interview more than 30 migrants in Poland who had managed to cross the border. Subsequently a spokesperson for the UN High Commissioner for Human Rights stated that "[t]he majority [of interviewees] said that, while in Belarus, they had been beaten or threatened by security forces, and also alleged that the Belarusian security forces forced them to cross the border, instructing them when and where to cross, and prevented people from leaving the border area to return to Minsk. Several interviewees said Belarusian security forces had demanded extortionate sums for food and water."³¹ Journalists and human rights NGOs documented how Belarusian state officials and affiliated companies facilitated the transfer of thousands of migrants to Belarus with a promise of easy access into the EU.³² Belarusian officials actively assisted migrants to reach the EU borders, including armed officers in uniform driving migrants to the border, giving them tools to destroy the border fence and giving directions to avoid border patrols on the opposite side.³³ Migrants testified being threatened, stripped of their passports

²⁷ Belta, "[Беларусь хотят превратить в отстойник](#)", 6 July 2021 (in Russian).

²⁸ Der Spiegel, "[Polen meldet fast 40.000 versuchte Grenzübertritte für 2021](#)", 3 January 2022 (in German).

²⁹ RFERL, "[Over 11,000 Migrants Entered Germany Via Belarus Route In 2021](#)", 29 December 2021.

³⁰ However, Belarusian legislation not only restricts access to the border itself, but also designates a 10 km wide area adjacent to the border as off limits for anyone not living in this area or in possession of a special entry permit, which needs to be obtained in advance and can only be issued for a limited number of reasons.

³¹ < [OHCHR | Press briefing notes on Poland/Belarus border](#) >

³² BBC, "[How Belarus is helping 'tourists' break into the EU](#)", 22 October 2021, Der Spiegel, "[Belarus: So funktioniert Alexander Lukaschenkos perfider Menschenschmuggel - DER SPIEGEL](#)", 11 November 2021 (in German); Der Spiegel, "[Wie Belarus zum Sprungbrett für Geflüchtete wurde](#)", 13 August 2021 (in German); Dossier, "[Минск мстит Европе с помощью беженцев из Ирака](#)", without date (in Russian).

³³ Human Rights Watch, "[Die Here or Go to Poland](#)", 24 November 2021; Semantic Vision, "[Facebook's Role in Sustaining Lukashenko's Migration Offensive](#)", 22 November 2021; The Guardian, "[Belarus escorts 1,000 migrants towards Polish border](#)", 8 November 2021.

and sim cards, and pushed across the border to Poland by Belarusian border guards.³⁴ Between September and November 2021, at least a dozen migrants died, mostly from hypothermia as temperatures gradually dropped in the region, and one migrant allegedly drowned after he was forced to swim across the Bug river towards Poland.³⁵

103. GRETA refers to the exchange of information on the situation at the Belarusian border with Poland, Latvia and Lithuania, and possible risks with regard to THB which took place during the 29th meeting of the Committee of the Parties to the Convention on 17 December 2021.³⁶ The representative of Belarus stated that in the first 10 months of 2021, the authorities had arrested 17 smugglers, opened 15 criminal cases, and deported some 2 000 foreigners. Further, 30 tourism agencies had been banned from offering a visa on arrival service at Minsk Airport in September 2021, and humanitarian aid had been delivered to migrants located near the borders.³⁷ At the same meeting the representative of Poland stated that among the migrants who had crossed the border from Belarus, the Polish authorities had identified three children (two girls from Congo and one boy from Guinea) as victims of THB.

104. GRETA has repeatedly highlighted the heightened vulnerability to THB of migrants and asylum seekers.³⁸ In view of the numerous, consistent and detailed reports mentioned above, GRETA is deeply concerned that the Belarusian authorities have not only taken grossly insufficient measures to detect victims of human trafficking in the context of border controls, but may have themselves contributed to human trafficking.

105. **GRETA urges the Belarusian authorities to implement their international legal obligations under Article 7 of the Council of Europe Convention on Action against Trafficking in Human Beings, which obliges State Parties to strengthen border controls to prevent and detect trafficking in human beings. This should include steps to build the capacity of all competent authorities to detect cases of THB among persons arriving in Belarus and the provision of information to foreign nationals arriving irregularly or seeking asylum, in a language that they can understand, about the risks of THB, their rights and where to turn for advice and assistance.** In this context, GRETA refers to the United Nations Office of the High Commissioner for Human Rights (OHCHR) 2014 Recommended Principles and Guidelines on Human Rights at International Borders.³⁹

³⁴ "Die Here or Go to Poland", see footnote 33; BBC, "[Migrants freezing to death on Belarus-Poland border](#)", 24 September 2021.

³⁵ "[Die Here or Go to Poland](#)", see footnote 33.

³⁶ Report of the 29th meeting of the Committee of the Parties of the Council of Europe Convention on Action against Trafficking in Human Beings: <https://rm.coe.int/meeting-report-29th-meeting-of-the-committee-of-the-parties-of-the-cou/1680a5a424>

³⁷ IOM and UNHCR confirmed that they were given limited access to migrants near the border in mid-November 2021. [IOM, UNHCR Provide Emergency Aid to Asylum-Seekers and Migrants at the Belarus-Poland Border, Call to Ensure Wellbeing of People and Prevent Loss of Life](#), 12 November 2021.

³⁸ See GRETA's [10th General Report](#), paragraphs 77-146; GRETA's [5th General Report](#), paragraphs 90-127.

³⁹ < http://www.ohchr.org/Documents/Issues/Migration/OHCHR_Recommended_Principles_Guidelines.pdf >

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

a. Identification of victims of THB (Article 10)

106. As noted in GRETA's first report on Belarus, Article 17 of the 2012 Law on Combating THB stipulates that the identification of victims of THB is carried out by the state bodies responsible for combating THB, namely the Ministry of the Interior, the State Security Service, the State Border Committee, the Prosecutor's Office and the Investigative Committee. These bodies interview presumed victims, fill in the identification questionnaire annexed to Government Decree No. 485 (as amended by Government Decree No. 439, see next paragraph), and have the power to conduct operational and investigative activities. The identification of victims of THB can be initiated by other state bodies (diplomatic and consular missions of Belarus, employment and social protection agencies, education institutions, health-care organisations) and specialised NGOs and international organisations, but they have to submit the filled-out questionnaire to the law enforcement authorities carrying out the formal identification. The identification should be completed within 30 days of filling out the questionnaire.

107. Pursuant to the Law on Combating THB, a procedure for the identification of victims of THB was introduced by Government Decree No. 485 of 11 June 2015, amended by Government Decree No. 439 of 29 July 2020 "On the identification of victims of THB" (hereinafter "Victim Identification Regulation"). The amended decree clarified that identification can only be carried out with the informed, written consent of the possible victim and introduced a shortened version of the questionnaire in cases where the possible victim is unable or incapable to undergo lengthy interviewing and there exists an urgent need to take measures to provide for protection and rehabilitation. In such cases written consent may also be replaced by oral consent.

108. In 2019 the Ministry of the Interior developed methodological recommendations for the use of direct and indirect indicators for the identification of victims of THB and, in co-operation with IOM, produced a training video on methods for identifying victims of THB. Direct indicators of THB are "consistent with the features and elements" of the national definition of THB in Article 181 of the CC, and "the presence of a set of direct indicators (action, means, goal) ... presupposed the initiation of a criminal case." Indirect indicators of THB, on the other hand, are based on "international best practice; various scientific research; personal experience of the expert conducting the identification; elements of international norms not included in national legislation; signs of crimes related to [THB]." According to the Belarusian authorities, while indirect indicators may suggest a presumption that a person is a victim of THB, only direct indicators confirm the status of a victim of THB and allow a criminal prosecution.

109. In its first evaluation report, GRETA observed that the identification procedure did not fully confirm to the human rights-based approach followed by the Convention and is closely linked to establishing the commission of criminal offence of THB or a related offence.⁴⁰ GRETA notes that the amendments to Government Decree No. 485 did not alter the central role of the law enforcement bodies in the identification procedure. GRETA reiterates that it should be sufficient for victims to present reasonable grounds that they have been subjected to a combination of the three elements of the definition of THB referred to in Article 4 of the Convention and not that there must be evidence of *corpus delicti* in the acts and circumstances described by the presumed victim.

110. GRETA further notes that neither the Law on Combating THB nor the Victim Identification Regulation specify the obligation, format and timeframe for informing a potential victim of the outcome of the identification procedure. An NGO proposal to include an obligation of the Ministry of the Interior to inform within three days the potential victim and the organisation that referred him or her of the decision to grant or refuse official victim status was not taken into account when revising the Victim Identification Regulation.

⁴⁰ GRETA's first report on Belarus, paragraph 126.

111. GRETA was informed by representatives of international organisations and NGOs that identifying victims of trafficking for sexual exploitation in Belarus was becoming increasingly difficult as victims were reluctant to self-report (see paragraphs 83, 112 and 134). Various interlocutors shared the view that insufficient efforts were being made to carry out outreach work and take pro-active measures to detect victims of THB for the purpose of sexual exploitation in Belarus.

112. There have been very few cases of formally identified victims of THB for the purpose of labour exploitation. As noted in paragraph 17, NGOs and IOM detected 308 out of 402 presumed victims of THB for labour exploitation in 2017-2021, but the Ministry of the Interior formally identified only 22 victims of THB for labour exploitation, and it appears that in practice only potential victims detected by law enforcement bodies could obtain formal victim status. Representatives of specialised NGOs informed GRETA that the lack of available evidence to initiate a criminal case, especially in cases of THB for the purpose of labour exploitation outside of Belarus, was often a reason for refusing to grant victim status. Moreover, as noted in paragraph 64, there apparently exists a prejudice among law enforcement officials against victims of labour exploitation. In this regard, some officials met during GRETA's visit were of the opinion that possible victims of labour exploitation were just "bad workers."

113. Whenever there exist reasonable grounds that an asylum seeker or a foreigner irregularly present in Belarus could be a victim of THB, a confidential interview is conducted by an official of the same sex and where necessary with the assistance of an interpreter, also of the same sex.⁴¹ The file is then transferred to the relevant department of the Ministry of the Interior.⁴² In the course of the evaluation visit, GRETA was informed that no victims of THB had been identified among asylum seekers in Belarus.

114. While welcoming the amendments to the victim identification procedure and the authorities' efforts to improve the identification of victims by providing training and tools to the actors involved in the detection and identification process, GRETA remains concerned by the connection which is made between the identification of a person as a victim of THB and the initiation of a criminal investigation for THB.

Consequently, GRETA urges the Belarusian authorities to take further steps to:

- **ensure that, in practice, the identification as a victim of THB does not depend on the opening of a criminal investigation or the presence of elements to prove a criminal offence of THB or related offence;**
- **promote a multi-agency involvement in the decision-making process leading to the identification of victims of THB, taking account of the findings and expertise of all relevant organisations and entities, including specialised NGOs and international organisations;**
- **include labour inspectors among the actors responsible for the identification of trafficking victims, in particular in the identification of victims of THB for the purpose of labour exploitation, and ensure that they have the necessary training, human and financial resources to carry out this task efficiently;**
- **disseminate the direct and indirect indicators for the identification of victims of THB for different forms of exploitation to all professionals who are likely to come into contact with victims of THB;**
- **improve the identification of victims of trafficking among foreign nationals, asylum**

⁴¹ Rule 49 of the "Instruction on the Procedure for Organizing Work when Considering an Application for Refugee Status, Subsidiary Protection or Asylum in the Republic of Belarus, an Application for Extending the Period for Granting Subsidiary Protection in the Republic of Belarus, an Application for Assistance in Family Reunification, Making Decisions on the Loss, Cancellation of Refugee Status or Additional Protection in the Republic of Belarus and Preparation of Proposals on the Need to Make Decisions on the Loss or Deprivation of Asylum in the Republic of Belarus", approved by Government Decree No. 173 of 22 June 2017.

⁴² *Ibid.*, rule 61.

seekers and persons in irregular migration situations, including through the provision of training and clear, binding procedures to be followed by staff of the State Border Committee and other relevant bodies (see also paragraph 105).

b. Assistance measures (Article 12)

115. The modalities for providing assistance to victims of trafficking in Belarus have not changed significantly since the first evaluation by GRETA. Pursuant to Articles 18 to 23 of the 2012 Law on Combatting THB, trafficking victims are entitled to protection, temporary accommodation, food, medical, psychological, legal, social and financial assistance. Points 7(4) and 12(4) of the Victim Identification Regulation state that trafficking victims should be explicitly informed of these rights in the process of completing the identification questionnaire, and are entitled to assistance for 30 days, even if they decline to participate in the identification procedure or refuse to participate in criminal proceedings.

116. Adult trafficking victims are referred to territorial centres for the provision of social services under the Ministry of Labour and Social Protection. The Ministry of Labour and Social Protection runs 146 territorial centres for the provision of social services and two city centres (in Minsk and Gomel) for social services for families and children. There are 137 crisis rooms with a capacity of 429 beds, including 130 for children, for people in difficult life situations, including victims of THB. Roughly half of these crisis rooms are located on the premises of territorial and city centres. Decree No. 83, adopted by the Ministry of Labour and Social Protection on 1 December 2017, simplified the procedure for applying for temporary shelter.

117. According to information provided by the Ministry of Labour and Social Protection, nine victims of THB were offered assistance at the territorial centres for social services in the period 2017–2021 (two in 2017, five in 2018, one in 2019, none in 2020, and one in 2021). The Belarusian authorities offered no explanation as to why so few victims of THB sought assistance at the social services centres. It remains unclear if staff at these state institutions receive specific training to deal with victims of THB.

118. The GRETA delegation visited the crisis room of the territorial centre of social protection in Brest and spoke with its staff. At the time of the visit no victims of human trafficking were accommodated in the centre.

119. According to Article 21 of the Law on Combating THB, trafficking victims can also be referred to special centres for the protection and assistance of victims of THB, set up by NGOs or international organisations. The IOM Office in Belarus has run a rehabilitation centre for victims of THB in Minsk since 2006. In the period from 1 January 2017 to 31 August 2021, IOM provided assistance to 511 potential victims of THB, including 89 children.⁴³ 62% were victims of labour exploitation and 66% had been trafficked abroad, mainly to the Russian Federation (293 cases) and Poland (15 cases). GRETA visited again the rehabilitation centre and talked to the only victim present in the centre. The staff told GRETA that due to the COVID-19 pandemic the centre was closed in March 2020 before re-opening again with a lower capacity. Staff also mentioned a reduced access to certain services, including health care, offered by state institutions during the pandemic.

120. According to the Belarusian authorities, the number of not-for-profit organisations providing social services to people in difficult life situations that received state funding under the Law "On Social Services" rose from one to 20 during reporting period. However, the Belarusian authorities provided no information on the number of trafficking victims each of these organisations assisted.

⁴³ The number of victims provided assistance in 2017-2019 was down about 100% compared to the years 2014-2016. Numbers for 2020 and 2021 were even lower in line with sanitary restrictions in the wake of the COVID-19 pandemic.

121. GRETA notes that, apart from the rehabilitation centre run by IOM, there are still no specialised shelters for trafficking victims. The IOM had been trying for years to hand over responsibility for running the rehabilitation centre to the authorities or specialised NGOs. Assistance to victims of THB is mostly donor-driven and there is a risk that in case of a change of donors' priorities, NGOs will no longer be able to cover the cost of most assistance measures.

122. GRETA urges the Belarusian authorities to comply with their obligations under Article 12 of the Convention and to ensure that all presumed and identified victims of trafficking receive adequate assistance and support, according to their needs. This should include measures to:

- **ensure that assistance is provided for as long as needed to presumed and formally identified victims of trafficking and is not discontinued if no criminal proceedings are initiated;**
- **ensure that all assistance measures provided for in law, in particular access to health care and psychological support, are guaranteed in practice;**
- **provide appropriate and safe accommodation with a sufficient number of places for victims of trafficking in the light of the assessment of trafficking trends in Belarus;**
- **ensure that the services available are adapted to the specific needs of trafficking victims and that minimum standards are guaranteed when victims of trafficking are accommodated in structures not specifically designed for them;**
- **facilitate the reintegration of victims of trafficking into society and prevent re-trafficking by providing them with long-term assistance, including vocational training and access to the labour market;**
- **provide regular training to all professionals responsible for implementing assistance measures for victims of trafficking.**

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

123. As noted in paragraph 16, almost one in three of formally identified victims of THB and related offences in 2017-2021 were children. More than 75% of child victims were female (188 girls compared to 57 boys). There were no foreign or stateless children among them. All children were trafficked for the purpose of sexual exploitation, and all but four of them were trafficked within Belarus. During the evaluation visit representatives of the General Prosecutor's Office stated that a number of child victims had been trafficked by their family members.

124. There are no separate provisions regarding the identification of child victims of THB in the Law on Combating THB and the Victim Identification Regulation. Law enforcement entities are in charge of interviewing and formally identifying child victims, similar to the procedure for adults. There is no provision requiring or entitling child specialists (paediatrician, child psychologist, etc.) to be present during the identification procedure. GRETA was informed that, if a case involves a child, officials of the Main Department for Drug Control and Combating Trafficking in Human Beings usually request assistance from their colleagues in the juvenile crime unit, who are overwhelmingly female and allegedly well trained on THB issues. However, GRETA was informed that police officers often interview children multiple times, increasing the risk of re-traumatisation and secondary victimisation. This risk is further increased because of a lack of using the child-friendly interview rooms (see paragraphs 48 and 184).

125. According to the statistics quoted in paragraph 17, although NGOs and IOM detected 72 out of 317 presumed victims of THB and related offences, all the children formally identified as victims of THB had been detected by law enforcement officers. NGOs informed GRETA that even when they detect a presumed child victim, the Ministry of the Interior never informs them about the outcome of the identification procedure. The scale of child labour in Belarus is not known and the state-run social protection system fails to detect and address such cases. The failure to keep personal data of children and their relatives confidential (see paragraph 134) continued to pose a significant obstacle to conduct the identification procedure in compliance with the best interests of the child principle.

126. The State Border Committee is the frontline agency most likely to encounter victims of trafficking among (unaccompanied) foreign children and border guards receive training to detect and assist unaccompanied children. No foreign children have been identified as victims of THB or related crimes during the reporting period.

127. When the age of the trafficked victim is uncertain and there are reasons to believe that the victim is a child, the authorities may order a forensic medical examination of the victim. If the forensic examination proves inconclusive, the victim is deemed to be a child.

128. The framework for providing assistance to child victims of trafficking in Belarus has not changed since the first evaluation by GRETA. Children from three to 18 years of age are referred to socio-pedagogical centres under the responsibility of the Ministry of Education.⁴⁴ Children below the age of three are referred to children's homes under the Ministry of Health. No child victims of THB were accommodated in these institutions during the reporting period. In addition, children have access to assistance offered by IOM and specialised NGOs, and GRETA was informed that the number of children staying at the IOM rehabilitation centre in Minsk had increased. GRETA notes with concern that there are still no specialised shelters for child victims of trafficking in Belarus.

129. GRETA was informed that there is a shortage of properly trained professionals, especially outside the capital, to assist child victims of trafficking and a lack of methodological manuals. Some training has been provided by NGOs. For example, the Belarusian Red Cross Society trained 75 teachers in rural areas of Brest province, and the NGO "Space for Success" trained more than 200 teachers and 40 medical workers in the city of Novopolotsk.

130. GRETA refers to the Concluding observations of the CRC regarding Belarus, issued in 2020, according to which Belarus should revise the identification procedure, strengthen the training of professionals involved, provide child victims of THB with services specific to their needs and allocate adequate resources to the implementation of these recommendations.⁴⁵

⁴⁴ The Ministry of Education has responsibility for 140 socio-pedagogical centres, 103 of which had a children's shelter, providing rehabilitation to children in a difficult life situation.

⁴⁵ CRC, [2020 Concluding Observations regarding Belarus](#), UN Doc. UN Doc. CRC/C/BLR/CO/5-6, paragraph 41.

131. **GRETA urges the Belarusian authorities to take further steps to improve the identification and assistance of child victims of trafficking, and in particular to:**

- **ensure that the procedure for the identification of child victims of THB takes into account their special circumstances and needs, involves child specialists, includes outreach activities and ensures that the best interests of the child are the primary consideration;**
- **ensure that relevant actors take a proactive approach and increase their outreach work to identify child victims of THB, by paying particular attention to children in street situations, children placed in or leaving childcare institutions, children from rural areas, children in Roma communities and unaccompanied and separated foreign children;**
- **provide further training to relevant stakeholders (police, NGOs, child protection authorities, social workers and health-care professionals) as well as tools and guidance on the identification of child victims of THB for different purposes, including labour exploitation, the exploitation of begging and the exploitation of criminal activities;**
- **set up sufficient shelters with qualified staff and assistance services for presumed child victims of trafficking, for different forms of exploitation, and provide these shelters with sufficient funding;**
- **ensure long-term assistance for the integration of child victims of trafficking.**

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

132. Access to the electronic and paper databases is regulated in Chapter 6 of Victim Identification Regulation. Disclosure to competent officials is only possible with the written consent of the victim, except in the framework of the victims' participation in criminal proceedings. Disclosure to unauthorised persons or to the media is prohibited.

133. The Ministry of the Interior maintains a secure electronic database of detected/identified victims of THB and a card-file system to store the questionnaires from the identification process. Information in the electronic database is kept indefinitely, whereas files in the card-file cabinet are stored for one year and then destroyed.

134. Representatives of international organisations and NGOs stated that confidential information was frequently disclosed by local police, health and educational staff acting either negligently or sometimes intentionally. According to them, such privacy violations were almost never investigated. One problematic practice brought to GRETA's attention was the standard letters sent by law enforcement officials to school principals, teachers, doctors and employers, requesting to give characterisations of a victim of THB or a family member of the victim. As rumours started spreading, victims or their relatives were forced to stay away from work or drop out of school and in some cases had to move to another city. In another case a teacher, in the framework of a prevention class, allegedly disclosed the names of several pupils who were victims of sexual exploitation, as a warning to other pupils.

135. GRETA recalls that Article 11 of the Convention protects trafficking victims' private life, which is essential not only for their physical safety, but also to preserve their chances of social reintegration in the country of origin or the receiving country, their psychological and emotional recovery, as well as preventing stigmatisation. **GRETA urges the Belarusian authorities to take further steps to ensure respect for the confidentiality of personal data of victims of trafficking at all stages of processing of such data. The authorities should sensitise responsible officials of local state administrations, teachers, social workers, doctors and other health professionals to the observance of the confidentiality of victims' personal data.**

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

136. In its first evaluation report, GRETA urged the Belarusian authorities to ensure that the recovery and reflection period provided for in Article 13 of the Convention is specifically defined in law, and that detected victims of THB, especially those at threat of expulsion from the country, are systematically informed of the possibility to use a recovery and reflection period and are effectively granted such a period.

137. Pursuant to the amendments introduced by Government Decree No. 439, possible victims of THB are entitled to a 30-day reflection and recovery period, independent of the victim's consent to participate in the identification procedure. Victims should be explicitly informed of their right to protection and assistance, as well as the fact that they are entitled to protection and assistance for 30 days, even if they decline to participate in the identification procedure or refuse to participate in criminal proceedings. The identification period can be suspended for up to three months to request additional information, including from other countries. However, if no answer is received and it is impossible to decide on a victim's status, the person involved will automatically be deemed not to be a victim of trafficking.

138. GRETA notes that the purpose of the recovery and reflection period, namely to enable possible victims of trafficking to escape the influence of traffickers and/or to take an informed decision on co-operating with competent authorities, is still not explicitly stated in the Victim Identification Regulation or the Law on Combating THB. Neither is it stated that expulsion orders cannot be enforced.⁴⁶

139. During the evaluation visit representatives from the Ministry of the Interior informed GRETA that all possible victims of THB have been granted a 30-day reflection and recovery period.

140. While welcoming the revision of the Victim Identification Regulation, GRETA considers that the Belarusian authorities should, in addition, include the recovery and reflection period in the Law on Combating THB, explicitly stating its purpose, and stipulating that during this period, expulsion orders cannot be enforced.

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

141. The legislation on renewable residence permits for victims of THB remain as described in GRETA's first report.⁴⁷ According to Article 22(2) of the Law on Combating THB, foreign and stateless victims of THB who actively assist in the investigation of human trafficking or related offences are given the right to temporarily remain in the country (as a rule, for up to one year), at the request of the authority in charge of the investigation.

142. As noted in paragraph 16, only four foreigners were formally identified as trafficking victims. None of them received a residence permit.

143. GRETA recalls that Article 14 of the Convention allows Parties to choose between granting a residence permit for the purpose of co-operation with the authorities or on account of the victim's needs, or indeed to allow the granting of permits on both of these grounds. There are situations in which victims might be afraid to co-operate in the investigation or criminal proceedings because of threats from the traffickers. Granting a residence permit to a victim of human trafficking on account of their personal situation takes in a range of situations, such as the victim's safety, state of health and family situation, and tallies with the human-rights based approach to combating THB.

⁴⁶ Article 22(1) of the Law on Combating THB stipulates that foreign or stateless victims cannot be expelled until the conclusion of the trial against their traffickers but only at the request of and for the duration decided by the investigative authorities (see paragraph 141).

⁴⁷ GRETA's first report on Belarus, paragraphs 149 and 150.

144. **GRETA considers that the Belarusian authorities should take additional steps to ensure that victims of trafficking can effectively benefit from the right to obtain a renewable residence permit, as specified in Article 14 of the Convention, without prejudice to the right to seek and enjoy asylum, and that child victims of trafficking, when legally necessary, are issued with renewable residence permits in accordance with the best interests of the child.**

145. **Further, GRETA invites the Belarusian authorities to consider granting temporary residence permits to victims of THB on the basis of their personal situation, in addition to permits on the basis of the victim's co-operation in the investigation or criminal proceedings.**

g. Compensation and legal redress (Article 15)

146. In its first evaluation report, GRETA considered that the Belarusian authorities should adopt further measures to facilitate access to compensation for victims of trafficking, including by systematically informing victims of the right to seek compensation and the procedures to be followed, and by ensuring their effective access to legal aid. GRETA further urged the authorities to set up a state compensation scheme accessible to victims of THB, regardless of their citizenship and residence status.

147. The legislative provisions relevant to compensation and legal redress of victims of trafficking remain as described in GRETA's first evaluation report.⁴⁸ Pursuant to the CPC, victims of criminal offences, including human trafficking and related offences, may be awarded compensation either by filing a civil claim during the criminal proceedings or in subsequent civil proceedings against the perpetrator.

148. The Belarusian authorities have no data on the number and amount of compensation claims granted by courts to trafficking victims in criminal or civil proceedings, and GRETA was not provided with any copies of court decisions in this respect.

149. According to representatives of the Minsk City Bar Association, trafficking victims' access to legal aid in criminal proceedings is guaranteed in principle. However, they failed to provide concrete examples as there have been very few judicial proceedings for THB. They informed GRETA that they had provided legal assistance to several workers in the construction, agriculture and tourism sectors, who complained about unpaid wages and applied to the courts asking for a declaratory judgement establishing "the fact of employment".

150. During the evaluation visit, a judge from the Supreme Court informed GRETA that in several cases of THB and related offences the courts had awarded victims the equivalent of between 160 and 660 euros in compensation. According to the authorities, perpetrators have a strong incentive to pay compensation to victims, because under Belarusian law a confession and payment of full compensation to the victim before the case goes to trial are important mitigating factors when determining the sentence.

151. A representative of the Investigative Committee informed GRETA that the investigate bodies always conducted financial investigations as part of the collection of evidence in criminal cases. By way of example, representatives of the Ministry of the Interior mentioned the seizure of around 70 000 euros in a recent criminal investigation into the production of child sexual abuse material under the cover of a modelling agency (see paragraph 176) and the seizure of 350 000 euros from several bank accounts in a case involving exploitation of prostitution. In the latter case the perpetrators had already been convicted and the seized funds were transferred to the state treasury. According to the Belarusian authorities' comments on the draft GRETA report, none of the victims in this case applied to be identified as victims of THB or filed a claim for compensation.

⁴⁸ GRETA's first report on Belarus, paragraphs 133, 156 and 159.

152. Belarusian law still does not provide for state compensation to victims of THB. In their reply to the Committee of the Parties' Recommendation CP(2017)26, the Belarusian authorities indicated that they were actively studying the experience of other states in setting up a state compensation scheme. According to the authorities, victims of THB can receive compensation under Articles 20(4) or 29(3.1) of the Law on Combating THB. However, GRETA notes that both these provisions specify that compensation is awarded "in accordance with the legislation of the Republic of Belarus", which seems to imply the existence of another legal norm as a pre-requisite. During the evaluation visit, the Belarusian authorities provided no examples of the use of those provisions and confirmed that there were currently no plans to set up a state compensation scheme. According to the Belarusian authorities' comments on the draft GRETA report the establishment of a state compensation scheme for victims of THB would violate the principle of equality since victims of other crimes are deprived of this opportunity. In this respect, GRETA notes that in practice there is rarely full compensation of trafficking victims from the perpetrators because the trafficker has not been found, has disappeared or has declared him/herself bankrupt. That is why Article 15(4) of the Convention therefore requires that Parties take steps to guarantee compensation to victims. 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.

153. **GRETA urges the Belarusian authorities to take additional measures to facilitate and guarantee access to compensation for victims of trafficking, in particular by:**

- **reviewing the criminal and civil law procedures regarding compensation with a view to improving their effectiveness;**
- **ensuring that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed, and are provided with effective access to free legal aid, in accordance with the internal law;**
- **enabling victims of trafficking to exercise their right to compensation, by building the capacity of legal practitioners to support victims to claim compensation and including compensation into existing training programmes for law enforcement officials, prosecutors and the judiciary;**
- **establishing a state compensation scheme accessible to victims of THB.**

h. Repatriation and return of victims (Article 16)

154. As noted in GRETA's first report, Belarusian law contains no provisions regulating the return and repatriation of foreign citizens identified as victims of THB in Belarus.⁴⁹ Pursuant to Article 22(1) of the Law on Combating THB, the expulsion or deportation of victims of THB can be suspended until the conclusion of the trial against their traffickers, but only at the request of and for the duration decided by the investigative authorities.

⁴⁹ GRETA's first report on Belarus, paragraph 164.

155. On 9 October 2019 the Ministry of the Interior, the State Border Committee and the IOM Office in Belarus signed a memorandum of understanding to establish a mechanism for long-term co-operation in the field of facilitating the voluntary return of foreigners to their country of origin or permanent residence. The Memorandum stipulates that any return must be voluntary and must be carried out with respect for human dignity and human rights, and in the case of children, must comply with the principle of the best interests of the child, as guided by the UN Convention on the Rights of the Child. Pursuant to it, the IOM Office implements an EU-funded programme for voluntary return and reintegration, which can cover victims of THB. According to the Belarusian authorities, three victims of THB were returned to their countries of origin as part of this programme in 2019-2022.

156. GRETA welcomes the signing of the memorandum between the Belarusian authorities and the IOM Office in Belarus and invites the Belarusian authorities to ensure that the return of victims of THB is conducted with due regard to their rights, safety and dignity, is preferably voluntary, complies with the obligation of non-refoulement and the right to seek and enjoy asylum, and in the case of children, fully respects the principle of the best interests of the child. In this context, the authorities should continue to develop co-operation with countries of origin of victims in order to ensure comprehensive risk and security assessment (Article 16(7) of the Convention) and safe return of the victims, as well as their effective reintegration on return. Full consideration should be given to UNHCR's guidelines on the application of the Refugees Convention to trafficked persons and those at risk of being trafficked⁵⁰ and GRETA's Guidance Note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection.⁵¹

3. Substantive criminal law

a. Criminalisation of THB (Article 18)

157. In its first evaluation report, GRETA considered that the Belarusian authorities should amend the criminalisation of THB by adding "abuse of a position of vulnerability" as one of the means for committing THB, exploitation, and spelling out the irrelevance of the victim's consent to the intended exploitation.⁵² GRETA also urged the authorities to remove the requirement of prior knowledge that the person is a child from Articles 181(2)9 and 181(3) of the CC in order to fully align the domestic law with the provisions of the Convention as regards trafficking in children.⁵³

158. As noted in paragraph 20, no changes have been made to the CC of Belarus to comply with GRETA's recommendations. As regards the term "abuse of a position of vulnerability", the authorities have again referred to the Explanatory Note to Article 181 of the CC, which contains the wording "who for reasons beyond his/her control cannot refuse to perform the work or services". The authorities maintain that it is not appropriate to include the term "abuse of a position of vulnerability" which is part of the Convention's definition of THB. GRETA stresses that the absence of the concept of "abuse of a position of vulnerability" may hinder the identification of victims of THB. GRETA draws attention to paragraph 83 of the Explanatory Report of the Convention, according to which "by abuse of a position of vulnerability is meant abuse of any situation in which the person involved has no real and acceptable alternative to submitting to the abuse. The vulnerability may be of any kind, whether physical, psychological, emotional, family-related, social or economic. The situation might, for example, involve insecurity or illegality of the victim's administrative status, economic dependence or fragile health. In short, the situation can be any state of hardship in which a human being is impelled to accept being exploited. Persons abusing such a situation flagrantly infringe human rights and violate human dignity and integrity, which no one can validly renounce."

⁵⁰ [UNHCR, Guidelines on International Protection: The application of Article 1A\(2\) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked, HCR/GIP/06/07, 7 April 2006, UN. Doc. HCR/GIP/06/07.](#)

⁵¹ < <https://rm.coe.int/guidance-note-on-the-entitlement-of-victims-of-trafficking-and-persons/16809ebf44> >

⁵² GRETA's first report on Belarus, paragraphs 42 and 45.

⁵³ GRETA's first report on Belarus, paragraph 44.

159. Furthermore, the Belarusian authorities have affirmed that the irrelevance of the victim's consent is reflected in the Explanatory Note to Article 181 of the CC which defines exploitation as "unlawful coercion of a person ... if, for reasons beyond his/her control, he/she cannot refuse to perform work or services". However, in GRETA's view, this is not the same as providing in law that there is trafficking in human beings whether or not the victim consents to be exploited. As noted in paragraph 97 of the Explanatory Report to the Convention, the question of consent is not simple and it is not easy to determine where free will ends and constraint begins. As already stressed in GRETA's first report, setting out this pivotal principle in law and regulations could facilitate its use by investigators, prosecutors and judges when dealing with cases of human trafficking and help obtaining 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 there are assertions of consent.⁵⁴

160. The authorities remain of the view that the recommendation to remove the requirement of prior knowledge that the person is a child is unacceptable because it would introduce the concept of objective criminal liability.

161. In their reply to GRETA's questionnaire for the second evaluation round, the Belarusian authorities stated that a proposal was made by the Ministry of the Interior in 2017 to insert a separate article 181(2) in the CC on child trafficking, covering all forms of exploitation, regardless of the use of means. This proposal failed to gain enough support from other state bodies to become law. The age of the victim remains controversial and a number of stakeholders, including the Ministry of the Interior, believe that upon reaching 16 years of age the consent of a minor to be used for sexual, labour or other purposes excludes his/her exploitation. GRETA notes with concern that this position runs contrary to the Convention, according to which any person under 18 years of age is a child, and may result in child victims of human trafficking not being treated as such. According to Article 4(b) and (c) of the Convention, in the case of child trafficking, it is immaterial whether the means referred to in Article 4(a) have been used, or whether or not the child consents to be exploited

162. As noted in paragraph 16, footnote 5, the Law on Combating THB applies not only to THB (Article 181 of the CC), but to several other offences considered to be related to THB: Article 171 (exploitation or facilitation of prostitution), Article 171¹ (involving in prostitution or forcing to continue practicing prostitution), Article 181 (human trafficking), Article 181¹ (use of slave labour), Article 182 (abduction), Article 187 (illegal acts to provide employment abroad) and Article 343¹ (production and distribution of pornographic material or items depicting a child). In its first report GRETA, noted that some of these provisions criminalised acts that did not amount to THB, making it difficult to distinguish between cases of trafficking, organising/facilitating prostitution and illegally sending people abroad to work, something which had implications for the prosecution and convictions.⁵⁵ GRETA considered that the authorities should conduct a thorough assessment of the effectiveness of the criminal law provisions concerning THB and related offences, with a view to clarifying the differences between trafficking offences and offences relating to organising or facilitating prostitution, on the one hand, and between trafficking and illegal acts to send people for work abroad, on the other hand.⁵⁶ Such an assessment has not been carried out, to GRETA's knowledge.

⁵⁴ See UNODC Issue Paper, *The Role of Consent in the Trafficking in Persons Protocol*, United Nations, Vienna, 2014, available at: www.unodc.org/documents/human-trafficking/2014/UNODC_2014_Issue_Paper_Consent.pdf

⁵⁵ GRETA's first report on Belarus, paragraph 173.

⁵⁶ GRETA's first report on Belarus, paragraph 174.

163. **GRETA urges the Belarusian authorities to align the national definition of THB to that in the Convention by:**

- **including the concept of “abuse of a position of vulnerability” as one of the means for committing trafficking in human beings;**
- **removing the requirement of prior knowledge that the person is a child from Articles 181(2)9 and 181(3) of the Criminal Code and fully aligning the domestic law with the provisions of the Convention as regards trafficking in children (i.e. all persons under the age of 18).**

164. **GRETA also considers that the Belarusian authorities should:**

- **expressly state in the Criminal Code that consent on the part of a trafficking victim is irrelevant where any abusive means have been used;**
- **conduct a thorough assessment of the effectiveness of the criminal law provisions concerning THB and related offences, with a view to clarifying the differences between trafficking offences and offences relating to organising or facilitating prostitution, on the one hand, and between trafficking and illegal acts to send people for work abroad, on the other hand.**

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

165. The use of services of victims of THB, with the knowledge that the person is a victim, is still not criminalised in Belarusian law. In their reply to the Committee of the Parties' Recommendation CP(2017)26, the Belarusian authorities reiterated their position that a person who knowingly used the services of a trafficking victim can be prosecuted as an accomplice and accordingly there is no need to amend the CC.

166. Bearing in mind that many of the identified victims of THB and related offences were exploited within Belarus (see paragraph 16), **GRETA considers that the Belarusian authorities should examine the possibility of criminalising the use of services of victims of trafficking, with the knowledge that the persons concerned are victims, for different types of exploitation.**

c. Corporate liability (Article 22)

167. The Belarusian authorities have indicated that legal entities cannot incur criminal liability, but several provisions of the Code of Administrative Offences establish administrative liability. For example, under Article 9.23 for violation of the procedure and conditions of employment abroad of Belarusian nationals. Between 2018 and 2020, the Ministry of the Interior has repeatedly proposed to extend administrative liability of legal persons to the field of labour exploitation, but these proposals have not been adopted so far. In addition, the authorities referred to Articles 28 to 30 of the Law on Combatting THB that allow for the temporary closure and permanent dissolution with confiscation of property of legal entities involved in THB. However, to GRETA's knowledge these provisions have not been used against legal entities implicated in THB.

168. **GRETA considers that the Belarusian authorities should examine the reasons why no legal entities have been punished for trafficking-related acts and, in the light of their findings, take the necessary measures to ensure that the criminal liability of legal entities can be acted upon in practice, including through providing training to relevant officials.**

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

169. The legislative provisions relevant to the non-punishment of victims of THB remain as described in GRETA's first evaluation report.⁵⁷ The Code of Administrative Offences provides an exemption from administrative liability for victims of THB and related offences. There is no specific provision in the CC, but victims of THB can invoke general provisions relating to self-defence or necessity. No examples of the application of the existing provisions vis-à-vis victims of THB were reported. The Belarusian authorities have made no proposals to add a specific provision in the CC or formulate guidance to law enforcement officers and judges on the non-punishment principle.

170. **GRETA once again urges the Belarusian authorities to take additional measures to ensure compliance with the principle of non-punishment of victims of THB for their involvement in unlawful activities, including administrative offences, to the extent that they were compelled to do so, as contained in Article 26 of the Convention. Such measures should include the adoption of a specific legal provision and/or the development of guidance for police officers, prosecutors and judges on the scope of the non-punishment provision.** Reference is made in this context to the recommendations on non-punishment for legislators and prosecutors contained in the paper issued by the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings in consultation with the Alliance against Trafficking in Persons Expert Co-ordination Team.⁵⁸

4. Investigation, prosecution and procedural law

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

171. In its first evaluation report, GRETA considered that the authorities should take further measures to ensure that THB offences are prosecuted as such, and lead to effective, proportionate and dissuasive sanctions, including by identifying gaps in the investigation and prosecution of THB cases, reviewing existing legislation and court rulings on THB and related offences, carrying out proactive investigations of alleged cases of THB for the purpose of labour exploitation and training investigators, prosecutors and judges to further develop their capacity to deal with THB cases.

172. The Interior Ministry's Main Department for Drug Control and Combatting Trafficking in Human Beings, the Investigative Committee and their respective territorial subdivisions have specialised staff to investigate THB and related offences. There are no specialised prosecutors and judges for THB cases in Belarus.

173. According to statistical data provided by the Ministry of the Interior, during the period 2017-2021, 12 criminal cases were initiated into THB under Article 181 of the CC (one in 2017, six in 2018, four in 2019, zero in 2020 and one in 2021). During the same period, the number of criminal investigations opened into THB related offences⁵⁹ was 506 (106 cases in 2017, 130 in 2018, 89 in 2019, 71 in 2020 and 110 in 2021). No statistics were provided on the outcome of these criminal cases.

174. According to statistical data provided by the Supreme Court of Belarus, 195 persons were convicted for THB and related offences (53 in 2017, 37 in 2018, 40 in 2019, 30 in 2020 and 35 in 2021). Only three of them (one male and two female Belarusian citizens) were convicted under Article 181 of the CC in 2019. They were convicted in a single case involving THB for the purpose of sexual exploitation of several children, including the suspects' own children, as well as the production and distribution of child sexual abuse material via the internet. In this case investigators also identified suspects in Iraq, Spain and Germany, who were all subsequently arrested by law enforcement bodies in these countries, and traced a further victim in Ukraine.

⁵⁷ GRETA's first report on Belarus, paragraphs 176 & 177.

⁵⁸ < <http://www.osce.org/secretariat/101002?download=true> >

⁵⁹ See footnote 5.

175. In 2020 the trial against one person charged under Article 181 of the CC was halted by the judge due to the expiration of the statute of limitations of 15 years (Article 83(4) of the CC).

176. During the evaluation visit, representatives of the Ministry of the Interior told GRETA that the prevention of online and technology-facilitated exploitation, especially of children, was one of their top priorities. The Main Department for Drug Control and Combatting Trafficking in Human Beings co-operates with the Interior Ministry's unit for cybercrime to identify child victims of online exploitation and track down suspected traffickers. The Belarusian authorities also co-operate with Interpol and law enforcement agencies in EU countries, the UK, Ukraine and the USA (see paragraph 190). They highlighted a criminal case into a modelling agency that was used as a cover for the production and distribution of child sexual abuse material. The criminal investigation was opened in February 2021 after a tip off from the FBI and Belarusian authorities made several arrests and seized assets of approximately 70 000 euros. The authorities also reported a growing trend of traffickers using encrypted social media applications to communicate with their victims, but sometimes police officers, posing as children or young women, managed to infiltrate such channels.

177. GRETA urges the Belarusian authorities to strengthen their efforts to ensure that THB cases for different forms of exploitation are investigated and prosecuted proactively, and lead to effective, proportionate and dissuasive sanctions, in particular by reviewing the legislation and the investigation/prosecution procedure with a view to identifying and addressing gaps (e.g. in relation to THB for the purpose of labour exploitation).

178. Further, GRETA considers that the Belarusian authorities should intensify their efforts to carry out financial investigations in THB cases in order to identify, seize and confiscate criminal assets, and continue to improve the knowledge of investigators, prosecutors and judges about the seriousness of THB, the severe impact of exploitation on the victims, the need to respect their human rights, and the need to hand down effective, proportionate and dissuasive sanctions on traffickers, which should be effectively enforced.

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

179. In its first evaluation report, GRETA considered that the authorities should make full use of the measures available to protect victims of THB and to prevent intimidation during the investigation and during and after the court proceedings, including issuing a national guidance on the systematic use of the child-friendly rooms to interview children and other vulnerable victims of THB and using the testimony given in such rooms in court, thus avoiding repeated questioning of victims.

180. Articles 224¹ and 343¹ of the CPC give the investigator, respectively, the judge the option to conduct an interview, cross-examination or line-up with a victim or witness with the use of videoconference under certain conditions, for example if the victim or witness was a child.

181. Representatives of specialised NGOs informed GRETA that the existing legal provisions on the protection of victims and witnesses participating in criminal proceedings are not frequently used or even unfeasible to implement in practice. For example, courts outside the capital often lack the technical equipment to shield victims and witnesses from the accused in the court room and need to improvise by hooding the victim with a balaclava or placing the victim in a cardboard box used to ship large household appliances like fridges.

182. Concerning protection measures for children, GRETA welcomes the amendments to Articles 221(4) and 333(2¹) of the CPC, introducing mandatory audio and video recording of interviews with victims and witnesses, who are children below the age of 14, and the possibility to use these recordings at trial *in lieu* of in person testimony. However, GRETA recalls that Article 4(d) of the Convention defines a child as any person under 18 years of age.

183. Child victims and witnesses below the age of 14 must and those between 14 and 16 can be questioned in the presence of a pedagogue or psychologist (Article 221(1) of the CPC) and the interview should if possible be conducted in a child-friendly room (Article 221(2¹) of the CPC). During the second evaluation visit GRETA was informed that the Investigative Committee was working on a revision of Government Decree No. 1533 of 24 October 2001 "On approval of the regulation on the procedure for involving a pedagogue (psychologist) to participate in the criminal process". **GRETA would like to be kept informed of developments in this regard.**

184. As noted in paragraph 48, a study conducted in 2019 by the Investigative Committee and the NGO "Business Women's Club" revealed that the child-friendly rooms are very rarely used to interview child victims and witnesses of THB, face a lack of funding and a shortage of staff. As a result, children had to be questioned again and sometimes in a non-child-friendly environment.

185. **GRETA urges the Belarusian authorities to:**

- **make full use of the available measures to protect victims and witnesses of THB and to prevent intimidation or re-traumatisation during the investigation, as well as during and after the court proceedings, including through the use of video conferences and other suitable means to avoid face-to-face cross-examination of victims in the presence of the accused;** in this context, GRETA refers to Opinion No. 12 of the Consultative Council of European Prosecutors (CCPE) CCPE Opinion No. 12 (2017) on "The role of prosecutors in relation to the rights of victims and witnesses in criminal proceedings";⁶⁰
- **extend the application of the procedure to interview children foreseen in the provisions of the Criminal Procedure Code to all victims and witnesses under the age of 18 years.**

186. **Moreover, GRETA invites the authorities to ensure that child victims of THB are in practice afforded these special protection measures, including in the context of interviews, both as regards the competencies of the professionals present and the environment in which the interviews are conducted, in line with the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.**

c. Jurisdiction (Article 31)

187. Article 5(1) of the CC of Belarus states that persons who commit offences on Belarusian territory shall be criminally liable under the CC. Article 6(1) and (4) of the CC provides that Belarusian nationals and stateless persons permanently residing in Belarus who have committed offences abroad shall be liable under the Belarusian CC, unless they have been convicted abroad or the incriminated behaviour is not qualified as an offence under the CC of the territory where it was committed. However, Article 6(3) of the CC adds that offences under Article 181 of the CC shall be punishable in Belarus even if it is not an offence under the CC of the territory where it was committed.

⁶⁰ Opinion No. 12 of the Consultative Council of European Prosecutors (CCPE) CCPE Opinion No. 12 (2017) on "The role of prosecutors in relation to the rights of victims and witnesses in criminal proceedings" [adopted](#) during the 12th plenary meeting of the CCPE on 23-24 November 2017 in Strasbourg.

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

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

188. Pursuant to Article 25 of the Law on Combating THB, Belarusian authorities can co-operate with foreign states and other international entities on the basis of the principle of reciprocity or in accordance with international treaties.

189. As mentioned in the first report, Belarus is a party to international and regional agreements in the field of anti-trafficking within the Commonwealth of Independent States (CIS). In 2016 Belarus ratified the Agreement "On the procedure for the establishment and operation of joint investigative and operation teams in the territories of member states of the Commonwealth of Independent States". In addition to bilateral agreements relevant to combating THB already mentioned in GRETA's first evaluation report,⁶¹ Belarus has concluded treaties on mutual legal assistance co-operation in criminal matters with Brazil, Mongolia and the United Arab Emirates during the reporting period.

190. In 2019 the Investigative Committee sent 21 requests for legal assistance to foreign countries (13 to Russia, five to Ukraine, two to Poland and one to the USA) and itself received three such requests from foreign countries. Belarusian officials complained of frequent delays in international co-operation. NGOs informed GRETA that the Belarusian authorities' co-operation with foreign countries is largely limited to cases of THB for sexual exploitation. In this regard GRETA notes that, although IOM detected almost 300 possible Belarusian victims of THB for labour exploitation in Russia (see paragraph 119), the Belarusian authorities only investigated a handful of cases.

191. At the UN level, Belarus has continued to co-ordinate the Group of Friends united in the fight against human trafficking, and every other year it has co-sponsored a UN General Assembly resolution on action against THB. In 2018 Belarus made a voluntary contribution to the OSCE extrabudgetary project to combat THB along migration routes. Combating THB was also part of the Council of Europe Action Plan for Belarus for 2019-2021, but the plan was suspended by the Council of Europe in 2020 in the wake of the political situation in Belarus.⁶²

192. GRETA considers that the Belarusian authorities should continue their efforts in the area of international co-operation with a view to preventing THB, assisting victims and investigating and prosecuting trafficking offences.

193. According to the Belarusian authorities, information on missing persons, including children, is transmitted through the Ministry of Foreign Affairs or the National Central Bureau on Interpol in Belarus. Within the framework of the CIS, missing persons' data is entered in a central database set up pursuant to the Agreement on the Interstate Search for Persons, signed in Moscow on 10 December 2010. According to the Ministry of the Interior, no Belarusian children were abducted for the purpose of THB.

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

194. In its first evaluation report, GRETA considered that the authorities should further develop co-ordination between public bodies and civil society actors in anti-trafficking action, and increase involvement of specialised NGOs in the planning, drafting, implementing and evaluating of national anti-trafficking policies.

⁶¹ GRETA's first report on Belarus, paragraph 78, footnote 23.
⁶² < <https://rm.coe.int/ap-belarus-2019-2021-web-en/168098f1bd> >

195. Following the disputed presidential elections in August 2020 and the ensuing crackdown on civil society, the overall conditions for operation of NGOs engaged in the protection of human rights in Belarus, which were already unduly restrictive prior to August 2020,⁶³ deteriorated dramatically. GRETA notes with concern that this has had a negative impact on anti-trafficking action in Belarus.

196. Various Council of Europe, UN and OSCE structures have repeatedly criticised the widespread and systematic clampdown on civil society organisations in Belarus since August 2020.⁶⁴ On 14 July 2021, law enforcement officers raided the office of the NGO "Gender Perspectives," which has been involved in anti-THB advocacy and assistance to victims, and used to operate a national hotline for victims of domestic violence.⁶⁵ On 28 September 2021 (the first day of GRETA's evaluation visit to Belarus), the Supreme Court dissolved the NGO "Gender Perspectives."⁶⁶ According to the Belarusian authorities' comments on the draft GRETA report, the NGO was dissolved mainly because it had failed to submit certain documents requested by the Ministry of Justice on 15 July 2021. However, GRETA understands that the NGO had been unable to submit the requested documents because they had been seized by the authorities during the raid on 14 July 2021. Further, on 1 October 2021, the Supreme Court dissolved the Belarusian Helsinki Committee, the oldest human rights NGO in the country.⁶⁷ The UN Special Rapporteur on the Situation of Human Rights in Belarus informed GRETA that hundreds of NGOs suffered a similar fate and numerous civil society activists were now either in jail or in exile.⁶⁸

197. GRETA is deeply concerned that the stringent limitations put on the activities of NGOs in Belarus create a significant risk that violations of human rights concerning victims of THB will not be recognised as such, and access to specialised assistance for victims will be severely reduced. In this regard, GRETA refers to the suspension of the national hotline for victims of domestic violence⁶⁹ and the increasingly restrictive regulatory framework concerning foreign funding, on which many anti-trafficking NGOs rely to fund their activities because they are *de jure* and/or *de facto* ineligible to obtain financial grants from the authorities.⁷⁰ GRETA was informed that even before mid-2020 the Ministry of the Interior was unwilling to approve proposals for several projects in the area of action against THB, which is needed in order to receive any foreign funding. During the evaluation visit, the authorities stated that any reduction in specialised assistance and rehabilitation services previously provided by NGOs would be covered by the State. However, in their comments on the draft GRETA report, the Belarusian authorities failed to provide detailed information on how and by whom the specialised services previously provided by NGOs are being provided.

⁶³ For example, in 2018 the Human Rights Committee criticised in particular the disproportionate rules on the registration of NGOs and the restrictive regulations on foreign funding of NGOs, see [2018 CCPR Concluding Observations regarding Belarus](#), UN. Doc, CCPR/C/BLR/CO/5, paragraphs 54&55.

⁶⁴ Statement by CoE Commissioner for Human Rights: [Reprisals against Belarusian civil society must stop](#), 3 November 2021; [High Commissioner for Human Rights tells the Human Rights Council that the Human Rights situation in Belarus continues to worsen in 2021](#), 21 September 2021; [OSCE Rapporteur's Report under the Moscow Mechanism on Alleged Human Rights Violations related to the Presidential Elections of 9 August 2020 in Belarus](#), 5 November 2020.

⁶⁵ [В Белоруссии провели обыск в общественном объединении "Говори правду"](#), Interfax, 15 July 2021 (in Russian).

⁶⁶ [Верховный суд ликвидировал неправительственную организацию, которая боролась с насилием в семье](#), RFERL, 28 September 2021 (in Russian).

⁶⁷ [Statement by the Secretary General of the Council of Europe concerning the reported liquidation of the Belarusian Helsinki Committee](#), 1 October 2021.

⁶⁸ See also [Report of the Special Rapporteur on the situation of human rights in Belarus, Anaïs Marin](#), 4 May 2021, UN. Doc. A/HRC/47/49. A detailed list of dissolved NGOs is available [here](#).

⁶⁹ Gender Perspectives, [ГОРЯЧАЯ ЛИНИЯ ДЛЯ ПОСТРАДАВШИХ ОТ ДОМАШНЕГО НАСИЛИЯ ПРИОСТАНАВЛИВАЕТ СВОЮ РАБОТУ](#), 15 July 2021 (in Russian)

⁷⁰ [Изменение законодательства об иностранной безвозмездной помощи | Lawtrend — Исследования Образование Действия](#), Lawtrend.org (in Russian)

198. GRETA stresses that failure to enable civil society organisations to participate in action against THB is contrary to the letter and the spirit of the Council of Europe Convention on Action against Trafficking in Human Beings. Civil society plays an important role in the implementation of the Convention, through awareness raising, research, training, detecting victims of trafficking, providing them with accommodation and other assistance, and supporting them through the criminal justice process and in order to claim compensation. Pursuant to Article 35 of the Convention, Parties shall encourage state authorities and public officials to co-operate with non-governmental organisations, other relevant organisations and members of civil society, in establishing strategic partnerships with the aim of achieving the purpose of the Convention.

199. GRETA urges the Belarusian authorities to review any legislation which may impede the work of specialised anti-trafficking NGOs, to ensure that such NGOs have effective access to adequate funding and are enabled to participate in the prevention of THB, identification of victims and their protection and assistance, as envisaged in Articles 5, 10 and 12 of the Convention, and to build strategic partnerships with civil society actors with the aim of achieving the purpose of the Convention.

IV. Conclusions

200. Since the adoption of GRETA's first report on Belarus in March 2017, progress has been made in some areas.

201. The Belarusian authorities have further developed the legal framework for combating trafficking in human beings and introduced additional measures for the protection of child victims and witness in the Criminal Procedure Code. A positive development is the introduction in the Victim Identification Regulation of a 30-day reflection and recovery period, independent of the victim's consent to participate in the identification procedure.

202. Action against human trafficking has been addressed through several policy documents, such as the Programme to Combat Crime and Corruption for 2020-2022, the fifth and sixth National Action Plans for Ensuring Gender Equality, and the National Action Plan for the Improvement of the Situation of Children and the Protection of Their Rights for 2017-2021.

203. A range of professionals who may come across victims of human trafficking have received relevant training, sometimes with the involvement of international organisations.

204. Further, a number of awareness-raising activities have been carried out by the Ministry of the Interior and other ministries and agencies, with the involvement of NGOs and international organisations.

205. Another positive development is the signing in 2019 of a memorandum of understanding between the Ministry of the Interior, the State Border Committee and the IOM Office in Belarus to establish a mechanism for long-term co-operation in the field of facilitating the voluntary return of foreigners to their country of origin or permanent residence.

206. However, despite the progress achieved, a number of issues give rise to concern. Therefore, in its second report on the implementation of the Convention by Belarus, GRETA has requested the Belarusian authorities to take action in a number of areas, summarised below. The position of the recommendations in the text of the report is shown in parentheses.

Issues for immediate action

- **GRETA urges the Belarusian authorities to strengthen their efforts to prevent trafficking for the purpose of labour exploitation, in particular by:**
 - **including the prevention and detection of THB for the purpose of labour exploitation in the mandate of the Department of the State Labour Inspectorate;**
 - **providing all labour inspectors with specialised training on THB for the purposes of labour exploitation, as well as ensuring adequate financial and technical means so that they can be actively engaged in the prevention of THB in all sectors of the economy throughout the country, including by means of unannounced inspections;**
 - **strengthening the supervision of recruitment agencies and reviewing the legislative framework for any loopholes that may limit protection or preventive measures;**
 - **raising awareness amongst migrant workers regarding the risks of THB for the purpose of labour exploitation and provide effective access to confidential complaint mechanisms for protecting their rights;**

- **sensitising relevant officials, including police officers, prosecutors, judges, staff of local administrations, social workers and other professionals likely to come into contact with victims of trafficking for labour exploitation about the signs and risks of THB and the rights of victims;**
- **enhancing co-operation with trade unions, civil society and the private sector to raise awareness of trafficking for the purpose of labour exploitation, prevent trafficking in supply chains and strengthening corporate social responsibility, drawing on the Guiding Principles on Business and Human Rights and Recommendation CM/Rec(2016)3 on human rights and business (paragraph 67);**
- **GRETA urges the authorities to strengthen their efforts to prevent trafficking in children, in particular by:**
 - **developing programmes to reduce children’s vulnerability to THB, in particular children placed in or leaving child-care institutions, children from rural areas and children in Roma communities;**
 - **strengthen the role and capacity of the child protection system to prevent trafficking in children and alert other relevant stakeholders to possible cases of trafficking;**
 - **developing a legislative framework to deal with children in migration situations, including unaccompanied and separated children (paragraph 79);**
- **GRETA urges the Belarusian authorities to implement their international legal obligations under Article 7 of the Council of Europe Convention on Action against Trafficking in Human Beings, which obliges State Parties to strengthen border controls to prevent and detect trafficking in human beings. This should include steps to build the capacity of all competent authorities to detect cases of THB among persons arriving in Belarus and the provision of information to foreign nationals arriving irregularly or seeking asylum, in a language that they can understand, about the risks of THB, their rights and where to turn for advice and assistance (paragraph 105);**
- **GRETA urges the Belarusian authorities to take further steps to:**
 - **ensure that, in practice, the identification as a victim of THB does not depend on the opening of a criminal investigation or the presence of elements to prove a criminal offence of THB or related offence;**
 - **promote a multi-agency involvement in the decision-making process leading to the identification of victims of THB, taking account of the findings and expertise of all relevant organisations and entities, including specialised NGOs and international organisations;**
 - **include labour inspectors among the actors responsible for the identification of trafficking victims, in particular in the identification of victims of THB for the purpose of labour exploitation, and ensure that they have the necessary training, human and financial resources to carry out this task efficiently;**
 - **disseminate the direct and indirect indicators for the identification of victims of THB for different forms of exploitation to all professionals who are likely to come into contact with victims of THB;**
 - **improve the identification of victims of trafficking among foreign nationals, asylum seekers and persons in irregular migration situations, including through the provision of training and clear, binding procedures to be followed by staff of the State Border Committee and other relevant bodies (paragraph 114);**

- **GRETA urges the Belarusian authorities to comply with their obligations under Article 12 of the Convention and to ensure that all presumed and identified victims of trafficking receive adequate assistance and support, according to their needs. This should include measures to:**
 - **ensure that assistance is provided for as long as needed to presumed and formally identified victims of trafficking and is not discontinued if no criminal proceedings are initiated;**
 - **ensure that all assistance measures provided for in law, in particular access to health care and psychological support, are guaranteed in practice;**
 - **provide appropriate and safe accommodation with a sufficient number of places for victims of trafficking in the light of the assessment of trafficking trends in Belarus;**
 - **ensure that the services available are adapted to the specific needs of trafficking victims and that minimum standards are guaranteed when victims of trafficking are accommodated in structures not specifically designed for them;**
 - **facilitate the reintegration of victims of trafficking into society and prevent re-trafficking by providing them with long-term assistance, including vocational training and access to the labour market;**
 - **provide regular training to all professionals responsible for implementing assistance measures for victims of trafficking (paragraph 122);**
- **GRETA urges the Belarusian authorities to take further steps to improve the identification and assistance of child victims of trafficking, and in particular to:**
 - **ensure that the procedure for the identification of child victims of THB takes into account their special circumstances and needs, involves child specialists, includes outreach activities and ensures that the best interests of the child are the primary consideration;**
 - **ensure that relevant actors take a proactive approach and increase their outreach work to identify child victims of THB, by paying particular attention to children in street situations, children placed in or leaving childcare institutions, children from rural areas, children in Roma communities and unaccompanied and separated foreign children;**
 - **provide further training to relevant stakeholders (police, NGOs, child protection authorities, social workers and health-care professionals) as well as tools and guidance on the identification of child victims of THB for different purposes, including labour exploitation, the exploitation of begging and the exploitation of criminal activities;**
 - **set up sufficient shelters with qualified staff and assistance services for presumed child victims of trafficking, for different forms of exploitation, and provide these shelters with sufficient funding;**
 - **ensure long-term assistance for the integration of child victims of trafficking (paragraph 131);**
- **GRETA urges the Belarusian authorities to take further steps to ensure respect for the confidentiality of personal data of victims of trafficking at all stages of processing of such data. The authorities should sensitise responsible officials of local state administrations, teachers, social workers, doctors and other health professionals to the observance of the confidentiality of victims' personal data (paragraph 135);**

- **GRETA urges the Belarusian authorities to take additional measures to facilitate and guarantee access to compensation for victims of trafficking, in particular by:**
 - reviewing the criminal and civil law procedures regarding compensation with a view to improving their effectiveness;
 - ensuring that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed, and are provided with effective access to free legal aid, in accordance with the internal law;
 - enabling victims of trafficking to exercise their right to compensation, by building the capacity of legal practitioners to support victims to claim compensation and including compensation into existing training programmes for law enforcement officials, prosecutors and the judiciary;
 - establishing a state compensation scheme accessible to victims of THB (paragraph 153);
- **GRETA urges the Belarusian authorities to align the national definition of THB to that in the Convention by:**
 - including the concept of “abuse of a position of vulnerability” as one of the means for committing trafficking in human beings;
 - removing the requirement of prior knowledge that the person is a child from Articles 181(2)9 and 181(3) of the Criminal Code and fully aligning the domestic law with the provisions of the Convention as regards trafficking in children (i.e. all persons under the age of 18) (paragraph 163);
- **GRETA once again urges the Belarusian authorities to take additional measures to ensure compliance with the principle of non-punishment of victims of THB for their involvement in unlawful activities, including administrative offences, to the extent that they were compelled to do so, as contained in Article 26 of the Convention. Such measures should include the adoption of a specific legal provision and/or the development of guidance for police officers, prosecutors and judges on the scope of the non-punishment provision (paragraph 170);**
- **GRETA urges the Belarusian authorities to strengthen their efforts to ensure that THB cases for different forms of exploitation are investigated and prosecuted proactively, and lead to effective, proportionate and dissuasive sanctions, in particular by reviewing the legislation and the investigation/prosecution procedure with a view to identifying and addressing gaps (e.g. in relation to THB for the purpose of labour exploitation) (paragraph 177);**
- **GRETA urges the Belarusian authorities to:**
 - make full use of the available measures to protect victims and witnesses of THB and to prevent intimidation or re-traumatisation during the investigation, as well as during and after the court proceedings, including through the use of video conferences and other suitable means to avoid face-to-face cross-examination of victims in the presence of the accused;
 - extend the application of the procedure to interview children foreseen in the provisions of the Criminal Procedure Code to all victims and witnesses under the age of 18 years (paragraph 185);
- **GRETA urges the Belarusian authorities to review any legislation which may impede the work of specialised anti-trafficking NGOs, to ensure that such NGOs have effective**

access to adequate funding and are enabled to participate in the prevention of THB, identification of victims and their protection and assistance, as envisaged in Articles 5, 10 and 12 of the Convention, and to build strategic partnerships with civil society actors with the aim of achieving the purpose of the Convention (paragraph 199).

Further conclusions

- GRETA considers that the Belarusian authorities should consolidate the co-ordination of anti-trafficking activities at national level by ensuring regular exchange of information between all public bodies involved in the prevention of THB, the identification and assistance to victims, and the prosecution of traffickers. The establishment of the post of National Co-ordinator on action against THB, supported by a dedicated office, would significantly strengthen co-ordination (paragraph 25);
- GRETA considers that the Belarusian authorities should examine the possibility of establishing an independent National Rapporteur for monitoring the anti-trafficking activities of State institutions and making recommendations to persons and institutions concerned (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report) (paragraph 26);
- GRETA considers that the Belarusian authorities should adopt a separate national action plan to combat THB and commission an independent evaluation of the implementation of the anti-trafficking activities included in the Programme on Combating Crime and Corruption (paragraph 33);
- GRETA considers that the Belarusian authorities should expand the range of professionals covered by training to include labour inspectors, social workers, health-care staff and educational professionals (paragraph 41);
- GRETA considers that the Belarusian authorities should ensure that training concerning THB is embedded in the core training curricula of prosecutors and judges, and is aimed at strengthening victims' rights and improving the effectiveness of prosecutions and convictions, and guaranteeing the right to effective access to compensation to victims (paragraph 42);
- GRETA considers that the Belarusian authorities should conduct and support further research on different aspects of THB, in particular trafficking for labour exploitation, trafficking of foreign nationals to Belarus, and the misuse of the Internet for the commission of THB, including through social networks (paragraph 50);
- GRETA considers that the Belarusian authorities should increase their efforts to raise awareness about human trafficking, targeting the general public as well as specific at-risk groups, and conduct impact assessments of awareness-raising campaigns (paragraph 58);
- GRETA considers that the Belarusian authorities should continue sensitising teachers, social workers, staff of child protection institutions, health care professionals and legal guardians to the risks of THB and how to prevent trafficking in children, and consult NGOs when developing programmes and legislation in this respect (paragraph 80);
- GRETA considers that the Belarusian authorities should take further measures to strengthen the prevention of THB through social, economic and other measures for groups vulnerable to THB. Further efforts should be made to promote gender equality, combat gender-based violence, including domestic violence, and stereotypes (paragraph 85);
- GRETA considers that the Belarusian authorities should sensitise the general public about the risks of THB for the purpose of organ removal and continue to train health-care professionals and law

enforcement officials, drawing attention to the need to monitor offers to sell or buy human organs and report any suspected cases (paragraph 91);

- GRETA considers that the Belarusian authorities should adopt legislative, administrative, educational, social, cultural or other measures to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society, trade unions and the media, including by:
 - raising awareness of the responsibility and the important role of the media and advertising companies in tackling demand which leads to human trafficking;
 - continuing to implement educational programmes in schools which stress the importance of gender equality and respect for the dignity and integrity of every human being and the consequences of gender-based discrimination;
 - promoting awareness among businesses, strengthening corporate social responsibility and preventing trafficking in supply chains (paragraph 96);
- While welcoming the revision of the Victim Identification Regulation, GRETA considers that the Belarusian authorities should, in addition, include the recovery and reflection period in the Law on Combating THB, explicitly stating its purpose, and stipulating that during this period, expulsion orders cannot be enforced (paragraph 140);
- GRETA considers that the Belarusian authorities should take additional steps to ensure that victims of trafficking can effectively benefit from the right to obtain a renewable residence permit, as specified in Article 14 of the Convention, without prejudice to the right to seek and enjoy asylum, and that child victims of trafficking, when legally necessary, are issued with renewable residence permits in accordance with the best interests of the child (paragraph 144);
- GRETA invites the Belarusian authorities to consider granting temporary residence permits to victims of THB on the basis of their personal situation, in addition to permits on the basis of the victim's co-operation in the investigation or criminal proceedings (paragraph 145);
- GRETA welcomes the signing of the memorandum between the Belarusian authorities and the IOM Office in Belarus and invites the Belarusian authorities to ensure that the return of victims of THB is conducted with due regard to their rights, safety and dignity, is preferably voluntary, complies with the obligation of non-refoulement and the right to seek and enjoy asylum, and in the case of children, fully respects the principle of the best interests of the child. In this context, the authorities should continue to develop co-operation with countries of origin of victims in order to ensure comprehensive risk and security assessment (Article 16(7) of the Convention) and safe return of the victims, as well as their effective reintegration on return. Full consideration should be given to UNHCR's guidelines on the application of the Refugees Convention to trafficked persons and those at risk of being trafficked and GRETA's Guidance Note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection (paragraph 156);

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- GRETA considers that the Belarusian authorities should:
 - expressly state in the Criminal Code that consent on the part of a trafficking victim is irrelevant where any abusive means have been used;
 - conduct a thorough assessment of the effectiveness of the criminal law provisions concerning THB and related offences, with a view to clarifying the differences between trafficking offences and offences relating to organising or facilitating prostitution, on the one hand, and between trafficking and illegal acts to send people for work abroad, on the other hand (paragraph 164);
 - GRETA considers that the Belarusian authorities should examine the possibility of criminalising the use of services of victims of trafficking, with the knowledge that the persons concerned are victims, for different types of exploitation (paragraph 166);
 - GRETA considers that the Belarusian authorities should examine the reasons why no legal entities have been punished for trafficking-related acts and, in the light of their findings, take the necessary measures to ensure that the criminal liability of legal entities can be acted upon in practice, including through providing training to relevant officials (paragraph 168);
 - GRETA considers that the Belarusian authorities should intensify their efforts to carry out financial investigations in THB cases in order to identify, seize and confiscate criminal assets, and continue to improve the knowledge of investigators, prosecutors and judges about the seriousness of THB, the severe impact of exploitation on the victims, the need to respect their human rights, and the need to hand down effective, proportionate and dissuasive sanctions on traffickers, which should be effectively enforced (paragraph 178);
 - GRETA invites the authorities to ensure that child victims of THB are in practice afforded these special protection measures, including in the context of interviews, both as regards the competencies of the professionals present and the environment in which the interviews are conducted, in line with the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (paragraph 186);
 - GRETA considers that the Belarusian authorities should continue their efforts in the area of international co-operation with a view to preventing THB, assisting victims and investigating and prosecuting trafficking offences (paragraph 192).

Appendix

List of public bodies and intergovernmental organisations with which GRETA held consultations

Public bodies

- Ministry of the Interior
 - Mr Hennadz Kazakevich, Deputy Minister of the Interior
 - Main Department on Drug Control and Combating Trafficking in Human Beings
 - Department on Citizenship and Migration
 - International Co-operation Department
 - International Training Centre on Migration and Combating Trafficking in Human Beings of the Academy
- Ministry of Foreign Affairs
- Ministry of Justice
- Ministry of Labour and Social Protection
- Ministry of Education
- Ministry of Health
- General Prosecutor's Office
- Investigative Committee
- State Border Committee
- Supreme Court of Belarus
- Minsk City Bar Association

Intergovernmental organisations

- International Organization for Migration (IOM)
- United Nations High Commissioner for Refugees (UNHCR)
- Ms Anais Marin, UN Special Rapporteur on the Situation of Human Rights in Belarus

Government's comments

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

GRETA engaged in a dialogue with the Belarusian 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 authorities on 8 August 2022 and invited them to submit any final comments. The comments of the authorities, submitted on 19 September 2022, are reproduced hereafter.

**Official comments of the State Authorities of the Republic of Belarus
to the Report of Group of Experts on Action
against Trafficking in Human Beings (GRETA)
concerning the implementation of the Council of Europe Convention on Action against
Trafficking in Human Beings by Belarus
(Second evaluation round)**

General comments

The report reflects a number of successful developments of Belarus in the field of combating human trafficking and also contains recommendations that will be considered as part of improving the national system for combating human trafficking and strengthening international cooperation in this area.

In particular, the Belarusian side notes the positive aspects of the work of national structures in the field of combating trafficking in human beings outlined in the report (paragraphs 200-205), the progress made in a number of areas since the previous report, including the improvement of the legal framework, training of specialists, active information work, including the work with the involvement of international organizations and NGOs, as well as the development of cooperation with the International Organization for Migration and other interested structures.

At the same time, GRETA experts did not manage to avoid assessments that are biased and politicized.

Despite the remarks made by the Belarusian side during the consideration of the draft report, its final version retained the thesis that “the Belarusian authorities have not only failed to prevent trafficking of foreign nationals through Belarus, but have actively encouraged it and in doing so, may have themselves contributed to trafficking in human beings.” (paragraph 19), which is duplicated further in the text in a similar wording (paragraph 104).

These statements are unsubstantiated and are not supported by actual data. Despite the fact that since 2020 the cooperation in a number of areas was stopped at the initiative of Western partners, including the protection of the state border and the regulation of migration flows, the Belarusian side continues to fulfill its international obligations fully and responsibly, basing on the available resources.

The construction of fences and barbed wire barriers, which, among other things cause irreparable damage to unique ecosystems, and even more so, violent actions of a psychological and physical nature, including the gross and illegal displacement of migrants back to the territory of Belarus by the authorities of the bordering countries of the European Union (the so-called "push-backs") obviously make the situation even worse. Such actions which are documented by a number of international organizations and human rights NGOs are a direct violation of international and European law and limit the possibility of joint work in the future, taking into account the long-term nature of the problem, the trend of increasing refugee flows and the transit position of Belarus.

The document contains statements about the denial of access for UN representatives to Belarus to study the situation in the migration sphere on the border of Belarus and Poland (paragraph 102). Taking into account the fact that the report covers events only until July 1, 2022, in order to form an objective idea of the level of cooperation with the UN on the issue under consideration, it should be noted that in July 2022 the Belarusian side, in the spirit of transparency, allowed the Special Rapporteur of the UN Human Rights Council on the issue of the rights of migrants Felipe González Morales to enter Belarus and created all the necessary conditions for getting acquainted with the real situation. Following the visit the Special Rapporteur called on Belarus, Poland and the EU to establish communication and dialogue regarding the situation on the common border in order to prevent further human casualties, stop the practice of forced expulsion and ensure the protection of the rights of migrants. At the same time the Belarusian side has repeatedly declared its openness and continues to adhere to the position on the need to resume a constructive dialogue on this and other topics of mutual interest, which will help to prevent negative consequences of a humanitarian nature. However, these calls have not yet received a proper response from the EU countries neighbouring us.

It is also important to note that in the framework of the settlement of the migration crisis, the Belarusian authorities also actively cooperated with the International Organization for Migration, the Office of the United Nations High Commissioner for Refugees, other international organizations, as well as non-governmental structures.

Going beyond their mandate, GRETA experts allow themselves to use in the text such unacceptable expressions as “disputed presidential elections” (paragraphs 100, 195), which calls into question the impartiality of the authors who worked on the report.

Such assessments as “climate of persecution of civil society activists”, “systematic repressions of civil society”, etc. (paragraphs 7, 13, 27, 195) are also politicized and biased. In some cases, the authors of the report selectively refer to the assessments of the OSCE, the Council of Europe, the UN Special Rapporteur on the situation of human rights in Belarus, unrecognized by the Belarusian authorities, which were formed without getting acquainted with the real situation in the country and aimed at creating a political pretext to increase unjustified external pressure on Belarus.

Such stereotyped accusations distort the idea of the real situation in the country. A number of non-governmental organizations in Belarus have been deprived of registration for violations, strictly in accordance with the rule of law based on the current regulatory legal acts. At the same time, civil society is actively developing in Belarus in line with the ongoing constitutional reforms in the country, dozens of new public associations are emerging.

Despite a number of unfounded theses set out in the report, the Belarusian side expresses its readiness to continue cooperation with GRETA and the Executive Secretariat of the Convention, as well as with other international organizations, as well as with all interested parties to develop international cooperation in the field of combating human trafficking and other cross-border threats.

We believe it is important for Western countries to return to a mutually respectful, equal and constructive dialogue, as well as to review discriminatory approaches towards the Republic of Belarus, including the rejection of the practice of introducing unilateral coercive measures that are contrary to international law and expressed in massive political and economic pressure, as well as blocking by the European Union, the Council of Europe and other European partners of mutually beneficial cooperation project in the field of border protection, regulation of migration flows, and countering modern challenges in other areas. Such steps have a devastating impact, including on the capacity to jointly combat human trafficking. The rejection of the sanctions policy will help restore the effectiveness of interaction in this area, as well as in the fight against other relevant transnational threats.

Comments on the Report Paragraphs

Paragraph 6: *The visit took place during a period marked by the unprecedented arrival of tens of thousands of migrants to Belarus, raising concerns about heightened risks of human trafficking (see paragraphs 99-104). The GRETA delegation tried to collect relevant information, however, Belarusian officials, in particular representatives of the State Border Committee, failed to engage in a meaningful dialogue with GRETA (see paragraph 101).*

At the same time during the meeting held in 2021 the officers of the State Border Committee informed GRETA representatives of the reasoned position of the border service authorities regarding the issue of illegal transit migration, as well as its causes, possible consequences and associated risks.

The main reason for the migration crisis was the destructive foreign policy of the United States and the European Union towards the countries of origin, which led to the aggravation of the already difficult socio-economic situation in them, including the situation developing due to the restrictive measures taken by European countries to counter the pandemic (the impossibility of obtaining refugee status by migrants), and on the contrary the openness of the Republic of Belarus to visiting the country by foreigners for the purposes of tourism, business, education, treatment and vaccination.

Paragraph 19: *Throughout the summer and fall of 2021, tens of thousands of migrants, mainly from Iraq and Syria, but also from African and Asian countries, were lured into Belarus with false promises of easily crossing into the EU. Many of them remained stuck for prolonged periods of time on or near the borders with Poland, Lithuania and Latvia, without being able to claim asylum and have an assessment of their vulnerabilities. This unprecedented movement of migrants creates heightened risk of abuses, including trafficking in human beings (see paragraphs 100-105). All the information available leads GRETA to conclude that the Belarusian authorities have not only failed to prevent trafficking of foreign nationals through Belarus, but have actively encouraged it and in doing so, may have themselves contributed to trafficking in human beings.*

Our position is based on the fact that the Republic of Belarus is not a source of migration flows and does not lure foreigners into the country for the purpose of transit to the EU.

In 2021 in order to increase the tourist attractiveness of the Republic of Belarus the conditions for entry for the purpose of tourism were simplified for a number of citizens, including from the states of the Middle East, North and Central Africa. In this regard, tourism business entities, whose owners were often foreigners from these regions, stepped up their activities.

In addition, when applying for entry documents, foreigners stated that the purpose of their travel to the Republic of Belarus was exclusively tourism. The facts of their purchase of tourist vouchers, booking (with prepayment) of hotel accommodation confirmed their purpose of entry. However, some of these tourists attempted to leave the Republic of Belarus, ignoring the previously stated purpose of entering Belarus and migration legislation.

In this regard, measures were taken to tighten approaches to issuing entry visas at the request of travel companies for citizens of states from risk group in order to prevent destabilization of the crime situation in the Republic of Belarus, associated with an increase in the number of people who cannot leave the republic at the end of the established period of stay, as well as preventing the use of the territory of the Republic of Belarus for illegal migration to the EU countries.

As part of this work during the summer and autumn of 2021 more than 1,300 foreigners were brought to administrative responsibility for violations of migration laws, almost 1,000 of which were citizens of Iraq, 150 of Syria, 64 of Iran, and 51 of Nigeria.

Decisions on deportation were made on almost 4 thousand foreigners (on 377 of which in September-October 2021).

A significant part of this category of foreigners voluntarily left the territory of Belarus, returning to their homeland with the help of evacuation flights organized by the Government of Iraq, as well as the International Organization for Migration Office in the Republic of Belarus.

However, the information above was not taken into account when preparing the report.

Article 31 of the Law of the Republic of Belarus of June 23, 2008 No. 354 "On Granting Foreign Citizens and Stateless Persons Refugee Status, Subsidiary Protection, Asylum and Temporary Protection in the Republic of Belarus" (hereinafter referred to as the Law on Refugees), states that any foreigner who is on the territory of the Republic of Belarus has the right to apply for refugee status, subsidiary protection or asylum in the Republic of Belarus (hereinafter referred to as the application for protection) to the competent authority of the Republic of Belarus.

According to paragraph 8 of the Instruction on the status of a refugee, subsidiary protection or asylum in the Republic of Belarus, approved by the Decree of the Ministry of Internal Affairs of the Republic of Belarus of June 22, 2017 No.173 (hereinafter referred to as the Instruction on the status of a refugee), if a foreigner who has expressed a desire to apply for protection does not speak sufficiently any of the state languages of the Republic of Belarus, and there is no employee in the bodies accepting the application for protection who speaks a language understandable to this foreigner, these bodies ensure the provision of translation services to this foreigner.

Thus, any foreigner who is in the Republic of Belarus and who has expressed a desire to apply for protection can exercise his right to apply for protection and receive information in a language he understands.

Out of the people who arrived in the Republic of Belarus during the summer and autumn of 2021 and stayed for a long period of time at or near the borders with Poland, Lithuania and Latvia, 103 people applied for protection to the competent authorities of the Republic of Belarus.

Among them:

	Citizenship	Decision made on the application for protection	
		refused	terminated
1	Iraq, 30 people		30
2	Syria, 15 people	2	13
3	Nigeria, 11 people	7	4
4	Iran, 10 people	3	7
5	Afghanistan, 9 people		9
6	Yemen, 7 people		7
7	Cuba, 7 people	4	3
8	Guinea, 5 people	5	
9	Congo, 3 people	2	1
10	Pakistan, 2 people	1	1
11	Somalia, 2 people		2
12	Sudan, 1 person		1
13	Ethiopia, 1 person		1
		24	79

79 applications for protection were terminated due to the departure of foreign citizens from the territory of the Republic of Belarus.

Comments of the State Border Committee (paragraphs 19,100,102,104)

The report notes the arrival of a large number of migrants in the Republic of Belarus during 2021, who “lured into Belarus with false promises of easily crossing into the EU”.

In addition GRETA concludes that the Republic of Belarus not “only failed to prevent trafficking of foreign nationals through Belarus, but have actively encouraged it and in doing so, may have themselves contributed to trafficking in human beings”. At the same time, sources of information that could serve as a basis for formulating conclusions discrediting the Republic of Belarus are not given.

In 2021 the Republic of Belarus actively cooperated with both public and international organizations to resolve the so-called "migration crisis". These events were covered not only by state but also by international mass media.

Paragraph 25: *In its first report, GRETA noted that no systematic exchange of information took place between the two co-ordination mechanisms, led respectively by the Ministry of the Interior and the General Prosecutor's Office. GRETA considers that the Belarusian authorities should consolidate the co-ordination of anti-trafficking activities at national level by ensuring regular exchange of information between all public bodies involved in the prevention of THB, the identification and assistance to victims, and the prosecution of traffickers. The establishment of the post of National Co-ordinator on action against THB, supported by a dedicated office, would significantly strengthen co-ordination.*

In accordance with the requirements of the Convention Belarus has established coordination activities and a systematic exchange of information between all state bodies involved in the prevention of human trafficking.

The current system of state bodies and other organizations in the country makes it possible to effectively resolve issues related to the detection, disclosure and prevention of crimes of this category, as well as the punishment of those responsible and the provision of assistance to victims of human trafficking. The system of state bodies, other organizations with the consolidation of their functionality is defined in Chapter 2 of the Law on Combating Trafficking in Human Beings; at the same time, the coordination function in this area is implemented in accordance with Article 12 of the said Law by the Coordination Meetings on combating crime and corruption and the Ministry of Internal Affairs of the Republic of Belarus.

In addition, the Ministry of Internal Affairs of the Republic of Belarus has been identified as the responsible executor for the implementation of measures in the field of combating human trafficking and related crimes in the Program to Combat Crime and Corruption for 2020-2022.

The Main Department for Drug Control and Combating Trafficking in Human Beings of the Ministry of Internal Affairs draws attention to the fact that GRETA's conclusion that there is no systematic exchange of information with the Prosecutor General's Office on the issues of interaction and coordination with state bodies is unfounded. The Ministry of Internal Affairs systematically summarizes information about the facts of human trafficking, information about victims of human trafficking and provides the Prosecutor General's Office with detailed information on the measures taken in this direction. In addition, all interested state bodies take part in the annual meetings of the advisory council, where issues of interaction and assistance to victims of human trafficking are also discussed.

Paragraph 26: *GRETA considers that the Belarusian authorities should examine the possibility of establishing an independent National Rapporteur for monitoring the anti-trafficking activities of State institutions and making recommendations to persons and institutions concerned (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).*

The issue of the possibility of creating an independent National Rapporteur in order to monitor the activities of state institutions combating human trafficking and to make recommendations to the officials and institutions involved seems to be inappropriate for us, since in accordance with the Regulations on the activities of the Coordination Meeting on combating crime and corruption, approved by the Decree of the President of the Republic of Belarus dated 17 December 2007 No. 644, this Coordination Meeting is a permanent interdepartmental body for the coordination of law enforcement activities. In accordance with paragraph 9 of this Decree, the Coordination Meeting evaluates the effectiveness of the law enforcement activities of state bodies engaged in combating human trafficking.

Paragraphs 28, 33: *GRETA considers that the Belarusian authorities should adopt a separate national action plan to combat THB and commission an independent evaluation of the implementation of the anti-trafficking activities included in the Programme on Combating Crime and Corruption.*

In accordance with the Council of Europe Convention on Action against Trafficking in Human

Beings, Parties that have expressed their consent to be bound by the provisions of the Convention are obliged to take the measures provided for in this agreement, necessary to combat trafficking in human beings and protect the rights of victims of trafficking in human beings. At the same time the norms of the Convention do not provide for clearly defined requirements for the form, content and legal nature of the acts to be adopted for these purposes.

At the moment, the Prosecutor General's Office together with the Council of Ministers has prepared a draft comprehensive plan to combat crime and corruption for 2023-2025 which provides for measures to combat human trafficking, which, in our opinion, meet the current challenges and threats.

Paragraphs 41, 117: *41... GRETA considers that the Belarusian authorities should expand the range of professionals covered by training to include labour inspectors, social workers, health-care staff and educational professionals.*

117... It remains unclear if staff at these state institutions receive specific training to deal with victims of THB.

The issues of providing assistance to victims of domestic violence and human trafficking are included in advanced training programs, which are carried out on an ongoing basis on the basis of the state educational institution "Republican Institute for Advanced Studies and Retraining of Employees of the Ministry of Labour and Social Protection of the Republic of Belarus".

In the first half of 2022 125 specialists of labour, employment and social protection authorities, territorial centres of social services for the population underwent advanced training on these issues (206 in 2021, 79 in 2020).

Also trainings for specialists from labour, employment and social protection authorities, territorial centres of social services for the population on identifying, redirecting and reintegrating victims of human trafficking, including victims of labour exploitation were held by the Ministry of Labour and Social Protection jointly with the International Organization for Migration (IOM) in each region and the city of Minsk. In 2022 about 130 people took part in the trainings, in 2021 - more than 120 people.

Paragraph 45: *GRETA urges the Belarusian authorities to develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical data on presumed and identified victims of trafficking and measures to protect and promote their rights, on compensation claimed and awarded to victims, as well as on the investigation, prosecution and adjudication of human trafficking cases. Statistics regarding victims should be collected from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination.*

The statistical reports of the Investigative Committee and the Unified State Data Bank on Offenses contain information on the results of the investigation of criminal cases. The Republic of Belarus has developed and uses a unified statistical system that contains the necessary information about victims of human trafficking and related crimes. This system is universal and is used to accumulate, systematize and store information about committed crimes and other offenses. The legal basis for the formation of this system is the Law of the Republic of Belarus dated January 9, 2006 No. 94 (as amended on January 6, 2021) "On the Unified State System for Registration and Recording of Offenses", the Resolution of the Council of Ministers of the Republic of Belarus dated July 20, 2006 No. 909 (as amended on September 13, 2021) "On the functioning of the unified state system for registration and recording of offenses", the Resolution of the Ministry of Internal Affairs of the Republic of Belarus dated September 20, 2021 No. 266 "On establishing the application form for providing information about offenses" and other regulatory legal acts, which, among other things, have approved the forms of registration cards (on a committed offense (crime); on an individual who suffered as a result of a crime with details by age, gender, country of citizenship, crime committed, etc.), the procedure for providing information about offense (crime), etc. Maintaining the statistical reporting proposed by GRETA is considered by the Main Department for Drug Control and Combating Trafficking in Human Beings of the Ministry of Internal Affairs as problematic since the items indicated in it are personal information and their collection is systematized by various organizations not under the jurisdiction of the Ministry of Internal Affairs.

Paragraph 50: *GRETA notes with concern that no research has been conducted on THB for labour exploitation. GRETA considers that the Belarusian authorities should conduct and support further research on different aspects of THB, in particular trafficking for labour exploitation, trafficking of foreign nationals to Belarus, and the misuse of the Internet for the commission of THB, including through social networks.*

The Prosecutor General's Office systematically conducts inspections of the implementation of legislation on combating human trafficking, including while the prevention, detection and suppression of human trafficking and related crimes, during which the investigative practice in criminal cases of this category is analysed. When violations of the law are revealed, prosecutorial response measures are taken to eliminate and prevent them.

Paragraph 58: *GRETA considers that the Belarusian authorities should increase their efforts to raise awareness about human trafficking, targeting the general public as well as specific at-risk groups, and conduct impact assessments of awareness-raising campaigns.*

The Main Department for Drug Control and Combating Trafficking in Human Beings of the Ministry of Internal Affairs, together with state bodies and public associations involved within the framework of existing projects of material and technical assistance regularly conducts activities to raise awareness of people about the facts of human trafficking, focusing on all sectors of the Belarusian society. For the period from 2021 to the present we have not identified facts related to labour exploitation (Article 187 of the Criminal Code of the Republic of Belarus).

Paragraph 63: *The Ministry of Labour and Social Protection has been responsible for running a register of agencies recruiting foreign workers to work in Belarus since 2017. On 1 June 2020 there were 181 such registered agencies (108 legal entities and 73 individual entrepreneurs). In 2019 there were 20,862 registered foreign workers in Belarus, mainly from Russia (32%), China (20%) and Ukraine (14%). The biggest group were manual labourers (30%), followed by skilled workers (15%).*

The Ministry of Labour and Social Protection maintains a register of recruitment agencies, but such agencies do not employ foreign citizens in the Republic of Belarus.

As on 1 July 2022 the Register of Recruiting Agencies include and operate 215 agencies, of which 127 legal entities and 88 individual entrepreneurs.

Paragraphs 64, 67: *64... There is no specialised state body in Belarus that can proactively detect cases of THB for the purpose of labour exploitation among migrant workers.*

Information about mechanisms for protecting the rights of migrant workers is not readily available from the website of the Department of the State Labour Inspectorate.

67... GRETA urges the Belarusian authorities to strengthen their efforts to prevent trafficking for the purpose of labour exploitation, in particular by including the prevention and detection of THB for the purpose of labour exploitation in the mandate of the Department of the State Labour Inspectorate.

In accordance with the Regulations on the Department of State Labour Inspection of the Ministry of Labour and Social Protection of the Republic of Belarus, approved by the Decree of the Council of Ministers of the Republic of Belarus dated July 29, 2006 № 959, the Department of State Labour Inspection (hereinafter referred to as the Department) is a structural subdivision of the central office of the Ministry of Labour and Social protection of the Republic of Belarus (with the rights of a legal entity), endowed with state-power powers and exercising supervision over compliance with labor legislation and labour protection.

Thus, the Department was created and carries out its activities to implement absolutely specific tasks in the sphere of labour :

- supervision over compliance with labour and labour protection legislation;
- detection and suppression of violations of labour legislation and labour protection.

In its activities, the Department interacts with controlling (supervisory) bodies, republican government bodies, other state organizations subordinate to the Government of the Republic of Belarus, local executive and administrative bodies, the Investigative Committee, the State Committee for Forensic Examinations, prosecutors, trade unions.

At the same time, the organizational and legal framework for countering trafficking in human beings are determined by the Law of the Republic of Belarus "On Combating Trafficking in Human Beings".

For reference.

In accordance with the Law «countering trafficking in human beings» is defined as the activities of state bodies, other organizations, including international and foreign organizations, to prevent, detect, suppress trafficking in human beings and related crimes, protection and rehabilitation of victims of trafficking people, as well as people who could have suffered by trafficking in human beings or related crimes.

Crimes related to human trafficking are the use of prostitution or the creation of conditions for prostitution; involvement in prostitution or coercion to continue prostitution; use of slave labour; kidnapping; illegal actions aimed at employment of persons abroad; production and distribution of pornographic materials or objects of a pornographic nature with the image of a minor.

In accordance with the abovementioned Law state bodies engaged in combating human trafficking are:

- internal affairs bodies of the Republic of Belarus;
- state security bodies of the Republic of Belarus;
- border service bodies of the Republic of Belarus;
- prosecutor's office bodies of the Republic of Belarus;
- Investigative committee.

Thus, internal affairs, state security and border service bodies in the field of combating human trafficking, within their competence prevent, detect and suppress human trafficking and related crimes, take preventive measures aimed at identifying and eliminating the causes and conditions conducive for committing human trafficking and related crimes, as well as exercise other powers in accordance with the law.

Bodies of the prosecutor's office upon detection of violations of anti-trafficking legislation, as well as upon receipt from state bodies engaged in combating human trafficking, other organizations and persons of information about such facts issue a binding order to eliminate such facts or suspend the activities of organizations and submit an application to the Supreme Court of the Republic of Belarus for recognition of organizations as involved in human trafficking, the prohibition of their activities on the territory of the Republic of Belarus and the liquidation of such organizations registered on the territory of the Republic of Belarus, or on the termination of the activities of representative offices of such foreign or international organizations located on the territory of the Republic of Belarus, as well as carry out criminal prosecution of persons who have committed human trafficking or related crimes, and performs other powers in accordance with the law.

The Investigative Committee in accordance with legislation carries out criminal prosecution of persons who have committed human trafficking or related crimes.

The Ministry of Labor and Social Protection, the Ministry of Education, the Ministry of Health, within their competence, organize work on the social protection and rehabilitation of victims of trafficking people.

So the distribution of powers and competences of state bodies dealing with combating trafficking in human beings and rehabilitating its victims fixed by the Law **seems reasonable and optimal**.

In accordance with Article 3 of the Labour Code of the Republic of Belarus, the code applies to all employees and employers who have concluded an employment contract on the territory of the Republic

of Belarus.

Thus, in the case of the conclusion of an employment contract by a migrant worker on the territory of the Republic of Belarus, the norms of the labour legislation of the Republic of Belarus will be applied to him.

Supervision over compliance with labour legislation and labour protection is carried out both in relation to employees - citizens of the Republic of Belarus, and in relation to employees - foreign citizens and stateless persons.

Information on the protection of the rights of all employees is available on the website of the Department of State Labour Inspection (www.git.gov.by) and in the telegram channel (t.me/DGITBelarus).

Paragraph 67 point 3: *strengthening the supervision of recruitment agencies and reviewing the legislative framework for any loopholes that may limit protection or preventive measures;*

Control over legal entities and individual entrepreneurs who are engaged in activities related to employment outside the Republic of Belarus and who have violated the legislation of the Republic of Belarus, including in terms of protecting the rights of migrant workers, is carried out in accordance with the requirements of the Decree of the President of the Republic of Belarus dated October 16, 2009 № 510 «On the improvement of control (supervisory) activities in the Republic of Belarus».

In order to ensure the protection by the Republic of Belarus of the rights, freedoms and legitimate interests of citizens and foreigners permanently residing in the Republic of Belarus, independently traveling outside its borders for employment and work, these citizens and foreigners have the right to notify the citizenship and migration department at place of residence or place of stay on the fact of leaving the Republic of Belarus for employment and work before leaving the counter, and in case of concluding an employment contract in the Republic of Belarus before leaving to the State of employment, submit a copy of the employment contract concluded with a foreign employer.

In order to improve and raise the level of awareness of migrant workers, standards have been developed taking into account the evaluation of the effectiveness of previous measures, as well as emerging trends and needs identified. Such norms are spelled out in the new draft law «On External Labor Migration» where information on safe travel outside the Republic of Belarus for employment and work will be implemented as follows:

Legal entities and individual entrepreneurs carrying out activities related to employment outside the Republic of Belarus, prior to the departure from the Republic of Belarus of emigrant workers, being employed or already employed outside the Republic of Belarus with their assistance, are obliged to inform them free of charge and in writing:

on the provisions of the legislation of the Republic of Belarus on external labour migration, on the procedure for leaving the Republic of Belarus and entering the Republic of Belarus;

on the provisions of the legislation of the state of employment in the field of external labour migration;

on the location and telephone numbers of the Citizenship and Migration Department of the Ministry of Interior, citizenship and migration units;

on the location and telephone numbers of diplomatic missions or consular offices of the Republic of Belarus in the state of employment (if any) or the relevant bodies of other states that protect the rights, freedoms and legitimate interests of emigrant workers in the event that there are no diplomatic missions and consular offices of the Republic of Belarus in the state of employment;

on international organizations protecting the rights, freedoms and legitimate interests of emigrant workers.

In addition, the procedure for activities and the mechanism of control over legal entities providing services, including employment abroad, is determined by the Decree of the Ministry of Internal Affairs of the Republic of Belarus dated November 30, 2010 № 388 «On the procedure for assessing the conformity of the capabilities of an applicant for a special permit (license) (licensee) with the licensing requirements and conditions established for activities related to employment outside the Republic of Belarus, collection and dissemination (including on the global computer network Internet) of information about individuals for the purpose of dating».

Paragraph 67 point 4: *raising awareness amongst migrant workers regarding the risks of THB for the purpose of labour exploitation and provide effective access to confidential complaint mechanisms for protecting their rights;*

The state migration policy of the Republic of Belarus is aimed at observing state interests, deepening integration processes in the international labour market, improving the regulation of export and import of labour.

To implement the tasks set in the Republic migration legislation has been fully formed, which includes the laws “On external labour migration”, “On refugees”, “On the legal status of foreign persons and stateless persons in the Republic of Belarus”, “On the procedure for leaving the Republic of Belarus and entry into the Republic of Belarus of citizens of the Republic of Belarus”.

These documents ensure the rights of migrant workers, protection of the national labour market from an uncontrolled influx of foreign labour, a system of measures to support state and commercial structures seeking to independently enter the global labour market.

The legislation of the Republic of Belarus regulating external labour migration provides for the protection of the rights of migrant workers both entering the territory of the Republic of Belarus and those leaving abroad to engage in labour activities.

In order to protect the interests of the Republic of Belarus in the international labour market and effectively protect the rights of its citizens working abroad, to organize counteraction to illegal employment of Belarusian citizens abroad, agreements on temporary employment and social protection of citizens working outside their states are concluded.

Intergovernmental agreements in this area are concluded mainly with the countries that are members of the Commonwealth of Independent States (CIS), namely: with the Russian Federation, the Republic of Moldova, Ukraine, the Republic of Kazakhstan, the Republic of Armenia, the Republic of Azerbaijan. Similar agreements have been concluded with the Republic of Lithuania, the Republic of Poland, the Socialist Republic of Vietnam and the Republic of Serbia.

The agreements ensure observance of the rights and legitimate interests of migrant workers, equality of remuneration for their work with citizens of the state of employment, payment of benefits and compensations in case of early termination of an employment agreement (contract), as well as in case of injury, occupational disease or other damage to health associated with the performance labour duties. The agreements regulate the terms and conditions of state insurance, medical care, travel expenses, as well as measures to regulate the import and export of personal property, tools and equipment, the payment of taxes and the transfer of funds.

The Ministry of Internal Affairs continues to work on conducting active information work to inform citizens about safe employment abroad in order to prevent cases of labour exploitation:

- relevant articles are published in mass media, participation in thematic TV-programs is taken;
- leaflets about safe employment of citizens abroad are updated and subsequently distributed at the information stands of auto/railway stations and airports of the Republic, territorial divisions for citizenship and migration, employment centres, housing and communal services of districts, village

councils, institutions of secondary and higher education, tourism organizations, diplomatic missions and consular offices Republic of Belarus abroad, etc.;

- quarterly newspapers and the website of the Ministry of Internal Affairs of the Republic of Belarus update information about licensees, as well as about the protection of the rights of migrant workers;
- the Citizenship and Migration Department continues to operate a “hot line” for safe employment abroad;
- information about the functioning of the Department's "hot line" is posted on the territory of the Republic, including in Minsk, outdoor advertising stands, information stands of citizenship and migration units.

As for cooperation with countries where the Belarusian citizens are more often exploited, it should be noted that the most popular countries for Belarusians to go for work are traditionally the Russian Federation, the Republic of Poland, the Republic of Lithuania, as well as the Czech Republic, China, the UAE, etc.

In order to protect the rights of citizens of the Republic of Belarus working in these and other countries, to exclude the facts of their labour exploitation, the Ministry of Internal Affairs, with the assistance of the Ministry of Foreign Affairs of the Republic of Belarus, through the embassies of the Republic of Belarus, interacts with foreign competent authorities.

Cooperation with Russia on this issue is carried out both directly with the Ministry of Internal Affairs of Russia and within the framework:

of the Union State: meetings of the Interstate Interdepartmental Working Group are held regularly, a draft Concept of Migration Policy is currently being developed, which implies coordination of activities and interaction between the Ministry of Internal Affairs of the Russian Federation and the Ministry of Internal Affairs of the Republic of Belarus, including on issues of ensuring the protection of the rights of citizens in the field of labour and employment and increasing control over labour migration and combating illegal labour activity;

of the Eurasian Economic Union: meetings of the Consultative Committee on Migration Policy are held;

of the CIS: meetings of the Council of Heads of Migration Authorities and other specialized bodies are held.

The parties may also initiate working meetings if necessary.

The Memorandum of understanding with the UAE on the employment of Belarusian citizens in this country is being prepared for signing, which will minimize the risks of labour exploitation of Belarusians by Emirati employers by establishing clear rules for sending Belarusian workers to the UAE, carrying out their labour activities and returning to the Republic of Belarus under the control of the relevant state bodies of the Republic of Belarus and UAE.

Moreover the Decree of the Council of Ministers of the Republic of Belarus dated December 30, 2020 № 793 approved the «National Action Plan for Ensuring Gender Equality in the Republic of Belarus for 2021-2025». Paragraph 61 of Section V "Information and Educational Support for Measures Aimed at Ensuring Gender Equality" of the Plan provides for activities aimed at raising persons' awareness of safe migration issues, including through the use of a "hot line" on safe travel abroad.

Paragraph 79 point 1: *GRETA urges the authorities to strengthen their efforts, in particular by: developing programmes to reduce the vulnerability to THB of children, in particular children placed in or leaving child-care institutions, children from rural areas and children in Roma communities;*

Comments of the Prosecutor General's Office

The development of a separate program to reduce the vulnerability of children to human trafficking is not advisable.

In order to reduce the vulnerability of children to human trafficking, the relevant measures of the Program to Combat Crime and Corruption for 2020-2022, as well as the Plan of Organizational, Analytical, Practical and Other Measures for the Protection of Minors from Sexual Violence and Exploitation for 2020-2022, approved by the First Deputy Prime Minister of the Republic of Belarus on 01/28/2020, are implemented.

Comments of the Ministry of Education

The legal regulation of issues of post-boarding support for graduates of children's boarding schools has been carried out. In the course of implementing the norms of the Decree of the Council of Ministers of the Republic of Belarus dated May 31, 2013 No. 433, measures are being taken to ensure the rights of graduates from among orphans and children left without parental care to housing, to receive the first job in their profession, to material, socio-pedagogical support, psychological and legal assistance. A prerequisite for the arrival of graduates of children's boarding schools to places of independent residence is the transfer of information about them from the educational institutions in which they studied to the territorial centers of social services for the population for further support.

Paragraph 79 point 3: *GRETA urges the authorities to strengthen their efforts, in particular by: developing a legislative framework to deal with children in migration situations, including unaccompanied and separated children.*

Comments of the Prosecutor General's Office

The proposal to develop a legislative framework to deal with the problems of children in migration situations, including unaccompanied and separated children, is unfounded.

Measures aimed at their protection are sufficiently regulated by the Law of the Republic of Belarus dated May 31, 2003 No. 200 "On the fundamentals of the system for the prevention of neglect and juvenile delinquency", the Law of the Republic of Belarus dated December 21, 2005 No. 73 "On guarantees for the social protection of orphans, children left without parental care, as well as persons from among orphans and children left without parental care", as well as Decree of the President of the Republic of Belarus dated November 24, 2006 No. 18 "On additional measures for the state protection of children in dysfunctional families".

Comments of the Ministry of **Internal** Affairs

Regarding forced migration, there is a number of regulatory legal acts in the Republic of that are being effectively implemented, allowing to carry out the necessary procedures in cases of detection on the territory of the Republic of Belarus of foreigners under the age of eighteen who have not acquired legal capacity in full in accordance with the legislation of the Republic of Belarus and have arrived to the Republic of Belarus without being accompanied by legal representatives (hereinafter referred to as unaccompanied minor foreigners) who have expressed a desire to apply for protection.

The Law on Refugees defines the relevant powers of state bodies when working with unaccompanied minor foreigners, the procedure for applying for the protection of this category of foreigners, as well as the rights of foreign children to receive preschool, general secondary and special education and medical care on an equal basis with minor citizens of the Republic of Belarus.

The Instruction on Refugee Status establishes the procedure for the actions of the internal affairs bodies and the border service bodies in the event of the discovery of an unaccompanied minor foreigner, as well as the interaction of these bodies with custody and guardianship authorities.

The regulation on the procedure for organizing work on the establishment and implementation of custody (guardianship) over minor children, approved by the Resolution of the Council of Ministers of the Republic of Belarus dated May 20, 2006 No. 637, defines the features of the procedure for establishing and implementing custody (guardianship) over unaccompanied minor foreigners.

Thus in the Republic of Belarus there is a legislative base regarding forced migration, concerning the solution of the problems of unaccompanied and separated children.

Comments of the Ministry of Education

In order to protect the rights and legitimate interests of minor children left on the territory of foreign states without legal representatives, as well as children of foreign citizens who are on the territory of the Republic of Belarus, the following have been approved and are being implemented in practice:

an algorithm for protecting the rights and legitimate interests of a minor citizen of the Republic of Belarus left on the territory of a foreign state without a legal representative;

an algorithm for protecting the rights and legitimate interests of a minor who is a foreign citizen or a stateless person left on the territory of the Republic of Belarus without a legal representative.

As a part of the existing algorithms in 2022 measures were taken to protect the rights and legitimate interests of 19 minors. 10 children who are Belarusian citizens were repatriated to the Republic of Belarus; 9 children who are foreign citizens were transferred to the countries of citizenship.

Paragraph 80: *GRETA considers that the Belarusian authorities should continue sensitising teachers, social workers, staff of child protection institutions, health care professionals and legal guardians to the risks of THB and how to prevent trafficking in children, and consult NGOs when developing programmes and legislation in this respect.*

Comments of the Ministry of **Internal** Affairs

The Ministry of Internal Affairs in cooperation with interested state bodies regularly conducts appropriate preventive measures to raise the awareness of teachers, social workers, medical workers and legal guardians about the risks of human trafficking and measures to prevent them.

Comments of the Ministry of Education

Educational institutions of the country carry out information and explanatory work with all participants of the educational process (students, parents, teachers) on combating human trafficking, illegal migration, child pornography and prostitution, as well as safe travel abroad.

Leaflets "Rules for safe travel abroad for the purpose of employment" and hotline telephone numbers are placed on the information stands.

The information and classroom hours deal with the issues of the legal status of foreigners in the Republic of Belarus, the procedure for the departure of minor citizens of the Republic of Belarus abroad on the basis of the Law of the Republic of Belarus dated September 20, 2009 No. 49 "On the procedure for leaving the Republic of Belarus and entering the Republic of Belarus of citizens of the Republic of Belarus" with amendments and additions, talks, trainings on the topics: "Safe travel abroad", "Counteraction to the recruitment of people"; "Working abroad: search and your rights", etc. are held.

In the classes on the subject "Social Science", students of grade 11 consider the rights and obligations of citizens, the system of international relations, and the problems of interaction between countries and peoples.

According to the schedule of the days of legal knowledge and a healthy lifestyle, meetings are held in educational institutions with the participation of representatives of law enforcement agencies and the prosecutor's office. During the meetings students are explained the issues of safe travel abroad and the legal status of foreigners in the Republic of Belarus.

Educational institutions, together with representatives of the Belarusian Red Cross Society, organize seminars in the field of combating human trafficking.

Paragraph 82:

Financial support for the needy and disadvantaged in a difficult life situation families (people) is carried out through the state targeted social assistance in the framework of the implementation of the Decree of the President of the Republic of Belarus dated January 19, 2012 No. 41 "On the State Targeted Social Assistance".

The provision of four types of social payments in the system of state targeted social assistance makes it possible to maintain the income of low-income people at the level of the subsistence minimum budget, provide high-quality balanced nutrition for children up to two years of age, and also provide significant material support to the disabled for the purchase of necessary hygiene items.

In 2021 the coverage of the system amounted to more than 282 thousand recipients in the amount of about 123 million rubles.

In 2021 labour, employment and social protection agencies provided assistance in finding employment to 14 thousand women or 33 percent of the total number of unemployed, in the first half of 2022 year to 6.3 thousand women.

Paragraph 85: *GRETA considers that the Belarusian authorities should take further measures to strengthen the prevention of THB through social, economic and other measures for groups vulnerable to THB. Further efforts should be made to promote gender equality, combat gender-based violence, including domestic violence, and stereotypes.*

In the Republic of Belarus activities to ensure equal rights for men and women are carried out through the implementation of the National Plans for Ensuring Gender Equality. Currently, the sixth National Plan is being implemented (approved by the Resolution of the Council of Ministers of the Republic of Belarus dated December 30, 2020 No. 793).

The National Plan contains special sections "Combating Domestic Violence and Human Trafficking" (includes measures to improve legislation in the field of preventing domestic violence, strengthen the capacity of the referral mechanism for victims of human trafficking, improve the skills of various categories of specialists on prevention and combating gender-based violence, and others) and "Information and educational support of measures aimed at ensuring gender equality" (includes activities to raise awareness of citizens on gender equality and its impact on the life of society).

The activities of the National Plan are aimed at developing mechanisms for ensuring gender equality by introducing elements of gender analysis in the development of legislation and the formation of state programs, improving gender statistics, ensuring an integrated approach to organizing work to prevent domestic violence and provide assistance to victims.

In addition the Law of the Republic of Belarus of January 6, 2022 No. No. 151 "On Amending Laws on Crime Prevention" which entered into force on July 12, 2022 amends a range of laws including the Law of the Republic of Belarus of January 4, 2014 No. 122 "On the Basics of Crime Prevention Activities ". In particular:

the term "violence in family" has been replaced by the term "domestic violence", close relatives, former spouses, people who have a common child (children), or other people who live (have lived) together and lead (led) a common household. Also explanations are given about what should be understood as actions of a psychological, sexual, physical nature;

the basic principles of the activities of the subjects of crime prevention are supplemented by such principles as the preservation of traditional family values, respect for private life, the inadmissibility of considering customs, beliefs, traditions as an excuse for offenses, the priority of preventive measures over measures of responsibility;

the functions of the subjects of prevention of domestic violence and the order of their interaction are specified;

provisions are fixed on the provision of psychological assistance not only to the victim, but also to the people who committed domestic violence. Thus a new measure of individual crime prevention is being introduced - a correctional program (a set of measures to provide psychological assistance to a person who has committed domestic violence, aimed at correcting (adjusting) the behavior of a person, developing non-violent communication skills in him, preventing the recurrence of domestic violence);

the procedure for issuing a protective order has been changed. Previously, the issuance of a protective order had to be preceded by bringing the person who committed domestic violence to administrative responsibility. In addition, this person should have been registered on a preventive basis. After the amendments entered into force, the order of protection can be applied at an earlier stage (when preparing for the consideration of a case on an administrative offense, conducting an audit in accordance with the requirements of the criminal procedural legislation, and also after initiating a relevant criminal case). That is, the very fact of domestic violence will be the basis for issuing a protective order;

it is envisaged to maintain a register of information on the facts of domestic violence (a state information system designed to collect, process, register, accumulate, store and use information on the facts of domestic violence);

the rights of victims of domestic violence and other offences are set out. Thus these persons regardless of registration at the place of residence and giving consent to the transfer of information about domestic violence, have the right to receive:

- protection and prompt response in all cases of offenses committed against them;
- complete and comprehensive information on the types of assistance provided within the competence of state bodies and other organizations;
- free psychological assistance, social services in the form of urgent social services, including temporary shelter services;
- free medical, legal assistance;
- access to education, including minor children living with them.

At the same time, it is determined that the rights of minors victims of domestic violence and other offenses are protected taking into account the interests of the child, his age, gender, state of health, intellectual and physical development.

Paragraph 122: *GRETA urges the Belarusian authorities to comply with their obligations under Article 12 of the Convention and to ensure that all presumed and identified victims of trafficking receive adequate assistance and support, according to their needs.*

In order to fulfil international obligations in the field of protection of victims of human trafficking, including in the context of the provisions of Article 12 of the Council of Europe Convention on Combating Trafficking in Human Beings, a number of measures have been taken in the Republic of Belarus which are implemented on the basis of the provisions of the Law of the Republic of Belarus dated January 7, 2012 No. 350 "On Combating Trafficking in Human Beings", Resolutions of the Council of Ministers of the Republic of Belarus dated June 11, 2015 No. 485 "On the Identification of Victims of Trafficking in Human" and dated January 21, 2016 No. 44 "On the Procedure for Applying Security Measures in Respect of Protected Persons", Decree of the Ministry of Health of the Republic of Belarus dated April 28, 2012 No. 41 "On establishing a list of necessary medical services provided by state healthcare organizations, including in stationary conditions, to victims of human trafficking, regardless of their place of permanent residence" and other legislative acts.

According to the legislation of the Republic of Belarus, people who have suffered from human trafficking or related crimes have the right to:

ensuring security (Article 19 of the Law of the Republic of Belarus "On Combating Trafficking in

Human Beings”; measures are applied in the manner established by the Criminal Procedure Code of the Republic of Belarus (Chapter 8), Resolution of the Council of Ministers of the Republic of Belarus dated January 21, 2016 No. 44 “On the procedure for applying security measures in relation to protected persons”, and are implemented by the internal affairs bodies, state security bodies, border service bodies, prosecutor’s offices, subdivisions of the Investigative Committee of the Republic of Belarus);

social protection and rehabilitation (Article 20 of the Law of the Republic of Belarus “On Combating Trafficking in Human Beings”; these measures are applied by labour, employment and social protection authorities, state healthcare organizations (for example, Resolution of the Ministry of Health of the Republic of Belarus dated April 28, 2012 No. 41 “On establishing a list of necessary medical services provided by state healthcare organizations, including in stationary conditions, to victims of human trafficking, regardless of their place of permanent residence”), educational institutions, etc.);

suspension of expulsion and deportation (Article 22 of the Law of the Republic of Belarus “On Combating Trafficking in Human Beings”; expulsion measures are applied by internal affairs bodies and state security agencies (Article 65 of the Law of the Republic of Belarus dated January 4, 2010 No. 105 “On the legal status of foreign citizens and stateless persons in the Republic of Belarus”), deportation measures are applied by internal affairs bodies, border service bodies (in particular, paragraph 2 of the Regulations on the procedure for the deportation of foreign citizens and stateless persons, approved by the Resolution of the Council of Ministers of the Republic of Belarus dated March 15, 2007 No. No. 333));

provision by diplomatic missions and consular offices of the Republic of Belarus of assistance to citizens who could have suffered outside the Republic of Belarus from human trafficking or related crimes, as well as to Belarusian citizens who were recognized abroad by competent authorities as victims of human trafficking (Article 23 of the Law of the Republic of Belarus “On combating trafficking in human beings”).

In the Republic of Belarus protection and rehabilitation of victims of human trafficking are carried out free of charge and include: provision of temporary shelter; medical care; psychological help; identification of families of underage victims of human trafficking or their placement in other families, boarding schools for children; employment assistance.

The types of social services that can be provided by state organizations (their structural divisions) are enshrined in the Law of the Republic of Belarus dated May 22, 2000 No. 395 “On Social Services”.

According to part 2 of article 28 of the Law of the Republic of Belarus dated December 30, 2011 No. 334 “On advocacy and advocate activity in the Republic of Belarus”, legal assistance on the issues of social protection and rehabilitation to the victims of human trafficking and if they are under the age of fourteen to their legal representatives is provided at the expense of the republican budget.

Paragraph 135: *GRETA urges the Belarusian authorities to take further steps to ensure respect for the confidentiality of personal data of victims of trafficking at all stages of processing of such data. The authorities should sensitise responsible officials of local state administrations, teachers, social workers, doctors and other health professionals to the observance of the confidentiality of victims’ personal data.*

On May 7, 2021 the Republic of Belarus adopted the Law No. 99 “On the Protection of Personal Data” aimed at ensuring the protection of personal data, the rights and freedoms of individuals when processing their personal data.

According to the Article 19 of the Law persons guilty of violating the Law bear the responsibility provided for by legislative acts. Moral damage caused to the subject of personal data as a result of violation of his rights established by the Law is subject to compensation. Compensation for moral damage is carried out regardless of compensation for property damage and losses incurred by the subject of personal data.

Administrative liability for violation of legislation on the protection of personal data is established by Article 23.7 of the Code of the Republic of Belarus on Administrative Offenses. In June 2021 the

Criminal Code was supplemented with articles 203-1 and 203-2 establishing criminal liability for non-compliance with measures to ensure the protection of personal data.

Clause 1.2-1 of the Law of the Republic of Belarus "On the Mass Media" prohibits the dissemination of information about a minor who has suffered as a result of unlawful acts. Also, the rules for the protection of personal data of children are contained in Article 66 of Chapter 8 of the Code of Criminal Procedure and Chapter 7 of the Law of the Republic of Belarus "On Information, Informatization and Information Protection".

Paragraph 140 : *GRETA considers that the Belarusian authorities should, in addition, include the recovery and reflection period in the Law on Combating THB, explicitly stating its purpose, and stipulating that during this period, expulsion orders cannot be enforced.*

The Main Department for Drug Control and Combating Trafficking in Human Beings of the Ministry of Internal Affairs finds the norms contained in the Law of the Republic of Belarus "On Combating Trafficking in Human Beings" and the Decree of the Council of Ministers of the Republic of Belarus "On the Identification of Victims of Trafficking in Human Beings" complete and corresponding to a 30-day period for reflection and restoration. The specified period is sufficient for the person affected by exploitation to make all the necessary decisions.

Paragraph 144: *GRETA considers that the Belarusian authorities should take additional steps to ensure that victims of trafficking can effectively benefit from the right to obtain a renewable residence permit, as specified in Article 14 of the Convention, without prejudice to the right to seek and enjoy asylum, and that child victims of trafficking, when legally necessary, are issued with renewable residence permits in accordance with the best interests of the child.*

In this regard, we would like to clarify that the Council of Europe Convention on Combating Trafficking in Human Beings (the Convention) does not define the legal status of victims of THB, who are issued a prolongable (renewable) residence permit and imply their temporary residence.

At the same time in accordance with the legislation of the Republic of Belarus, a residence permit is issued to foreign citizens and stateless persons permanently residing in Belarus.

Thus, the requirements of Article 14 of the Convention on the issuance of an extended (renewable) residence permit to victims of THB are fulfilled by the Republic of Belarus by issuing a temporary residence permit in the Republic of Belarus in the case when, in the opinion of the competent authority, the stay of victims of THB is necessary in connection with their cooperation with the competent authorities for the purpose of conducting an investigation or criminal proceedings (Part 3 of Article 48 of the Law of the Republic of Belarus "On the legal status of foreign citizens and stateless persons in the Republic of Belarus"). If necessary such a permit can be issued more than once which in fact provides a condition for issuing a renewable residence permit.

Article 31 of the Law on Refugees establishes that any foreigner who is on the territory of the Republic of Belarus has the right to apply for protection to the competent authority of the Republic of Belarus. There are no restrictions on filing a petition for protection by the named legislative act.

Paragraph 153: *GRETA urges the Belarusian authorities to take additional measures to facilitate and guarantee access to compensation for victims of trafficking.*

Since by virtue of the Law on Combating Trafficking in Human Beings, the provisions of the criminal and criminal procedure legislation, it is determined that the victims of human trafficking are victims of the relevant crimes, the issues of compensation for damage to such persons are resolved within the framework of the preliminary investigation and judicial investigation.

In accordance with the requirements of Chapter 17 of the Criminal Procedure Code an individual who has suffered harm from a crime has the right to bring a civil claim against the accused or against persons who are financially responsible for his actions from the moment a criminal case is initiated until

the end of the judicial investigation. The plaintiff when filing a civil claim in a criminal proceeding is exempt from state duty. A civil claim may be filed both in writing and orally. At the same time, the failure to identify the person to be brought as an accused does not prevent the person from being recognized as a civil plaintiff in criminal proceedings. A person who has not filed a civil claim in criminal proceedings, as well as a person whose claim has been left without consideration by the court, has the right to file it in civil proceedings.

In this regard the legislation adequately regulates the procedure for judicial protection in case of causing harm to victims of trafficking in human beings, there is no need to revise it, and the statement that the wording of Articles 20 and 29 of the Law is unclear is unfounded.

In addition Article 20 of the Law on Combating THB defines other compensatory measures of a material nature in addition to the possibility of compensation for harm. In particular it provides for the provision of temporary places of residence, including sleeping places and meals to victims of human trafficking; the provision of legal assistance, including free legal assistance provided by bar associations; medical assistance provided by public health organizations in the form of necessary medical services, including in hospitals, regardless of the place of permanent residence of the victim of human trafficking.

Paragraph 156: *GRETA welcomes the signing of the memorandum between the Belarusian authorities and the IOM Office in Belarus and invites the Belarusian authorities to ensure that the return of victims of THB is conducted with due regard to their rights, safety and dignity, is preferably voluntary, complies with the obligation of non-refoulement and the right to seek and enjoy asylum, and in the case of children, fully respects the principle of the best interests of the child. In this context, the authorities should continue to develop co-operation with countries of origin of victims in order to ensure comprehensive risk and security assessment (Article 16(7) of the Convention) and safe return of the victims, as well as their effective reintegration on return. Full consideration should be given to UNHCR's guidelines on the application of the Refugees Convention to trafficked persons and those at risk of being trafficked⁵⁰ and GRETA's Guidance Note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection.*

Article 31 of the Law on Refugees establishes that any foreigner who is on the territory of the Republic of Belarus has the right to apply for protection to the competent authority of the Republic of Belarus. There are no restrictions on filing an application for protection by the given legislative act.

Paragraphs 161-164: *GRETA urges the Belarusian authorities to align the national definition of THB to that in the Convention by:*

- *including the concept of "abuse of a position of vulnerability" as one of the means for committing trafficking in human beings;*
- *removing the requirement of prior knowledge that the person is a child from Articles 181(2)9 and 181(3) of the Criminal Code and fully aligning the domestic law with the provisions of the Convention as regards trafficking in children (i.e. all persons under the age of 18).*

Comments of the Supreme Court

We believe that the "vulnerability of the situation" is an element of the victim's dependence on traffickers and one of the conditions that allow him\her to be exploited. This position of the victim in practice is taken into account when qualifying the deed as human trafficking.

In addition, in accordance with clauses 2 and 6 of part 1 of article 64 of the Criminal Code, aggravating circumstances are the commission of a crime against a knowingly minor, elderly person, a person who is in a helpless state, material, official or other dependence on the perpetrator.

In connection with the foregoing, we believe that the inclusion of the term "use of a vulnerable position" as one of the means of influence in the commission of human trafficking is inappropriate.

Committing a crime under Article 181 of the Criminal Code against obviously minors (under 18 years old) and minors (under 14 years old) entails criminal liability in accordance with paragraph 9 of part 2 and part 3 of this article (respectively). The presence of any of the qualifying signs of an act, by virtue of the provisions of Article 89 of the Code of Criminal Procedure, is included in the subject of proof in a criminal case.

The footnote to article 181 of the Criminal Code contains the wording «if, for reasons beyond his control, he cannot refuse to perform work (services)», which is essentially similar to the term «exploitation of a vulnerable position» proposed by GRETA.

According to the provisions of Part 5 of Article 3 of the Criminal Code, a person is subject to criminal liability only for those socially dangerous actions (inaction) committed by him and the socially dangerous consequences that have occurred, provided for by the Criminal Code, in respect of which his guilt, that is, intent or negligence, has been established. Criminal liability for innocent infliction of harm is not allowed.

Accordingly, the qualification of actions under part 2 or part 3 of article 181 of the Criminal Code is possible only if the perpetrator's knowledge of the victim's age is proved.

This follows only from the deliberate nature of the actions of the perpetrator, which can be recognized as human trafficking. Otherwise, "objective imputation" may take place, which is contrary to the principles, including international ones, of criminal law.

In our opinion, the approach of the legislator in this part does not contradict the Convention.

Thus, we believe that the exclusion of these provisions from the Criminal Code would be contrary to the fundamental principles of the criminal legislation of the Republic of Belarus. The GRETA recommendation does not take these principles into account.

We also believe that the removing "prior knowledge that this person is a child" from the disposition of parts 2, 3 of Art. 181 of the Criminal Code is contrary to the provisions of Art. 18 of the Convention, according to which acts should be recognized as criminally punishable in cases where they are committed intentionally.

GRETA also considers that the Belarusian authorities should:

- expressly state in the Criminal Code that consent on the part of a trafficking victim is irrelevant where any abusive means have been used;*
- conduct a thorough assessment of the effectiveness of the criminal law provisions concerning THB and related offences, with a view to clarifying the differences between trafficking offences and offences relating to organising or facilitating prostitution, on the one hand, and between trafficking and illegal acts to send people for work abroad, on the other hand.*

The absence in the content of Article 181 of the Criminal Code of a separate consolidation of the principle that the consent of the victim to intentional exploitation is not taken into account if any of the means of influence was used does not mean that this principle of the Convention is not accepted by the criminal law of the Republic of Belarus.

The note to article 181 of the Criminal Code reveals the content of exploitation, which is understood as «... illegal coercion of a person ... if, for reasons beyond his\her control, he\she cannot refuse to perform work (services) ...». Therefore, the use of forced consent is also recognized as exploitation.

The consent of a victim of trafficking in human beings to exploit him\her, in accordance with the legislation of the Republic of Belarus, is not recognized as a basis excluding or mitigating the criminal liability of traffickers in human beings.

When using the voluntary consent of a person to provide services, such as sexual services, and in the absence of signs of coercion (exploitation), the actions of the perpetrator do not constitute human trafficking, but are qualified under Article 171 of the Criminal Code.

Disposition of Article 181 of the Criminal Code has a blanket character. The provision that the consent of the victim of human trafficking is irrelevant if any means of coercion were used is enshrined in the Law on Combating Trafficking in Human Beings. Under such circumstances its duplication in Article 181 of the Criminal Code is not required.

The correctness of the legal assessment of human trafficking and crimes related to human trafficking, the rules for distinguishing between these acts are formed in the framework of law enforcement activities. Specific provisions on the ineffectiveness of the provisions of the criminal law for these purposes are not given in the text of the report.

Comments of the Investigative Committee

In 2019 while working on a draft law providing for amendments to the Criminal Code at the initiative of the Ministry of Internal Affairs the issue of supplementing the Criminal Code with a separate article 181-2 of the Criminal Code, establishing liability for trafficking in children, was considered, which would criminalize all actions for the use of a minor for the purposes of sexual, labor and other exploitation regardless of the use of means of influence with the exclusion of the relevant qualifying features in other articles of the Criminal Code. At the same time, this proposal did not find support among interested state bodies, and therefore was not included in the bill.

At the same time, the age of the victim remains controversial. The Council of Europe Convention on Action against Trafficking in human beings and the Optional Protocol to the UN Convention on the Rights of the Child on the sale of children, child prostitution and child pornography define a child as any person under 18 years of age. However, a number of stakeholders, including the Ministry of Internal Affairs, believe that upon reaching 16 years of age (that is, the age of sexual consent, when a person has the right to independently determine his sexual behaviour, and partial legal capacity with the right to enter into labour relations and marriage), the consent of a minor to use himself other persons for sexual, labour and other purposes excludes its exploitation. Recognizing that such a person has the right to independently determine his sexual behaviour (on the one hand) and not taking into account his consent to related actions (on the other hand) are in direct legal and logical contradiction.

Article 171-1 of the Criminal Code («involvement in prostitution or compulsion to continue prostitution») cannot be amended or supplemented, since involvement in prostitution or compulsion to continue prostitution in their content is not a form of exploitation, but possible means for its creation.

Article 343-1 of the Criminal Code («production and distribution of pornographic materials or objects of a pornographic nature with the image of a minor») regarding the use of a child for the production of pornographic materials, it is also advisable to leave it in its previous wording, since in practice such actions are associated not only and not to that extent with trafficking how with the commission of crimes against the sexual inviolability or sexual freedom of minors (when paedophiles record their own sexual acts and other sexual activities with a child on a photo or video camera, or their pornographic images are received by a paedophile from the child himself for blackmail in order to induce sexual contact, avoid his publicity, etc.). Thus, if pornographic materials involving a child are produced for the purpose, in the course of, or as a result of a crime against sexual integrity or sexual freedom committed against him, as well as in other cases without recruiting, transporting, transferring, harbouring or receiving a child, they should be qualified according to Art. 343-1 of the Criminal Code.

Paragraph 166: *GRETA considers that the Belarusian authorities should examine the possibility of criminalising the use of services of victims of trafficking, with the knowledge that the persons concerned are victims, for different types of exploitation.*

The criminalising the use of services of victims of trafficking in human beings for various types of exploitation is unnecessary since the relevant behaviour is covered by the elements of a crime under Article 181-1 of the Criminal Code.

Paragraphs 167-168: *Corporate liability (Article 22)*

In accordance with the Law on Combating Trafficking in Human Beings legal entities involved in human trafficking are subject to administrative measures (suspension and termination of activities) (Articles 28-30).

Paragraph 170: *GRETA once again urges the Belarusian authorities to take additional measures to ensure compliance with the principle of non-punishment of victims of THB for their involvement in unlawful activities, including administrative offences, to the extent that they were compelled to do so, as contained in Article 26 of the Convention. Such measures should include the adoption of a specific legal provision and/or the development of guidance for police officers, prosecutors and judges on the scope of the non-punishment provision.*

Article 8.8 of the Code of Administrative Offenses provides for the grounds for exemption from administrative responsibility of victims of human trafficking.

According to the Criminal Code a victim of trafficking in human beings who has committed a crime is not subject to criminal liability due to the existence of circumstances precluding the criminality of the act, provided for in Chapter 6 of the Criminal Code, as well as according to the general rules for exemption from criminal liability (Articles 86, 87, 88, 89, 118 of the Criminal Code, etc.).

Paragraph 172: *The Interior Ministry's Main Department for Drug Control and Combatting Trafficking in Human Beings, the Investigative Committee and their respective territorial subdivisions have specialised staff to investigate THB and related offences. There are no specialised prosecutors and judges for THB cases in Belarus.*

GRETA's conclusion that there are no specialised prosecutors for trafficking in human beings in Belarus is unfounded.

The duties of one of the employees of the General Prosecutor's Office include the analysis of practice and the development of proposals for improving the quality and effectiveness of prosecutorial supervision over the investigation of criminal cases of human trafficking and related crimes.

Paragraph 177: *GRETA urges the Belarusian authorities to strengthen their efforts to ensure that THB cases for different forms of exploitation are investigated and prosecuted proactively, and lead to effective, proportionate and dissuasive sanctions, in particular by reviewing the legislation and the investigation/prosecution procedure with a view to identifying and addressing gaps (e.g. in relation to THB for the purpose of labour exploitation).*

The report does not contain examples or other information confirming that the Republic of Belarus does not provide criminal prosecution for human trafficking, the effectiveness and proportionality of sanctions, and financial investigations. In this regard, the recommendations given in points 177 and 178 of the draft report are of a general nature and are not consistent with the text of the report, which contains examples of successful prosecutions.

The liability of licensees for providing false information about the future employer and the nature of the work has been revised in order to ensure greater security for citizens of the Republic of Belarus, as well as foreigners permanently residing in the Republic of Belarus, leaving the Republic of Belarus for employment.

The Ministry of the Interior receives requests from interested parties about the possibility of organizing the departure of minor citizens of the Republic of Belarus for employment in the Republic of Korea, the People's Republic of China, and Japan as models. Earlier, the Prosecutor's Office of the Vitebsk region conducted an analysis of the state of implementation of legislation in the employment of children abroad, as a result of which it was prescribed to take additional measures aimed at preventing violations of the rights of minors in employment abroad, and the Ministry of Education also expressed the opinion that employment under 16 years of age for work outside the Republic of Belarus, if it interferes with the receipt of general secondary, vocational and secondary specialized education, is unacceptable, and those

who have reached 16 years of age – until they receive general basic education. In this regard, taking into account the established practice, the draft Law "On external labor migration" is supplemented by a new article regulating the specifics of employment outside the Republic of Belarus as models.

Employment outside the Republic of Belarus as models of underage emigrant workers before they receive a general basic education is allowed only if training is organized in foreign educational institutions.

Citizenship and migration divisions register labour or civil law contracts between underage emigrant workers who are students and foreign employers, only with the written consent of the head of the educational institution at the place of study of the emigrant worker in the Republic of Belarus.

It is expected that the draft of the aforementioned Law will include the most effective provisions for the prevention of human trafficking and related crimes.

Paragraph 178: *GRETA considers that the Belarusian authorities should intensify their efforts to carry out financial investigations in THB cases in order to identify, seize and confiscate criminal assets, and continue to improve the knowledge of investigators, prosecutors and judges about the seriousness of THB, the severe impact of exploitation on the victims, the need to respect their human rights, and the need to hand down effective, proportionate and dissuasive sanctions on traffickers, which should be effectively enforced.*

According to Part 2 of Article 27 of the Criminal Procedure Code the criminal prosecution body is obliged to provide the victim with access to justice and take measures to ensure compensation for the harm caused.

In order to ensure compensation for damage (harm) caused by a crime, a civil claim or other property penalties, the body conducting the criminal procedure has the right to seize the property of the suspect, the accused or persons who are legally liable for their actions.

The body of inquiry or the investigator with the sanction of the prosecutor or his deputy, the prosecutor or his deputy, the court may seize property owned by other persons in order to verify its actual ownership, sources of origin and the legality of the alienation, if there are sufficient grounds to believe that this property was alienated by the suspect, the accused in order to conceal the ownership or sources of origin of such property.

In the course of the preliminary investigation in order to ensure compensation for the damage (harm) caused, the following can be carried out:

- seizure of property located in a dwelling or other legal possession;
- seizure of funds held in accounts or deposits in banks or non-bank financial institutions, as well as electronic money.

The search for property is carried out by conducting investigative and procedural actions – inspections, searches, seizures, sending requests to banking institutions, non-bank credit and financial organizations, depositories, bodies that carry out state registration of property, etc.

A person who has not filed a civil claim in criminal proceedings, as well as a person whose claim has been left without consideration by the court, has the right to file it in civil proceedings.

In cases where this is required by the protection of the rights of citizens, legal entities, state or public interests, a civil claim in criminal proceedings may be filed by the prosecutor.

A civil claim in criminal proceedings is considered by the court together with a criminal case. If a civil claim has not been filed, the court, when issuing a sentence, has the right, on its own initiative, to resolve the issue of compensation for harm caused by the crime.

Paragraphs 179-186: *Protection of witnesses and victims (Article 28 and 30)*

Comments of the Investigative Committee

The criminal procedure legislation of the Republic of Belarus provides for a wide range of measures to protect the interests of victims and witnesses under the age of 18.

These are the use of sound and video recording during investigative actions with the participation of minors who have been subjected to sexual violence, the interrogation of minor victims in a child-friendly interrogation room, an extended circle of persons whose participation in the criminal process is mandatory, and a number of others. In addition to unconditional compliance with the requirements of the law, the investigators of the Investigative Committee are focused on taking the necessary measures to minimize the participation of minor victims and witnesses in the criminal process. At the same time, one of the widely used forms of work with minor victims and witnesses under the age of 18 is the procedure of their questioning by a psychologist in a child-friendly room.

In connection with the foregoing, we consider it inexpedient to additionally establish guarantees for minors over 16 years of age.

Comments of the Prosecutor General's Office

The recommendations are based on the results of a study conducted by the Investigative Committee in 2019 and do not take into account the work done since 2019 on the introduction and development of child-friendly rooms, as well as the measures taken to widely use videoconferencing when interrogating victims and witnesses including in litigation.

Chapter 8 (Articles 65-75) of the Criminal Procedure Code defines measures to ensure the safety of participants in criminal proceedings and other persons, including victims in criminal cases of crimes related to human trafficking.

So, the body conducting the criminal process, in the presence of sufficient data indicating that there is a real threat of murder, violence, destruction or damage to property, other illegal actions against a participant in the criminal process, protecting his or represented rights and interests, and also another participant in the criminal process, members of his family and relatives in connection with his participation in the criminal process, is obliged to take the measures provided for by law to ensure the safety of these persons and their property.

Procedural security measures include:

- 1) non-disclosure of personal information;
- 2) exemption from appearing in court;
- 3) closed court session.

Other security measures include:

- 1) use of technical means of control;
- 2) wiretapping of talks conducted using technical means of communication and other talks;
- 3) personal protection, protection of housing and property;
- 4) change of passport data and replacement of documents;
- 5) prohibition on disclosure of information.

Taking into account the nature and degree of danger to life, health, property and other rights of protected persons other security measures may be taken that do not contradict the Code and other laws of the Republic of Belarus.

If there are grounds for taking security measures, the body conducting the criminal procedure is obliged to make a decision within 24 hours on their application or refusal to apply them. A reasoned decision (determination) is issued on the decision taken, which is immediately sent for execution to the body of internal affairs or state security at the place of residence, work or study of the protected person.

The current legislation provides for various measures to facilitate the participation of victims of trafficking in human beings and witnesses in criminal proceedings for the purpose of an objective and

comprehensive investigation and consideration of a criminal case.

In accordance with the Law of the Republic of Belarus dated 30.12.2011 No. 334 “On advocacy and advocate activity in the Republic of Belarus”, legal assistance on social protection and rehabilitation of victims of human trafficking, and if they do not reach the age of fourteen, their legal representatives are provided at the expense of the republican budget. The same provisions are enshrined in the relevant Law on Combating Trafficking in Human Beings.

Lawyers participate in criminal proceedings as representatives of victims or as a lawyer for a witness, while exercising the powers granted to them by law, including providing legal assistance, participating in investigative actions, filing complaints and applications, getting acquainted with the protocols of investigative actions, etc.

In the Republic of Belarus, work is in progress to minimize the participation of children in criminal proceedings. Changes have been made to the Code of Criminal Procedure, which provide an opportunity for investigators to interrogate minor victims or witnesses in a child-friendly interrogation room.

Thus Article 221 of the Code of Criminal Procedure was supplemented with part 2-1, according to which the interrogation of a minor victim or witness who has not reached the age of 16 in criminal cases on crimes against personal freedom, honour and dignity, life and health, sexual integrity or sexual freedom, where possible, should be conducted in a child-friendly interrogation room.

There are 24 such rooms in the Republic of Belarus, work is underway to increase their number, as well as to regulate the procedure for their activities, material, technical and staffing.

The specified article is also supplemented with part 4, which establishes the obligation of an official to conduct investigative actions with the participation of a minor victim or witness under the age of 14 years with the mandatory use of sound and video recording. An exception to this rule are cases that cannot be delayed, as well as when a minor victim or witness, their legal representatives object to this, or there is no technical possibility of using sound and video recording.

In turn, part 1 of Article 333 of the Code of Criminal Procedure was supplemented with paragraph 2-1, which establishes the possibility of announcing the testimony of a minor victim or witness under the age of 14, provided that the case file contains audio and video recordings of their interrogations given during the preliminary investigation.

Article 332 of the Code of Criminal Procedure defines the procedure for interrogating minor victims and witnesses. Thus, during the interrogation of victims and witnesses under the age of fourteen, and at the discretion of the court and during the interrogation of these persons at the age of fourteen to sixteen years, a teacher or a psychologist participates, and parents or other legal representatives of a minor may also participate. At the request of the parties or at the initiative of the court, the interrogation of the victim and witness under the age of eighteen may be carried out in the absence of the accused, about which the court issues a ruling.

After the accused returns to the courtroom he must be informed of the testimony of these persons and given the opportunity to ask them questions.

The victim and the witness, who have not reached the age of sixteen, are removed from the courtroom at the end of their interrogation, except when the court considers their continued presence is necessary.

The legal representatives of the victim are their parents, adoptive parents, guardians or custodians, representing the interests of minors or incompetent participants in the criminal process, respectively, in the proceedings on a criminal case. Persons recognized as legally incompetent cannot be legal representatives.

If the victim does not have a legal representative from among the indicated persons, the body

conducting the criminal procedure recognizes the guardianship and custody body as their legal representative.

In accordance with Art. 224-1 of the Criminal Procedure Code, interrogation of the victim, witness, confrontation or presentation for identification of persons and (or) objects with the participation of the victim or witness can be carried out remotely using videoconferencing systems (web conferences) in the following cases:

- 1) the impossibility of the arrival of a participant in the process for carrying out an investigative action for health reasons or other valid reasons;
- 2) the need to ensure the safety of participants in criminal proceedings and other persons;
- 3) if the victim, the witness are minors;
- 4) the need to ensure the most rapid, comprehensive and objective study of the circumstances of the criminal case.

In the event that measures to ensure security are applied to a person participating in the conduct of investigative actions, he may be interrogated or a confrontation, identification of a person can be carried out with his participation using videoconferencing systems with appropriate changes in appearance and (or) voice, ensuring unrecognizability of the protected faces.

Methods for conducting interrogations of minor victims and witnesses, as a rule, are observed by investigators. Repeated interrogations, face-to-face confrontations with the participation of minor victims are carried out only if it is necessary to collect additional evidence, verify new information obtained during the investigation of a criminal case.

The practice of interrogating minors in specialized child-friendly rooms with the involvement of specialists in the field of psychology and psychiatry, as a rule, state forensic experts, continues to spread which minimizes psychological trauma and other negative consequences.

Paragraph 189:

The Supreme Court additionally informs that during the reporting period two more international agreements on legal assistance entered into force:

- the Agreement between the Republic of Belarus and the Republic of Turkey on legal assistance in civil, economic and criminal cases, signed in Ankara on March 13, 2012, entered into force on April 19, 2018.

- the Agreement between the Republic of Belarus and the Arab Republic of Egypt on mutual legal assistance in criminal matters, signed in Minsk on October 20, 2010, entered into force on August 10, 2020.

Paragraph 196:

Regarding this paragraph of the report, the official position of the Republic of Belarus remains unchanged, this position was brought to the attention of GRETA in the comments to the draft report: the decisions to liquidate certain civil society entities (NGOs) mentioned in this draft report were taken in strict accordance with the national legislation by the decisions of the Supreme Court of the Republic of Belarus for repeated violations of the legislation of the Republic of Belarus in their activities and their statutes.

The legal and organizational foundations for the creation, operation, reorganization and liquidation of public associations, unions of public associations are established by the Law of the Republic of Belarus dated October 4, 1994 № 3254-XII "On Public Associations" (hereinafter - the Law on Public Associations).

In accordance with the third part of Article 29 of the Law on Public Associations, the liquidation of international and republican public associations, unions is carried out by decision of the Supreme Court of the Republic of Belarus upon the application of the Ministry of Justice of the Republic of Belarus.

By the decision of the Supreme Court of the Republic of Belarus dated September 28, 2021 at the suit of the Ministry of Justice of the Republic of Belarus the International Public Association «Gender Perspectives» was liquidated. The reason for the liquidation was the violation of the legislation and its charter by the NGO «Gender Perspectives» within one year after the issuance of a written warning.

It was established that the Ministry of Justice of the Republic of Belarus requested information and documents from the International Public Organization «Gender Perspectives» in order to carry out control measures related to the activities of this association. Since the requested materials were not submitted within the period specified by the Ministry, by order of the Ministry of Justice of the Republic of Belarus dated July 15, 2021 № 166, a written warning was issued to the association with a deadline for eliminating the shortcomings. Within the period specified in the written warning, the association of the required information and documents on its activities did not submit to the Ministry of Justice of the Republic of Belarus and thereby did not eliminate the earlier violation. The IPO «Gender Perspectives» did not appeal the written warning.

The court verified the legitimacy of issuing a written warning and found that the rules on issuing such a warning, provided for by the Law on Public Associations, were observed by the Ministry of Justice of the Republic of Belarus. Since the International Public Organization «Gender Perspectives» did not submit the necessary materials and documents within the prescribed period, the court concluded that the Ministry of Justice of the Republic of Belarus had the right to issue a written warning. The court found it established that after the Ministry of Justice of the Republic of Belarus issued a written warning to the International Public Organization «Gender Perspectives», violations of the law and the charter were again committed during the year.

Providing the registering authority with false information about the availability and expenditure of funds was the basis for the liquidation of the RPPO "Belarusian Helsinki Committee" (hereinafter – "BHC").

Article 9-2 of the Law of the Republic of Belarus dated June 30, 2014 № 165 "On measures to prevent the legalization of proceeds from crime, the financing of terrorist activities and the financing of the proliferation of weapons of mass destruction" provides that the Ministry of Justice of the Republic of Belarus determines the composition, procedure storage and communication to the public by public associations and foundations of reports on their activities and other information necessary to take measures to prevent the financing of terrorist activities and the financing of the proliferation of weapons of mass destruction.

On February 25, 2021 BHC informed the registration authority about its activities for 2020, and in particular, about the lack of funds, showing zero values of their receipts and expenditures.

At the same time, the Ministry of Justice of the Republic of Belarus submitted to the court documents confirming that in May 2020 BHC entered into agreements on the provision of services for long-term observation of the elections of the President of the Republic of Belarus, for which it paid a fee of 1,200 euros to each counterparty.

The court found that "BHC" provided the registering body with false information regarding the receipt and expenditure of funds, which is a gross violation of Article 5 of the Law on Public Associations and the charter of the public association.

In accordance with the third paragraph of part one of subparagraph 2 of paragraph 2 of Article 57 of the Civil Code of the Republic of Belarus, a legal entity may be liquidated by a court decision in the event of carrying out activities without a special permit (license), or prohibited by legislative acts, or with other repeated or gross violations of legislative acts .

Taking into account the provisions of the legislation and the circumstances established in the case, the requirements of the registering authority for the liquidation of BHC were satisfied by the court.

Decisions of the Supreme Court of the Republic of Belarus on civil cases on the liquidation of public associations "Gender Perspectives" and "Belarusian Helsinki Committee" dated September 28, 2021 and

September 30, 2021 were issued in accordance with the norms of the Law of the Republic of Belarus "On Public Associations" and were not appealed by the indicated public associations to the General Prosecutor's Office in the order of supervision.

Please note that the liquidation of these public associations is not related to the exercise by their members of the rights to freedom of association in accordance with Article 22 of the International Covenant on Civil and Political Rights (hereinafter referred to as the Covenant).

In addition, we believe that the allegations of the suppression of freedoms and repression against independent organizations are unfounded. Criticism of the Republic of Belarus from Western structures in connection with the liquidation of public associations is regarded by us, in particular, as interference in the activities of judges in the administration of justice, which is unacceptable.

The procedure for regulating legal relations in the field of the right to freedom of association, established by the Law on Public Associations, as well as the procedure for liquidating public associations by a court decision, cannot be considered as a restriction of these rights within the meaning of article 22, paragraph 2, of the Covenant.