



GRETA

GROUP OF EXPERTS
ON ACTION AGAINST
TRAFFICKING IN HUMAN BEINGS

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

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I. Introduction

1. The first evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") by Estonia took place in 2017. Following the receipt of Estonia's reply to GRETA's first questionnaire on 11 April 2017, a country evaluation visit was organised from 15 to 19 May 2017. The draft report on Estonia was examined at GRETA's 30th meeting (20-24 November 2017) and the final report was adopted at GRETA's 31st meeting (19-23 March 2018). Following the receipt of the Estonian authorities' comments, GRETA's final report was published on 12 June 2018.¹

2. In its first evaluation report, GRETA noted the steps taken by the Estonian authorities to develop the legal and institutional framework for combating trafficking in human beings (THB). However, GRETA urged the authorities to ensure that the criminalisation of THB fully reflects the provision of Article 4 of the Convention. GRETA also urged the authorities to adopt a dedicated national action plan which addresses in a comprehensive manner all forms of human trafficking. Further, GRETA considered that targeted preventive measures should be implemented for groups vulnerable to trafficking, such as children in residential institutions and foster homes, and persons seeking employment abroad. Moreover, GRETA urged the Estonian authorities to review the identification procedure in order to ensure that it is not dependent on the presence of elements to prove trafficking or a related offence, and to introduce a formalised National Referral Mechanism defining the role and responsibilities of all relevant public and non-governmental actors. In addition, GRETA urged the authorities to define the recovery and reflection period in law as provided for in Article 13 of the Convention. GRETA also called on the authorities to ensure that human trafficking offences are proactively investigated and effectively prosecuted, leading to effective, proportionate and dissuasive sanctions, and to make full use of the available measures to protect victims of trafficking in criminal proceedings.

3. On the basis of GRETA's report, on 9 November 2018, the Committee of the Parties to the Convention adopted a recommendation to the Estonian authorities, requesting them to report back on the measures taken to comply with this recommendation by 9 November 2020.² The report submitted by the authorities was considered at the 23rd meeting of the Committee of the Parties (9 November 2018). The Committee of the Parties decided to transmit the Estonian authorities' report to GRETA for consideration and to make it public.³

4. On 17 December 2021, GRETA launched the second round of evaluation of the Convention in respect of Estonia by sending the questionnaire for this round to the authorities. Estonia submitted its reply on to the questionnaire on the deadline of 17 May 2022.⁴

5. In preparation of the present report, GRETA used the reply to the questionnaire by the authorities, the above-mentioned report submitted by them to the Committee of the Parties, and information provided by civil society. An evaluation visit took place from 6 to 9 June 2022, in order to hold meetings with relevant governmental and non-governmental actors, collect additional information and assess the practical implementation of adopted measures. The visit was carried out by a delegation composed of:

- Ms Antoaneta Vassileva, First Vice-President of GRETA;
- Mr Thomas Ahlstrand, member of GRETA;
- Ms Daniela Ranalli, administrator in the Secretariat of the Convention.

¹ <https://rm.coe.int/greta-2018-6-fgr-est-en/16808b292c>.

² <https://rm.coe.int/cp-2018-23-est-en/16808edcee>

³ <https://rm.coe.int/cp-2020-14-estonia/1680a09ae0>

⁴ <https://rm.coe.int/reply-from-estoniato-the-questionnaire-for-the-evaluation-of-the-imple/1680a6c36e>

6. During the visit, the GRETA delegation held consultations with representatives of the Ministry of Justice, including the National Anti-Trafficking Co-ordinator, the Ministry of the Interior, the Ministry of Social Affairs (including the Social Insurance Board and the Labour Inspectorate), the Ministry of Foreign Affairs, the Tax and Customs Board, and Prosecutor's Office and the judiciary. Further, a meeting was held with a member of the Estonian Parliament.
7. The GRETA delegation held separate meetings with representatives of non-governmental organisations (NGOs), as well as with the offices of the International Organization of Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR) in Estonia.
8. In the course of the visit, the GRETA delegation visited the Children's House (Barnahus) in Tallinn and the reception centre for refugees in Pärnu. GRETA also visited Pärnu County Court.
9. The list of the national authorities and other stakeholders with which the GRETA delegation held consultations is set out in the Appendix to this report. GRETA is grateful for the information provided by them.
10. GRETA wishes to place on record the co-operation provided by the Estonian authorities during the evaluation visit, and in particular by the contact person appointed to liaise with GRETA, Ms Anu Leps, Advisor in the Analysis Division of the Criminal Policy Department in the Ministry of Justice.
11. The draft version of the present report was approved by at its 46th meeting (14-18 November 2022) and was submitted to the Estonian authorities for comments. The authorities' comments were received on 27 February 2023 and were taken into account by GRETA when adopting the final report at its 47th meeting (27-31 March 2023). The report covers the situation up to 31 March 2023; developments since that date are not taken into account in the following analysis and conclusions. GRETA's conclusions and proposals for action are summarised in Appendix 1.

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

1. Emerging trends in trafficking in human beings

12. Estonia continues to be a country of origin and transit of trafficked persons, but is also increasingly becoming a country of destination. According to statistical information provided by the Estonian authorities, the number of presumed victims of THB was 35 in 2018 (2 for sexual exploitation, 33 for labour exploitation), 165 in 2019 (54 for sexual exploitation, 119 for labour exploitation), 29 in 2020 (17 for sexual exploitation, 12 for labour exploitation), and 35 in 2021 (28 for sexual exploitation, 7 for labour exploitation). There is no data on the age of presumed victims of THB and it is not possible to know how many of them were children. The majority of the presumed victims originated from Eastern Europe (Ukraine, Georgia, Belarus), followed by Latin America (Brazil, Colombia, Dominican Republic), China and Nigeria. As regards the important increase in the number of presumed victims in 2019, the authorities stated that this was due to changes in data collection and the opening of a helpline on THB (see paragraph 35) following the transfer of the coordination of victim support services to the Social Insurance Board in 2019, as well as an increase in presumed labour exploitation cases as a result of the important increase in immigration flows in 2015-2016.

13. The number of formally identified victims was considerably lower than that of presumed victims: 10 in 2018 (3 adults and 7 children), 12 in 2019 (all adults), 5 in 2020 (4 adults and 1 child) and none in 2021. Of the 27 victims identified between 2018 and 2021, 22 were female and 5 male. All of them were Estonian nationals, trafficked for the purpose of sexual exploitation, except for three victims of forced criminality.

14. GRETA notes that while trafficking for the purpose of sexual exploitation was the main form of exploitation amongst formally identified victims, labour exploitation was predominant among presumed victims of trafficking. The latter were mostly men from Ukraine and Poland, employed primarily in construction and manufacturing, but also in the cleaning sector. The Estonian Labour Inspectorate reported an important increase in legal disputes related to labour issues in the construction, transport and storage, and accommodation and catering sectors (see paragraph 52). GRETA notes that the number of formally identified victims of THB does not reflect the real scale of the phenomenon of THB in Estonia due to gaps in the identification procedure, especially concerning the identification of foreign victims of trafficking for the purpose of labour exploitation.

2. Developments in the legal framework

15. On 19 March 2019, the Estonian Parliament adopted amendments to the Criminal Code (CC) in view of expanding the criminalisation of trafficking in human beings (Article 133) and the criminalisation of trafficking in children (Article 175).

16. Moreover, amendments were adopted to the Labour Dispute Resolution Act and the regulations related to the work conditions of posted workers. To prevent illegal employment, changes were made to the Aliens Act, Income Tax Act and Taxation Act in 2020, providing that the lawfulness of the employment of a foreigner is the responsibility of the company in Estonia that benefits from the foreigner's work.

17. Following GRETA's evaluation visit in June 2022, several more legislative changes were adopted. Amendments to the CC in view of raising the age of sexual consent from 14 to 16 entered into force on 1 November 2022. Further, following amendments to the Child Protection Act, which entered into force on 8 May 2022, Regulation No. 51 of the Minister of Social Affairs providing detailed rules for the functioning of children's houses (Barnahus) and the assistance provided to sexually abused children entered into force on 1 July 2022. Moreover, a new Victim Support Act was approved by Parliament on 14 December 2022, entry into force on 1 April 2023.⁵ It regulates the organisation of victim support, the provision of victim support services and state compensation, and contains provisions concerning victims of THB.

18. The above-mentioned legislation is discussed in greater detail in later parts of the report (see paragraphs 90, 99-102, 114, 116, 137-139).

3. Developments in the institutional framework

19. The Criminal Policy Department of the Ministry of Justice continues to be responsible for coordinating the implementation of anti-trafficking policies in Estonia, as well as acting as a mechanism equivalent to a National Rapporteur on human trafficking.⁶ It collects relevant data, analyses crime statistics, and reports to international organisations. In their comments on the draft GRETA report, the Estonian authorities indicated that the Violence Prevention Agreement (see paragraph 24) envisages to study the experience of independent national anti-trafficking rapporteurs in other EU countries and the need for such a structure in Estonia. **Recalling the importance of a structural separation between monitoring and executive functions for an objective evaluation of the implementation of anti-human trafficking policies, GRETA considers that the Estonian authorities should examine the possibility of designating as a National Rapporteur a separate organisational entity or another independent mechanism for monitoring the anti-trafficking activities of State institutions.**

20. As described in the first evaluation report, the National Co-ordination Network on THB is led by the Ministry of Justice and comprises 35 government agencies and NGOs which meet twice a year.⁷ There are no specific criteria for being a member of the National Co-ordination Network and NGOs providing services to victims of THB enjoy full membership. During the evaluation visit, GRETA was informed that the NGO "Living for Tomorrow" ended their work in 2019, leaving the NGO Eluliin as the only civil society organisation within the Network. In their comments on the draft GRETA report, the Estonian authorities stated that other NGOs are also actively involved in the Network, such as Ida-Viru Support Centre for Women, SOS Children Villages and Estonian Human Rights Centre.

21. Since 2019, all services for victims of THB have been centrally organised and financed by the Estonian Social Insurance Board, which is a public entity operating under the Ministry of Social Affairs.⁸ In 2019, the Social Insurance Board created a separate post of a service manager for supporting victims of THB and two posts of counsellors specialising on THB. The Social Insurance Board coordinates victim support services and can provide services itself, or fund, through public procurement, a non-state actor to do so (see paragraph 104). No non-state actors have applied to provide accommodation to THB victims since 2019. GRETA notes with concern that these changes have considerably reduced the role of NGOs in the provision of assistance to victims of THB (see paragraphs 104 and 189-192).

⁵ [Victim Support Act–Riigi Teataja](#)

⁶ See GRETA's first report on Estonia, paragraphs 21-22.

⁷ Ibid., paragraphs 23-29.

⁸ The Social Insurance Board employs some 120 staff, including some 35 victim support specialists working in the four regions of Estonia.

4. National Action Plan

22. In its first report, GRETA noted that following the expiry of the first National Action Plan for Combating THB in 2009, there was no dedicated policy document in this area, and urged the Estonian authorities to adopt an action plan on combating THB and to ensure funding for its activities.

23. The Estonian authorities have included the issue of THB in the Violence Prevention Agreement 2021-2025, adopted in July 2021,⁹ which has a specific chapter on preventing THB, entitled "Action Plan". The Action Plan stresses that there is a need to increase the identification mechanism of THB-related referrals associated with labour exploitation and to raise awareness among businesses and workers about trafficking in human beings. Among the envisaged activities, the Action Plan aims to increase of proactive labour inspections based on risk analysis and data exchange, in order to reduce the illegal employment of migrants in Estonia; enhance international legal cooperation with countries of origin and increase coordination among all relevant actors (at national and local level) in order to improve the prevention, detection and investigation of crimes related to trafficking in human being. The need to update the Victim Support Act, the Aliens Act, the Code of Criminal Procedure (CCP) and the CC is also mentioned in the Action Plan. The funding for the implementation of the activities in the Violence Prevention Agreement is not specified, but GRETA was informed that it is financed through the EU Internal Security Fund, the Norwegian financial mechanism and the State budget. GRETA was also informed that no independent evaluation of the implementation of the Action Plan is envisaged.

24. **GRETA welcomes the adoption of the Violence Prevention Agreement, containing a specific chapter on action against THB, and invites the Estonian authorities to consider adopting a dedicated national action plan to combat THB, supported by a specific budget.**

25. **Further, GRETA considers that the Estonian authorities should introduce an independent evaluation of the implementation of the Action Plan as a tool for assessing the impact of the activities and for planning future policies and measures to combat trafficking.**

5. Training of relevant professionals

26. In its first report, GRETA urged the Estonian authorities to strengthen their efforts to provide regular training on THB to relevant professionals (in particular, police officers, prosecutors, judges, labour inspectors, child protection specialists, social workers and medical professionals).¹⁰

27. The above-mentioned Violence Prevention Agreement envisages different training activities concerning THB, including for law enforcement officials on detection and investigation of THB cases and for employers on safe and non-discriminatory recruitment and migrant workers' recruitment.¹¹

28. According to the authorities, training of all relevant actors intervening in the identification process of victims of THB is among the Government's priorities. Training programmes are determined on the basis of observed trends and professionals' needs. When organised by state bodies, the training is usually financed by their budgets. In 2019 and 2021, joint training sessions were held for the police, prosecutors, labour inspectors, tax and customs inspectors, and victim support providers. In 2019, the training focused on the new guidelines for referring presumed victims and the special assistance measures for persons with mental health problems. In 2021, the training focused on the amendments of the CC, labour exploitation issues and psychological assistance. The training courses in 2019 and 2021 were attended by around 70 participants per year. In 2020 the training was cancelled due to the COVID-19 sanitary restrictions. Exchanges with the Finnish authorities on investigations of THB cases were also organised.

29. Training on the topic of human trafficking is part of the basic and in-service training of police officers as per their annual training plan. All new police officers undergo basic training at the Police and Border Guard College of the Academy of Security Sciences, and in-service training is organised by the

⁹ [The Violence Prevention Agreement | Justiitsministeerium](#)

¹⁰ See GRETA's first evaluation report on Estonia, paragraph 70.

¹¹ [The Violence Prevention Agreement | Justiitsministeerium p.12/ p.26.](#)

Police and Border Guard Board. The training aims to enable students to distinguish human trafficking from migrant smuggling, recognise possible forms of exploitation, and prevent and combat human trafficking and smuggling based on best practices. One of the thematic blocks, which also covers human trafficking, is entitled "Fundamental rights and knowledge of the principles of international protection". Further specialised training is provided as part of the module on smuggling and human trafficking as cross-border organised crimes. Another specialised module, "Processing of Serious Hidden Crimes," includes the methodology of investigating human trafficking.

30. In 2019, representatives of the Estonian Labour Inspectorate participated in the OSCE simulation-based training on combating THB along migration routes. Further, in 2019-2020, police officers and prosecutors participated in OSCE training on the use of technologies in investigations.

31. Professionals working in the children's houses (Barnahus) have been trained on how to interview children, including those with special needs. They also provide training to teachers and social workers regarding the prevention of child abuse.

32. Further, the National Transplantation Agency provides guidance and training to relevant professionals to prevent trafficking for the purpose of organ removal.

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

6. Data collection and research

34. In its first report, GRETA urged the Estonian authorities to set up a comprehensive and coherent data collection system for compiling reliable statistical data on measures to protect and promote the rights of victims of trafficking.¹²

35. Data on THB continues to be collected separately by several actors. The available data on presumed and identified victims is incomplete and lacks disaggregation into gender, age and nationality (see paragraphs 12). The Ministry of Social Affairs and the Social Insurance Board are responsible for collecting data on victims of THB who receive assistance and state compensation. A helpline on prevention of THB and providing support to victims was opened on 1 April 2019, enabling the Social Insurance Board to get a better overview of possible victims of THB. Further, there is a national victim support hotline, also opened in 2019, which helps to detect more victims in need of help.

36. The Ministry of Justice is responsible for collecting and analysing crime statistics. The Criminal Policy Department of the Ministry of Justice has access to the Registry of Criminal Proceedings and receives information from the Office of the Prosecutor General and the National Police and Border Guard Board upon request.

37. A new information and data sharing system was introduced to improve the exchange of information on children and adults in need of assistance or at risk. Such information is automatically transferred from the Police Procedural Information System (MIS) to the Social Services and Benefits Data Register (STAR). This system was established in co-operation between the Ministry of the Interior, the Police and Border Guard Board and the Social Insurance Board. The Estonian authorities have also

¹² See GRETA's first evaluation report on Estonia, paragraph 75.

referred to amendments obliging employers to notify the Labour Inspectorate of any changes concerning workers posted to Estonia. Furthermore, a migration supervision model is being developed to enable better data exchange between the information systems of the Tax and Customs Board, the Labour Inspectorate and the Unemployment Insurance Fund.

38. GRETA considers that the Estonian authorities should take further steps to set up a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable and disaggregated statistical data on the identification and assistance of victims as well as on the investigation, prosecution, convictions and compensation in human trafficking cases, with a view to ensuring that it provides a comprehensive picture of the human trafficking situation in Estonia. 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, accompanied by personal data and protection measures.

39. In its first report, GRETA considered that the Estonian authorities should conduct and support research on THB-related issues as an important source of information on the impact of current policies as well as a basis for future measures.¹³ According to the authorities, research is an essential part of policy planning and is supported and funded by the state and through international projects. In 2020, Estonia published research about sexual exploitation of children and young persons.¹⁴ The Ministry of Justice publishes each year an overview and analysis of crime statistics, including THB crimes.¹⁵

40. In 2021, Estonia participated in a EU-funded study of the European Migration Network of national practices in the detection, identification and protection of third-country national victims of THB.¹⁶ The study analysed national legislation and policies, challenges, good practices, and cooperation mechanisms between EU Member States, EU agencies, international organisations and countries of origin of the victims. In co-operation with the European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), Estonia has participated in projects and studies related to THB, focussing on labour exploitation¹⁷ and the business model of labour exploitation (Project FLOW).¹⁸ As part of the HOF-BSR project developed by the Swedish Government together with the Council of Baltic Sea States (CBSS), Estonia produced media guidelines,¹⁹ a glossary of trafficking in human beings' terminology²⁰ and a video explaining what THB is and how it is regulated in Estonia.²¹ There is also an ongoing project to strengthen the knowledge of, and approach to, human trafficking in Finland, Estonia and Latvia (ELECT THB).²²

41. GRETA welcomes the research undertaken and invites the authorities to continue funding and promoting research on different aspects of THB, including online and technology-facilitated trafficking in human beings, trafficking for the purposes of labour exploitation and forced criminality, trafficking in children and trafficking of foreign nationals to Estonia.

¹³ See GRETA's first evaluation report, paragraph 80.

¹⁴ https://www.kriminaalpoliitika.ee/sites/krimipoliitika/files/elfinder/dokumendid/laste_ja_noorte_seksuaalse_vaarkohtlemise_uuring_2020_euk.pdf.

¹⁵ [Kuritegevus Eestis | Kriminaalpoliitika](#) (only in Estonian)

¹⁶ [Third-country national victims of trafficking in human beings: detection, identification and protection \(europa.eu\)](#)

¹⁷ [Publications | Heuni](#)

¹⁸ [FLOW. Flows of illicit funds and victims of human trafficking: uncovering the complexities | Heuni](#)

¹⁹ https://cbss.org/wp-content/uploads/2020/03/Media_guidelines_EE-min.pdf

²⁰ <https://cbss.org/publications/human-trafficking-glossary/>

²¹ [Estonia \(europa.eu\) p.4](#), <https://www.youtube.com/watch?v=kAC2Zq4b20k>.

²² [ELECT THB. Enhanced Law Enforcement Cooperation and Training on Trafficking in Human Beings | Heuni](#)

III. Article-by-article findings

1. Prevention of trafficking in human beings

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

42. In its first report, GRETA considered that the Estonian authorities should take additional measures to inform the general public of THB for different purposes of exploitation, including exploitative sham marriages.

43. The Violence Prevention Agreement, in its part dedicated to human trafficking, envisages several awareness-raising campaigns for young people and professionals working with young people, as well as for the general public in order to change attitudes towards buying sex. It is also envisaged to raise awareness amongst employers, in particular in the construction, manufacturing and service sectors, as well as amongst users of seasonal workers, to ensure safe and non-discriminatory recruitment chains and to improve the knowledge of employers of migrant worker recruitment rules and labour laws.

44. In 2019, in cooperation with the European Crime Prevention Network (EUCPN), a campaign was launched in to raise awareness on THB victims' rights and assistance. Informational materials, such as video clips, posters and stickers, were broadly disseminated by the Social Insurance Board.

45. From October 2020 to December 2021, as part of the CBSS THALIA project, media students were trained to raise awareness of THB and prepare podcasts, presentations and a website. This training was also provided in 2022 and according to the authorities, it is planned to continue it in the future.

46. The Social Insurance Board has produced podcasts about THB and videos to inform refugees of the risks of trafficking. Measures have been taken by the Estonian authorities to raise awareness among Ukrainian refugees, through the dissemination of leaflets with information on the risks of human trafficking and the organisation of information seminars at refugee centres and online sessions. The NGO Refugee Council also implemented awareness-raising on THB amongst refugees. Volunteers helping Ukrainian refugees have received information on the risks of human trafficking and where to report suspected cases. During the evaluation visit, GRETA delegation visited the reception centre for refugees in Pärnu, where different information materials were available for people fleeing the war in Ukraine.

47. GRETA welcomes the efforts to raise public awareness of human trafficking and invites the Estonian authorities to continue implementing measures to raise awareness of THB, by designing future actions in the light of impact assessment of previous measures and focusing on the needs identified. Further awareness-raising measures should be taken to address the risks of human trafficking among foreign nationals.

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

48. In its first report, GRETA urged the Estonian authorities to strengthen action to combat THB for the purpose of labour exploitation by reviewing the legislative framework, improving the identification of, and assistance to, victims of THB for the purpose of labour exploitation, and involving civil society, trade unions, labour inspectorates and the private sector. GRETA also urged the authorities to enhance the role and capacity of labour inspectors to detect THB for the purpose of labour exploitation.

49. As noted in paragraph 16, the Estonian authorities have made a number of legislative changes. The Labour Dispute Resolution Act, adopted in 2018 and amended in 2020, regulates labour disputes between an employee and an employer registered in Estonia, operating in Estonia via a branch or registered as a non-resident employer. In 2019, amendments were made to Labour Market Services and Benefits Act, which regulates private recruitment and temporary work agencies. The law prohibits the charging of fees from a job seeker and entrusts the monitoring the recruitment agencies to the Labour Inspectorate. Further, on 17 June 2020, amendments were made to the Working Conditions of Employees Posted to Estonia Act, which clarified the procedure for the posting of temporary agency workers and the working conditions that must be ensured during their stay in Estonia.

50. In recent years, labour migration to Estonia has increased, as has the risk of exploitation of foreign workers. Several measures have been taken by the Estonian authorities in order to reduce the risks of trafficking for migrant workers. Migration advisers have been recruited within the Police and Border Guard Board and they provide information by phone, email, Skype or direct appointment about the requirements for entering, studying and working in Estonia. These migration advisors work closely with employers, companies and educational institutions, organising information days and training for them.

51. The Labour Inspectorate is responsible for ensuring the supervision of compliance with the legislation regulating labour relations in all sectors of the economy. It is also responsible for ensuring the implementation of the work environment policy, informing the general public, employees and employers, and settling extra-judicial labour disputes.²³ As of the end of 2022, the total number of labour inspectors was 43. GRETA notes that this number is low compared to the number of employed persons.²⁴ Since the Russian invasion of Ukraine, the Labour Inspectorate employs three Ukrainian citizens (two lawyers and one communications specialist).

52. The Labour Inspectorate has registered an increase in legal disputes related to labour issues in the construction sector (+21%), the transport and storage sector (+14%) and accommodation and catering (+13%). According to the Labour Inspectorate, third-country nationals may easily become targets for local facilitators.

53. The Police and Border Guard Board, in cooperation with the Tax and Customs Board (ETCB) and the Labour Inspectorate, carry out inspections on the basis of a risk analysis to ensure compliance with the requirements for employment in Estonia (including the salary requirements provided for foreign nationals in the Aliens Act). Before a joint inspection, there is an exchange of information so that the officials participating in the inspection are aware of each other's goals and roles. In 2021, there were 375 joint inspections, with 3,773 persons and 919 companies being checked. In 2022, there were 204 joint inspections during which 1,575 persons and 618 companies were checked, priority being given to examining the working conditions of Ukrainian refugees. According to information provided by the Estonian authorities, the Police and Border Guard Board did not find any human trafficking cases during these inspections. The authorities also informed GRETA of the ongoing development of a migration supervision model to enable better data exchange between the information systems of the ETCB, the Labour Inspectorate and the Unemployment Insurance Fund and thereby improve supervision over the work environment in Estonia.

²³ See [Values, mission, vision | Tööinspektsioon \(ti.ee\)](https://ti.ee/en/values-mission-vision).

²⁴ The ILO has taken as reasonable benchmarks that the number of labour inspectors in relation to workers should approach 1/10,000 in industrial market economies, 1/15,000 in industrialising economies, 1/20,000 in transition economies, and 1/40,000 in less developed economies. See ILO Committee on Employment and Social Policy, Strategies and practice for labour inspection (2006) GB.297/ESP/3, paragraph 13.

54. The Labour Inspectorate provides migrant and Estonian workers with free legal services regarding work-related problems, such as unpaid salaries, and runs a phone line and website providing information on workers' rights. In 2021, the Labour Inspectorate created a new portal available in Estonian, English and Russian with information on labour trafficking. In 2022, materials were added in Ukrainian.²⁵ The Labour Inspectorate has produced awareness-raising materials to reduce the risk of trafficking for the purpose of labour exploitation.²⁶ It also carried out several information campaign, including for the private sector, in particular the Association of Restaurants and Hotels.

55. The Social Insurance Board has trained the entire staff of the Ibis and Hestia Hotel chains in Estonia. In 2022, it also carried out a prevention campaign to reduce the risks of Estonian nationals being exploited abroad. This campaign is implemented by the Norwegian Labour Inspectorate "Working in Norway: Your rights and obligations".²⁷ GRETA was also informed about the adoption of two guidelines for companies: "Navigating through your supply chain – toolkit for prevention of labour exploitation and trafficking" and "Normative Framework Guide – Responsibility of Businesses Concerning Human Rights, Labour Exploitation and Human Trafficking".

56. In their comments on the draft GRETA report, the Estonian authorities indicated that since August 2022, information on possible THB offences is to be sent to a special email address at the police (thb.info@politsei.ee), and the police and the Prosecutor's Office will decide whether THB has taken place and whether there is a need for investigation of THB or other crimes. Thus in February 2023, the Labour Inspectorate registered 18 possible cases of labour exploitation and the information was transferred to the Police and the Tax and Customs Board. It is envisaged to update in 2023 the guidelines for the identification and referral of victims of THB.

57. While welcoming the measures taken to raise public awareness and the risks of trafficking for the purpose of labour exploitation, GRETA is concerned that no victims of THB for the purpose of labour exploitation have been formally identified between since 2018. **GRETA urges the Estonian authorities to strengthen their efforts to prevent and combat trafficking for the purpose of labour exploitation, taking into account Recommendation CM/Rec(2022)21 of the Committee of Ministers²⁸ and GRETA's Guidance Note on combating trafficking for labour exploitation,²⁹ in particular by:**

- **strengthening the capacity and mandate of labour inspectors to detect possible victims of THB and refer them for identification and assistance;**
- **establishing safe reporting and effective complaint mechanisms for workers, to ensure that victims of abuses or exploitative situations can refer their case without fear of repercussions;**
- **ensuring that when joint inspections are conducted, the objectives of labour inspectorates and the role of the immigration authorities are clearly defined;**
- **providing further training to labour inspectors, police officers and border guards on the characteristics of THB cases for the purpose of labour exploitation.**

²⁵ <https://www.tooelu.ee/en/392/ukrainian-war-refugees-and-employment-relations>.

²⁶ See, for example: Labour Inspectorate: Under the news section of the Working Life portal <https://tooelu.ee/en/news> (ENG), relevant topics/questions are explained, which concern both local employees and foreigners and among other things, the aim of preventing human trafficking is considered. Information from the Labour Inspectorate on various topics about information mornings can be found at <https://tooelu.ee/et/76#tooinspektsiooni-uritused>. For example, the article 'Seasonal workers from within the country and abroad' in the Tööelu magazine 2019, https://issuu.com/tooinspektsioon/docs/t_elu_2_2019. For example, the Labour Inspectorate's working environment report, which provides information related to foreign labour force, https://www.ti.ee/sites/default/files/dokumendid/Meedia_ja_statistika/Tooekeskonna_ulevaated/2022/tookeskkond_2022_ee_a4_web.pdf. The Working Life portal provides, for example, a FAQ for employees, etc.: <https://tooelu.ee/et/392/ukraina-sojapogenikud-ja-toosuhted>. Labour Inspectorate is also sharing information on YouTube: <https://www.youtube.com/watch?v=AzwM0vHapVY>.

²⁷ More information about the campaign in Estonian: <https://www.ti.ee/et/valismaine-tootaja/kampaaniad/norra-tooinspektsiooni-kampaania-tunne-oma-oigusi> and in English: <https://www.arbeidstilsynet.no/en/knowyourrights/>.

²⁸ https://search.coe.int/cm/pages/result_details.aspx?objectid=0900001680a83df4

²⁹ <https://rm.coe.int/guidance-note-on-preventing-and-combating-trafficking-in-human-beings-/1680a1060c>

58. **Further, GRETA considers that the authorities should:**

- **put in place practical co-operation and data sharing agreements between labour inspectors and law enforcement in order to ensure that personal information of workers, whether collected in the course of labour inspections, joint inspections, reporting or complaints mechanisms, is not used for immigration enforcement purposes, but to tackle the organisers of trafficking offences;**
- **further sensitise the general public and relevant officials, in particular labour inspectors, staff of the labour exchange offices, police officers, prosecutors and judges, about THB for the purpose of labour exploitation and the rights of victims.**

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

59. Various education programmes to raise awareness on THB are conducted at schools and universities. The Ministry of Justice organises an annual criminal policy course, which includes information and guidance about THB, in two schools. Around 150 pupils followed the training in the course of three years. Lectures about sexual exploitation and trafficking have been provided by specialists to school children in Estonia and videos³⁰ are made available on the web platform of schools. Further, the University of Tartu includes courses about THB in their curriculum of Law Studies.

60. The authorities referred to the preparation of several programmes and activities of awareness raising addressed to secondary school pupils starting in the second half 2022 and carried out by the Ministry of Justice and Social Insurance Board. The planned activities will start in 2023, with funding from Internal Security Fund.

61. The Ministry of Foreign Affairs has an outreach programme for high school students in respect of "smart travelling". Lectures and e-courses are given at schools to raise awareness of young travellers of potential risk situations of human trafficking and exploitation that may occur abroad. From 2019 to 2021, more than 200 students attended the lectures. Schools have included lectures about the topic "healthy and secure relationships" over several years. Study materials, such as books and digital lessons, are prepared by the University of Tartu with the funding of the Ministry of Education and Research.

62. Following the outbreak of the war in Ukraine, by the time of GRETA's visit in June 2022, 68,991 refugees from Ukraine had entered Estonia, 20,103 of whom were children. According to information provided by UNHCR, less than 100 unaccompanied children had been registered and provided with specific services in Estonia. The UNHCR expressed concerns about the situation of separated children, whom Estonia allowed to enter the country and apply and receive temporary protection. GRETA notes that this can create risks of trafficking, especially if all such arrivals are not recorded and followed-up, as well as promptly provided with a temporary legal guardianship. In their comments on the draft GRETA report, the authorities indicated that while awareness raising takes place for all Ukrainian refugees, special attention is paid to separated children, and steps are taken to appoint guardians or a local municipal officer to fulfil the role of a guardian to all such children. The authorities also indicated that unaccompanied children are placed in child-friendly emergency service for children deprived of parental care, and individual plans are drawn up following the principle of the best interests of the child.

63. The authorities referred to the National Strategy on Children and Families 2012-2020,³¹ which contains additional measures to protect children and provide appropriate assistance and services to children and families in need. Since 2017, Estonia has been implementing the Barnahus model and four children's houses have been set up (in Tallinn, Tartu, Jõhvi and, since October 2022, in Pärnu). During

³⁰ "Sexual violence in Estonia", bit.ly/3wTDmz2; "How to identify dating violence", bit.ly/3jprXrs; "What are my possibilities to avoid sexual violence", bit.ly/3WYOaXw; "What are my possibilities to avoid unpleasant sexual experiences", bit.ly/3I43chl; "Sexual violence crisis centre video", bit.ly/3JA4Z83; "Why trafficking concerns me", bit.ly/3jsP6ph (Russian), bit.ly/40nwebR (Estonian).

³¹ https://www.sm.ee/sites/default/files/content-editors/Lapsed_ja_pered/lpa_fulltxt_eng_83a4_nobleed.pdf

the evaluation visit, GRETA visited the Barnahus in Tallinn and met professionals working there. According to the authorities, implementing and developing the Barnahus model in Estonia has improved the co-operation of various professionals working with child victims as well as the prevention of child sexual abuse (including child victims of THB for sexual exploitation). Professionals working in them are trained on how to interview child victims, including children with special needs. Further, training and workshops for specific target groups (trainers, teachers, social workers etc.) regarding the prevention of child abuse have been organised by the professionals working in Barnahus. As noted in paragraph 17, Regulation No. 51 of the Minister of Social Affairs, which entered into force on 1 July 2022, provides detailed rules for the functioning of the Barnahus.

64. GRETA considers that the Estonian authorities should take specific measures to prevent the risks of THB among children who are asylum seekers and unaccompanied children. In this context, GRETA refers to its Guidance Note on addressing the risks of trafficking in human beings related to the war in Ukraine and the ensuing humanitarian crisis.³²

65. Further, GRETA invites the Estonian authorities to take further measures to raise awareness about the risks and different forms of child trafficking and developing measures to prevent recruitment through the Internet and social networks.

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

66. In the first evaluation report on Estonia, GRETA considered that the Estonian authorities should continue strengthening the prevention of THB through targeted social and economic empowerment measures for persons vulnerable to THB, which address root causes of THB, such as gender inequality, gender-based violence, and absence of employment opportunities.

67. The majority of the victims of THB identified in 2018-2021 were Estonian women. A number of measures have been adopted to promote gender equality. The authorities are implementing the Welfare Development Plan 2016-2023 which is aimed at reducing gender inequality.³³ The new Welfare Strategy "Prosperity" for the years 2023-2030 will deal with the issues of social inequalities, gender equality, equal opportunities for persons belonging to minorities, and social inclusion. In 2021-2022, the Ministry of Social Affairs implemented a pilot project together with other ministries on the preparation of an online training module on gender mainstreaming, equal treatment and accessibility for policy makers, the results of which will be presented to the Government in 2023.

68. The authorities referred to two research projects to tackle gender segregation in education and the labour market: "Glass Walls and Ceiling in the Estonian ICT Sector", finalised in the first half of 2021, and "Nudging to Support Stereotype-free Career Choices and Working Conditions", finalised in the spring of 2022. Both projects promote gender equality and are co-funded by the Estonian Research Council from the European Regional Development Fund and the Ministry of Social Affairs.

69. According to the authorities, out of the 68,991 refugees from Ukraine who entered Estonia by June 2022, 27,361 transited through the country and 41,630 stayed in Estonia; 27,163 persons applied for and received the status of temporary protection (10,998 of them were children). The Government and the local authorities, in cooperation with civil society, have developed measures to promote state-organised digital marketplace for matching refugees with employers and the organisation of job fairs at larger refugee accommodation sites. Ukrainian refugees are given leaflets when crossing the border with information on their rights and the services available. They are also offered to participate in the national

³² https://www.coe.int/en/web/anti-human-trafficking/news/-/asset_publisher/fX6ZWufj34JY/content/greta-issues-guidance-note-on-addressing-the-risks-of-trafficking-in-human-beings-related-to-the-war-in-ukraine-and-the-ensuing-humanitarian-crisis?inheritRedirect=false&redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Fanti-human-trafficking%2Fnews%3Fp_p_id%3D101_INSTANCE_fx6ZWufj34JY%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_count%3D1%26_101_INSTANCE_fx6ZWufj34JY_cur%3D4%26_101_INSTANCE_fx6ZWufj34JY_keywords%3D%26_101_INSTANCE_fx6ZWufj34JY_advancedSearch%3Dfalse%26_101_INSTANCE_fx6ZWufj34JY_delta%3D10%26p_r_p_564233524_resetCur%3Dfalse%26_101_INSTANCE_fx6ZWufj34JY_andOperator%3Dtrue

³³ See GRETA's first report on Estonia, paragraphs 105-106.

adaptation programme which provides information about how the Estonian state operates, the different services available, and their rights and obligations.³⁴ All staff working with refugees in the Social Insurance Board have followed special training, and the Estonian Unemployment Fund has organised information days for employers in order to offer workplaces for Ukrainian refugees.

70. As of 1 February 2023, the number of persons with undetermined citizenship (stateless persons) in Estonia was 63,893, mostly Russian speaking, aged 30-85 and older. According to the authorities, most of them have a permanent residence permit, unlimited right to work and qualify for all the state aids and services available. Most of the THB-related public materials are also available in Russian, as well as in Ukrainian and English.

71. GRETA considers that the Estonian authorities should take further steps to implement social, economic and other measures for groups vulnerable to THB due to their disadvantaged socio-economic situation. Further efforts should be made to promote social integration of migrants and to promote gender equality, combat gender-based violence and stereotypes, and support specific policies for the empowerment of women as a means of combating the root causes of THB for different purposes of exploitation.

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

72. GRETA notes that while trafficking in human beings for the purpose of organ removal as defined by the Convention and organ trafficking as defined by Articles 4 to 8 of the Council of Europe Convention against Trafficking in Human Organs³⁵ 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. 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.

73. As noted in GRETA’s first evaluation report, the removal of organs is not included as a form of exploitation in Article 133 of the CC, but is criminalised separately under Article 138-1 of the CC (“forcing a person to donate organs or tissue”), Article 139 of the CC (“illegal removal of organs or tissues”) and Article 140 of the CC (“inducing a person to donate organs or tissues”).

³⁴ bit.ly/3l43chl.

³⁵ Entry into force on 1 March 2018.

74. The National Transplantation Agency is responsible for organising the monitoring of the medical status of live organ donors, development of quality and safety instructions for the procurement, handling and transplantation of cells, tissues and organs and other activities such as promoting awareness of the importance of donation of organs. The Transplantation Centre organises the traceability, biovigilance, distribution, exchange and communication of the procurement, handling and transplantation of organs. It further maintains the organ transplant waiting list. The Health Board exercises supervision over the compliance of the specialised medical care providers whose practice involves the transplantation of cells, tissues and organs with the requirements of the relevant legislation.

75. Different institutions are in charge of overseeing and monitoring the medical care recovery of donors and recipients and managing or supervising any waiting lists (e.g. the Transplantation Centre, the National Transplantation Agency, the Estonian Health Insurance Fund, the State Agency of Medicines, the Health Board, the Ministry of Social Affairs). Guidance and training to relevant professionals on how to prevent this form of THB is provided by the National Transplantation Agency and the Transplantation Centre.

76. GRETA was informed that there had been no known cases of THB for the purpose of organ removal in Estonia or involving Estonian nationals abroad.

77. GRETA encourages the Estonian authorities to sign and ratify the Council of Europe Convention against Trafficking in Human Organs.

78. GRETA considers that the Estonian authorities should take further steps to provide training to health professionals dealing with transplantation of organs and other medical professionals to ensure that they are informed about the risks of THB for the purpose of the removal of organs and are able to detect possible victims.

e. Measures to discourage demand (Article 6)

79. In the first evaluation report on Estonia, GRETA considered that the Estonian authorities should enhance their efforts to discourage demand for services of trafficked persons, for all forms of exploitation, in partnership with NGOs, trade unions, international organisations and the private sector.³⁶

80. According to the Estonian authorities, the awareness-raising campaigns referred to in paragraph 43 also aim at discouraging demand and raising awareness amongst target groups of how demand contributes to human trafficking. The awareness-raising campaigns included in the Violence Prevention Agreement are addressed to young people, the general public and target groups, such as seasonal workers in the agricultural sector.

81. Reference can also be made to a project of the NGO Eluliin promoting demand reduction in Estonia, which has been identified as a good practice in the Baltic Sea Region Report 2022 on Human Trafficking.³⁷ The project involved a public campaign "Think with your head"³⁸ which addressed demand for sexual services. One of the key messages of the campaign is that prostitution is linked to organised crime and women involved in prostitution are often victims of human trafficking. It included a programme designed to inform sex buyers about human trafficking and the legal, health and social aspects of buying sex. The project also involved the production of a manual.

82. GRETA invites the Estonian authorities to strengthen their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society, trade unions and the private sector, including internet providers and tech companies.

f. Border measures (Article 7)

³⁶ See GRETA's first evaluation report on Estonia, paragraph 103.

³⁷ <https://cbss.org/publications/human-trafficking-baltic-sea-region-round-up-report-2022/> p. 22.

³⁸ <https://motlepeaga.ee>.

83. In the first evaluation report, GRETA considered that the Estonian authorities should strengthen their efforts to detect cases of THB in the context of border controls, including through further training of border guards on the identification of victims of THB.³⁹

84. The Estonian authorities referred to several measures to raise awareness on THB among border guards. Annual training is provided to border guards on human trafficking and internal guidance materials on human trafficking are available online. The Frontex publications "Handbook on Risk Profiles on Trafficking in Human Beings", "Children at airports" and "VEGA Handbook" are available at border crossing points. In 2019, a training of border guards based at Tallinn Airport took place, during which information on how to spot possible victims of human trafficking and perpetrators, as well as how to deal with presumed victims of human trafficking and how to collect first-hand information from them and presumed perpetrators.

85. Migration monitoring service officers regularly participate in working groups aimed at combating human trafficking and promoting cooperation. For example, officials of the West Prefecture of the Police and Border Guard Board visited Finland and Sweden to learn about their activities in combating irregular migration and human trafficking.

86. The Police and Border Guard Board uses the Tax and Customs Service's Database SSUSPECT where shipping traffic between Estonia and Finland is visible, and police cooperation is carried out. Among other things, this system provides an opportunity to identify potential victims of human trafficking.

87. Efforts have been made by the Social Insurance Board and the Ministry of Justice to develop information materials for Ukrainian refugees and volunteers assisting them, including videos. Several information materials were available at the reception centre for refugees coming from Ukraine in Pärnu which GRETA visited. However, UNHCR informed GRETA that no information materials on THB were available at larger border crossing points with the Russian Federation and transport hubs. Information materials were available on M/S Isabelle, a large cruise-ferry where some 2,000 Ukrainian refugees were accommodated. While welcoming the efforts made by the Estonian authorities to prevent the risks of trafficking in the context of the war in Ukraine, GRETA notes that no specific guidelines or strategies addressing THB in the context of migration and international protection have been adopted by the Estonian authorities. GRETA is concerned about the risks of trafficking of refugees while transiting and in Estonia.

88. The State Borders Act and Related Acts 577 SE entered into force on 16 August 2022. According to Article 9¹⁰ of this legislation, the Police and Border Guard Board may, in an emergency caused by mass immigration and in the event of a threat to public order or national security, return a foreign national who has illegally crossed the border of Estonia if it was possible for that person to enter Estonia through an existing open border crossing point. Article 9¹⁰(2) of the legislation provides that the Police and Border Guard Board are required to respect the principle of *non-refoulement*. Further, they are required to consider the specific needs of vulnerable persons and have the right to admit an alien to Estonia for humanitarian reasons. GRETA is concerned that the new legislation may undermine the identification of victims of THB amongst foreign nationals arriving in Estonia in an irregular manner. GRETA is not aware of the existence of guidance on the application of the new legislation and to what extent the requirement to consider the specific needs of vulnerable persons, who may include victims of trafficking, and the principle of *non-refoulement* are respected in practice.

³⁹

See GRETA's first evaluation report on Estonia, paragraph 115.

89. **GRETA urges the Estonian authorities to increase their efforts to detect potential victims of THB in the context of border controls and refer them to assistance. In this context, the Estonian authorities should ensure, at both legislative and operational level, that pre-removal risk assessments prior to all forced removals from Estonia fully assess the risks of trafficking or re-trafficking on return, in compliance with the obligation of *non-refoulement*. The Estonian authorities should take full account of the UNHCR guidelines on the application of the Convention relating to refugee status to victims of trafficking, and their right to seek asylum, and to GRETA's Guidance Note on the entitlement of victims of human trafficking, and persons at risk of being trafficked, to international protection.**⁴⁰

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

a. Identification of victims of THB (Article 10)

90. Article 4(3) of the new Victim Support Act defines, for the purposes of the Act, a victim of THB as "a person who is a victim in criminal proceedings initiated on the elements of a crime provided in Articles 133-133³, 138-140 or 175 of the CC or a person who would be deemed a victim in criminal proceedings commenced on the elements of another similar crime provided in the criminal code in force in a foreign state". The new Act no longer refers to "alleged victim of THB", which was defined in the old Act as a person who has been preliminarily identified in Estonia by a specialised NGO providing assistance to victims of THB which informed the National Social Insurance Board about a suspicion that the person might be a victim of THB.

91. Presumed victims of trafficking may be detected by the police, prosecution, specialised NGOs assisting victims of THB (through outreach activities, information received through the anti-trafficking hotline etc.), labour inspectors, social workers and competent foreign authorities. These actors should notify the Social Insurance Board of having detected a presumed victim of THB, following which information is transmitted to the Police and the Border Guard Board or the Prosecutor's Office to allow the initiation of criminal investigation into THB. The formal identification of a person as a victim of THB is thus linked to the opening of a criminal investigation into THB or a related offence, and can only be carried out by law enforcement authorities or the Prosecutor's Office.

92. Guidelines on the identification and referral to assistance of victims of THB, describing the roles and responsibilities of different actors, were drawn up the first time in 2009. These guidelines were discussed during a joint training session in 2019 and revised in co-operation with all relevant counterparts (Ministry of Social Affairs, Ministry of Justice, Ministry of the Interior, Ministry of Foreign Affairs, Police and Border Guard Board, Labour Inspectorate, Prosecutor's Office, Social Insurance Board and local governments).⁴¹ The provision of training of all relevant actors involved in the identification process of THB victims is also envisaged in the Violence Prevention Agreement.

93. When there are reasonable grounds to believe that the person subject to the asylum procedure is a victim of trafficking, the information is referred to the authorities responsible to start a criminal investigation. In August 2020, the Police and Border Guard Board started using an assessment tool for assessing vulnerabilities of asylum seekers. The tool contains a checklist for aspects necessary to identify whether the person is in a vulnerable situation.⁴²

94. Estonia is part of the Transnational Referral Mechanism of the Baltic Sea Region, Bulgaria, Romania and Ukraine, set up by the CBSS Task Force against THB.⁴³

⁴⁰ <https://rm.coe.int/guidance-note-on-the-entitlement-of-victims-of-trafficking-and-persons/16809ebf44>

⁴¹ https://www.kriminaalpoliitika.ee/sites/krimipoliitika/files/elfinder/dokumendid/ik_juhis_2019.pdf. (in Estonian).

⁴² In particular, three questions refer to THB: 1) Has the applicant experienced torture or other serious physical, psychological or sexual violence? 2) Has the applicant's situation been exploited? 3) What did the applicant have to do or have to do to cover the costs of his/her trip?

⁴³ [Home - Harmonised Operational Framework \(bsr-trm.com\)](https://www.bsr-trm.com/) / [About TRM - Harmonised Operational Framework \(bsr-trm.com\)](https://www.bsr-trm.com/)

95. As noted in paragraph 12, in 2018-2021, 264 presumed victims of THB were identified, but only 28 persons were formally identified as victims of trafficking. While the majority of the presumed victims were foreign nationals, all the formally identified victims were Estonian nationals. This data should be read in conjunction with other elements, namely the fact that no presumed victim of trafficking has been granted a recovery and reflection period (see paragraph 125), the fact that the average time spent in safe accommodation was only 4.1 days in 2021 (see paragraph 107), and the high number of presumed victims of THB who were returned to their countries of origin a few days after their detection (see paragraph 148). This prevents the investigation of THB offences and therefore victim identification, which depends on the opening of a criminal investigation.

96. GRETA is concerned by the lack of identification of victims of THB among foreign nationals in Estonia, which contrasts with the number of presumed foreign victims. GRETA stresses that under Article 10, paragraph 2 of the Convention, "each Party shall ensure that, if the competent authorities have reasonable grounds to believe that a person has been victim of trafficking in human beings, that person shall not be removed from its territory until the identification process as victim of an offence provided for in Article 18 of this Convention has been completed by the competent authorities and shall likewise ensure that that person receives the assistance provided for in Article 12, paragraphs 1 and 2". As mentioned in the Explanatory Report, this provision aims to avoid undocumented migrants being immediately removed from the country before they can be identified as victims. As highlighted in the Explanatory Report, identifying a trafficking victim is a process which takes time. It may require an exchange of information with other countries or parties to the Convention or with victim-support organisations, and this may well lengthen the identification process. Even though the identification process is not completed, as soon as the competent authorities consider that there are reasonable grounds to believe that the person is a victim, they will not remove the person from the territory of the receiving State.⁴⁴

97. Reference should be made to the Internal Security Development Plan 2020-2030, which treats the fight against irregular immigration as a priority and envisages a series of measures to detect and combat it, such as migration surveillance measures, based on risk analysis, IT solutions to make return and readmission procedures more efficient, and cooperation on return between EU Member States. GRETA stresses that the implementation of the Internal Security Development Plan must be done in compliance with the obligations arising from the Council of Europe Anti-Trafficking Convention, in particular the obligation to identify victims of trafficking, including among undocumented migrants and asylum seekers, and to refer them to assistance, as well as the non-punishment provision contained in Article 26 of the Convention (see paragraphs 159-164).

98. **GRETA urges the Estonian authorities to take further steps to improve the identification of victims of THB, and in particular to:**

- **ensure that the formal identification of a person as a victim of human trafficking does not depend on the opening of a criminal investigation into THB or a related offence;**
- **ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures provided for under the Convention;**

⁴⁴

See Explanatory Report to the Convention, paragraphs 127-137.

- **pay increased attention to the proactive detection of victims of trafficking among undocumented migrants and asylum seekers, allowing sufficient time to gather necessary information and taking into account their traumatic experience. In this context, further training on the identification of victims of THB and their rights should be provided to law enforcement officials, border guards and prosecutors;**
- **improve the proactive identification of victims of THB for the purpose of labour exploitation, especially among foreign nationals (see also paragraph 57).**

b. Assistance measures (Article 12)

99. The provision of assistance to victims of trafficking is regulated by the new Victim Support Act, adopted after GRETA's evaluation visit and in force as of 1 April 2023 (see paragraph 17). Subchapter 7 of this Act (articles 24 and 25) concerns the victims of THB service. Article 24 stipulates that the purpose of the human trafficking victims service is to contribute to the development of the victim's sense of security, physical and psychosocial recovery and to prevent re-victimisation. Pursuant to Article 24, paragraph 2, the service includes the following: 1) readiness to provide 24-hour primary psychosocial support to the victim; 2) assessment of a victim's need for support in order to decide on the need and volume of the service; 3) implementation of case management where a victim needs long-term and comprehensive support in order to achieve independent coping; 4) counselling and psychosocial support; 5) 24-hour safe temporary accommodation; 6) catering and other necessary material assistance; 7) organisation of access to necessary health service; 8) psychological counselling or psychotherapy; 9) legal aid; 10) organisation of translation services for enabling the support. Furthermore, Article 31 specifies the conditions for receiving mental health assistance in support of recovery from trauma, specifically mentioning victims of THB are being entitled to it.

100. The duration of the assistance provided to victims of THB is not limited by law and should be provided "until the need for the services ceases to exist" (Article 24, paragraph 3). According to the authorities, the Social Insurance Board assistance to victims takes into account their individual needs and is not dependent on whether they are national or foreign victims. However, services can be provided only to victims of trafficking where criminal proceedings have been launched for THB or a related crime, which is the condition for a person being identified as a victim of THB (see paragraph 90).

101. While awaiting a confirmation from the Police and Border Guard Board or the prosecutor's office that a person has been identified as a victim of THB, pursuant to Article 24, paragraph 4, of the new Victim Support Act, the services specified in paragraph 2 of this article may be provided for up to 14 calendar days to a person whom the Social Insurance Board or the Labour Inspectorate suspects may be a victim of human trafficking. Under the old Victim Support Act, services could be provided to presumed victims of THB for up to 60 days, starting from the notification of the Social Insurance Board of the refusal to initiate criminal proceedings. This possibility does not exist anymore.

102. Further, Article 24, paragraph 5, of the new Victim Support Act specifies that a foreign victim who has been granted a reflection period on the basis of Article 205 of the Aliens Act is provided the service until the deadline of their legal stay in Estonia or their early departure. The Police and Border Guard Board immediately notifies the Social Insurance Board of the establishment of the deadline, which makes a decision on termination of the provision of services upon the expiry of the term. The provision of services to a foreign nationals does not constitute legal grounds for their stay in Estonia and does not postpone the performance of their obligation to leave Estonia.

103. The Social Insurance Board advertises victim support services and awareness-raising campaigns are organised to inform the public about THB and possible services, including anti-trafficking hotline.⁴⁵ Information materials are available in Estonian, English and Russian.⁴⁶

104. As mentioned in paragraph 21, since 2019, all services for THB victims are coordinated and centrally organised by the Social Insurance Board, which selects service providers for safe accommodation and assistance (including legal assistance) through public procurement contracts. Access to the labour market is organised in cooperation with the Estonian Unemployment Fund. Up until 2021, assistance and shelter services were provided by the NGO Eluliin under the public procurement system. However, in 2021, no NGOs participated in the public tender for providing safe accommodation to victims of THB. GRETA was informed that this was because the funding ceiling in the contract was too low to meet the minimum standard for this kind of services (€15,000 compared to €62,000 in previous years). According to information provided by the Estonian authorities, due to the failed procurement, it was decided to centralise service provision.

105. The Estonian authorities stressed that the previous system did not ensure an adequate management of the resources because the cost of services was too high as each service (social counselling, support person, psychological counselling, legal counselling) had its own hourly rate and daily rates for accommodation. For these reasons they replaced the previous funding scheme with a fixed monthly amount. They pointed out that the new system should ensure a more efficient service. The authorities also informed GRETA that the budget for victim support services was increased to €350,656 in 2022.

106. As a result of these changes, there are no specialised shelters for THB victims currently operational in Estonia. The Social Insurance Board has concluded contracts for safe accommodation of victims with five hotels. The authorities stressed that these contracts involve strict safety and data protection rules and victims' feedback has been positive. Victims are brought to a hotel by a specialised counsellor from the Social Insurance Board who is responsible for providing initial assistance, informing victims about their rights and assessing the security risks. For victims of sexual exploitation, a risk assessment is immediately carried out in order to identify the safety needs and possible suicide risks. If needed, gynaecologists can be consulted, and 24-hour supervision can be ensured. A cooperation between specialised counsellor, local authorities and police forces is ensured in view of providing adequate assistance to THB victims.

107. Between January 2021 and June 2022, 45 presumed victims were accommodated in the designated hotels (36 women, 5 transgender and 4 men). The most represented nationalities were Brazilian (15 presumed victims), Ukrainian, Colombian, Russian and Venezuelan. The average time spent in the hotels was 4.1 days in 2021 and 5.6 days in 2022.

108. There are no long-term assistance programmes available specifically for victims of human trafficking. However, the authorities informed GRETA that a person who has valid legal basis to stay in Estonia can access support mechanisms on the same grounds as Estonian nationals. Access to education, the labour market and social services is available taking into account personal needs and skills of the person.

⁴⁵ <https://www.youtube.com/watch?v=dYnkelgDnWk>, <https://www.youtube.com/watch?v=MbXzdlhoFyo&t=2s>
https://www.youtube.com/watch?v=3F_br5IeFRw.

⁴⁶ <https://www.sotsiaalkindlustusamet.ee/ru/pomoshch-zhertvam-prestupleniya/liniya-popreduprezhdeniyu-i-okazaniyu-pomoshchi-zhertvam-torgovli>; <https://www.sotsiaalkindlustusamet.ee/en/human-trafficking-prevention-and-victims-assistance-counseling-line>; <https://www.facebook.com/inimkaubandus>

109. Presumed victims of human trafficking who are undocumented migrants are entitled to a recovery and reflection period (see paragraph 124) and access assistance and accommodation measures, however, as expressly stated in the Guidance on the identification and referral of victims of trafficking, “the rights for services do not constitute a legal basis for irregular migrant to stay in Estonia or postpone the deportation. If an obligation to leave Estonia is imposed on a third-country national or an EU citizen and the criminal proceeding related to THB offence is not commenced she/he is not entitled to assistance”.

110. GRETA was informed that presumed victims who are undocumented migrants are systematically returned to their countries of origin a few days after their detection and accommodation in the hotels (see paragraph 146). In their comments on the draft GRETA report, the authorities stated that presumed victims are informed of their rights in a language they understand, and that victim support workers are present in police stations to provide support and explain the rights and opportunities available to presumed victims. Leaflets on rights are available in Russian, English, Portuguese and Spanish.

111. While welcoming the measures taken to provide assistance to victims of THB, GRETA notes that the current accommodation system in hotels raise serious concerns about victims’ safety and protection needs. Referring to the Explanatory Report of the Convention, GRETA recalls that in order to ensure adequate protection, “the address of any accommodation needs to be kept secret and the accommodation must be protected from any attempts by traffickers to recapture the victims”.⁴⁷ In their comments on the draft GRETA report, the authorities stated that steps are being taken to comply with security requirement when organising tenders for the accommodation for victims of THB, and that women, men and transgender people are accommodated separately. Further, hotel staff have been trained and sensitised to THB and victim support needs. GRETA is also concerned by the very short duration of the assistance provided to THB victims, which seems to be inconsistent with the requirements of Article 12 of the Convention to ensure the physical, psychological and social recovery of the victims.

112. **GRETA urges the Estonian authorities to comply with their obligations under Article 12 of the Convention, and in particular to:**

- **set up, as a matter of priority, specialised accommodation facilities for victims of THB and ensure that accommodation is gender-sensitive, appropriate and safe, and that victims are provided with specialised services;**

ensure that social, legal and psychological assistance is provided for to presumed and formally identified victims of trafficking as long as necessary and is not discontinued if no criminal proceedings are initiated;

- **ensure that adequate state funding is dedicated to the provision of specialised assistance and safe accommodation of victims of trafficking;**
- **ensure that foreign victims are properly informed about their rights and in a language that they understand and receive adequate assistance, including by ensuring the involvement of qualified interpreters;**
- **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.**

c. Identification of, and assistance to, child victims of trafficking (Articles 10 and 12)

113. In its first evaluation report, GRETA urged the Estonian authorities to improve the identification of victims of trafficking among children, to provide specific assistance to child victims of THB, to ensure

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See Explanatory Report to the Convention, paragraph 64.

effective access to guardianship, and to train all professionals working with child victims of trafficking to recognise and respond appropriately to their needs.

114. As for adults, the identification of child victims of trafficking is regulated by the Victim Support Act and is linked to the opening of a criminal investigation. A child victim of trafficking is considered a child in need pursuant to the Child Protection Act and is entitled to receive assistance from the local child protection services. The new Victim Support Act contains specific provisions concerning child victims. It regulates the cooperation between victim support services and child protection. Under the old Act, it was the obligation of the Social Insurance Board to prepare a care plan for child victims of THB. Pursuant to the new Act, the local government shall draw up a care plan. Safe accommodation for child victims of THB may be organised as a substitute care service by the local authorities or as a victim support service by the Social Insurance Board, depending on the specific case. In case of unaccompanied foreign children, the Social Insurance Board will be responsible for preparing a case plan and organising the necessary assistance. In cases involving child sexual abuse, the Social Insurance Board shall provide services combined with the measures under Section 29¹ of the Child Protection Act, which deal with assistance in children's houses.

115. According to information provided by the authorities, eight child victims of THB were identified in the period 2018-2021, representing approximately 30% of the total number of identified victims. All of them were Estonian citizens. According to the authorities, most of the child victims are recruited through social media and made to send sexually explicit photos of themselves, through the offer of financial or other benefits or through threats. In 2021, 16 such cases were registered, and in 2020, 26 cases.

116. The recent amendment to the Child Protection Act provides that the local government's child protection services must refer a presumed sexually abused child (including presumed victims of THB) to a children's house (Barnahus). These multi-disciplinary specialised centres are run by the Social Insurance Board, providing a child-friendly environment for the participation of children in criminal proceedings. The Head of the Social Insurance Board, the Head of the Police and Border Guard Board, the Head of State Prosecutor's Office and the Head of the Forensic Science Institute have signed an agreement regulating the functioning of the Barnahus service and are part of a cooperation network.

117. The authorities informed GRETA that, in order to prevent disappearances, children are placed in foster homes. The Social Insurance Board cooperates with the local municipality where the child is residing in order to guarantee the wellbeing of children.

118. According to the Child Protection Act, where the victim's age is uncertain and there are reasons to believe that the person is a child, they will be presumed to be a child until proven otherwise. In case of doubt medical tests may be performed. The consent of the child or his/her guardian is required. Age assessment tests are carried out by the Forensic Science Institute. They involve an X-ray examination and an interview (e.g. history of injuries and other health-related issues).

119. **While noting the new provisions of the Victim Support Act, GRETA urges the Estonian authorities to improve the identification of, and assistance to, child victims of trafficking, in particular by:**

- **ensuring that relevant actors take a proactive approach and increase their outreach work to identify child victims of trafficking for different purposes of exploitation;**
- **providing further training to relevant professionals (police, child protection authorities, social workers, health professionals, asylum officials) as well as guidance for the identification of child victims of THB for different forms of exploitation;**
- **increasing efforts to identify and refer to assistance child victims of THB who are foreign nationals, taking into account GRETA's Guidance Note on addressing the risks of trafficking in human beings related to the war in Ukraine and the ensuing humanitarian crisis.**

120. **GRETA also invites the Estonian authorities to ensure that the age assessment procedures are carried out taking into account the best interests of the child, and in compliance with the Convention on the Rights of the Child, General Comment No. 6 of the Committee on the Rights of the Child⁴⁸ and Resolution 2195/2017 of the Parliamentary Assembly of the Council of Europe on "Child-friendly age assessment for unaccompanied migrant children".⁴⁹**

d. Protection of private life (Article 11)

121. The processing of personal data is regulated by the Personal Data Protection Act. In addition, Article 15 (2) of the CCP regulates the processing of personal data in criminal proceedings. Article 157 of the CC criminalises the illegal disclosure of personal data and special personal data.

122. The service providers of the Social Insurance Board inform presumed victims of trafficking about the processing of their data and about their rights. All personal documents are stored in secured databases of the Social Insurance Board and only essential personal information are collected.

e. Recovery and reflection period (Article 13)

123. In its first evaluation report, GRETA observed that the Aliens Act did not state the purpose of the recovery and reflection period as it is stated in the Convention, i.e. to enable possible victims of trafficking to escape the influence of the traffickers and/or to take an informed decision on co-operating with the competent authorities. Therefore, GRETA urged the Estonian authorities to review the legislation with a view to ensuring that the recovery and reflection period is defined in law as provided for in Article 13 of the Convention, and that all presumed victims of trafficking are offered and effectively granted such a period with all the measures of assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention.

124. The recovery and reflection period continues to be regulated by Articles 204 and 205 of the Aliens Act, which provide for the so-called "cooling-off period" which may be granted to a foreign victim or witness of THB and related offences by a prosecutor or an investigator upon a prosecutor's request. The "cooling-off period" may last from 30 to 60 days and has the purpose of allowing the person concerned to decide whether he/she wishes to co-operate with the investigative authority or prosecution. The Aliens Act stipulates that the Prosecutor's Office or an investigative authority shall notify the alien of the services offered during this period and the possibility and conditions for being issued with a temporary residence permit for the purpose of his/her participation in criminal proceedings or an international protection procedure. The "cooling-off period" is granted only to victims or witnesses in an open criminal procedure.

⁴⁸ General Comment No. 6 Treatment of unaccompanied and separated children outside their country of origin, Committee on the Rights of the Child, Thirty-ninth session, 17 May - 3 June 2005.

⁴⁹ [PACE website \(coe.int\)](https://www.pace.coe.int/)

Under Article 14(5) of the Obligation to Leave and Prohibition on Entry Act, the return of a third-country national is suspended for this period.

125. The authorities informed GRETA that no recovery and reflection period was granted to victims of THB in 2018-2022. Civil society representatives raised concerns about the failure to grant this period and the assistance measures which accompany it to presumed foreign victims of THB, due to inadequate identification procedures. In their comments on the draft GRETA report, the authorities stated that victims are provided with information on the possibility to receive a "cooling-off period", temporary residence permit for the purpose of participation in the criminal proceedings, and international protection, but it is up to the foreign national to decide whether to stay in Estonia.

126. GRETA's concerns expressed in the first evaluation report around the granting of a recovery and reflection period remain valid. GRETA recalls that according to the Convention, the recovery and reflection period should be granted when there are reasonable grounds to believe that the person concerned is a victim of trafficking, i.e. before the identification procedure has been completed.

127. Recalling the recommendation made in its first report, GRETA once again urges the Estonian authorities to review the provisions and application of the recovery and reflection period with a view to ensuring that:

- **all possible foreign victims of trafficking, including EU/EEA nationals, are systematically informed of the possibility to benefit from a recovery and reflection period and are effectively offered a recovery and reflection period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period;**
- **the relevant authorities are informed of the State's positive obligation to grant a recovery and reflection period to all possible victims of THB, whether or not such a request is made by the presumed victim.**

f. Residence permits (Article 14)

128. In the first evaluation report, GRETA considered that the Estonian authorities should take steps to ensure that victims of THB can fully benefit from the right to obtain a renewable residence permit, including owing to their personal situation, without prejudice to the right to seek and enjoy asylum.

129. The legislation in this respect remains unchanged, namely, pursuant to Article 203 of the Aliens Act, a third-country national may be granted a temporary residence permit in order to participate in criminal proceedings if he/she is a victim or a witness in a criminal procedure initiated for the commission of THB or a related offence. The conditions for issuing a temporary residence permit are the following: the person facilitates the ascertaining of facts relating to the criminal offence or has agreed to do so, has broken off all relations with the persons suspected or accused of the offence, and does not constitute a threat to public order or national security. The duration of the temporary residence permit is from six to 12 months, renewable for up to a year at a time. The temporary residence permit may be revoked when the criminal proceedings are terminated, or if the person is no longer contributing to the clarification of facts relating to the criminal offence, or has voluntarily and on his/ her own initiative renewed contacts with the suspected or accused persons.

130. A possibility to issue temporary residence permits on humanitarian grounds also exists since 2016, if it has become evident that fulfilling the obligation to leave the country would be unduly burdensome to the person concerned, he/she lacks the possibility of obtaining the residence permit on other grounds and does not constitute a threat to public order and national security. However, the issuing a residence permit on humanitarian grounds is not expressly envisaged for victims of THB on the basis of their personal situation.

131. Resident permit applications are processed by the Police and Border Guard Board. The authorities informed GRETA that no resident permits were granted in the reported period to victims of THB, neither were any victims of trafficking granted refugee status or subsidiary/complementary protection.

132. **GRETA considers that the Estonian authorities should take additional steps to ensure that all victims of trafficking can fully benefit in practice from the right to obtain a renewable residence permit for their personal situation or for co-operating with the authorities, without prejudice to the right to seek and enjoy asylum.**

g. Compensation and legal remedies (Article 15)

133. As described in GRETA's first evaluation report,⁵⁰ the right to compensation is enshrined in the Constitution of Estonia, Article 25 of which states that everyone is entitled to compensation for intangible and tangible harm that he or she has suffered because of the unlawful actions of another person. Estonian legislation provides for three ways of claiming compensation: through civil action in criminal proceedings; through civil proceedings; and by applying for state compensation, pursuant to the Victim Support Act.

134. Pursuant to Article 38(2) of the CCP, in conjunction with Article 225(1) of the CCP, a civil action must be filed not later than within 10 days after the completion of the pre-trial proceedings, after the victim has been provided with the materials of the criminal case. Article 38(5) of the CCP states that an investigative body or a prosecutor shall explain to victims their rights, the procedure and conditions for filing a civil action, and the procedure for accessing legal aid provided by the state.

135. Under Article 202(2) of the CCP (which allows the termination of criminal proceedings when there is no public interest in pursuing the case), the court may, on an application of the Prosecutor's Office, and with the consent of the suspect or the accused, impose on the suspect/accused a number of obligations, *inter alia*, to pay the costs of the criminal proceedings, compensate the harm caused by the criminal offence, or to pay a specific amount to the State's revenue in justified cases or to be used for a specific purpose in the public interest. However, the CCP does not allow for the termination of proceedings for the criminal offence of THB.

136. According to information provided by the authorities, in the period 2018-2022, 10 victims of THB (Article 133 of the CC) and crimes supporting trafficking (Article 133¹ of the CC) applied for compensation through civil proceedings (for moral and physical damage) and received a total of 137,656 euros from 10 perpetrators in different cases.

137. The legislation regarding access to state compensation for victims of criminal offences has changed following the adoption of the new Victim Support Act (in force from 1 April 2023). As per Article 35 of the Act, a violent crime is an act punishable as a crime which is committed directly against the life or health of a person and which results in the death or serious damage to the health of a victim. Acts are deemed to be violent crimes even where the offender is not capable of guilt or has not been identified or apprehended or cannot be convicted for other reasons, but there is evidence suggesting that a violent crime was committed. Article 36 of the Act defines the categories of victims of violent crimes committed in Estonia who are entitled to state compensation: Estonian citizens, citizens of EU countries, citizens of states which are parties to the European Convention on Compensation of Victims of Violent Crimes, foreigners residing in Estonia on the basis of a residence permit, and victims of THB and sexually abused

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See GRETA's first evaluation report on Estonia, paragraphs 162-163.

children regardless of whether they have any legal grounds for stay in Estonia. State compensation is also paid to victims of violent crimes committed abroad who are Estonian citizens and were abroad for reasons related to studies, employment, service duties or other good reasons, and were unable to receive compensation from the state where the crime took place.

138. Article 38 of the Victim Support Act defines the types of damages compensated: costs related to the restoration of the health of the victim; damage caused to spectacles, dentures, contact lenses and other appliances supporting bodily functions and personal effects of the victim; funeral expenses of the victim; damage arising from a decrease in the income of the victim and the caregiver of the victim; damage arising from the loss of a maintenance provider. Article 44, paragraph 4, of the Victim Support Act stipulates that the amount of state compensation shall not exceed €9,590 per victim.

139. The procedure for applying for and receiving state compensation is provided for in articles 45 to 53 of the Victim Support Act. Pursuant to Article 45 of the Victim Support Act, an application for state compensation should be submitted to the Social Insurance Board within three years of the commission of the crime or the date of death of the victim, except for cases where: 1) the victim's dependant became aware of the death of the victim later than one year after it occurred, and the application is submitted within three years as of the date of becoming aware of the death of the victim; 2) the applicant sustained a health disorder lasting longer than one year and the timely submission of the application was not possible due to his or her state of health, provided that the application was submitted within three years following the improving of the state of health; 3) the application relates to a sexual offence and was submitted within three years after the victim became an adult, unless the reason for the criminal proceedings became evident before he or she became an adult. The Social Insurance Board makes a decision on the payment of compensation within 30 days of the submission of the application. It may postpone a decision concerning the granting of compensation until a judgment is made by a county court as regards compensation from the offenders, but may also decide to pay compensation in advance where the applicant's right to compensation is clear and the applicant is in a difficult economic situation.

140. The Estonian authorities did not provide GRETA with information on the number of victims of THB who applied for and were granted state compensation.

141. Access to legal aid continues to be regulated by the Legal Aid Act. In criminal proceedings, Estonian and EU citizens and residents who are injured parties are entitled to receive free legal aid following a means test. Free legal aid is always granted to children who do not have a legal representative or when the interests of the legal representative are in conflict with the interest of the child. Further, under the Act on Granting International Protection to Foreign Nationals, all unaccompanied children are entitled to free legal aid. Since 1 January 2021, *ex officio* lawyers can only represent children if they have undergone specific training.

142. Legal aid is available as one of the support services to victims of THB and is provided either under the Legal Aid Act or as judicial aid funded by the Ministry of Justice. The authorities stated that no victims of THB used lawyers from the state-funded legal aid system in 2018-2022. According to information provided by the authorities, the Social Insurance Board provided legal assistance, through lawyers recruited through a public tender, to 33 presumed victims in 2018, 111 in 2019, 75 in 2020 and 49 in 2021. In all the cases, the legal assistance related to the lodging of applications before the labour dispute committee of the Labour Inspectorate due to labour disputes between workers and private companies.

143. GRETA urges the Estonian authorities to facilitate and guarantee access to compensation for victims of trafficking, including by:

- **ensuring that all victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;**
- **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.**

h. Repatriation and return of victims (Article 16)

144. In the first evaluation report, GRETA considered that the Estonian authorities should ensure that the return of victims of trafficking is conducted with due regard for their rights, safety and dignity and that the *non-refoulement* obligation under Article 40, paragraph 4, of the Convention is respected. Further, GRETA urged the authorities to introduce pre-return risk and security assessment procedures by specialised bodies prior to returning unaccompanied and separated migrant children, to ensure that the best interests of the child are effectively respected, protected and fulfilled, in co-operation with relevant partners in countries of return.

145. Under Article 17¹ of the Obligation to Leave and Prohibition on Entry Act, a third-country national may not be expelled to a state expulsion to which may result in an inhuman or degrading treatment. Further, according to Article 6⁷ of this Act, the authority responsible for taking measures relating to the removal of foreigners from Estonia is required to consider the specific needs of children, unaccompanied children, disabled persons, elderly persons, pregnant women, single parents with small children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence. According to Article 7², paragraph 4, of the Act, a term of 7 to 30 days shall be assigned for voluntary compliance with the obligation to leave, which may be extended by up to 30 days at a time if the compliance with the obligation to leave turns out to be disproportionately burdensome for an alien within the stipulated term, taking account of all relevant circumstances, including providing opportunities for victims to participate in the criminal justice process, the 60-day period of assistance, etc. in accordance with Section 14(5), point 3, of the Act, information to victims on opportunities and conditions for suspension of the expulsion.

146. According to the Estonian authorities, victims of THB prefer to return in their home countries. As noted in paragraph 125, no presumed foreign victim of trafficking has been granted a recovery and reflection period and the average time spent in safe accommodation was only 4.1 days in 2021 (see paragraph 107). The systematic return of presumed foreign victims could be linked to the lack of information on the rights of victims of THB and the options for assistance, as well as the absence of appropriate accommodation. This results in limited opportunities for victims to participate in the criminal justice process, if they wish, and may hinder the effectiveness of the criminal justice process.

147. The authorities informed GRETA that an unaccompanied child may be returned from Estonia to another country only if the guardian is convinced that the child shall be sent back to his/her family or appointed guardian or reception centre of the receiving state. Legal guardians should assess the conditions of the return so that this would be in the best interests of the child. The return is organised in cooperation with legal guardians (local municipalities), the Social Insurance Board and law enforcement agencies.

148. The IOM Office in Estonia has been implementing since 2010 an assisted voluntary return programme through the VARRE programme, funded by the Ministry of the Interior and the AMIF. According to information provided by the authorities, the number of persons who have been given a notice by the police to voluntarily leave Estonia was 688 in 2018, 955 in 2019, 1,012 in 2020, and 1,043 in 2021. The number of persons who used the IOM voluntary repatriation services was 45 in 2018, including 5 children; 132 in 2019, including 5 children; 129 in 2020, including 9 children; and 43 in 2022, including 6 children.

149. **GRETA considers that the Estonian authorities should continue to take steps to ensure that the return of victims of THB is conducted with due regard to their rights, safety and dignity, including the right to non-refoulement (Article 40(4) of the Convention), and in the case of children, by fully respecting 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.**

3. Substantive criminal law

a. Criminalisation of THB (Article 18)

150. In the first evaluation report, GRETA urged the Estonian authorities to bring the definition of THB into conformity with Article 4 of the Convention, in particular, by including the component of “action” in the definition of THB under Article 133 of the CC and ensuring that all the “means” provided for in the Convention are adequately reflected; explicitly including forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs among the forms of exploitation under Article 133 of the CC; clearly stating the irrelevance of the consent of a victim of THB to establishing a trafficking offence where any of the means have been used; and ensuring that the criminalisation of trafficking in children fully reflects the provisions of Article 4 of the Convention.

151. The amendments made to the CC on 19 March 2019, in force from 1 July 2019, specify that there is no need to prove the act of exploitation in order to establish the offence of THB, and that if the offence of THB is committed by a person who has previously been punished for the same offence, the sentence imposed shall not be suspended in full. As a result, the relevant parts of the provision criminalising trafficking in human beings (Article 133, sections 1, 2 and 3) read as follows:

“(1) Placing a person, for the purpose of gaining economic benefits or without it, in a situation where he or she is forced to marry, work under unusual conditions, engage in prostitution, beg, commit a criminal offence or perform other disagreeable duties, and keeping a person in such a situation, if such act is performed through deprivation of liberty, violence, deceit, threatening to cause damage, by taking advantage of dependence on another person, helpless or vulnerable situation of the person is punishable by one to seven years’ imprisonment.

(2) The same act if:

- 1) committed against two or more persons;
 - 2) committed against a person of less than 18 years of age;
 - 3) committed against a person in a helpless situation;
 - 4) committed in a torturous or cruel manner;
 - 5) causing serious health damage;
 - 6) causing danger to life;
 - 7) committed by a group;
 - 8) committed by taking advantage of official position;
 - 9) causing serious consequences;
 - 10) committed by a person who has previously committed a criminal offence provided for in this section or sections 133¹, 133², 133³ or 175;
- is punishable by three to fifteen years’ imprisonment.

(3) In the case of any criminal offence provided for in this section, if committed by a person who has previously been punished for a crime provided for in this section or Articles 133¹, 133², 133³ or 175 of this Code, the sentence imposed shall not be suspended in full.”

152. Reference should also be made to Article 175 of the CC, entitled “Human trafficking with respect to minors”, also amended in 2019, the relevant sections 1 and 3 of which read as follows:

“(1) Influencing of a person of less than 18 years of age, for the purpose of gaining economic benefits or without it, in order to cause him or her to commence or continue engagement in prostitution or commission of criminal offences, work under unusual conditions, beg or marry against his or her will or appear in pornographic or erotic performances or works if it does not contain the necessary elements of an offence provided for in Article 133 of this Code, and aiding in other manner in the activities specified in this section of a person of less than 18 years of age, is punishable by two to ten years’ imprisonment.

(3¹) In the case of any criminal offence provided for in this section, if committed by a person who has previously been punished for a crime provided for in this section or Articles 133, 133¹, 133², 133³, 175¹, 178, 178¹ or 179 of this Code, the sentence imposed shall not be suspended in full.”

153. GRETA notes that its recommendations addressed to the Estonian authorities in the first evaluation report have not been reflected in the amendments to the CC. The component of “action” is still not included in the definition of THB. Further, several of the “means” listed in the Convention are missing from the definition, and there is no reference to the irrelevance of the consent of a victim to exploitation, where any of the means have been used. In their comments on the draft GRETA report, the authorities noted that a decision was taken to make a thorough revision of the legal provisions on THB after the revision of the EU Anti-Trafficking Directive.

154. **GRETA once again stresses the importance of using a definition of trafficking in human beings on which there is international consensus⁵¹ and urges the Estonian authorities to bring the definition of THB into conformity with Article 4 of the Convention without further delay, in particular by:**

- **including the component of “action” in the definition of THB under Article 133 of the CC;**
- **ensuring that all the “means” provided for in the Convention are adequately reflected;**
- **including forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs among the forms of exploitation under Article 133 of the CC;**
- **clearly stating the irrelevance of the consent of a victim of THB to establishing a trafficking offence where any of the means have been used.**

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See paragraph 72 of the Explanatory Report of the Convention.

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

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

156. The use of services of victims of THB, with the knowledge that the person is a victim, is still not criminalised in Estonian law. In their reply to the Committee of the Parties' Recommendation CP (2020)¹⁵, the authorities referred to the amendment of Article 133 of the CC, according to which buying sex from a victim will be considered as a crime. The authorities indicated that the ongoing revision of the EU Anti-Trafficking Directive plans to criminalise the use of services of victims of THB, with the knowledge that a person is a victim, and that the Estonian Government supports this proposal. **GRETA would like to be kept informed on legal developments in Estonia in this respect.**

c. Corporate liability (Article 22)

157. As described in GRETA's first evaluation report, pursuant to Article 14 of the CC ("liability of legal persons"), a legal person shall be held responsible for an act that is committed in the interests of the legal person by its body, a member thereof or by a senior official or competent representative in the cases provided by law. Criminal liability of legal persons is provided for under Articles 133, 133-1, 133-2, 133-3, 138, 138-1, 139, 140 and 175 of the CC (THB being amongst these provisions), subjecting legal persons to pecuniary sanctions for their involvement in the offences proscribed under the respective articles.

158. The Estonian authorities have informed GRETA that in the period 2018-2022 a pecuniary sanction of 8,000 euros was imposed on a company in a case concerning THB, pursuant to Article 255 lg¹ of the CC, as the leader of the company used it to legalise criminal assets of several crimes, mainly drug-related offences. The owner of the company was also punished to nine years' imprisonment, of which three years were given for THB.

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

159. In the first evaluation report, GRETA urged the Estonian authorities to ensure compliance with the non-punishment principle, by adopting a specific legal provision and developing a guidance for police officers and prosecutors.

160. Estonian legislation still does not contain a specific provision allowing for not imposing penalties on victims of trafficking for their involvement in unlawful activities, to the extent that they have been compelled to do so. The authorities have referred to several criminal law provisions which, according to them, can be used to comply with the non-punishment principle. Article 29 of the CC ("necessity") states that an act is not unlawful if the person commits it in order to avert a direct or immediate danger to the legal rights of the person or of another person, and if the means chosen by the person are necessary for the aversion of the danger and the interest protected is evidently of higher importance than the interest subject to damage. Further, Article 202 of the CCP ("termination of criminal proceedings in case of lack of public interest in proceedings and negligible guilt") provides for a possibility to terminate criminal proceedings if their object is a criminal offence in the second degree and the guilt of the person suspected or accused of the offence is negligible, and the person has remedied or has commenced to remedy the damage caused by the offence, or has paid the expenses relating to the criminal proceedings, or assumed the obligation to pay such expenses, and there is no public interest in the continuation of the criminal proceedings. In such circumstances, the Prosecutor's Office may request the court to terminate the criminal proceedings, with the consent of the suspect or accused. In addition, Article 205 of the CCP ("termination of criminal proceedings in connection with assistance received from a person upon ascertaining facts relating to subject of proof") allows the Prosecutor's Office to terminate criminal proceedings if the suspect or accused has significantly facilitated the ascertaining of facts relating to the proof of a criminal offence, which is important from the point of view of public interest in the proceedings and if, without such assistance, detection of the criminal offence and taking of evidence would have been precluded or especially complicated.

161. The authorities informed GRETA that there are no examples of the application of the above-mentioned provisions in cases related to THB.

162. However, GRETA notes with concern that the lack of identification of victims of THB among foreign nationals may result in victims of trafficking being punished for immigration-related offences. The administrative court may authorise the detention of a foreigner for up to two months, which can be reviewed, and the overall duration of such detention may not exceed 18 months. Irregular migrants and failed asylum applicants, including children, who are subject to removal from Estonia, are held in the immigration detention facility run by the Police and Border Guard Board. In its Concluding Observations on the combined second to fourth periodic reports of Estonia, the UN Committee on the Rights of the Child expressed concerns over reports suggesting that the detention of asylum-seeking and refugee children in Estonia was increasing.⁵² In their comments on the draft GRETA report, the authorities stated that there was a temporary rise in the number of detained children due to the process of accepting and relocating Afghani children, who were temporarily detained for up to 48 hours to carry out all the phases of the international protection process.

163. GRETA recalls that the fear of reprisals for activities carried out under compulsion can be a persisting factor which deters victims of THB from contacting the authorities and/or support organisations. The non-punishment principle is an essential cornerstone in the fight against human trafficking, preventing re-victimisation and ensuring that victims can access services. GRETA considers that the absence of a specific provision on the non-punishment of victims of trafficking entails a risk of differential treatment, depending on the prosecutor in charge of the case. Moreover, trafficking victims often cannot rely on exceptions based on general criminal law provisions (for example duress, necessity) because these concepts are narrower in scope than the non-punishment principle enshrined in the Convention and/or shift the burden of proof to the victim of trafficking.

164. Consequently, **GRETA once again urges the Estonian authorities to take further steps to ensure compliance with the principle of non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so, as contained in Article 26 of the Convention, in particular by:**

- **adopting a specific provision and/or developing guidance for police officers and prosecutors on the scope of the non-punishment provision;**
- **including the non-punishment provision in the training of law enforcement officials, prosecutors and judges;**
- **ensuring that the non-punishment provision is capable of being applied in practice to all offences that victims of trafficking were compelled to commit, including migration related offences, by ensuring that victims are promptly identified as such and receive adequate support from their first contact with law enforcement agencies.**

⁵² [Committee on the Rights of the Child considers report of Estonia | OHCHR.](#)

4. Investigation, prosecution and procedural law

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

165. In its first report, GRETA urged the Estonian authorities to strengthen their efforts to ensure that THB offences for the purposes of different types of exploitation are proactively investigated and prosecuted, by identifying gaps in the investigation and prosecution, developing training and providing law enforcement agencies with the necessary resources and tools to detect and investigate THB cases.

166. Article 6 of the CPC sets out the principle of mandatory criminal proceedings whereby investigative bodies and the prosecution are obliged to initiate criminal investigation upon the discovery of facts referring to a criminal offence. Pursuant to Article 30(1) of the CPC, the Prosecutor's Office directs pre-trial proceedings and ensures their legality and efficiency. As per Article 38 (1) (1) of the CPC, a victim has the right to appeal against the refusal to initiate or terminate criminal proceedings, in accordance with the procedure provided under Articles 207 and 208 of the CPC.

167. The investigation is carried out by specialised police forces under the supervision of a specialised prosecutor. Specialised prosecutors are present in the four districts (North, South, East and West). Further, a prosecutor has been appointed at national level to coordinate co-operation in THB cases.

168. The use of special investigation techniques is provided for in Chapter 31 of the CPC ("surveillance activities") and, pursuant to Article 1262(2) of the CPC, can be used in THB offences. The CPC includes the following special investigation techniques: covert surveillance of a person, object or area, covert taking of comparative samples and performing initial examinations, covert examination of an object and replacing it, covert examination of a postal item, observing or wire-tapping information, using a police agent, and covert entry into a building, premises, vehicle, enclosed area or computer system. The authorities stated in their comments to the draft GRETA report that covert surveillance of a person or area and secret interception of information are usually used in the handling of serious crimes.

169. GRETA was informed that financial investigations are systematically carried out in human trafficking cases, including monitoring bank accounts. Estonian legislation contains provisions allowing for the confiscation of criminal assets, in particular, Articles 83 of the CC ("confiscation of assets acquired through an offence" and "extended confiscation of assets acquired through a criminal offence") and Article 84 of the CC ("substitution of confiscation"). Assets obtained through the commission of THB and related are subject to extended confiscation. If the assets acquired by an offence have been transferred, consumed or the confiscation thereof is impossible or unreasonable for another reason, the court may order payment of an amount which corresponds to the value of the assets subject to confiscation.

170. According to information provided by the Estonian authorities, the number of registered THB offences was 4 in 2018, 5 in 2019, 20 in 2020 and 5 in 2021. The number of persons prosecuted was 9 in 2018, 8 in 2019, 10 in 2020, 4 in 2021, and 11 in 2022 (6 for labour exploitation in a company, concerning foreign workers, 3 for sexual exploitation, one for international THB not taking place in Estonia, and one which is confidential). The number of persons convicted of THB was 4 in 2018 (2 for sexual/labour exploitation and 2 for forced criminality), 5 in 2019 (3 for forced criminality and 2 not an unknown purpose of exploitation), 8 in 2020 (of which 3 for forced criminality) and 2 in 2021 (both for forced criminality), and 4 in 2022 (2 for sexual exploitation and 2 for forced criminality).

171. The Estonian authorities did not report any investigation, prosecution or conviction of public officials for trafficking crimes.

172. Several actions have been undertaken to investigate THB crimes committed online. The National Police is deploying an IT tool to screen internet-based advertisements for sexual services in order to identify possible crimes of pimping or THB for sexual exploitation. The National Police has also established cooperation with all main service providers in Estonia for the removal of illegal online content.

173. The Estonian Union for Child Welfare has set up a free online service (Vihjeliin),⁵³ available in Estonian, Russian and English, which enables Internet users to provide information about material being distributed online which depicts illegal content (child sexual abuse). Information can be submitted anonymously. If the message includes information about an online environment that displays illegal material, the country of location of this environment will be identified and information passed on either to the Estonian Police and Border Guard Board or the respective country's similar hotline service provider. In 2021, nearly 900 reports were received and handled. For providing the hotline service, the Estonian Union for Child Welfare works closely with law enforcement authorities, Internet service providers and non-profit organisations, and such international networks as INSAFE and INHOPE.

174. Action against THB is included in the Criminal Policy Guidelines until 2030,⁵⁴ which focus on the prevention, deterrence and repression of THB, and envisage a periodic review and, if necessary, an update of the criminal policy. Prevention of THB is also part of the Internal Security Development Plan 2020-2030 (see also paragraph 97), which refers to the aim of increasing the identification of victims of human trafficking. The authorities have referred to the EU project Enhanced Law Enforcement Cooperation and Training on Trafficking in Human Beings (ELECT THB), which aims to enhance the identification and investigation of THB for sexual and labour exploitation and increase collaboration between law enforcement authorities and other key actors to combat it. The first roundtable to discuss the project was held on 23 February 2022.

175. **While welcoming the steps taken to improve the investigation of THB crimes committed online, GRETA urges the Estonian authorities to take further measures to ensure that THB cases are investigated proactively, prosecuted successfully and result in effective, proportionate and dissuasive convictions, including by:**

- **strengthening the capacity to locate, seize and confiscate assets of the traffickers by carrying out proactive investigations, including financial investigations related to trafficking offences;**
- **providing further training to police officers and prosecutors to investigate and prosecute cases of THB for the purpose of labour exploitation, including through co-operation with other relevant actors and countries;**
- **further developing the specialisation of investigators, prosecutors and judges to deal with THB cases.**

⁵³ www.vihjeliin.ee

⁵⁴ [Kriminaalpoliitika põhialused | Justiitsministeerium](#)

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

176. As described in GRETA's first evaluation report, Article 12 of the CPC allows the court to restrict public access to court hearings and declare that a session or a part thereof is held in camera, in the interests of a child or a victim. According to Article 37(3) of the CPC, the provisions applicable to witnesses also apply to victims in the performance of procedural acts, including provisions regarding protection. A preliminary investigation judge may, as provided in Article 67 of the CPC, declare a witness or a victim anonymous by a ruling in order to ensure his/her safety. In a court proceeding, a witness/victim bearing a fictitious name shall be heard by telephone, using voice distortion equipment, if necessary. In addition, Article 67 of the CPC provides that a body conducting the proceedings may organise hearing of a witness or victim via video-link if a direct hearing would involve excessive costs or if it is necessary to protect the witness or the victim.

177. Pursuant to Article 38 (5) of the CPC, a victim has the right to receive information concerning taking into custody of a person suspected of a criminal offence and may request to be notified of the release of that person in the event of any danger, to request to be notified of the release of the convicted offender before the imprisonment term elapses, or of the escape of the convicted offender from the penitentiary institution, in the case the information can prevent danger to the victim. Further, the Witness Protection Act contains measures for witness protection during pre-trial proceedings and during and after judicial proceedings. The duration of witness protection depends on the degree of risk to the protected person and the conditions of the protection agreement and compliance with the conditions by the protected person. Witness protection is provided by the Police and Border Guard Board.

178. Child victims are presumed to require special treatment and protection in criminal proceedings. As a result of an assessment, a decision is made concerning which of the means provided for in the CPC for ensuring the safety of the victim it is possible to employ, as well as whether the interview with the victim should be conducted in premises adapted for their special needs or by, or with the participation of, a specialist trained official.

179. Article 70 of the CPC stipulates that the body conducting proceedings may involve a child protection official, social worker, teacher or psychologist in the hearing of a child witness. If the body conducting proceedings has not received the necessary training, the involvement of a child protection official, social worker, teacher or psychologist in the hearing of a child is mandatory in the following cases: the witness is up to 10 years of age and repeated hearing may have harmful effect on his/her mind; the witness is up to 14 years of age and the hearing is related to domestic violence or sexual abuse; or the witness is with speech impairments, sensory or learning disabilities or mental disorders. If necessary, the hearing of a child can be video recorded. Taking into consideration the mental or physical condition and the age of a witness, the court may suspend the questioning by the parties and examine the witness on its own initiative or on the basis of the written questions prepared by the parties to the court proceeding. For children aged 14-17, video hearing options are used. Further, Article 290 of the CPC states that children under 14 years of age who are witnesses in criminal proceedings shall not be cross-examined.

180. The authorities have published guidelines for police officers on dealing with cases involving children,⁵⁵ which are included in the "Child Interviewing Handbook"⁵⁶.

181. GRETA welcomes the expansion of the Barnahus model in Estonia and encourages the authorities to use it in human trafficking cases involving children.

⁵⁵ https://www.kriminaalpoliitika.ee/sites/krimipoliitika/files/elfinder/dokumendid/lapse_kusitlemise_kasiraamat_2016_0.pdf

⁵⁶ Ibidem.

182. **GRETA invites the Estonian authorities to:**

- **make full use of the measures available to protect victims and witnesses of THB and take additional measures to ensure that they are adequately protected from potential retaliation or intimidation in the course of judicial proceedings;**
- **provide further training to police officers, prosecutors, judges, social service staff and persons acting as legal guardians of children are made aware of the particular vulnerability of child victims of trafficking.** In this context, GRETA also refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.⁵⁷

c. Jurisdiction (Article 31)

183. Under Article 6 of the CC and Article 3 of the CPC, criminal law applies to criminal offences committed in Estonia.

184. Article 8 of the Criminal Code of Estonia states that offences committed abroad shall be punishable in Estonia if the duty to punish the act arises from an international obligation, as it is the case of the Council of Europe Convention on combating trafficking in human beings. Under Article 435 of the CPC, when the CC applies to criminal offences committed abroad, the General Prosecutor Office must be immediately notified in order to assess the legal basis for starting the criminal proceedings.

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

a. International co-operation (Article 32)

185. Article 433 of the CPC sets out the general principles of international co-operation in criminal proceedings, including on extradition of persons to foreign states, mutual assistance in criminal matters, execution of the judgments of foreign courts, transfer of criminal proceedings, and co-operation with the International Criminal Court and Eurojust. As per Article 435 of the CPC, the central authority for international co-operation in criminal matters is the Ministry of Justice. Courts, the Prosecutors' Offices, the Police and Border Guard Board, the Security Police Board, the Tax and Customs Board, the Environmental Inspectorate, the Competition Board and the Military Police may also engage in international co-operation in criminal matters in areas under their direct competence.

186. The authorities informed GRETA that no Joint Investigation Teams have been set up in the reporting period for investigating THB cases, but cooperation within the investigative bodies of other countries exists in practice and Estonian law enforcement officials are involved in international training activities and projects.

187. Estonia regularly participates in activities and projects implemented by the CBSS Task Force against Trafficking in Human Beings. The Task Force enacted the Strategic Plan 2020-2025⁵⁸ as a guiding instrument assisting CBSS Member States in their joint efforts to counteract all forms of THB in the Baltic Sea Region. One of the main objectives of the Strategic Plan is to strengthen international cooperation and strategic partnerships.

188. **GRETA invites the Estonian authorities to continue their efforts in the area of international co-operation with a view to preventing THB, assisting victims, and investigating and prosecuting trafficking offences.**

⁵⁷ Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies.

⁵⁸ [Strategic Documents – CBSS](#).

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

189. As mentioned above (see paragraph 21), several changes in the recent years have considerably reduced the involvement of civil society organisations in anti-trafficking action. Since 2019, the public funds dedicated to civil society organisation for providing assistance to THB victims have been considerably reduced and the organisation of the assistance system is centralised within the Social Insurance Board. The hotline for victims of trafficking and shelters, previously run by specialised NGOs, is now organised by the Social Insurance Board.

190. During the evaluation visit, representatives of the civil society expressed concerns about the limited co-operation between the national authorities and civil society organisations.

191. GRETA stresses that civil society plays an important role in the implementation of the Convention, through awareness raising, research, training, detection victims of trafficking, providing them with accommodation and assistance, and supporting them through the criminal justice process, including 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.

192. **GRETA considers that the Estonian authorities should step up their efforts to co-operate with civil society organisations, trade unions and the private sector, including internet providers and tech companies, in view of achieving the purposes of the Convention, including prevention, awareness-raising, training of relevant professionals, identification and assistance of victims of THB.**

IV. Conclusions

193. Since the adoption of GRETA's first report on Estonia in March 2018, progress has been made in a number of areas related to action against trafficking in human beings.

194. The Estonian authorities have further developed the legal framework relevant for combating trafficking in human beings, including by amending to the Criminal Code in view of expanding the criminalisation of trafficking in human beings and trafficking in children, adopting a new Victim Support Act, and making changes to the several legal acts related to the employment of foreign workers and posted workers.

195. Another positive development is the adoption of the Violence Prevention Agreement 2021-2025, which contains a specific chapter on action against trafficking in human beings.

196. Moreover, efforts have also been made to provide training on human trafficking and related topics to a wide range of actors, including joint training sessions for the police, prosecutors, labour inspectors, tax and customs inspectors, and victim support providers, as well as guidance and training to relevant professionals on trafficking for the purpose of organ removal.

197. Further, the Estonian authorities have organised a number of activities aimed at raising awareness of the risks of human trafficking and discouraging demand for services provided by victims of trafficking.

198. Steps have also been taken to strengthen prevention of trafficking among vulnerable groups, including through implementing the Welfare Development Plan 2016-2023 which is aimed at reducing gender inequality.

199. In particular, steps were taken to raise awareness among Ukrainian refugees, through the dissemination of leaflets with information on the risks of human trafficking and the organisation of information seminars. Measures were also developed to promote state-organised digital marketplace for matching refugees with employers and the organisation of job fairs at larger refugee accommodation sites.

200. Since 2017, Estonia has been implementing the Barnahus model and four children's houses have been set up, which could be used in human trafficking cases involving children.

201. GRETA welcomes the participation of Estonia in research on human trafficking, including on identification of third-country national victims of trafficking and on trafficking for the purpose of labour exploitation.

202. Steps have also been taken in the area of international co-operation, including the participation in activities and projects implemented by the Council of Baltic Sea States.

203. Important actions have been undertaken to investigate human trafficking crimes committed online, such as deploying an IT tool to screen internet-based advertisements for sexual services and establishing cooperation with the main service providers in Estonia for the removal of illegal online content.

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

Issues for immediate action

- GRETA urges the Estonian authorities to strengthen their efforts to prevent and combat trafficking for the purpose of labour exploitation, taking into account Recommendation CM/Rec(2022)21 of the Committee of Ministers and GRETA's Guidance Note on combating trafficking for labour exploitation, in particular by:
 - strengthening the capacity and mandate of labour inspectors to detect possible victims of THB and refer them for identification and assistance;
 - establishing safe reporting and effective complaint mechanisms for workers, to ensure that victims of abuses or exploitative situations can refer their case without fear of repercussions;
 - ensuring that when joint inspections are conducted, the objectives of labour inspectorates and the role of the immigration authorities are clearly defined;
 - providing further training to labour inspectors, police officers and border guards on the characteristics of THB cases for the purpose of labour exploitation (paragraph 57);
- GRETA urges the Estonian authorities to increase their efforts to detect potential victims of THB in the context of border controls and refer them to assistance. In this context, the Estonian authorities should ensure, at both legislative and operational level, that pre-removal risk assessments prior to all forced removals from Estonia fully assess the risks of trafficking or re-trafficking on return, in compliance with the obligation of *non-refoulement*. The Estonian authorities should take full account of the UNHCR guidelines on the application of the Convention relating to refugee status to victims of trafficking, and their right to seek asylum, and to GRETA's Guidance Note on the entitlement of victims of human trafficking, and persons at risk of being trafficked, to international protection (paragraph 89);
- GRETA urges the Estonian authorities to take further steps to improve the identification of victims of THB, and in particular to:
 - ensure that the formal identification of a person as a victim of human trafficking does not depend on the opening of a criminal investigation into THB or a related offence;
 - ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures provided for under the Convention;
 - pay increased attention to the proactive detection of victims of trafficking among undocumented migrants and asylum seekers, allowing sufficient time to gather necessary information and taking into account their traumatic experience. In this context, further training on the identification of victims of THB and their rights should be provided to law enforcement officials, border guards and prosecutors;
 - improve the proactive identification of victims of THB for the purpose of labour exploitation, especially among foreign nationals (see also paragraph 57) (paragraph 98);

- **GRETA urges the Estonian authorities to comply with their obligations under Article 12 of the Convention, and in particular to:**
 - **set up, as a matter of priority, specialised accommodation facilities for victims of THB and ensure that accommodation is gender-sensitive, appropriate and safe, and that victims are provided with specialised services;**
 - **ensure that social, legal and psychological assistance is provided for to presumed and formally identified victims of trafficking as long as necessary and is not discontinued if no criminal proceedings are initiated;**
 - **ensure that adequate state funding is dedicated to the provision of specialised assistance and safe accommodation of victims of trafficking;**
 - **ensure that foreign victims are properly informed about their rights and in a language that they understand and receive adequate assistance, including by ensuring the involvement of qualified interpreters;**
 - **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 (paragraph 112);**
- **GRETA urges the Estonian authorities to improve the identification of, and assistance to, child victims of trafficking, in particular by:**
 - **ensuring that relevant actors take a proactive approach and increase their outreach work to identify child victims of trafficking for different purposes of exploitation;**
 - **providing further training to relevant professionals (police, child protection authorities, social workers, health professionals, asylum officials) as well as guidance for the identification of child victims of THB for different forms of exploitation;**
 - **increasing efforts to identify and refer to assistance child victims of THB who are foreign nationals, taking into account GRETA's Guidance Note on addressing the risks of trafficking in human beings related to the war in Ukraine and the ensuing humanitarian crisis (paragraph 119);**
- **GRETA once again urges the Estonian authorities to review the provisions and application of the recovery and reflection period with a view to ensuring that:**
 - **all possible foreign victims of trafficking, including EU/EEA nationals, are systematically informed of the possibility to benefit from a recovery and reflection period and are effectively offered a recovery and reflection period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period;**
 - **the relevant authorities are informed of the State's positive obligation to grant a recovery and reflection period to all possible victims of THB, whether or not such a request is made by the presumed victim (paragraph 127);**

- **GRETA urges the Estonian authorities to facilitate and guarantee access to compensation for victims of trafficking, including by:**
 - **ensuring that all victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;**
 - **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 (paragraph 143);**
- **GRETA once again stresses the importance of using a definition of trafficking in human beings on which there is international consensus and urges the Estonian authorities to bring the definition of THB into conformity with Article 4 of the Convention without further delay, in particular by:**
 - **including the component of “action” in the definition of THB under Article 133 of the CC;**
 - **ensuring that all the “means” provided for in the Convention are adequately reflected;**
 - **including forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs among the forms of exploitation under Article 133 of the CC;**
 - **clearly stating the irrelevance of the consent of a victim of THB to establishing a trafficking offence where any of the means have been used (paragraph 154);**
- **Consequently, GRETA once again urges the Estonian authorities to take further steps to ensure compliance with the principle of non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so, as contained in Article 26 of the Convention, in particular by:**
 - **adopting a specific provision and/or developing guidance for police officers and prosecutors on the scope of the non-punishment provision;**
 - **including the non-punishment provision in the training of law enforcement officials, prosecutors and judges;**
 - **ensuring that the non-punishment provision is capable of being applied in practice to all offences that victims of trafficking were compelled to commit, including migration related offences, by ensuring that victims are promptly identified as such and receive adequate support from their first contact with law enforcement agencies (paragraph 164);**

- **While welcoming the steps taken to improve the investigation of THB crimes committed online, GRETA urges the Estonian authorities to take further measures to ensure that THB cases are investigated proactively, prosecuted successfully and result in effective, proportionate and dissuasive convictions, including by:**
 - **strengthening the capacity to locate, seize and confiscate assets of the traffickers by carrying out proactive investigations, including financial investigations related to trafficking offences;**
 - **providing further training to police officers and prosecutors to investigate and prosecute cases of THB for the purpose of labour exploitation, including through co-operation with other relevant actors and countries;**
 - **further developing the specialisation of investigators, prosecutors and judges to deal with THB cases** (paragraph 175).

Further conclusions

- GRETA considers that the Estonian authorities should examine the possibility of designating as a National Rapporteur a separate organisational entity or another independent mechanism for monitoring the anti-trafficking activities of State institutions (paragraph 19);
- GRETA welcomes the adoption of the Violence Prevention Agreement, containing a specific chapter on action against THB, and invites the Estonian authorities to consider adopting a dedicated national action plan to combat THB, supported by a specific budget (paragraph 24);
- GRETA considers that the Estonian authorities should introduce an independent evaluation of the implementation of the Action Plan as a tool for assessing the impact of the activities and for planning future policies and measures to combat trafficking (paragraph 25);
- GRETA considers that the Estonian authorities should continue their efforts in this area by integrating training on THB into the regular training programmes, with a view to ensuring that all relevant professionals, including police officers, prosecutors, judges, lawyers, asylum officials, labour inspectors, social workers, child protection specialists, teachers and health-care professionals, are periodically trained on THB. The training should take account of new trends and legislative developments and aim to strengthen the prevention of THB, facilitate the identification of victims, improve their protection, and increase the effectiveness of investigations and prosecutions in THB cases (paragraph 33);
- GRETA considers that the Estonian authorities should take further steps to set up a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable and disaggregated statistical data on the identification and assistance of victims as well as on the investigation, prosecution, convictions and compensation in human trafficking cases, with a view to ensuring that it provides a comprehensive picture of the human trafficking situation in Estonia. 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, accompanied by personal data and protection measures (paragraph 38);
- GRETA welcomes the research undertaken and invites the authorities to continue funding and promoting research on different aspects of THB, including online and technology-facilitated trafficking in human beings, trafficking for the purposes of labour exploitation and forced criminality, trafficking in children and trafficking of foreign nationals to Estonia (paragraph 41);

- GRETA welcomes the efforts to raise public awareness of human trafficking and invites the Estonian authorities to continue implementing measures to raise awareness of THB, by designing future actions in the light of impact assessment of previous measures and focusing on the needs identified. Further awareness-raising measures should be taken to address the risks of human trafficking among foreign nationals (paragraph 47);
- GRETA considers that the authorities should:
 - put in place practical co-operation and data sharing agreements between labour inspectors and law enforcement in order to ensure that personal information of workers, whether collected in the course of labour inspections, joint inspections, reporting or complaints mechanisms, is not used for immigration enforcement purposes, but to tackle the organisers of trafficking offences;
 - further sensitise the general public and relevant officials, in particular labour inspectors, staff of the labour exchange offices, police officers, prosecutors and judges, about THB for the purpose of labour exploitation and the rights of victims (paragraph 58);
- GRETA considers that the Estonian authorities should take specific measures to prevent the risks of THB among children who are asylum seekers and unaccompanied children. In this context, GRETA refers to its Guidance Note on addressing the risks of trafficking in human beings related to the war in Ukraine and the ensuing humanitarian crisis (paragraph 64);
- GRETA invites the Estonian authorities to take further measures to raise awareness about the risks and different forms of child trafficking and developing measures to prevent recruitment through the Internet and social networks (paragraph 65);
- GRETA considers that the Estonian authorities should take further steps to implement social, economic and other measures for groups vulnerable to THB due to their disadvantaged socio-economic situation. Further efforts should be made to promote social integration of migrants and to promote gender equality, combat gender-based violence and stereotypes, and support specific policies for the empowerment of women as a means of combating the root causes of THB for different purposes of exploitation (paragraph 71);
- GRETA encourages the Estonian authorities to sign and ratify the Council of Europe Convention against Trafficking in Human Organs (paragraph 77);
- GRETA considers that the Estonian authorities should take further steps to provide training to health professionals dealing with transplantation of organs and other medical professionals to ensure that they are informed about the risks of THB for the purpose of the removal of organs and are able to detect possible victims (paragraph 78);
- GRETA invites the Estonian authorities to strengthen their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society, trade unions and the private sector, including internet providers and tech companies (paragraph 82);
- GRETA invites the Estonian authorities to ensure that the age assessment procedures are carried out taking into account the best interests of the child, and in compliance with the Convention on the Rights of the Child, General Comment No. 6 of the Committee on the Rights of the Child and Resolution 2195/2017 of the Parliamentary Assembly of the Council of Europe on "Child-friendly age assessment for unaccompanied migrant children (paragraph 120);
- GRETA considers that the Estonian authorities should take additional steps to ensure that all victims of trafficking can fully benefit in practice from the right to obtain a renewable residence permit for their personal situation or for co-operating with the authorities, without prejudice to the right to seek and enjoy asylum (paragraph 132);

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- GRETA considers that the Estonian authorities should continue to take steps to ensure that the return of victims of THB is conducted with due regard to their rights, safety and dignity, including the right to non-refoulement (Article 40(4) of the Convention), and in the case of children, by fully respecting 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 (paragraph 149);
 - GRETA invites the Estonian authorities to:
 - make full use of the measures available to protect victims and witnesses of THB and take additional measures to ensure that they are adequately protected from potential retaliation or intimidation in the course of judicial proceedings;
 - provide further training to police officers, prosecutors, judges, social service staff and persons acting as legal guardians of children are made aware of the particular vulnerability of child victims of trafficking (paragraph 182);
 - GRETA invites the Estonian authorities to 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 188);
 - GRETA considers that the Estonian authorities should step up their efforts to co-operate with civil society organisations, trade unions and the private sector, including internet providers and tech companies, in view of achieving the purposes of the Convention, including prevention, awareness-raising, training of relevant professionals, identification and assistance of victims of THB (paragraph 192).

Appendix 1 - List of public bodies and civil society actors with which GRETA held consultations

Public bodies

- Ministry of Justice, including the National Anti-Trafficking Co-ordinator
- Ministry of the Interior
 - Police and Border Guard Board and police regional offices (Northern, Western)
- Ministry of Foreign Affairs
- Ministry of Social Affairs
 - Social Insurance Board, including Children House (Barnahus)
 - Labour Inspectorate
 - Estonian Unemployment Fund
- Tax and Customs Board
- Supreme Court of Estonia
- Pärnu County Court
- Prosecutor's Offices (Western, Northern)
- Parliament (Justice Committee)
- Ombudsman's Office

Intergovernmental organisations

- International Organization for Migration (IOM)
- United Nations High Commissioner for Refugees (UNHCR)

NGOs and other civil society organisations

- Children Support Centre for Abused Children in Tartu (*Tartu Laste Tugikeskus*)
- NGO Lifeline (*MTÜ Eluliin*)
- Estonian Refugee Council
- European Migration Network
- SOS Children Village
- Estonian Trade Union Confederation
- Central Union of Employers

Government's comments

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

GRETA engaged in a dialogue with the Estonian 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 14 April 2023 and invited them to submit any final comments. The comments of the authorities, submitted on 15 May 2023, are reproduced hereafter.



REPUBLIC OF ESTONIA
MINISTRY OF JUSTICE

Petya Nestorova
Council of Europe
Trafficking@coe.int

Our Ref: 15.05.2023 No 9-2/3469-1

Reply to GRETA final report of the II evaluation

Dear Petya Nestorova

The Government acknowledges the receipt of the draft report of the second evaluation round drawn up by the 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 Estonia, which was adopted by GRETA at its 46th meeting, held from 14-16 November 2022.

Having regard to Article 38, paragraph 5, of the Convention of GRETA's Rules of Procedure for evaluating implementation of the Convention, the Estonian authorities are now invited to submit comments they may have on the final report.

Following the invitation by GRETA, the Government would like to submit following comments on the final report. These comments are made in a chronological order.

Paragraph 12. Government wishes to add a clarification about the identified and presumed victims age. The difference of the age is given in paragraph 13, saying that there were juveniles on the services in 2018 and 2020.

Paragraph 16. Government notifies, that the legislative changes to prevent illegal employment to the Aliens Act, Income Tax Act and Taxation Act in 2020 were made with the purpose to clarify the regulations about the responsibilities of the employers as well as to specify the state supervision.

Paragraph 17. Government notifies, that Regulation nr 51 of the Minister of Social Affairs entered into force as of 1.07.2022 provides the more detailed rules for providing assistance in Children's Houses to sexually abused children and also to children behaving in a sexually abusive manner. Government considers it essential to point out in the report, that provision

of assistance is available with regulation to children as well to the children behaving in a sexually abusive manner.

Paragraph 102. Government explains additionally, that provision of THB victim support services does not constitute additional legal grounds for their stay in Estonia as legal basis for foreign nationals are provided by Aliens Act. In accordance with the Aliens Act the THB victim has right for the reflection period and temporary residence permit, provided that the conditions for residence permit are met and the victim wishes to stay in Estonia. Victim support services are offered to the THB victim for the reflection period, for the review of the application for a temporary residence permit as well as upon the issue of the residence permit for the period of validity of the residence permit. However, in case where the police and prosecutor`s office conclude that there is no ground for THB criminal investigation and the person does not have any other legal basis to stay in Estonia or within EU, then the person is obliged to return his/her country of origin in accordance with the EU directive 2008/115/EC.

Paragraph 114. Government explains, that Children Houses in addition to sexually abused children also deal with the children, who are behaving in a sexually abusive manner.

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Reg.no 70000898

Paragraph 168. Government explains, that special investigation techniques brought out in the description of the paragraph are in practice used with the court permission.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Anu Leps', enclosed in a thin black rectangular border.

Anu Leps

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