



**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 Hungary**

**SECOND EVALUATION ROUND**

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## Preamble

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

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

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

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

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

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

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

## I. Introduction

1. The first evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") by Hungary took place in 2014-2015. Following the receipt of Hungary's reply to GRETA's questionnaire on 27 May 2014, a country evaluation visit was organised from 8 to 11 July 2014. The draft report on Hungary was examined at GRETA's 21st meeting (17-21 November 2014) and the final report was adopted at GRETA's 22nd meeting (16-20 March 2015). Following the receipt of the Hungarian authorities' comments, GRETA's final report was published on 29 May 2015.<sup>1</sup>

2. In its first report, GRETA noted that the national legal framework related to trafficking in human beings (THB) had evolved over the years. GRETA urged the Hungarian authorities to include slavery, practices similar to slavery and servitude among the forms of exploitation resulting from human trafficking. GRETA noted that a national referral mechanism for victims of trafficking had been introduced in 2013 and considered that further steps should be taken in order to ensure its application in practice, in particular as regards child victims and victims of THB for the purpose of labour exploitation. GRETA noted that very few foreign victims of THB had been identified and that no recovery and reflection periods or residence permits had been granted to such victims. GRETA urged the authorities to improve the provision of assistance to victims of THB. Moreover, GRETA called on the Hungarian authorities to facilitate and guarantee compensation to victims of THB, and to take additional measures to ensure that victims are adequately protected from potential retaliation or intimidation in the course of judicial proceedings.

3. On the basis of GRETA's report, on 15 June 2015 the Committee of the Parties to the Convention adopted a recommendation to the Hungarian authorities, requesting them to report back on the measures taken to comply with this recommendation by 15 June 2017.<sup>2</sup> The report submitted by the authorities was considered at the 22nd meeting of the Committee of the Parties (13 October 2017). The Committee of the Parties decided to transmit the authorities' report to GRETA for consideration and to make it public.<sup>3</sup>

4. Following the adoption of the first report on Hungary, in line with its mandate, GRETA continued to follow developments related to trafficking in human beings in Hungary. On 21 June 2017 GRETA sent an urgent request for information to the Hungarian authorities, pursuant to Rule 7 of the Rules of Procedure for evaluating the implementation of the Convention by the Parties.<sup>4</sup> This request was triggered by the adoption of Act no. XX of 2017 "On the Amendment of Certain Acts Related to Increasing the Strictness of Procedures Carried out in the Areas of Border Management" which raised a number of concerns related to GRETA's mandate. GRETA subsequently carried out an urgent procedure visit to Hungary from 18 to 20 December 2017 in order to assess the specific situation of identification and referral of victims of trafficking among asylum seekers and migrants. In the report published after the visit, on 27 April 2018, GRETA urged the Hungarian authorities to adopt a clear procedure for the identification of victims of trafficking among asylum seekers and their referral to specialised assistance, and to provide training to relevant officials. Further, GRETA urged the authorities to enable specialised NGOs with experience in identifying and assisting victims of trafficking to have regular access to transit zones and to all accommodation centres for victims of trafficking. GRETA also called on the authorities to increase their efforts to identify child victims of trafficking, using child-specific identification procedures, review age assessment procedures, and to take further steps to prevent the disappearance of asylum-seeking and migrant children.

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<sup>1</sup> Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Hungary, GRETA(2015)11, available at: <https://rm.coe.int/168070a5f3>

<sup>2</sup> <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680631c44>

<sup>3</sup> <https://rm.coe.int/report-submitted-by-the-authorities-on-measures-taken-to-comply-with-c/168073fa2b>

<sup>4</sup> Rule 7 provides that "when GRETA receives reliable information indicating a situation where problems require immediate attention to prevent or limit the scale or number of serious violations of the Convention, it may make an urgent request for information to any Party or Parties to the Convention. Taking into account the information submitted by the party or parties concerned, as well as any other reliable information available to it, GRETA may designate rapporteurs to assess the specific situation and, if necessary, carry out a visit to the party or parties concerned".

5. On 2 February 2018, GRETA launched the second round of evaluation of the Convention in respect of Hungary by sending the questionnaire for this round to the Hungarian authorities and asking them to submit their reply by 4 June 2018. Hungary submitted its reply on 6 June 2018.<sup>5</sup>

6. In preparation of the present report, GRETA used the reply to the questionnaire by the Hungarian authorities, the above-mentioned report submitted by them to the Committee of the Parties and information received from civil society. An evaluation visit to the Hungary took place from 8 to 12 October 2018 in order to hold meetings with relevant actors, collect additional information and assess the practical implementation of adopted measures. The visit was carried out by a delegation composed of:

- Mr Jan van Dijk, First Vice-President of GRETA;
- Ms Helga Gayer, member of GRETA;
- Mr Mats Lindberg, Administrator in the Secretariat of the Convention.

7. During the visit, the GRETA delegation held consultations with Mr Mátyás Hegyaljai, Deputy State Secretary for EU and International Affairs of the Ministry of the Interior and National Co-ordinator against Trafficking in Human Beings, as well as officials from the Ministry of the Interior, the Ministry of Justice, the Ministry of Human Capacities, the Ministry of Foreign Affairs and Trade, the Ministry of Finance, the Office of the Prosecutor General, the Office of the Judiciary, the National Headquarters and National Bureau of Investigation of the Police, the National Asylum and Migration Office, and the Department of Child Protection of the City of Budapest. Discussions were also held with a Member of the Hungarian Parliament and representatives of the Office of the Commissioner for Fundamental Rights. Further, the GRETA delegation met representatives of the Police and the Prosecution Service in Békéscsaba.

8. Separate meetings were held with representatives of non-governmental organisations (NGOs), a trade union and researchers. The GRETA delegation also met officials of the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR).

9. In the course of the visit, the GRETA delegation visited a shelter for victims of human trafficking run by the NGO Hungarian Baptist Aid in Békés, as well as a long-term supported housing provided by the same NGO.

10. The list of the national authorities, NGOs and other organisations with which the delegation held consultations is set out in the Appendix to this report. GRETA is grateful for the information provided by them.

11. GRETA wishes to place on record the co-operation provided by the Hungarian authorities during the evaluation visit and in particular by the contact person appointed by them to liaise with GRETA, Mr Áron Tési of the Department of European Co-operation of the Ministry of the Interior.

12. The draft of the present report was approved by GRETA at its 34th meeting (19-23 March 2019) and was submitted to the Hungarian authorities for comments on 2 April 2019. The authorities' comments were received on 3 June 2019 and were taken into account by GRETA when adopting the final report at its 35th meeting (8-12 July 2019). The report covers the situation up to 12 July 2019; developments since that date are not taken into account in the following analysis and conclusions. The conclusions summarise the progress made, the issues which require immediate action and the other areas where further action is needed (see pages 48-55).

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<sup>5</sup> <https://rm.coe.int/greta-2018-15-rq2-hun-en/16808fef3e>



## II. Main developments in the implementation of the Convention by Hungary

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

13. Hungary is predominantly a country of origin and transit of victims of trafficking in human beings and to some extent also a country of destination. The Hungarian authorities (Ministry of Justice) have provided figures on victims of THB identified as part of criminal proceedings, following a court decision establishing a THB offence (15 victims in 2015, 10 in 2016 and two in 2017).<sup>6</sup> Unlike the situation at the time of GRETA's first evaluation,<sup>7</sup> the Hungarian authorities were unable to provide GRETA with data on presumed victims of THB identified on reasonable grounds by different stakeholders, regardless of the criminal case outcome. Following the creation of a database on presumed victims of trafficking in January 2018 (see paragraph 40), until the end of May 2019, 55 presumed victims of THB (33 women, 16 men, five girls and one boy) were reported by different stakeholders. While the purpose of exploitation is not indicated in respect of all presumed victims, it is stated that 12 women and girls were victims of sexual exploitation, and four men and two women were trafficked for the purpose of labour exploitation. The presumed victims were all Hungarian citizens, except for one Romanian and one Thai victim. The main countries of destination for Hungarian victims of THB have reportedly been Austria, Belgium, Germany, the Netherlands, Switzerland and the United Kingdom.<sup>8</sup>

14. The above figures on identified victims of trafficking do not reflect the real scale of the phenomenon in Hungary as they are limited to those persons who took part in criminal proceedings which resulted in final convictions of perpetrators of trafficking offences, while a number of other persons have reportedly been assisted as presumed victims of trafficking (see paragraph 106). GRETA also notes that difficulties in the detection of victims of trafficking, in particular for the purpose of labour exploitation, as well as insufficient attention to identifying victims of trafficking amongst foreign nationals in Hungary, limit the number of identified victims and has an impact on the data collection.

### 2. Developments in the legal framework

15. The legal framework relevant to action against THB remains largely as described in the first GRETA report. No amendments have been made to the Criminal Code (CC) provisions regarding THB.

16. New provisions on the protection of witnesses and victims were introduced by the new Criminal Procedure Code (Act no. XC of 2017), which entered into force on 1 July 2018.

<sup>6</sup> The number of victims of crimes which could be related to THB, such as pandering, exploitation of prostitution and forced labour, varied between 300 and 500 per year in the period 2014-2018.

<sup>7</sup> According to data in GRETA's first report on Hungary, there were 58 presumed victims of THB identified in 2011, 68 in 2012, 43 in 2013 and 35 in 2014.

<sup>8</sup> Noémi Katona, *Combating Trafficking of Hungarian Women to Western Europe: A multi-level analysis of the International Law Enforcement Co-operation*, Trends in Organised Crime, 13 February 2019, available at: [https://link.springer.com/epdf/10.1007/s12117-019-09358-7?author\\_access\\_token=C820USg56o4WSy9XemhX-fe4RwlQNchNByi7wbcMAY7mgKekR90ooV\\_kI6VCBS1jZFe3yV3nog2Dezl8UwbXvqj5WpGI6\\_xE2ZVe-xu8hKpMqJMIQL1CdMV\\_1IV5zpW0j0LINxDYUuLpT07vI8Bng%3D%3D](https://link.springer.com/epdf/10.1007/s12117-019-09358-7?author_access_token=C820USg56o4WSy9XemhX-fe4RwlQNchNByi7wbcMAY7mgKekR90ooV_kI6VCBS1jZFe3yV3nog2Dezl8UwbXvqj5WpGI6_xE2ZVe-xu8hKpMqJMIQL1CdMV_1IV5zpW0j0LINxDYUuLpT07vI8Bng%3D%3D)

17. Further, several laws which can be seen as having an impact on the fight against human trafficking were adopted in 2017-2018, such as Act no. XX of 2017 "On the Amendment of Certain Acts Related to Increasing the Strictness of Procedures Carried out in the Areas of Border Management", Act no. VI of 2018 "On the Amendment of Certain Acts on Connection with Measures against Illegal Migration", Section 11 (1) of which added Section 353/A to the CC, which criminalises the "promotion and supporting of illegal migration", Act no. XLI of 2018 "On the Amendment of Certain Tax Acts and Related Acts, and the Special Immigration Tax", introducing a 25% tax on organisations which promote migration, and Act no. LXXVI "On the Transparency of Organisations Supported from Abroad", which obliges civil society organisations which receive the equivalent of 22 000 Euros or more annually from foreign sources to register as "organisations receiving foreign funding".

18. The above-mentioned legal developments are discussed in further detail in later parts of this report (see paragraphs 110, 192 and 211-214).

### **3. Developments in the institutional framework**

19. There have been no changes in the institutional framework for combating THB in Hungary. The Deputy State Secretary for EU and International Affairs of the Ministry of the Interior continues to act at National Co-ordinator against trafficking in human beings and chairs two bodies the purpose of which it is to improve co-ordination and the flow of information amongst stakeholders. The first one, the National Co-ordination Mechanism on Human Trafficking, brings together public sector actors, whilst the second, the NGO Roundtable on Human Trafficking, gathers representatives of NGOs. The UNHCR regularly participates in the NGO roundtable. There are two full-time officials at the Ministry of the Interior working on issues related to THB as part of the activities of the National Co-ordinator.

20. In its first report, GRETA invited the Hungarian authorities to consider the establishment of a National Rapporteur or other mechanism for monitoring the anti-trafficking activities of State institutions. GRETA is of the view that the key features of National Rapporteurs' mechanisms within the meaning of Article 29, paragraph 4, of the Convention should be the ability to critically monitor the efforts and effectiveness of all state institutions, including national co-ordinators, and to that end maintain a constant exchange with civil society, the research community and other relevant stakeholders. A structural separation between these monitoring functions and executive functions makes possible an objective evaluation of the implementation of anti-trafficking legislation, policy and activities, identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations. **GRETA considers that the Hungarian authorities should examine the possibility of establishing an independent National Rapporteur or designating another mechanism as an independent organisational entity with a view to ensuring an effective monitoring of the anti-trafficking activities of State institutions and making recommendations to persons and institutions concerned (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).**

## 4. National Action Plans

21. There has been no National Strategy against THB in Hungary since the expiry of the previous one in 2016.<sup>9</sup> According to the Hungarian authorities, an evaluation of the 2013-2016 National Strategy is underway. Further, the authorities informed GRETA that a new strategy was under preparation. In March 2019, the Government adopted Decision 1125/2019 approving an action plan against trafficking in human beings which was developed by the Ministry of the Interior at the end of 2018. The action plan is meant as an interim policy instrument until the new National Strategy is adopted, which is expected to happen before the end of 2019. The main actions foreseen by the plan relate to better identification of, and assistance to, adult and child victims of THB, respect for the non-punishment principle, improvement of data collection, prevention of trafficking in children residing in State child care institutions, and amendments to the definition of THB in the CC, including stating explicitly the irrelevance of the victim's consent.

22. The Hungarian authorities have referred to five measures in Hungary's National Security Programme under the European Union's Internal Security Fund, which are relevant to action against THB: 1) organising victim protection training courses related to the fight against trafficking in human beings; 2) creation of a web-based system to assist in the referral of victims of trafficking and to monitor trends in human trafficking; 3) establishment of a transnational referral mechanism in relation to Switzerland to support the fight against THB; 4) co-operation between public and civil society actors and relevant international communities, organisations and agencies to enhance the fight against trafficking in human beings; and 5) launching anti-trafficking programmes in order to combat trafficking in human beings and raise awareness, including online.

23. Further, the authorities have referred to the National Social Inclusion Strategy (2011-2020), which aims, *inter alia*, to prevent THB in the Roma community and other vulnerable social groups. The Strategy is accompanied by measures set out in Government resolutions.

24. In response to a 2018 report about child prostitution by the Hungarian Commissioner for Fundamental Rights, the Hungarian National Police developed an action plan to prevent child prostitution (see also paragraph 117).

25. **GRETA welcomes the adoption of an interim action plan against trafficking in human beings, which reflects some of GRETA's recommendations, and considers that the Hungarian authorities should adopt a comprehensive strategy in which concrete activities and stakeholders responsible for their implementation are clearly defined and budgetary resources allocated, accompanied by a mechanism for monitoring its implementation and evaluating its impact. The strategy should include measures to:**

- **address all victims of trafficking for all forms of exploitation, including forced marriages, forced begging, forced criminality and the removal of organs, while taking into account the gender-dimension of trafficking;**
- **address trafficking in children, in particular for the purpose of sexual exploitation, taking into account the particular vulnerability of children;**
- **prioritise the identification of victims of trafficking amongst asylum seekers and irregular migrants;**
- **strengthen action to combat THB for the purpose of labour exploitation and improve the identification of, and assistance to, victims of this form of trafficking, involving civil society, trade unions, the labour inspectorate and the private sector.**

<sup>9</sup> For details on the previous National Strategy, see paragraphs 16-19 of GRETA's first report on Hungary.

## 5. Training of relevant professionals

26. In its first report, GRETA considered that the Hungarian authorities should seek to implement regular practical training on human trafficking for police officers across the country, in particular on identifying victims, supporting them during criminal proceedings and protecting them. Further, GRETA considered that the Hungarian authorities should ensure that other professionals who are likely to come into contact with victims of trafficking, in particular prosecutors, judges, labour inspectors, border guards, victim assistance staff, officials dealing with asylum seekers and irregular migrants, child welfare staff, including those in centres for unaccompanied minors, consular staff, education staff and medical professionals receive periodic training on human trafficking.

27. Between January 2017 and June 2018 the National Police Headquarters and its partners delivered training on THB to some 600 professionals involved in the identification and referral of victims as defined in Government Decree 354/2012, namely health visitors,<sup>10</sup> labour inspectors, probation officers, staff of the victim support service, child protection officials, foster parents, judges and police officers. The training included victim identification, referral and support. With the support of the EU Internal Security Fund, the National Police Headquarters produced guidelines on how to identify and refer victims of THB, intended for professionals of the social services, crime prevention and law enforcement officials, and members of child protection networks.

28. In March 2015 the National Police Headquarters organised an international workshop on THB with the support of the German Hans Seidel Foundation. The workshop allowed the exchange of experience between the Hungarian and German Police, other relevant Hungarian public sector bodies and NGOs.

29. Further, in 2016, the National Police Headquarters organised a two-day training session for border police officers. Participants were provided with information about THB and the indicators used to identify victims. In 2015, the Frontex Guidelines for the identification of victims of THB were incorporated into the training of the Border Police. More Frontex materials on risk profiling related to THB were translated and distributed to border police officers in 2017. The accreditation of a further training programme for border police officers entitled "Using profiling during border control to identify victims of human trafficking" was underway. Further, training linked to the implementation of the police action plan to prevent child prostitution (see paragraph 117) was completed by 34 686 police officers and an e-learning course on "Infringements relating to prostitution and police tasks in handling trafficking in human beings" was completed by 32 163 police officers.

30. Training on THB is included in the initial training of prosecutors and clerks in prosecutor offices. Training on the theme of "Trafficking in human beings and prostitution" was delivered on 19-22 February 2018 and another training event was held on 18-21 March 2019. Further lectures about specific aspects of THB are organised for 150-200 prosecutors and clerks per year. By way of example, on 1 April 2019 a representative of the Police Headquarters gave a presentation to prosecutors on "Victim assistance and trafficking in human beings" and an expert from the Ministry of the Interior gave a presentation on "Trafficking in human beings in Hungary".

31. The Hungarian Judicial Academy organises training events and conferences on THB and other related topics for judges, such as a training for 23 judges held in 2016 on combating THB and protecting victims of THB, and two conferences entitled "Protecting human trafficking victims - tasks and achievements", attended by 230 judges.

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<sup>10</sup> Health visitors are responsible for providing care to pregnant women and women with new-born babies, screening examinations, vaccinations, providing first aid, health education and family consultations.

32. In April 2016, the Ministry for National Economy and the Ministry of Interior organised a one-day training event, on identifying victims of THB, for labour inspectors from the two largest county government offices (Budapest and Pest County). Further, a training programme for labour inspectors on the identification and referral of victims of THB was implemented by the National Police Headquarters between May 2017 and June 2018. According to the Hungarian authorities, almost all labour inspectors in Hungary took part in it.

33. In 2017, the Immigration and Asylum Office provided training to some 120 case workers and social workers on the identification of victims of THB among asylum seekers. The training was funded by the EU Internal Security Fund, with co-financing from the Ministry of Interior of Hungary. The Immigration and Asylum Office has also issued a booklet with information about THB for its staff, including relevant legal provisions, identification and referral procedures, as well as available assistance measures for victims of THB. All training materials are available on the Office's intranet. Moreover, in the summer of 2018 staff of the Immigration and Asylum office attended courses accredited by the European Asylum Support Office (EASO) on "Interviewing vulnerable persons" and "Interviewing children". Further, training by the NGO Humanitarian Baptist Aid is foreseen on the basis of a co-operation agreement concluded with the Ministry of the Interior.

34. In May-June 2015, the Bács-Kiskun County Police held three training events on THB for 20 professionals who are part of a child protection early warning system, with a view to strengthening child protection and the prevention of domestic violence. A separate training organised by the police was attended by some 30 teachers and other professionals working with children.

35. On 14-15 October 2015, training about THB, including identification of victims and how to report suspected cases, was provided by the NGO US Airline Ambassadors International to staff working at Budapest airport, including the airport police.

36. Before taking up their position, newly appointed diplomatic and consular officials have to complete a comprehensive training course which includes awareness-raising on THB. On 27 June 2016, the general training course for diplomats was complemented with a dedicated anti-trafficking training event attended by 30 future consuls. A similar training event for consuls was held in 2017. The training of diplomatic and consular staff focuses on identifying and referring to assistance Hungarian victims of THB abroad, though they are also made aware of the risks of third-country nationals falling victim of THB in Hungary.

37. On 26-27 March 2019 social workers employed in the transit zones attended training organised by IOM for first-line professionals and law enforcement officers working with migrants and refugees.

38. GRETA welcomes the efforts made by the Hungarian authorities to train a range of professionals who may come across victims of trafficking. **GRETA considers that the Hungarian authorities should continue their efforts to provide regular training on THB to all relevant professionals and to mainstream it in the training curricula of different professional groups, including police officers, staff of the Immigration and Asylum Office, social workers, staff working in transit zones, health-care staff, prosecutors and the judiciary.**

## 6. Data collection and research

39. In its first report on Hungary, GRETA considered that the Hungarian authorities should, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, intensify their efforts to develop and maintain a comprehensive and coherent data collection system on THB by compiling reliable statistical information from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination).

40. The responsibility for data collection on THB is with the Ministry of Justice. A new digital platform known by the acronym EKAT<sup>11</sup> was launched in September 2017 for the collection of information on presumed victims of trafficking. The platform is operated by the Ministry of Justice, but a range of public authorities, NGOs and legal guardians of unaccompanied children can enter data into it. At the time of GRETA's visit, 2 195 professionals had been trained on how to enter data in EKAT. There are different levels of access authorisation, with most actors entering data about presumed victims they have identified having only having access to the data they have themselves entered. The operators of EKAT, namely IT staff of the Ministry of Justice and an official of that Ministry involved in victim support services, have full access to data in EKAT. Public officials are under an obligation to enter data into EKAT about presumed victims of THB that they come across, whereas applying for access to EKAT and entering data into it is voluntary for civil society organisations. By the end of January 2019, 28 presumed victims of trafficking had been entered into the EKAT database. Registration of full personal details in EKAT requires the agreement of the presumed victim of THB. In case the person does not agree to have his/her personal detailed entered in EKAT, anonymous information may be entered, but a minimum of information, such as the year of birth, is necessary, otherwise the system will not register the data. Data in EKAT is not used for investigative purposes, but mainly for co-ordination, referral to support services and compilation of statistics. EKAT presently does not contain data on recovery and reflection periods and residence permits. If the victim receives some sort of compensation, it is recorded in EKAT by the Victim Support Service.

41. As noted in paragraph 13, the Hungarian authorities were unable to provide GRETA with the number of presumed victims of THB for the reporting period (2015-2018). GRETA refers to the report published by the European Commission in 2019 on data collection on trafficking in human beings in the European Union, according to which there were 507 registered victims of THB in Hungary in 2015 and 489 in 2016.<sup>12</sup>

42. While GRETA welcoming the introduction of the EKAT database and the fact that information on presumed victims of THB can be collected from a range of relevant professionals, including NGOs, GRETA is concerned by the absence of data on presumed victims of THB in the reporting period, which makes it difficult to undertake a comprehensive assessment of the situation and the extent to which measures to combat THB correspond to actual needs. **For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA urges the Hungarian authorities to take all necessary steps to further develop the EKAT data base and make it fully operational in order to be able to compile comprehensive and coherent statistical data on trafficking in human beings, including reliable data on measures to protect and promote the rights of victims of THB. 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. This should be accompanied by all the necessary measures to ensure the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database.**

43. In its first report on Hungary, GRETA considered that the authorities should conduct and support further research on THB in Hungary as an important source of information for future policy measures

44. In 2015, a research report entitled "Child Trafficking in Hungary: Sexual Exploitation, Forced Begging and Pickpocketing" was published by the Central European University (for some of the report's findings, see paragraphs 64 and 116).<sup>13</sup>

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<sup>11</sup> *Emberkereskedelem Áldozatainak Azonosítása és Támogatása* (EKAT – Identification and Support for Victims of Trafficking in Human Beings).

<sup>12</sup> The report is available at: [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20181204\\_data-collection-study.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20181204_data-collection-study.pdf) . The figures concerning Hungary can be found on page 35 of the report.

<sup>13</sup> Available at: <https://cps.ceu.edu/sites/cps.ceu.edu/files/cps-book-child-trafficking-in-hungary-2015.pdf> .

45. Further, the NGO Hungarian Baptist Aid (HBA), participated in the research project TEMVI - Trafficked and Exploited Minors between Vulnerability and Illegality, financed by the European Commission, which explored the phenomenon of trafficking in children for the purpose of exploitation of criminal activities.<sup>14</sup> As part of this project, HBA also implemented a six-day training session in different regions of the country involving a range of relevant professionals.

46. Reference should also be made to the research report "Children on the Move in Hungary", produced by the NGO Terre des Hommes in 2016 in the framework of the project "Mario II: Joint Action to Protect Children on the Move in Europe", which was implemented with funding from Oak Foundation.<sup>15</sup>

47. Hungary's National Social Inclusion Strategy II (2015-2017) included an action according to which research was to be conducted into the processes through which people become victims of prostitution and human trafficking. One such piece of research was a study on child prostitution commissioned by the Ministry of Human Capacities. The study, which was concluded in March 2017, reportedly concluded that there were between 200 and 500 children involved in prostitution in Hungary. The Ministry has decided not to make the study public but nonetheless provided GRETA with a summary of the conclusions, according to which the involvement of children in prostitution is always with the participation of another person. According to the study, one third of the children had suffered sexual abuse or domestic violence earlier in their lives. According to the Hungarian authorities, the study was never meant to be published but rather to be used as a basis for drafting relevant parts of the new national strategy against THB (see paragraph 21).

48. As part of a project to implement an awareness-raising campaign entitled "Know about it!" conducted by IOM and the National Police Headquarters (see paragraph 51), IOM conducted research which assessed the level of awareness about THB among the general public. The research comprised desk research, collecting and processing the results of surveys on THB and in-depth interviews with experts. In addition to this qualitative research, a nationwide public survey of 1 000 persons was conducted. The survey results showed that respondents were well informed about THB and its different forms and considered it a serious and widely present problem which affected above all drug addicts, unemployed people and children in institutional care. About a third of the respondents indicated that they would respond to an Internet ad for employment abroad, which includes only a phone number as a contact detail and/or does not include the name of the employer, requires the payment of an upfront fee and indicates that it is not required to speak the language of the country.

49. **GRETA considers that the Hungarian authorities should promote and fund further research in order to shed light on the extent and nature of THB in Hungary, in particular as regards trafficking in children and trafficking for the purpose of labour exploitation. Further, GRETA invites the Hungarian authorities to research the issue of live-sexual abuse of children online and its possible linkages to human trafficking.**

<sup>14</sup> The full project report, including research on Hungary (pp. 22-41), is available at:

[https://www.osservatoriointerventiratta.it/wp-content/uploads/2016/07/Report\\_en\\_web.pdf](https://www.osservatoriointerventiratta.it/wp-content/uploads/2016/07/Report_en_web.pdf)

<sup>15</sup> [http://tdh-europe.org/upload/document/7252/Research%20Children%20on%20the%20Move%20Hungary\\_final.pdf](http://tdh-europe.org/upload/document/7252/Research%20Children%20on%20the%20Move%20Hungary_final.pdf)

### III. Article-by-article findings

#### 1. Prevention of trafficking in human beings

##### a. Measures to raise awareness (Article 5)

50. In its first report GRETA considered that the Hungarian authorities should continue their efforts to raise awareness among groups vulnerable to trafficking, design and implement preventive and awareness-raising activities concerning human trafficking within Hungary, and raise awareness of different forms of THB among the general public, for example through a national campaign.

51. In April 2017 - December 2018, IOM, in partnership with the National Police Headquarters, implemented an awareness-raising campaign entitled "Know about it!". Its aim was to raise awareness of the phenomenon of THB for sexual and labour exploitation, the tools most commonly used by perpetrators, and where victims can turn for help, in order to prevent THB both in Hungary and abroad. The awareness-raising campaign targeted vulnerable groups and the general public living in areas most affected by THB, namely Baranya, Borsod-Abaúj-Zemplén, Szabolcs-Szatmár-Bereg, Nógrád and Heves counties, as well as Budapest.

52. The Ministry of the Interior operates websites with information on THB in Hungarian<sup>16</sup> and English<sup>17</sup>. The websites are updated at least weekly with news, calls for project proposals and other relevant information concerning human trafficking, as is a Facebook page with postings in Hungarian and English.<sup>18</sup>

**53. GRETA considers that the Hungarian authorities should make continuous and consistent efforts to raise awareness of THB among the general public and vulnerable groups. Impact assessment should be made an integral part of future projects to raise awareness.**

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

54. In addition to matters of labour law, health and safety, labour inspectors control the migration status of foreign workers and employers' respect of their obligations of employers in this regard.<sup>19</sup> Labour inspectors can make unannounced inspections at any time at any work site. Section 4(3) of Act no. LXXV of 1996 on Labour Inspections was amended in 2017, enabling labour inspectors to carry out on-site inspections in private homes as of 1 January 2018. There are 204 labour inspectors in Hungary, who carry out some 15 000 inspections per year. In addition, there are some 200 work safety inspectors. There are sometimes joint inspections between labour inspectors and the Police (see paragraph 90), for example in nightclubs. Labour inspectors do not have a mandate to investigate criminal offences, such as THB for the purpose of forced labour, but are legally obliged to report any suspected THB cases to the Police.<sup>20</sup> If such cases concern third-country nationals, the information must be submitted to the Migration and Asylum Office. There is a data sheet which should be filled by labour inspectors if they come across suspected cases of THB, but no cases have been registered by labour inspectors in the EKAT database (see paragraph 89), reportedly because entering the information is subject to the victim's consent. In 2018, labour inspectors were trained in how to use the data sheet and enter information into the EKAT database.

<sup>16</sup> <http://emberkereskedelem.kormany.hu>

<sup>17</sup> <http://thb.kormany.hu>

<sup>18</sup> <http://facebook.com/thbHungary>

<sup>19</sup> Pursuant to Subsections (1), (2) and (8) of Section 71 of Act no. II of 2007 on the Admission and Right of Residence of Third-Country Nationals. The labour inspectors' mandate is defined in Section 3 of Act no. LXXV of 1996 on the Labour Inspection.

<sup>20</sup> Pursuant to Section 101 of Act CL of 2016 on General Public Administration Procedure, "where the regulatory inspection finds any infringement, the authority a) shall open proceedings or b) if the infringement uncovered falls within the jurisdiction of another body, the authority shall initiate the proceedings of that body" (unofficial translation).



55. According to representatives of the Labour Inspectorate, economic sectors which represent risks of THB are agriculture, construction and hospitality (restaurants). There have been media reports about exploitation in the agricultural sector<sup>21</sup> and the representatives of the Police met by GRETA in Békéscsaba also referred to some cases. Persons at risk of exploitation in agriculture are ethnic Hungarians who are citizens of neighbouring states, such as Romania, and come to Hungary for seasonal work. The Ministry of Finance has stressed that agriculture is among the sectors considered as a priority for labour inspections.

56. Hungarian temporary employment agencies must be licenced, but beyond that there is no particular control of their activities. The Labour Inspectorate has no authority to inspect on what terms workers recruited abroad to work in Hungary are offered accommodation, transport or other measures to enable them to take up the work offered in Hungary.

57. The European Job Mobility Portal (EURES),<sup>22</sup> provides information about work opportunities in other EU countries and draws attention to certain risks, such as misleading job adverts. It also provides information on where to seek help in case of deception. The Hungarian EURES team makes background checks on employers, recruitment agencies and the authenticity of individual job advertisements.

58. **GRETA considers that the Hungarian authorities should make further efforts to prevent THB for the purpose of labour exploitation, in particular by:**

- **ensuring that continuous training is provided to labour inspectors to enable proactive identification of victims of human trafficking;**
- **ensuring that labour inspections are properly resourced and targeted at economic sectors with a heightened risk of human trafficking, including agriculture;**
- **separating immigration enforcement functions from labour inspectorate roles and ensuring that labour inspectors prioritise the detection of persons working in irregular situations who are vulnerable to THB;**
- **strengthening the monitoring of recruitment and temporary work agencies and reviewing the legislative framework for any gaps that may limit protection or preventive measures;**
- **continuing to sensitise other relevant officials, including police officers, prosecutors and judges about human trafficking for the purpose of labour exploitation and the rights of victims;**
- **raising awareness amongst the general public as well as, in a targeted manner, amongst migrant workers, about the risks of THB for the purpose of labour exploitation.**
- **working closely with trade unions, civil society and the private sector to raise awareness of trafficking for the purpose of labour exploitation, prevent trafficking in supply chains and strengthen corporate social responsibility, drawing on the Guiding Principles on Business and Human Rights<sup>23</sup> and Recommendation CM/Rec(2016)3 on human rights and business.<sup>24</sup>**

<sup>21</sup>[https://hvg.hu/gazdasag/20180424\\_csanadpalota\\_rabszolgamunka\\_birosag\\_itelet\\_rabszolga\\_csicskazzatas\\_gadoros\\_kenyszer\\_munka](https://hvg.hu/gazdasag/20180424_csanadpalota_rabszolgamunka_birosag_itelet_rabszolga_csicskazzatas_gadoros_kenyszer_munka) (in Hungarian). The English version of HVG is available at <https://hvg.hu/english>

<sup>22</sup><https://ec.europa.eu/eures/main.jsp?catId=2768&countryId=HU&acro=Imi&lang=en&regionId=HU0&nuts2Code=%20&nuts3Code=&regionName=National%20Level>

<sup>23</sup> [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

<sup>24</sup> [Recommendation CM/Rec\(2016\)3](https://www.coe.int/t/e/treaties/CM/Rec(2016)3) of the Committee of Ministers to member States on human rights and business, adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies.

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

59. GRETA was informed that the Police have the main responsibility for carrying out awareness-raising activities about THB in Hungary. In 2015-2017 the Police in different counties carried out a number of awareness-raising activities targeted at children, to warn them of the risks of THB. For example, in 2017, in order to prevent the victimisation of persons leaving residential child care institutions, presentations were given by the Police about risks of online dating, human trafficking and exploitation of prostitution. Information was provided by the Police to a total of 14 005 students on 510 occasions, to 345 teachers on 30 occasions and to 1 717 parents on 61 occasions.

60. By way of example, the Police Headquarters of Baranya County implemented a preventive project entitled "Are you sure you want this?", targeting educational institutions and residential child care institutions. The Police Headquarters of Jász-Nagykun-Szolnok County held a series of presentations entitled "Slavery in the modern age: Trafficking in human beings" at the Child Protection Institute and vocational and training secondary schools, attended by a total of 894 students. In Veszprém County, a project under the title "Dream or Nightmare" targeted students in secondary school boarding houses and informed about the risks of THB in the context of working abroad or trying to find a partner online. A full-day awareness-raising event about THB was organised on 20 September 2017 in Borsod-Abaúj-Zemplén County for girls between 14 and 18 years of age in child care institutions. The staff of the institutions also took part in the event which was attended by a total of 60 children and 40 adults. Furthermore, at the request of a local school and a residential child institution, the Police Headquarters of Jász-Nagykun-Szolnok County gave a presentation on 21 November 2016 about risks of trafficking for the purpose of prostitution in connection with working abroad.

61. The Ministry of Human Capacities has run and funded a prevention programme against THB since 2012, aimed at children aged 14-18. The pilot part of the programme was implemented in 2012-2015 and reached some 3,600 pupils. It was extended over 2016-2019 and is being implemented by 17 NGOs. The programme aims to alert children to suspicious job advertisements and other seemingly easy money-making opportunities, as well as to the "loverboy" modus operandi (i.e. a pimp who pretends to be in love with a girl or young woman and makes her dependent on him in order to force her into prostitution).

62. The NGO Anthropolis Association has conducted a number of anti-THB activities in the reporting period, including by translating and adding content to a teachers' resource book on how to discuss contemporary slavery with 11-18 year old children. This NGO has also conducted awareness-raising among professionals working in social and child protection services at local level.<sup>25</sup> Further, the NGO Hungarian Baptist Aid makes presentations in elementary and high schools about THB for forced labour and sexual exploitation, reaching out to some 1 500 children per year.<sup>26</sup> It also carries out similar preventive work in crises centres for children.

63. Hungarian children who travel abroad without their parents, alone or accompanied by an adult, need to have a written authorisation from their parents. However, the trafficking of Hungarian children abroad usually takes place in other Schengen countries and therefore this safeguard is not effective as there are no border controls of whether children are in possession of the parental authorisation.

<sup>25</sup> <http://anthropolis.hu/english>

<sup>26</sup> <http://www.hbaid.org/hungarian-baptist-aid>

64. The majority of child victims of THB in Hungary are reportedly from Roma communities,<sup>27</sup> though this cannot be confirmed due to the inadequacy of data collection on victims of THB and the fact that ethnicity is not recorded. According to research, NGOs are reportedly hesitant to address trafficking because of the stigma it may put on Roma communities, and the presence of criminality in these communities.<sup>28</sup> Child victims of THB typically originate from disadvantaged areas (referred to as "segregated areas") where there is high proportion of Roma families.<sup>29</sup> GRETA visited such a "segregated area" where the exploitation of girls and women in prostitution is reportedly widespread and pimping is seen as a future perspective for young boys.<sup>30</sup> As a result of restrictive social policies and growing poverty in the Roma communities, an increasing number of children from disadvantaged areas have been sent to foster care or child protection institutions because social workers consider that their families cannot take care of them.<sup>31</sup>

65. According to reports, following the placement of children in child care institutions, the risks of falling victim to exploitation or abuse are significant because there are not enough professionals available to help abused or traumatised children and no needs assessment during the placement procedure.<sup>32</sup> The Action Plan against Trafficking in Human Beings adopted by the Hungarian Government in March 2019 (see paragraph 21) foresees measures to prevent trafficking of vulnerable children residing in State child care institutions.

66. In 2015, the Ministry of Human Capacities launched a programme aimed at preventing Roma girls aged 10-18 from dropping out of school. The programme, which benefits from EU support, is divided into 87 local projects which are implemented by civil society organisations and local government.

67. Children living and working in the streets can be particularly vulnerable to THB. According to reports, some 4 000 young children in Hungary do not have a valid address, which effectively excludes them from public services.<sup>33</sup>

68. **While noting the steps taken to raise awareness of child trafficking, GRETA urges the Hungarian authorities to strengthen their efforts in the area of prevention of child trafficking, in particular by:**

- **sensitising and training staff working with children, including in residential care institutions, as well as other child protection professionals across the country;**
- **raising awareness of THB and online safety among children, including those in residential care institutions;**
- **taking further measures to strengthen the prevention of THB through social, economic and other measures for groups vulnerable to THB, including outreach work and fostering access to education and employment in Roma communities.**

<sup>27</sup> Zsuzsanna Vidra, Kitti Baracsi, Noémi Katona and Viktoria Sebhelyi, *Child Trafficking in Hungary; Sexual Exploitation, Forced Begging and Pickpocketing*, Centre for Policy Studies, Central European University, 2015, page 108.

<sup>28</sup> Ibid., page 109.

<sup>29</sup> Ibid., page 42.

<sup>30</sup> Ibid., pages 42-43.

<sup>31</sup> Ibid., page 43.

<sup>32</sup> Zsuzsanna Vidra, Kitti Baracsi, Noémi Katona and Viktoria Sebhelyi, *Child Trafficking in Hungary: Sexual Exploitation, Forced Begging and Pickpocketing*, Centre for Policy Studies, Central European University, 2015, page 4.

<sup>33</sup> <https://budapestbeacon.com/tens-of-thousands-of-hungarian-children-denied-access-to-basic-services/>

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

69. GRETA notes that while human trafficking for the purpose of organ removal as defined by the Convention and organ trafficking as defined by Articles 4 to 8 of the Council of Europe Convention against Trafficking in Human Organs<sup>34</sup> are two distinct crimes, they bear certain similarities and share similar root causes, such as shortage of organs to meet demand for transplantation and poor economic and other conditions that put persons in a vulnerable position. Therefore, measures to prevent organ trafficking can help prevent trafficking for the purpose of organ removal and the reverse is also true.<sup>35</sup> 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.

70. Act no. CLIV of 1997 on Health Care regulates organ and tissue transplantations from living and dead donors. Any deceased person is a potential organ donor unless s/he has explicitly refused to be one. As regards living donors, organs and tissues can be donated by a person with legal capacity who is closely related to recipient. An organ donation may exceptionally take place in the case of a joint request of a donor and a recipient between whom an emotional relationship exists. Such requests are considered by a hospital ethics committee which has to establish whether such a relationship exists and that no force, duress, coercion or deception is at hand. The National Medical Officer must approve any exports of tissue or organs removed in Hungary.

71. The Ministry of Human Capacities has launched a preventive programme in Hungarian schools, through which school children are warned about people who might approach them to propose that they donate an organ against payment.

72. Hungary has not signed the Council of Europe Convention against Trafficking in Human Organs. **GRETA encourages the Hungarian authorities to sign and ratify the Council of Europe Convention against Trafficking in Human Organs as this would contribute to the prevention of trafficking for the purpose of organ removal.**

**e. Measures to discourage demand (Article 6)**

73. In its first report, GRETA considered that the Hungarian authorities should strengthen their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society and the private sector.

74. There have been some programmes advising against the use of services by persons engaged in prostitution or exploited in forced labour. For example, the Ministry of the Interior has been present at the annual Sziget music and art festival to raise awareness about THB, as has its co-operation partner IOM, in August 2016 and 2017. The Austrian Federal Office of Criminal investigation and the German NGO network against trafficking in human beings (KOK) have also conducted such awareness-raising activities at the festival in the reporting period.

<sup>34</sup> Opened for signature in Santiago de Compostela on 25 March 2015; in force since 1 March 2018.

<sup>35</sup> See "[Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs](#)", [Joint Council of Europe/United Nations Study](#) (2009), in particular pages 55-56; "Trafficking in human beings for the purpose of organ removal in the OSCE region: Analysis and Finding", OSCE Occasional Paper No. 6 (2013).

75. There is still no specific provision criminalising the use of services of victims of THB, with the knowledge that they are victims (see paragraph 167). Section 203 of the CC criminalises the use of services of children engaged in prostitution. However, GRETA was not informed of any measures to discourage demand for sexual services provided by children.

76. As far as GRETA knows, there are no initiatives by private companies in Hungary to prevent trafficking and forced labour in their supply chains.

77. GRETA stresses the need to address demand as a root cause of human trafficking and to take measures aimed at promoting awareness among the general public of its responsibility for the existence of trafficking situations. Further, there is an important role which could be played by the media and businesses in discouraging demand.

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

- **implementing educational programmes at schools which stress the importance of gender equality and respect for the dignity and integrity of every human being and the consequences of gender-based discrimination;**
- **raising awareness, among men and boys in particular, of trafficking and other forms of sexual and gender-based violence linked to prostitution;**
- **raising awareness of the role and responsibility of the media and advertising in tackling demand which leads to human trafficking;**
- **working closely with the private sector, in line with the Guiding Principles on Business and Human Rights.<sup>36</sup>**

**f. Border measures (Article 7)**

79. In its first report, GRETA considered that the Hungarian authorities should increase 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.

80. The Border Police Department has published in Hungarian the Frontex manual for the identification of potential victims of human trafficking at the Schengen external borders.<sup>37</sup>

81. The Border Police use indicators such as the type of travel documents used, passengers' behaviour, travel company and declarations about the purpose of stay to detect possible victims of THB. Border officers are instructed to conduct a more thorough second-line interview with a person if several indicators suggest a risk of trafficking. As regards detection of possible victims of THB in the transit zones (see paragraphs 91-96).

<sup>36</sup> Implementing the United Nations "Protect, Respect and Remedy Framework", HR/PUB/11/04, United Nations, 2011, available at: [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

<sup>37</sup> Available at: [http://unipd-centrodirittiumani.it/public/docs/CE\\_lineequida\\_vittimeditratta.pdf](http://unipd-centrodirittiumani.it/public/docs/CE_lineequida_vittimeditratta.pdf)

82. GRETA stresses that it is important that staff carrying out border controls, whether initial identity checks or checks run where there are doubts as to a person's identity, are familiar with the indicators for detecting signs of potential human trafficking situations and distinguish them from cases of irregular immigration. GRETA further notes the importance of developing awareness about THB among transport companies, in particular as Hungary belongs to the Schengen area within which there are usually no border controls.

83. **GRETA considers that the Hungarian authorities should step up their efforts to detect victims of THB during border controls, in particular by:**

- **reinforcing training for the Border Police carrying out identity checks so that they are more effective in detecting signs pointing to a potential trafficking victim;**
- **providing advanced practical training for some members of the Border Police, enabling them to provide assistance to colleagues in detecting signs of trafficking and to carry out second-line interviews;**
- **developing awareness within transport companies of the detection of victims of THB using indicators.**

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

### **a. Identification (Article 10)**

84. In its first report, GRETA urged the Hungarian authorities to ensure that all victims of human trafficking are properly identified and can benefit from the assistance and protection measures contained in the Convention, including by not requiring written consent from trafficked persons for them to be identified as victims, strengthening the identification of victims of internal trafficking and adopting a framework for the identification of victims of THB among third-country nationals.

85. As explained in GRETA's first report, Government Decree no. 354/2012 (XII.13) on the Identification Order of Victims of Trafficking in Human Beings regulates the identification and referral to assistance of victims of THB.<sup>38</sup> According to the Hungarian authorities, this decree constitutes the National Referral Mechanism (NRM) of victims of THB in Hungary. However, GRETA remains concerned that the decree does not apply to third-country nationals without legal residence. In February 2019, the Immigration and Asylum Office made a proposal to extend the application of Decree 354/2012 to third-country nationals and stateless persons. Further, the decree continues to require written consent from the presumed victim before s/he can be officially identified as a victim of THB and assisted. According to the Hungarian authorities, the absence of a written declaration of consent does not lead to a refusal of necessary health or social services to presumed victims of THB.

86. Pursuant to Decree no. 354/2012, the professional groups entitled to perform identification of victims of THB are health care providers, health administration bodies, personal care providers, public educational establishments, the Police, the Labour Inspectorate, consulates, border guards, the Office for Immigration and Nationality and, since the beginning of 2018, the victim support services,<sup>39</sup> the probation services and the legal aid services. A set of indicators are used for the identification of victims of THB for different forms of exploitation on reasonable grounds.

<sup>38</sup> See paragraphs 125 and 126 of GRETA's first report on Hungary.

<sup>39</sup> There are some 100 State victim support services around the country, some of which have reportedly referred victims of THB to shelters.

87. Government Decree no. 354/2012 does not foresee a formal role for NGOs in the identification of victims of THB. GRETA is concerned that following the criminalisation of “promotion and facilitation of irregular migration” under the new Section 353/A of the CC (see paragraphs 111 and 211), NGOs risk breaking the law by approaching possible foreign victims of THB with the intent to provide them with information about relevant legislation and possibilities of assistance. The Hungarian authorities have indicated that NGOs approaching third-country nationals whom they deem possible victims of THB would not be charged with promoting and facilitating irregular migration. At the same time, the authorities have made it clear that providing support for the initiation of asylum proceedings to persons “not eligible for refugee status” falls under Section 353/A of the CC. GRETA is of the opinion that the interpretation of Section 353/A is not sufficiently clear and therefore in practice continues to have an intimidating effect on NGOs specialised in providing advice and assistance to victims of THB.

88. As noted in the first GRETA report,<sup>40</sup> the National Crisis Telephone Information Services (OKIT), is a toll-free anonymous hotline. It receives calls from victims of domestic violence and trafficking, or any person with information on possible victims, and can directly refer victims of trafficking to a specialised shelter. OKIT was established in April 2005 and is run by Family-Friendly Country Non-profit Public Benefit Ltd, with funding from the Ministry of Human Capacities. Staff receiving phone calls are required to take part in one week of training before starting work, which includes the protocol on handling calls related to THB. There have been between 7 000 and 8 000 calls to the hotline annually in recent years. There were 23 calls related to THB in 2015, 23 in 2016, 14 in 2017 and 34 in the first 10 months of 2018. OKIT coordinated the transfer of THB victims to a temporary shelter. According to the Hungarian authorities, OKIT has been linked to the human trafficking data collection platform EKAT (see paragraph 40).

89. As noted in paragraph 40, in September 2017 the Ministry of Justice set up the EKAT digital platform which enables a range of stakeholders to report presumed victims of THB. By the end of January 2019, 28 presumed victims of THB had been recorded in EKAT.

90. As regards the identification of victims of THB for the purpose of labour exploitation, GRETA was informed that on 11 November 2016, the labour inspectors of Pest County carried out a joint inspection with the Gyál Labour Inspection District Office, the Occupational Safety and Health Inspectorate, and the Pest County Police Headquarters. During the inspection, the labour inspectors found a person showing clear signs of having been trafficked according to indicators provided by Government Decree no. 354/2012, including visible injuries, being accommodated at the place of work, and absence of labour contract or registration with the tax authority. However, the person concerned did not recognise himself as a victim of THB and did not agree to fill in the identification sheet appended to the Government Decree. The labour inspectors informed OKIT about the case but were told that they could not act until the victim himself asked for assistance. Due to his poor health condition, the person was taken to a medical establishment.

91. Pursuant to Section 80/J of the Asylum Act,<sup>41</sup> during a “crisis situation caused by mass immigration”, asylum applications can only be made within the two transit zones set up at the Hungarian-Serbian border (with the exception of persons who are already legally residing in Hungary). No exception is made for victims of trafficking who seek asylum in Hungary and who are therefore required to enter the transit zones. Asylum seekers can only enter one of the two existing transit zones of Tompa and Röszke from the Serbian side of the border fence that was erected along the Hungarian-Serbian border. As of 6 June 2019, 114 asylum seekers were held in the Röszke transit zone and 126 in the Tompa transit zone. The number of asylum applications submitted to the Hungarian authorities has markedly decreased over the years: 177 135 in 2015, 29 361 in 2016, 3 397 in 2017, and 507 by 31 July 2018. A total of 459 persons were granted asylum, 1 993 persons were granted subsidiary protection and 105 tolerated stay.<sup>42</sup>

<sup>40</sup> See paragraph 30 of the first GRETA report.

<sup>41</sup> Introduced by Act no. XX of 2017 “On the Amendment of Certain Acts Related to Increasing the Strictness of Procedures Carried out in the Areas of Border Management.

<sup>42</sup> Tolerated stay in this context means protection against *refoulement* in case of those who cannot be recognised as refugees or beneficiaries of subsidiary protection, based on Section 52/A of Act no. II of 2007 on the entry and stay of third country nationals (Aliens Act).



92. At the time of GRETA's urgent procedure visit in December 2017, there was no established set of procedures or guidelines for the identification of victims of trafficking in the transit zones or their referral to assistance and protection. Most of the staff working in the transit zones who were interviewed by the GRETA delegation in December 2017 were unable to provide a clear explanation as to what procedures would be followed and which authorities would be competent to take decisions on victim identification and referral.<sup>43</sup>

93. According to the Hungarian authorities, the rules on the procedure for identification of victims of THB contained in Government Decree no. 354/2012 also apply in the transit zones.<sup>44</sup> It is the duty of staff of the Asylum and Immigration Office to conduct an identification interview if an applicant shows signs of being a possible victim of THB. Should suspicions that the person may be a victim of THB grow stronger as a result of the interview, the person concerned should be referred to the victim support services, but only if he/she confirms in writing that he/she is a victim of THB. GRETA was informed that from February to May 2018, 14 identification interviews had been carried out by Asylum and Immigration Office staff with possible victims of THB in the two transit zones, using identification sheets contained in Government Decree no. 354/2012. By the time of GRETA's second evaluation round visit, two possible victims of THB (originating from Afghanistan and Iran) had been detected in the transit zones on the basis of indicators of THB. GRETA was informed that because these persons did not agree to sign the form confirming that they were victims of THB and did not wish to co-operate with the investigation, no specialised assistance was provided to them. In the further course of 2018, further identification interviews were carried out, but none led to identification of THB victims. According to the Hungarian authorities, in the period after GRETA's visit, questions specifically about THB were added to the standard questions used in asylum interviews. The authorities have indicated that in January 2019, one asylum seeker was identified as a victim of THB through the use of the revised identification sheet developed by the Immigration and Asylum Office and Hungarian Baptist Aid after GRETA's visit.

94. Leaflets explaining what THB is are available since January 2018 in all facilities of the Immigration and Asylum Office. The leaflet lists contact details of State bodies and NGOs providing assistance to victims of THB and is available in a range of languages (English, French, Arabic, Dari, Farsi, Urdu, Pashto, Kurdish, Chinese (Mandarin), Serbian and Ukrainian).

95. According to information provided by the Immigration and Asylum Office, victims of trafficking identified among asylum seekers in the transit zones would in principle be accommodated separately from other applicants within the transit zone. The authorities also indicated that the Immigration and Asylum Office may arrange for the placement of an identified victim of trafficking outside the transit zone in reception centres for asylum seekers, where they would be accommodated separately. GRETA was informed that asylum seekers can, exceptionally, be allowed to leave the transit zones, including for medical needs that cannot be attended in the transit zones. However, there does not seem to be a legal basis for accommodating asylum seekers, including victims of trafficking amongst them, outside the transit zones in a "crisis situation caused by mass immigration."

96. Social workers are instructed to fill out a questionnaire to identify the psycho-social needs of asylum seekers who are likely to have suffered traumatic experiences, e.g. victims of torture, psychological, physical or sexual violence. However, national law does not allow the release of asylum seekers from detention in the transit zone on grounds of identified vulnerability.

<sup>43</sup> See paragraph 26 of GRETA's urgent procedure report.

<sup>44</sup> See paragraph 22 of GRETA's urgent procedure report.



97. GRETA notes the extension of the list of professional groups entitled to perform identification of victims of THB to include the victim support services, the probation services and the legal aid services, as well as the inclusion of questions related to THB in the standard questions used during asylum interviews. **However, GRETA urges the Hungarian authorities to take further efforts to ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures provided for in the Convention, including by:**

- **not requiring written consent from trafficked persons for them to be identified as victims and provided with assistance;**
- **adopting a framework for the identification of victims of THB among third-country nationals without legal residence which ensures that victim identification is dissociated from the presumed victim's co-operation with the investigation;**
- **improving the identification of victims of trafficking among asylum seekers and irregular migrants (as regards training, see paragraph 38);**
- **organising regular and co-ordinated multi-agency inspections by labour inspectors, the Police and other relevant agencies in at-risk sectors;**
- **enabling specialised NGOs with experience in identifying and assisting victims of THB to have regular access to transit zones;**
- **ensuring that there are appropriate facilities in transit zones where asylum seekers can meet in privacy with persons of trust, including lawyers, employees of specialized NGOs, officials of international organisations and social workers.**

#### **b. Assistance measures (Article 12)**

98. In its first report, GRETA urged the Hungarian authorities to ensure that all assistance measures provided for in law are guaranteed in practice to victims of THB, to guarantee effective access to public health care for victims of trafficking, to ensure that male victims of THB are provided with adequate assistance, as well as to ensure that presumed foreign victims of trafficking are moved to a shelter for victims of THB as soon as there are reasonable grounds to believe that they are victims of trafficking.

99. As noted in GRETA's first report, the provision of assistance to victims of THB in Hungary is regulated by Act no. CXXXV of 2005 on Crime Victim Support and State Compensation and Government Decree 114/2007 on the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals.<sup>45</sup>

100. Section 1(1) of Act no. CXXXV of 2005 applies to victims of crimes committed in Hungary and any person having suffered injuries as a direct consequence of criminal acts, provided that they are: (a) Hungarian citizens, (b) citizens of any EU Member State, (c) citizens of non-EU countries lawfully residing in the EU, (d) stateless persons lawfully residing in Hungary, (e) victims of trafficking in human beings, or (f) any person considered eligible in accordance with international treaties concluded by the country of origin and Hungary. As noted in the first GRETA report,<sup>46</sup> the Hungarian authorities interpret this provision as applying to victims of trafficking provided they meet, in addition to criterion (e), one of the other criteria pertaining to nationality or residence.

<sup>45</sup> See paragraphs 137 and 144 of GRETA's first report on Hungary.

<sup>46</sup> See paragraph 170 of GRETA's first report on Hungary.

101. Section 4 of Act no. CXXXV of 2005 stipulates that the State must provide appropriate and safe accommodation for victims of trafficking for a period of 90 days, renewable once, regardless of whether a criminal investigation has been opened in the case. The same section provides that the victim support services must help victims in accessing health-care services, health insurance benefits and social welfare services. The victim support services must cover extraordinary expenses connected with accommodation, clothing, food, travel, and medical costs. Pursuant to Section 17 of Act CXXXV of 2005, all costs of translation and interpretation shall be borne by the victim support services.

102. Section 10 of Act no. CXXXV of 2005 provides that victims must fill in a form in order to benefit from the services described in the Act. In addition, victims should provide a certificate delivered by the competent investigating authority, prosecutor or court, providing information on the victim, the crime and the on-going criminal proceedings. For the issuance of a certificate, the initiation of a criminal or administrative procedure is mandatory. The issuance of a certificate on victim status can also be requested after the completion of criminal proceedings. Victims who are in possession of a certificate have access to legal aid and may receive a replacement for any stolen document free of charge.

103. There are some 100 State victim support centres located in municipalities, which provide advice and assistance to victims of all types of crime, including THB. These victim support centres may also offer emergency financial support to victims amounting to 113 164 HUF (about 350 Euros).

104. For the purpose of carrying out certain forms of victim assistance, in 2017-2018 the Ministry of Justice established support centres for victims of crime, including victims of THB, in Budapest, Miskolc and Szombathely. The difference between the previously mentioned State victim support centres located in municipalities and these three centres is that the latter offer additionally psychological support and help victims prepare for any criminal proceedings. There are special interviewing rooms for victims at these centres and the services are provided free of charge. GRETA visited the support centre in Budapest and was told that it had assisted a presumed victim of THB referred to the centre by an NGO. The centre in Budapest has two full time and one part time employees, as well as volunteer workers. The employees of the centre have access to the EKAT database for presumed victims of THB.

105. There are five shelters for victims of trafficking in Hungary, all operated by NGOs. Two of them are State-funded and run by the NGO Chance for Families. The other three shelters do not receive funding from the State; two of them are run by the NGO Hungarian Baptist Aid and one by the Anonymous Ways Foundation. The shelters are intended only for adult victims of THB, since child victims of THB must be taken care of by the Child Protection Services, but children of victims can stay in a shelter with their parent(s).

106. The Ministry of Human Capacities provides funding for the maintenance of the two shelters operated by the NGO Chance for Families. Each of them can accommodate up to twelve persons. The initial stay of up to 90 days can be extended once by another 90 days if requested. The two shelters hosted a total of 52 victims in 2015, 57 in 2016 and 67 in 2017. In addition, since 2018, four halfway houses linked to the two shelters have been set up. In the halfway houses victims can stay for longer periods of time (up to four years) and continue to receive assistance from social workers, lawyers and psychologists.

107. The NGO Hungarian Baptist Aid (HBA) runs two shelters for female victims of THB, in Győr and Békés. In 2015 and 2016 HBA accommodated 21 victims of THB, in 2017, 23 and in 2018, 26. All but one victim were Hungarian. The victims had been exploited in Austria, France, Germany, Switzerland and the United Kingdom; about half of the assisted victims had been exploited in Hungary. Apart from accommodation, the HBA arranges legal aid, medical assistance, and referrals to psychologists and psychiatrists, often in co-operation with a local social worker, including for victims of THB who have not stayed at its shelters.

108. GRETA visited the HBA shelter in Békés. There is no limitation on the time a victim may stay at HBA's shelters. The HBA prepares an individual rehabilitation and reintegration programme for each victim. In addition, the HBA and the victim together make an action plan with achievable goals for the victim. The length of the process depends on the victim's health and psychological condition and possibilities to enter the labour market. Follow-up is an essential part of the HBA's work and contact is maintained with the victims after they leave the HBA shelter. During the follow-up period the HBA continues to provide legal assistance, occupation and advice on work. The length of the follow-up depends on the victim and the support decreases gradually, from regular meetings to advice given on specific issues occasionally.

109. There are no specialised shelters for male victims of THB in Hungary. The NGO Hungarian Baptist Aid has exceptionally assisted three male victims of THB, who were accommodated in crisis intervention rooms for homeless persons.

110. As explained in GRETA's first report, Government Decree no. 114/2007 (V24) on the Implementation of Act no. II of 2007 on the Admission and Right of Residence of Third-Country Nationals regulates the forms of assistance and support provided to third-country nationals. This includes accommodation, either in reception centres or shelters run by NGOs for third-country victims of trafficking, free of charge for up to 18 months provided they have no means and their income is below the minimum retirement pension. Third-country victims of trafficking who are not covered by any social insurance system will be eligible to receive the state's health care services free of charge. However, there are no specific facilities for third-country victims of trafficking.

111. As noted in paragraphs 17, through the adoption of Act no. VI of 2018 "On the Amendment of Certain Acts on Connection with Measures against Illegal Migration", the CC was amended to criminalise the "promotion and facilitation of illegal migration". The amendment poses a serious threat to NGOs' possibilities to identify and assist presumed victims of trafficking. On 25 June 2018 the European Commission for Democracy through Law (Venice Commission) jointly with the OSCE/ODIHR issued a legal opinion on the amendments and concluded that Section 353/A runs counter to the role of NGOs in assisting victims, including of THB. Moreover, the European Commission has initiated an infringement procedure against Hungary regarding Section 353/A of the CC.<sup>47</sup> GRETA is concerned that the criminalisation of "promotion and facilitation of irregular migration" is likely to dissuade NGOs from assisting victims of THB and notes that it is not compatible with Article 12.5 of the Convention.<sup>48</sup>

**112. GRETA urges the Hungarian authorities to take further measures to provide victims of THB with adequate assistance, and in particular to:**

- **ensure that all assistance measures provided for in law are guaranteed in practice to victims of THB, regardless of their migration status and whether they are in possession of a certificate on victim status ; when the provision of assistance is delegated to NGOs as service providers, the State has an obligation to provide adequate financing and ensure the quality of the services delivered by all NGOs to whom the State refers victims of THB for assistance;**
- **enable male victims of THB to benefit from all the assistance measures provided for in law, including safe accommodation;**

<sup>47</sup> [http://europa.eu/rapid/press-release\\_IP-19-469\\_en.htm](http://europa.eu/rapid/press-release_IP-19-469_en.htm)

<sup>48</sup> Article 12.5 of the Convention reads as follows: "Each Party shall take measures, where appropriate and under the conditions provided for by its internal law, to co-operate with non-governmental organisations, other relevant organisations or other elements of civil society engaged in assistance to victims".

- **ensure that presumed foreign victims of trafficking are moved to a shelter for victims of THB as soon as there are reasonable grounds to believe that they are victims of trafficking;**
- **ensure that the legislation criminalising the promotion and facilitation of irregular migration is not applied in a way which would prevent NGOs from being involved in providing assistance to all victims of trafficking.**

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

113. In its first report, GRETA urged the Hungarian authorities to increase their efforts to identify child victims of THB, including amongst unaccompanied children, and to set up child-specific identification procedures which take into account the special circumstances and needs of child victims of trafficking, involve child specialists, child protection services, trained police and prosecutors, and ensure that the best interests of the child are the primary consideration.

114. Child victims of THB are dealt with under the Child Protection Act and referred to the child protection services. There is no specific referral procedure or assistance system for child victims of THB, neither is there a specialised shelter for child victims of THB.

115. According to the authorities, if the Police consider that there is an immediate threat to a child, including of THB, s/he will need to be removed from that situation. Children under 12 years of age will be placed in foster families whereas children of 12 to 18 years of age will be placed in a child care institution. The Border Police Department makes efforts to detect migrant children traveling with adults who are not their parents. Should they detect any such cases, the children are treated as unaccompanied.

116. In 2018 the Hungarian Commissioner for Fundamental Rights published a report on child prostitution, calling on the Ministry of Human Capacities to address this phenomenon in State child care institutions.<sup>49</sup> The Commissioner noted with concern that the Police view children involved in prostitution as offenders who can only be exempted from liability if they prove that they have been coerced or threatened into prostitution, and criticised the practice of imposing administrative fines on such children. Section 203 of the CC criminalises the use of services of children engaged in prostitution, but the Police tend to consider children from 14 to 18 years of age as adults in a prostitution context and impose fines on them. The Act on Minor Offences, Offence Procedures and the Registration System of Offences differentiates between children of up to 14 years and those aged 14-18 and thus allows the imposition of fines on children engaged in prostitution. GRETA notes with concern that this approach is not conducive to detecting child victims of THB among children engaged in prostitution. GRETA was told that social workers and child protection officers are reluctant to report sexual abuse of children to the police because this may result in them being fined rather than protected and assisted. The Commissioner has stressed that in the case of children, prostitution cannot be voluntary and that children engage in such an activity as a result of some physical, emotional or economic coercion or threat, which is why they should therefore be regarded as victims even if they do not feel they are victims. The Hungarian authorities have informed GRETA that the Ministry of the Interior had prepared a bill which, if adopted by Parliament, would exclude 14-18 year old children engaged in prostitution from punishment, even if the prostitution did not take place in a tolerated area. The bill is expected to be adopted in the autumn of 2019.

117. In response to the report by the Commissioner for Fundamental Rights, the Hungarian National Police published an action plan to prevent child prostitution in 2018. The plan includes actions aimed at developing relevant study materials for, and training of, police officers, as well as increased co-operation between the Police and child protection bodies. An evaluation of the implementation of the action plan is foreseen. **GRETA would like to be kept informed of the outcome of this evaluation.**

<sup>49</sup> "The Protection of the Rights of Children who fall Victim to Prostitution and the possible Means of Prevention – Follow-up Investigation conducted by the Commissioner for Fundamental Rights". The report is a follow-up report of a 2011 report on the same theme by the Commissioner for Fundamental Rights.

118. There are 13 special children's homes in Hungary, run by the Directorate-General for Welfare and Child Protection of the Ministry of Human Capacities. Five of them (with a total of 215 places) are central special children's homes and eight (with a total of 167 places) are special children's homes.. Further, two special children's homes (with 32 places) are operated by churches or civil society organisations. These institutions operate in line with Act no. XXXI of 1997 on Child Protection and Custody Administration. As a rule, a child can stay no longer than two years in such an institution, but in justified cases the stay can be prolonged to ensure the completion of therapy or the school year.

119. Some of the child care institutions have a stricter regime and are intended for children deemed to require a higher level of protection, such as child victims of THB. According to representatives of the Ministry of Human Capacities and the Guardianship Division of the Government Office of the Capital City Budapest V. District Office, child victims of THB are to the extent possible referred to institutions with a stricter regime. In these institutions, the staff-child ration is higher. In order to guarantee that children in these institutions participate in the therapeutic work, the head of institution may order that the personal freedom of a child be restricted by not allowing the child to leave the premises of the institution, or confining the child to a particular area of the institution, which can be locked. If this restriction on movement exceeds 48 hours, an education supervision of the child is initiated by the guardianship authority. This supervision cannot exceed two months. Staff members are trained on how to prevent children from absconding. However, staff are not trained in how to work with child victims of abuse, neglect or THB and they have no protocol for handling victimised and traumatised children.<sup>50</sup>

120. Following amendments to Act no. II of 2007 on the Admission and Right of Residence of Third-Country Nationals, the competent guardian authority must appoint a guardian for an unaccompanied child within eight days of receiving a request from the Immigration and Asylum Office. In October 2015 the Guardianship Department of the Government Office of the Capital City Budapest V. District Office was tasked with the case management of all unaccompanied children residing in Hungary. At the same time, the Metropolitan Child Protection Service was made responsible for providing guardianship to all unaccompanied children. According to the Hungarian authorities, the centralisation of these services was meant to increase the level of specialisation among guardians and case workers for unaccompanied children. To meet the increased workload, the Guardianship Department of the Government Office of the Capital City Budapest V. District Office was strengthened with three staff members and the Metropolitan Child Protection Service with 10 additional staff members.

121. There are about 700 guardians in Hungary, 76 of whom are in Budapest, including 10 assigned to foreign unaccompanied children. Guardians are employed by the child welfare system and are required to have a higher education degree and be qualified in one of the following areas: public administration, law, education child care or health care. In practice, many guardians are social workers or teachers. There must not be more than 30 children assigned to the same guardian. Among the tasks of guardians is to enrol the children they are responsible for in school, ensure health care appointments where necessary and in general represent the children in front of any authorities. If a guardian is informed about sexual or other abuse of a child, s/he is legally obliged to report it to the Police.

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<sup>50</sup> Zsuzsanna Vidra, Kitti Baracsi, Noémi Katona and Viktoria Sebhelyi, *Child Trafficking in Hungary: Sexual Exploitation, Forced Begging and Pickpocketing*, Centre for Policy Studies, Central European University, 2015, page 108.

122. The procedures for dealing with unaccompanied and separated asylum seeking children were detailed in GRETA's urgent procedure report.<sup>51</sup> Under the regulations applied during the "crisis situation caused by mass immigration" declared by the Hungarian Government in September 2015 and extended with regular intervals since then, children aged 14 to 18 are kept in "transit zones" for the duration of their asylum procedure and do not fall under the normal child protection system. GRETA notes the concerns raised in this respect by the Committee of the Parties to the Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse (Lanzarote Committee) in the follow-up report on its July 2017 visit to the transit zones, which was published on 6 June 2019.<sup>52</sup> These children are deprived of the safeguards<sup>53</sup> contained in the national child protection regime<sup>54</sup> and the Act on Asylum and Government Decree Implementing the Act on Asylum.<sup>55</sup>

123. At the time of GRETA's visit in October 2018, no victims of trafficking had been identified among children detained in the transit zones. According to the previously mentioned follow-up report by the Lanzarote Committee, children in the transit zones are required to fill out a questionnaire designated to detect victims of THB, but it is not provided in a language they can understand. The Hungarian authorities have stated that accommodation, psychological support and social services for persons belonging to extremely vulnerable groups could be provided outside the transit zones, but GRETA has not been informed of any case in which this has happened. Children aged 14-18 who are held in the transit zones are appointed an *ad hoc* guardian by the Szeged District Office of the Government Office of the Csongrád Country, usually within five days of a request for such an appointment. These *ad hoc* guardians are solely mandated to represent the children within the asylum procedure<sup>56</sup> and therefore do not address the children's needs in support of their emotional, social and cognitive development, having more limited competencies and access to the children than regular guardians. There are no particular qualifications required for becoming a temporary guardian, other than that the candidate must be an adult and not have a criminal record. Designated temporary guardians are not trained on THB, asylum, child protection or cultural contexts; they do not have access to trained interpreters, and they usually meet the children only at the asylum interview which takes place two to four weeks after arrival. Further, the Lanzarote Committee refers to inadequate interpretation during medical examinations and psychotherapeutic sessions with children in the transit zones, though a positive development is that a psychologist and a psychiatrist have been made available for at least some hours per week in the transit zones.

124. Unaccompanied child asylum seekers younger than 14 of age at the time of their arrival in Hungary are referred to the Károly István Children's Centre in Fót<sup>57</sup> and can remain there after they have turned 14. The Hungarian Government had announced the closure of the centre and at the time of writing it remained unclear where unaccompanied children would be moved.

125. GRETA was informed that virtually all foreign unaccompanied children apply for asylum. If a child is granted asylum, s/he will enjoy the same benefits and protection as a Hungarian unaccompanied child, including provision of access to basic health care, accommodation, meals, specialist care, education, psychological support, clothing and some pocket money. A reception centre used for the separate placement of unaccompanied children or, in its absence, a child protection institution, other accommodation maintained under a contract or a private accommodation may be designated as place of accommodation for unaccompanied children granted asylum. An unaccompanied child may alternatively be accommodated together with relatives who do not belong to the child's immediate family if the relatives agree to provide accommodation, food and care.

<sup>51</sup> See paragraphs 34-45 of GRETA's urgent procedure report on Hungary.

<sup>52</sup> Available at: [https://www.coe.int/en/web/p\\_ortal/-/hungarian-authorities-have-not-done-enough-to-protect-migrant-children-from-sexual-abuse-along-serbian-hungarian-border](https://www.coe.int/en/web/p_ortal/-/hungarian-authorities-have-not-done-enough-to-protect-migrant-children-from-sexual-abuse-along-serbian-hungarian-border)

<sup>53</sup> With the exception of the obligation to prioritise the examination of the asylum claim and the requirement of tracing family members (Section 35 (7) of the Act on Asylum and Section 4 (1) of the Decree).

<sup>54</sup> Section 4 (1)(c) of the Child Protection Act.

<sup>55</sup> Government Decree no. 301/2007 (XI. 9) on the implementation of the Act on Asylum.

<sup>56</sup> Sections 80/I(b) and (d) of the Act on Asylum set out that Sections 35(6) and 48 are not applicable in case of a state of emergency situation.

<sup>57</sup> For more details about the centre, see paragraphs 37-43 of the GRETA's urgent procedure report on Hungary.

126. The age of a foreign person claiming to be a child is, in case of doubt, determined with a forensic medical examination, in the presence of an appointed guardian. The age assessment method used is the Greulich-Pyle methodology, which assesses the person's bone formation. Dental X-rays and pelvic radiograph are additional means to be used where needed. If the result falls within a certain margin of error, the person is deemed a child. A protocol has been developed by the forensic medicine experts of the National Expert and Research Centre, which provides recommendations for doctors involved in the age assessment procedure. However, as noted in GRETA's urgent procedure report published, in the transit zones the age assessment is performed by a military doctor, based on the person's physical maturity and a dental assessment, and taking into account the family relationship of the applicants. In practice, the age assessment examinations in the transit zones are based on physical observation and only take a few minutes.<sup>58</sup>

127. The Alien Policing Authority has to ascertain within the period of 12 hours whether it regards a foreigner found to be irregularly present in Hungary as an unaccompanied child or an adult. Unaccompanied children are subject to procedural rules different from those applicable to adults, including as regards detention. The Hungarian authorities have stressed that within the 12 hours available, it is not possible to involve a forensic medicine expert, a psychologist or a psychiatrist to ascertain a person's age.

128. According to Hungarian legislation, a child asylum seeker or irregular migrant from a third country may not be detained if unaccompanied, but may be detained for up to 30 days if in the company of his or her parents. The Hungarian authorities do not consider the stay of migrants in the transit zones as detention. However, GRETA notes that the European Court of Human Rights in a chamber judgement held that the Hungarian transit zones amount to places of detention.<sup>59</sup> Similarly, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in a report published in September 2018 refers to the transit zones as places of detention.<sup>60</sup>

129. **GRETA urges the Hungarian authorities to strengthen their efforts to identify child victims of THB and to provide them with assistance adapted to their needs, including by:**

- **setting up child-specific identification procedures which involve child specialists and take into account the special circumstances of child victims of trafficking;**
- **repealing legislation allowing the imposition of administrative fines on children engaged in prostitution and instructing police officers to consider all children (including those 14-18 years of age) who are engaged in prostitution as victims, including possible victims of trafficking rather than as offenders;**
- **ensuring the timely appointment of trained guardians to unaccompanied or separated children kept in transit zones and enabling guardians to effectively fulfil their tasks by limiting the number of children for which each guardian is responsible;**

<sup>58</sup> See also Special Report of the Lanzarote Committee (footnote 4), paragraph. 32.

<sup>59</sup> *Ilias and Ahmed v. Hungary* (no. 47287/15). In its Chamber judgment of 14 March 2017, the European Court of Human Rights held that there had been a violation of Article 5 §§ 1 and 4 (right to liberty and security) of the European Convention on Human Rights, finding that the applicants' confinement in the Röszke border zone had amounted to detention, meaning they had effectively been deprived of their liberty without any formal, reasoned decision and without appropriate judicial review. The case was referred to the Grand Chamber, which held a hearing about it on 18 April 2018, but there Grand Chamber decision in the case is still pending at the time of writing.

<sup>60</sup> CPT report CPT/Inf (2018) 42, paragraph 50, available at <https://rm.coe.int/16808d6f12>



- **reviewing the age assessment procedures applied in the transit zones, with a view to ensuring that the best interests of the child are effectively protected and that the benefit of the doubt is given in cases of doubt, in accordance with Article 10, paragraph 3, of the Convention, and taking into account the requirements of the UN Convention on the Rights of the Child, General Comment No. 6 of the Committee on the Rights of the Child<sup>61</sup> and the European Asylum Support Office (EASO) practical guide on age assessment. The Alien Policing Authority should be given sufficient time to involve expertise such as forensic medicine experts, psychologist and psychiatrists to carry out age assessment before having to assert a young person's age;**
- **placing presumed child victims of trafficking in accommodation which has suitably qualified staff and is appropriate in terms of their specific needs, in line with Article 12.7 of the Convention.**

130. Further, GRETA stresses that, in line with Article 12.7 of the Convention, the accommodation of presumed child victims of trafficking has to be appropriate in terms of their specific needs. GRETA notes that the placement of a child in an institution with a stricter regime, which is apparently the case of child victims of THB, in practice may amount to detention. GRETA refers to paragraph 155 of the Explanatory Report to the Convention and Article 37(b) of the UN Convention on the Rights of the Child, according to which any detention of children shall be used only as a measure of last resort and for the shortest appropriate period of time.<sup>62</sup> **GRETA considers that the principle of the best interest of the child should be fully respected at all times and that the Hungarian authorities should keep under review the application of Act no. XXXI of 1997 on Child Protection and Custody Administration as regards the limiting of a child's personal freedom.**

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

131. The new Criminal Procedure Code (CPC), Act no. XC of 2017, which entered into force on 1 July 2018, defines the obligations of the procedural bodies (court, public prosecution service, investigative authority) to ensure that no sensitive information handled in the criminal proceedings becomes publicly available, that such information is not accessed by any unauthorised person, and that personal information is protected (Section 98 (1)). The new CPC also regulates the rules for providing information on criminal proceedings by a court, the public prosecution service or the Police, through the media or otherwise. The dissemination of sound or video recordings from a trial shall be subject to the permission of the court and to the extent they show persons not belonging to the authorities normally present in court, subject to the consent of the person concerned. The court can withdraw its authorisation at any time. The court, the public prosecution service and the investigating authority shall refuse to give information, or to issue a permission to make sound or video recordings if: any such recording might directly endanger the life, physical integrity, health or privacy of the persons participating in the proceedings especially including the persons requiring special treatment;<sup>63</sup> it is necessary for the protection of the personal information of the persons participating in the criminal proceedings, especially as regards persons requiring special treatment; it is necessary in order to ensure that the persons participating in the criminal proceedings, especially as concerns persons requiring special treatment, can exercise their rights and fulfil their obligations under the CPC without intimidation and without being influenced; it is necessary for the protection of the interests giving rise to the exclusion of public in case of a trial held in camera; giving the permission might be contrary to the effectiveness of the criminal proceedings or certain procedural acts, or the continuous or uninterrupted conduct of the procedural act.

<sup>61</sup> 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.

<sup>62</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>; see also the Council of Europe's Strategy for the Rights of the Child 2016-2021 and the UN Guidelines on Alternative Care for Children.

<sup>63</sup> Children constitute one category considered as requiring special treatment.



132. Section 8 (2) of Act no. CXII of 2011 on Informational Self-Determination and Freedom of Information, which entered into force on 1 October 2015, regulates processing of private data.<sup>64</sup> Entering data concerning a presumed victim of THB into the EKAT system requires the written consent of the person concerned.

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

133. In its first report, GRETA urged the Hungarian authorities to ensure that the recovery and reflection period, as provided for in Article 13 of the Convention, is specifically defined in law and that all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention are made available during this period to persons for whom there are reasonable grounds to believe they are victims of THB.

134. As noted in paragraph 159 of the first GRETA report, Section 9/A of Act no. CXXXV of 2005 on Crime Victim Support and State Compensation provides that third-country nationals who turn to the authorities for assistance and are considered by them to be victims of THB are to be proposed a period of one month to decide whether to co-operate with the investigating authorities. During this period, foreign victims without a residence permit are to be granted a certificate of temporary stay in Hungary (see paragraph 101).

135. GRETA recalls that the Convention provides for a recovery and reflection period to be granted not only to identified victims of trafficking but also when there are reasonable grounds to believe that the person concerned is a victim of trafficking, and therefore before the identification procedure is completed. The victim-centred approach of the Convention implies that a recovery and reflection period should be offered to all possible victims of trafficking, together with the provision of protection and assistance measures during this period, which could also have positive effects on the investigation of human trafficking offences. It should therefore not merely be time given to consider whether to co-operate with the authorities, but also to enable victims to recover.

136. There continue to be no statistics available on the number of persons having benefitted from a recovery and reflection period and it would appear that none have ever been granted such a period.

**137. GRETA once again urges the Hungarian authorities to ensure that the recovery and reflection period, as provided for in Article 13 of the Convention, is specifically defined in law and that all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention are made available during this period to persons for whom there are reasonable grounds to believe are victims of THB, regardless of whether they are detected inside Hungary or in a transit zone. In order to ensure that trafficked persons are effectively granted such a period, the Hungarian authorities should take further steps to ensure through training and the issuing of guidance that all relevant stakeholders are familiar with the recovery and reflection period.**

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

138. In its first report, GRETA considered that the Hungarian authorities should ensure that victims of trafficking can fully benefit in practice from the right to obtain a renewable residence permit when they co-operate with the authorities or when their personal situation justifies it, and to systematically inform them of this possibility in a language that they can understand.

<sup>64</sup> Act no. CXII is available in English at: [http://www.naih.hu/files/Privacy\\_Act-CXII-of-2011\\_EN\\_201310.pdf](http://www.naih.hu/files/Privacy_Act-CXII-of-2011_EN_201310.pdf)

139. As noted in GRETA's first report, pursuant to Section 9/A of Act no. CXXXV of 2005 on Crime Victim Support and State Compensation, third-country nationals who agree to co-operate with the investigating authorities can benefit from a residence permit during the period of co-operation with the authorities. This provision is complemented by Section 30-1(e) of Act no. II of 2007 on the Admission and Right of Residence of Third-Country Nationals, which states that "a certificate of temporary residence shall be issued to any third-country national who is a victim of trafficking in human beings, if initiated by the victim support authority, for the duration of support". Further, according to Section 30-1(f) of the latter Act, a residence permit on humanitarian grounds can be issued to third-country nationals who have been subjected to particularly exploitative working conditions, or to third-country nationals under 18 years of age who were employed illegally without a valid residence permit or other authorisation to stay.

140. No residence permits of any type have so far been issued to foreign victims of trafficking in Hungary.

141. According to the Hungarian authorities, being a victim of THB is not a ground for asylum even though it could theoretically constitute a consideration in the context of a resident permit granted on humanitarian grounds. Following amendments to the Asylum Act and the Fundamental Law (Section 51 of Act no. LXXX of 2007), a new inadmissibility ground for asylum claims exists since 1 July 2018. It is a hybrid of the concepts of safe third country and first country of asylum. The practical consequence is that no asylum seeker who has entered via the transit zones from Serbia will be granted asylum since Serbia is considered a safe country by the Hungarian authorities. The Immigration and Asylum Office applies the new inadmissibility ground since mid-August 2018 and has declared all new asylum applications in the transit zones inadmissible since then. Nonetheless, the number of asylum seekers in the transit zones increased in the autumn of 2018 because asylum seekers contested these inadmissibility decisions of the asylum authority before domestic courts, which on many occasions disagreed with the assessment of the asylum authority that adequate protection was available in Serbia. In September, the Budapest Metropolitan Court turned to the Court of Justice of the European Union for a preliminary ruling on the compatibility of the new inadmissibility ground with EU law.<sup>65</sup> As a consequence, all appeals were suspended by the domestic courts pending the preliminary ruling which may take up to one year to be issued (an urgent procedure was not granted by the CJEU). In parallel, the European Commission has initiated an infringement procedure against Hungary due to the introduction of the additional non-admissibility ground for asylum applications, not provided for by EU law, which it considers a violation of the Asylum Procedures Directive.<sup>66</sup> The Hungarian authorities have made it clear that they consider support by NGOs or others for the initiation of asylum proceedings for persons "not eligible for refugee status" to fall under the new Section 353/A of the CC.

**142. GRETA considers that the Hungarian authorities should ensure that victims of trafficking, regardless of the form of exploitation, can fully benefit in practice from the right to obtain a renewable residence permit and give full consideration to the UNHCR's Guidelines on the application of the Refugees Convention to trafficked people.<sup>67</sup>**

#### **g. Compensation and legal redress (Article 15)**

143. In its first report, GRETA urged the Hungarian authorities to adopt measures to facilitate and guarantee compensation for victims of trafficking, including by ensuring that victims are systematically informed of the right to seek compensation and the procedures to be followed, building the capacity of legal practitioners to support victims to claim compensation, and including compensation into existing training programmes for law enforcement officials and the judiciary.

<sup>65</sup><http://curia.europa.eu/juris/document/document.jsf?text=&docid=208325&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=6271894>

<sup>66</sup> [http://europa.eu/rapid/press-release\\_IP-19-469\\_en.htm](http://europa.eu/rapid/press-release_IP-19-469_en.htm)

<sup>67</sup> [UNHCR, Guidelines on International Protection: The application of Article 1A\(2\) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked, HCR/GIP/06/07, 7 April 2006.](http://www.unhcr.org/refugees/guidelines/2006/07/07-april-2006/)

144. Pursuant to an amendment of Act no. LXXX of 2003 on Legal Aid, which entered into force on 1 November 2015, legal aid is available to plaintiffs, private parties and victims not only at the stage of court proceedings but also at the investigative and indictment stages. All victim support procedures, including the procedure for State compensation, are free of charge. Should a victim of THB request and be granted legal aid, any associated translation or interpretation costs are borne by the State.

145. As noted in GRETA's first report, insofar as compensation from perpetrators is concerned, trafficked victims can claim tangible damages, such as unpaid wages, as part of the criminal proceedings. Compensation for pain and suffering is examined in civil proceedings.<sup>68</sup>

146. As explained in GRETA's first report, Hungarian legislation provides for State compensation for victims of crime under Act no. CXXXV of 2005 on Crime Victim Support and State Compensation.<sup>69</sup> According to Section 6 of this Act, State compensation is available to victims of violent crimes, including human trafficking, who have suffered severe physical and/or mental damage and who are considered to be in need, that is, if their income does not exceed 198 402 HUF per month (approximately 615 euros) or if they have a special status as a result of particular vulnerability (e.g. refugees, homeless persons or mentally disabled persons). Victims should be able to provide proof of the extent of damage suffered. State compensation is paid in the form of a lump-sum payment or in regular monthly instalments and its maximum rate is presently HUF 1 697 460 (approximately 5 260 euros). Act no. CXXXV of 2005 applies to Hungarian nationals, including when they were exploited abroad, provided they were lawfully resident in the country concerned and have their habitual residence in Hungary. Eligible for State compensation is also any person who was exploited in Hungary and enjoys freedom of movement and residence in Hungary or another EU country. State compensation is also available to EU citizen victims of trafficking abroad if they have their habitual residence in Hungary.

147. No compensation of any kind has been rewarded to victims of trafficking in the reporting period.

148. **GRETA once again urges the Hungarian authorities to adopt measures to facilitate and guarantee compensation from the perpetrators for victims of trafficking, including by:**

- **ensuring that victims of trafficking are systematically informed of their right to legal aid and to seek compensation, and the procedures to be followed;**
- **enabling victims of trafficking to effectively 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 and the judiciary;**
- **review the legislation concerning State compensation so that all victims of trafficking are able to benefit from it regardless of their nationality or the regularity of their stay in Hungary or in any other country.**

#### **h. Repatriation and return of victims (Article 16)**

149. In its first report, GRETA urged the Hungarian authorities to establish effective institutional and procedural mechanisms for the return of victims of THB to their country of origin in order to ensure that any return is conducted with due regard to the rights, safety and dignity of the person and the principle of *non-refoulement*, as well as the best interests of the child where child victims are concerned.

150. According to the Hungarian authorities, the immigration authorities always apply the *non-refoulement* principle in relation to expulsion orders. Pursuant to Section 51 of Act no. II of 2007 on the Admission and Right of Residence of Third-Country Nationals, return or expulsion is prohibited to a country

<sup>68</sup> See paragraph 169 of GRETA's first report on Hungary.

<sup>69</sup> See paragraph 170 of the first GRETA report on Hungary.

which is not considered a safe country of origin or a safe third country, in particular where the person concerned runs the risk of persecution. The act establishes a prohibition to return or expel a foreigner to the territory of a state or a frontier of an area where there is a good reason to believe that the s/he will be subject to ill-treatment as laid down in Article 14(2) of the Hungarian Constitution.

151. Pursuant to Section 45(5) of Act no. II of 2007, unaccompanied children may only be returned if family reunification or institutional care is guaranteed in their country of origin or another host country. In practice, the search for family members and the assessment of the host countries' child protection institutions are carried out by IOM.

152. Between 1 July 2016 and 30 June 2018, the IOM Office in Budapest, in co-operation with the Immigration and Asylum Office, implemented the project "Hungarian Assisted Voluntary Return, Reintegration and Information Programme for Migrants". The project had a reintegration component aimed at providing 60 vulnerable persons with chronic medical conditions with reintegration counselling and financial support of up to 650 EUR per person (in-kind benefit). GRETA was informed that no identified victims of THB were returned through this programme, but one child suspected of having been forced to commit crimes in Italy and Austria before arriving in Hungary was returned to Bosnia and Herzegovina in 2017. Further, two presumed child victims of THB were returned to Bulgaria with the involvement of the IOM Office in Bulgaria.

153. Between May 2014 and April 2018, 48 Hungarian victims of THB (36 women and 12 men; 34 victims of sexual and 12 victims of labour exploitation) exploited abroad were repatriated to Hungary with the assistance of IOM. The financial support available for the reintegration of victims in Hungary depends on the country in which the victimisation has taken place. For example, the re-integration funding provided by Switzerland may amount to a maximum of 5 000 CHF per victim, including material aid. GRETA visited a house which a former victim of THB had bought with the reintegration assistance received after being returned from Switzerland. One difficulty in connection with the repatriation of Hungarian victims of THB for the purpose of sexual exploitation is that many of them have received fines in Hungary in the past because of being engaged in prostitution. NGOs assisting victims sometimes manage to arrange the cancellation of such fines or their payment in instalments.

154. As noted in GRETA's urgent procedure report on Hungary, persons whose asylum requests have been refused have to leave the transit zone; they are placed in a removal centre pending their departure from Hungary or returned directly to Serbia. In neither case is a risk assessment carried out before the person leaves, including in cases of children older than 14. As of 2018 the removal centres are sectors in the transit zones, designated for aliens policing procedures pending deportation. For 2018, the Police reported having prevented 1 693 persons from crossing the border and having intercepted and returned across the fence 4 273 persons. In the spring of 2019 the Immigration and Asylum Office adopted a policy of deporting asylum seekers rejected on inadmissibility grounds (see paragraph 141) to their country of origin, since Serbia officially refuses to readmit such asylum seekers. In a statement issued on 8 May 2019, the UNHCR expressed concern about asylum seekers in the transit zones being rejected not on the merits of their claims, but because under Hungary's legislation, their claims are automatically considered inadmissible.<sup>70</sup>

<sup>70</sup> Statement available at: <https://www.unhcr.org/ceu/10940-hungarys-coerced-removal-of-afghan-families-deeply-shocking-unhcr.html>

155. **GRETA urges the Hungarian authorities to:**

- **duly conduct pre-removal risk assessments prior to forced removals of irregular migrants or return of victims of trafficking or failed asylum seekers from Hungary, fully assessing the risks of trafficking or re-trafficking on return;**
- **give full consideration to the UNHCR's Guidelines on the application of the Refugees Convention to trafficked people;**
- **ensure that the repatriation of all trafficking victims is carried out with due regard for their rights, safety and dignity and preferably on a voluntary basis and in compliance with the obligation of *non-refoulement*. This requirement includes the provision of information to victims on existing support programmes and protection against re-victimisation and re-trafficking;**
- **make sure that the best interests of the child are effectively respected, protected and fulfilled, *inter alia*, through an assessment of risks and safety carried out, prior to any removal measure, by specialised bodies in co-operation with the competent contacts in the country of origin, especially for unaccompanied children; this assessment must also enable the child to properly exercise his/her right to education and measures to secure adequate care or receipt by the family or appropriate care structures (Article 16(5) of the Convention).**

### 3. Substantive criminal law

#### a. Criminalisation of THB (Article 18)

156. In its first report, GRETA urged the Hungarian authorities to include in the definition of trafficking in human beings in the CC the different types of exploitation mentioned in the Convention, including slavery, practices similar to slavery and servitude, and to keep under review the penalty scales Code. Further, GRETA invited the Hungarian authorities to keep under review the effectiveness and dissuasiveness of the penalties provided for in Section 192, paragraphs 2 and 3, of the CC.

157. Section 192 of the CC, which criminalises trafficking in human beings, has not been amended since the first GRETA report, and reads as follows:

“(1) Any person who:

- a) sells, purchases, exchanges, or transfers or receives another person as payment; or
  - b) transports, harbours, shelters or recruits another person to conduct the acts referred to in Paragraph a), including transfer of control over such person;
- is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who - for the purpose of exploitation - sells, purchases, exchanges, supplies, receives, recruits, transports, harbours or shelters another person, including transfer of control over such person, is punishable by imprisonment between one to five years.

(3) The penalty shall be imprisonment between two to eight years if trafficking in human beings is committed:

- a) against a person held in captivity;
- b) by force or by threat of force;
- c) by deception;
- d) by tormenting the aggrieved party;
- e) against a person who is in the care, custody or supervision of or receives medical treatment from, the perpetrator, or if abuse is made of a recognized position of trust, authority or influence over the victim;
- f) for the unlawful use of the human body;
- g) by a public official, acting in an official capacity;

h) in criminal association with accomplices; or  
 i) on a commercial scale.

(4) The penalty shall be imprisonment between five to ten years, if:

a) the criminal offence provided for in Subsection (2) is committed against a person under the age of eighteen years;

b) the criminal offence provided for in Subsection (2) is committed against a person held in captivity, and either of the aggravating circumstances under Paragraphs b)-i) of Subsection (3) apply; or

c) the criminal offence provided for in Subsection (2) results in particularly great damage or danger to life.

(5) The penalty shall be imprisonment between five to fifteen years if:

a) the criminal offence provided for in Subsection (2) is committed against a person under the age of fourteen years;

b) the criminal offence provided for in Subsection (2) is committed against a person under the age of eighteen years, and either of the aggravating circumstances under Subsection (3) apply;

c) the criminal offence provided for in Subsection (2) is committed against a person under the age of eighteen years, and results in particularly great damage or danger to life; or

d) the criminal offence provided for in Subsection (2) is committed against a person under the age of eighteen years for the purpose of child pornography.

(6) The penalty shall be imprisonment between five to twenty years or life imprisonment if:

a) the criminal offence provided for in Subsection (2) is committed against a person under the age of fourteen years, and either of the aggravating circumstances under Subsection (3) apply;

b) the criminal offence provided for in Subsection (2) is committed against a person under the age of fourteen years, and results in particularly great damage or danger to life; or

c) the criminal offence provided for in Subsection (2) is committed against a person under the age of fourteen years for the purpose of child pornography.

(7) Any person who engages in preparations for trafficking in human beings is guilty of misdemeanour punishable by imprisonment not exceeding two years.

(8) In the application of this Section, 'exploitation' shall mean the abuse of power or of a position of vulnerability for the purpose of taking advantage of the victim forced into or kept in such situation."<sup>71</sup>

158. Section 192 of the CC must be read in conjunction with other provisions of the CC which criminalise different forms of exploitation (e.g. Section 193 on forced labour, Section 196 on sexual exploitation, among others). As noted in GRETA's first report, there are no provisions in the Hungarian CC on slavery or practices similar to slavery and servitude.<sup>72</sup>

159. As explained in GRETA's first report, the means are considered as aggravating circumstances pursuant to Section 192, paragraphs 3 to 6, of the CC.<sup>73</sup> GRETA recalls the importance of keeping under review whether this may lead to confusion with other criminal offences or to possible difficulties regarding the interpretation of Article 4(b) of the Convention concerning victim's consent.<sup>74</sup>

<sup>71</sup> Unofficial translation.

<sup>72</sup> See paragraph 48 of GRETA's first report.

<sup>73</sup> For further details, see paragraphs 183-186 of GRETA's first report on Hungary.

<sup>74</sup> See paragraph 44 of the first GRETA report.

160. As noted in the first GRETA report, one of the means under the Convention, “abuse of power or of a position of vulnerability”, appears as a defining component of the notion of exploitation itself rather than a means to achieve exploitation (section 192, paragraph 8, CC).<sup>75</sup> The Hungarian authorities have given examples of judgements in THB cases where courts have referred to perpetrators’ exploitation of the victim’s vulnerability, including such resulting from homelessness, inability to speak Hungarian, financial difficulties and mental health issues.<sup>76</sup>

161. As regards forced begging and forced criminality in the context of human trafficking, the Hungarian authorities have referred to Section 193 of CC on forced labour<sup>77</sup> which would cover these types of exploitation. According to the Hungarian authorities, forced begging can be a form of THB according to Section 192 (2) of the CC if financial or other advantage<sup>78</sup> is gained by exploiting the victim. In one example provided by the Hungarian authorities, the perpetrators were sentenced for forced labour pursuant to Section 193 (1) of the CC.

162. According to the Hungarian authorities, forced marriage can constitute THB if threat or force are involved, pursuant to Section 195 of the CC,<sup>79</sup> and is combined with financial gain for a third party. The Hungarian authorities have referred to two cases in which money was allegedly offered for marriage, in one case to the victim for marrying a third-country national for residence permit reasons though the victim never received any money, and in another case to the parents of a child for the purpose of marrying her according to Roma traditions. The authorities have not specified if these cases were prosecuted as THB.

**163. Given that Article 4(a) of the Convention provides the minimum content of the types of exploitation included in the definition of THB, GRETA once again urges the Hungarian authorities to include the different types of exploitation mentioned in the Convention, including slavery, practices similar to slavery and servitude, in the definition of trafficking in human beings in the Criminal Code.**

**164. Further, GRETA considers that the Hungarian authorities should keep under review the effectiveness and dissuasiveness of the penalties provided for in section 192, paragraphs 2 and 3, of the CC.**

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

165. The use of services of a victim of THB, with the knowledge that the person is a victim, is not criminalised in Hungary.

<sup>75</sup> See paragraph 45 of the first GRETA report.

<sup>76</sup> See the Hungarian Government’s reply to GRETA’s questionnaire, pp. 27-28, available at: <https://rm.coe.int/greta-2018-15-rq2-hun-en/16808fef3e>

<sup>77</sup> Section 193 (1) of the CC provides that “any person who forces another person by taking advantage of his vulnerable situation, or by force or by threat of force, to perform work against his will, is guilty of a felony punishable by imprisonment between one to five years”.

<sup>78</sup> The term “advantage” is referred to as follows in Section 192(8) of the CC: “In the application of this Section, ‘exploitation’ shall mean the abuse of power or of a position of vulnerability for the purpose of taking advantage of the victim forced into or kept in such situation”.

<sup>79</sup> Any person who compels another person by force or by the threat of force to do something, or to refrain from doing something, and thereby causes a considerable injury of interest, is guilty of a felony punishable by imprisonment not exceeding three years. See paragraph 46 of GRETA’s first report on Hungary for further details.

166. Section 203 of the CC criminalises the use of services of children engaged in prostitution. GRETA was informed that the number of indictments for exploitation of child prostitution was 23 in 2015, 22 in 2016, 11 in 2017 and 20 until the end of June 2018. However, as noted in paragraph 116, the Act on Minor Offences, Offence Procedures and the Registration System of Offences differentiates between children of up to 14 years and those aged 14-18 and therefore child aged 14-18 can be charged with the misdemeanour of prostitution outside tolerated areas or without a health certificate proving the absence of venereal diseases **GRETA recalls the international standards and obligations on the rights of children, defined as persons up to the age of 18 years, and considers that the Hungarian authorities should ensure that Section 203 of the CC is implemented in respect of all children.**

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

#### **c. Corporate liability (Article 22)**

168. Section 2 of Act no. CIV of 2001 on Measures applicable to Legal Entities under Criminal Law stipulates that legal persons can be held liable for criminal offences. The measures that can be taken against legal entities, set out in Section 3 of Act no. CIV of 2001, include closure of the legal entity, limiting its activity and imposing a fine. There have been no prosecutions of legal persons for THB so far.

169. **GRETA considers that the Hungarian authorities should examine the reasons why no legal entities have been prosecuted and punished for trafficking-related acts and, in the light of the findings, take measures to ensure that the criminal liability of legal entities can be acted upon in practice.**

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

170. In its first report, GRETA considered that the Hungarian authorities should take further steps to ensure compliance with Article 26 of the Convention through the adoption of a provision on non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so, or by issuing guidance to public prosecutors and migration officials on this issue. While the identification procedure is on-going, possible victims of THB should not be punished for immigration-related violations.

171. As noted in GRETA's first report on Hungary, there is not specific legal provision on the non-punishment of victims of THB. The Hungarian authorities have referred to general provisions of the CC, in particular Section 15 of the CC, pursuant to which criminal responsibility may be fully or partly excluded if the person concerned was, *inter alia*, forced or threatened to act.<sup>80</sup> Further, pursuant to Section 19 of the CC, any person who has committed a criminal act under undue influence by coercion or threat, depriving him/her of the capacity to act according to his own free will shall not be prosecuted, and the penalty may be reduced without limitation if the coercion or threat deprives the perpetrator of the capacity to act according to his/her own free will. The interim action plan against THB adopted in March 2019 (see paragraph 21) foresees the adoption of a specific legal provision on the non-punishment of victims of THB.

172. Prosecutors met by GRETA during the evaluation visit could not recall any examples of the non-punishment principle being applied in THB cases in a criminal court, but stressed that they would not charge a victim of forced criminality for lesser offences, such as shoplifting.

<sup>80</sup> See paragraph 191 of GRETA's first report on Hungary.



173. As noted in paragraph 166, persons engaged in prostitution outside a tolerated area designated by the municipality or without the possession of a health certificate, including those aged 14-18, are charged for prostitution under the Act on Minor Offences, Offence Procedures and the Registration System of Offences.<sup>81</sup> The Police are obliged by Police Instruction 13/2014 in conjunction with the Act on Minor Offences, Offence Procedures and the Registration System of Offences to verify whether a person engaged in prostitution holds a health certificate and to consider 14-18 years old children as adults in this context.<sup>82</sup> As a result, a number of children have been fined for illegal prostitution. Failure to pay the fines has reportedly led to some of the children being imprisoned. According to the Hungarian authorities, the "Guidelines for carrying out police tasks related to prostitution activities" instruct police officers not to issue on-the-spot fines to children engaged in prostitution, but to initiate a misdemeanour procedure against them. The previously mentioned report by the Commissioner for Fundamental Rights on child prostitution in Hungary (see paragraph 116) recommended that the legislation regarding the offence of prostitution be amended to prevent children under 18 years of age being punished.

174. Pursuant to the Act on Minor Offences, Offence Procedures and the Registration System of Offences, if it can be determined that a person punished for illegal prostitution is a victim of trafficking, the court can either terminate the procedure or reduce the punishment. If a victim of THB indicates this circumstance after the punishment has been pronounced, s/he has the option of a retrial.

175. GRETA was informed that the Police are obliged to start administrative procedures resulting in fines imposed on persons engaged in prostitution, unless it can be proven that the persons in questions are children who have been coerced into prostitution. It is possible to appeal the decision about the administrative fine to an administrative court which can cancel the fines. By way of example, GRETA was informed of the case of a 15-year old girl who was repeatedly fined for prostitution, appealed with the help of an NGO lawyer to an appeal court which confirmed the fines, and subsequently appealed to the Constitutional Court where the case is pending.<sup>83</sup>

176. **GRETA urges the Hungarian authorities to adopt a specific legal provision on non-punishment of victims of trafficking for their involvement in unlawful activities to the extent that they were compelled to do so and/or to issue guidance to the Police and public prosecutors on the application of the non-punishment principle. As regards children, GRETA stresses that obligations of States to protect all children, including those aged 14-18, from sexual exploitation, and refers to the recommendation in paragraph 129.** Reference is also made to the recommendations on non-punishment for legislators and prosecutors contained in the paper issued by the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings in consultation with the Alliance against Trafficking in Persons Expert Co-ordination Team.<sup>84</sup>

## 4. Investigation, prosecution and procedural law

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

177. In its first report, GRETA considered that the Hungarian authorities should identify gaps in the investigation procedure and the presentation of cases in court with a view to ensuring that crimes related to THB are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions.

<sup>81</sup> The Act on Minor Offences, Offence Procedures and the Registration System provides the punishments for lesser offences than those contained in the Criminal Code, which can be processed by the police without the need to involve a court.

<sup>82</sup> According to Police Instruction 13/2014, the Police is obliged to verify whether a person engaged in prostitution has a medical certificate proving the absence of sexually transmitted diseases. If the person cannot provide such a valid medical certificate, s/he is to be fined for illegal prostitution according to Section 172 of the Act on Minor Offences, Offence Procedures and the Registration System of Offences.

<sup>83</sup> Information about this case is available (in Hungarian) at: <http://utcajogasz.hu/2018/03/19/gyermekprostitucio-otvenezres-penzbirsag-a-gyermeknek/>

<sup>84</sup> <http://www.osce.org/secretariat/101002?download=true>

GRETA further considered that the Hungarian authorities should explicitly exclude trafficking in human beings from the scope of Section 29 of Act C on Active Repentance.

178. The National Bureau of Investigation has a unit with nine investigators specialised in dealing with THB offences. On county level, there are additional police officers who have been given special responsibility for investigating THB cases.

179. As noted in paragraph 158, the different forms of exploitation are not enumerated in Section 192 and the CC, which must be read in conjunction with other provisions of the CC. The Hungarian authorities indicated that offences which might be THB are sometimes prosecuted as other crimes which are easier to investigate and prove in court, but carry lesser punishments, such as forced labour (Section 193), violation of personal freedom (Section 194), sexual exploitation (Section 196), pandering (Section 200), procuring for prostitution or sexual act (Section 201), living on the earnings of prostitution (Section 202), exploitation of child prostitution (Section 203), child pornography (Section 204), abuse of a minor (Section 208) and child labour (Section 209). Statistics made available by the Hungarian authorities show that there were between 20 and 80 indictments per year for each of these offences in 2015-2018. The Office of the Prosecutor General has issued guidelines on 25 October 2018, to the effect that cases of pandering which include exploitation should be investigated as THB, in order to bring Hungarian practice closer to that of other European countries.

180. GRETA was informed that the number of police investigations for THB was 25 in 2014, 28 in 2015, four in 2016, 19 in 2017 and 11-until the end of June 2018. There were nine indictments for THB in 2014, eight in 2015, none in 2016, 10 in 2017 and four until the end of June 2018.<sup>85</sup> There were 22 sentences for THB in 2015, two in 2016, and 10 in 2017. The length of the prison sentences varied between 16 and 128 months. Of a total of 34 sentences, 24 were unconditional.

181. The National Bureau of Investigation as a rule only investigates THB cases with a cross-border component and has not investigated THB cases concerning any other form of exploitation than sexual. The National Police have investigated cases of THB for the purpose of labour exploitation as well, but the victims were reluctant to give testimonies against their exploiters. Prosecutors met by GRETA referred to difficulties in prosecuting cases under a THB heading because it is hard to gather sufficient material evidence to raise successful charges, when victims do not consider themselves as victims as they have earned something and/or have been in an emotional relationship with the perpetrator. Cases in which the exploitation of Hungarian victims has taken place abroad present particular challenges for Hungarian investigators. As noted in paragraph 40, presumed victims of THB are required to sign a form confirming their agreement to be registered as victims in the EKAT database. The Hungarian authorities have stated that THB offences, as well as offences related to forced labour or directed against children, must be investigated *ex officio* and regardless of whether a presumed victim of THB has signed a form expressing consent to be registered in the EKAT database.

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<sup>85</sup> In the same period, there were 70 police investigations into forced labour and 29 indictments for forced labour, pursuant to Section 193 of the CC.

182. GRETA was informed of several cases of forced labour in which the victims were deprived of their identity documents and forced to work for many years in degrading circumstances, under threats and physical violence. Two cases investigated by the Police occurred in the counties of Csongrád and Békés respectively, close to the Hungarian border with Romania. In the first case nine persons were forced to perform agricultural work for a landowning family. The Police started investigating the case 2008 and the defendants were charged in 2012. The trial took place in the District Court of Hódmezővásárhely in 2017. There were altogether 12 defendants sentenced, including the main perpetrator who was sentenced to eight years of imprisonment for violation of personal freedom, extortion and hindering the legal procedure. Four further defendants received four years of imprisonment for the same crimes, while the rest got lesser sentences. However, nobody was charged with THB. The Hungarian authorities indicated that this was due to the fact that the exploitation did not fall within the definition of THB under the CC which was applicable at the time.

183. According to reports, the limited number of investigations and prosecutions for THB is to some extent due to the fact that the police expect victims to file charges against their traffickers.<sup>86</sup> GRETA was informed about a case of a sexually exploited child which appeared to bear the hallmarks of THB. However, the case was not investigated as THB and the investigation was terminated because the child was not willing to co-operate beyond her initial report about the offence to the Police. According to research, Hungarian law enforcement is primarily focused on eliminating crime and criminal groups and the situation of the victim is not prioritised.<sup>87</sup>

184. The Police may use special investigation techniques when investigating THB crime<sup>88</sup> and GRETA was told by the Police in Békéscsaba that they had used special investigation techniques, as well as pursued financial investigations, when investigating THB crime.

185. The investigations carried out by the Police in Békéscsaba had mainly been undertaken in response to requests for assistance by the British Police, in cases in which Hungarians victims had been exploited by Hungarian perpetrators in the UK. Most Joint Investigation Teams (JITs) in which Hungary has participated in have been initiated by other countries (see paragraph 204).

186. The confiscation of assets derived from offences and equipment used or intended for committing them may include assets owned by perpetrators and third parties, including business associations. In the case of procedures conducted due to THB, it is also possible to apply extended confiscation of assets against perpetrators. Property acquired over a period of five years prior to the institution of the procedure may be taken from the perpetrators if their increase in wealth and lifestyle are disproportionate compared to their verifiable income. In this case, the burden of proof is reversed and the perpetrator is required to provide proof of the lawful origin of the assets.

187. In order to ensure compensation for the damage caused to the victims, it is also possible to order coercive measures of a pecuniary nature. In this case, however, the measures may only extend to the assets owned by the perpetrator causing the damage or injury. In some criminal cases, the court applied confiscation of property against the accused. However, the confiscation of unlawfully acquired property is transferred to the State and therefore cannot be used to compensate the victim.

<sup>86</sup> Zsuzsanna Vidra, Kitti Baracsi, Noémi Katona and Viktoria Sebhelyi, *Child Trafficking in Hungary; Sexual Exploitation, forced Begging and Pickpocketing*. Centre for Policy Studies, Central European University, 2015, page 108.

<sup>87</sup> Noémi Katona, *Combating Trafficking of Hungarian Women to Western Europe: A multi-level analysis of the International Law Enforcement Co-operation*, Trends in Organised Crime, 13 February 2019, page 32, available at: [https://link.springer.com/epdf/10.1007/s12117-019-09358-7?author\\_access\\_token=C820USg56o4WSy9XemhX-fe4RwlQNchNByi7wbcMAY7mqKekR90ooV\\_kI6VCBS1jZFe3yV3nog2Dezl8UwbXvqj5WpGI6\\_xE2ZVe-xu8hKpMqJMIQL1CdMV\\_1IV5zpW0j0LINxDYUuLpT07vI8Bng%3D%3D](https://link.springer.com/epdf/10.1007/s12117-019-09358-7?author_access_token=C820USg56o4WSy9XemhX-fe4RwlQNchNByi7wbcMAY7mqKekR90ooV_kI6VCBS1jZFe3yV3nog2Dezl8UwbXvqj5WpGI6_xE2ZVe-xu8hKpMqJMIQL1CdMV_1IV5zpW0j0LINxDYUuLpT07vI8Bng%3D%3D)

<sup>88</sup> See paragraph 197 of the first GRETA report.

188. Hungary has a wide variety of legal measures (criminal law, administrative law, civil law) concerning blocking, filtering and take down of illegal internet content.<sup>89</sup> A court can order an Internet provider to temporarily remove or block access to electronic data and the National Media and the Info-communications Authority is responsible for supervising compliance with such court orders. If the Internet provider fails to comply, criminal procedures can be initiated, as it has been done in cases of child abuse images, and the service provider may be fined with up to one million HUF (about 3100 Euros). Fines can be imposed cumulatively in cases of continued non-compliance. Rendering electronic data permanently inaccessible can be ordered in connection with any crime if the publication or disclosure of the electronic data constitutes a crime or it is used as an instrument for a crime.

189. GRETA is concerned by the inadequate criminal justice response to human trafficking in Hungary and notes that failure to convict traffickers and the absence of effective sentences engenders a feeling of impunity. GRETA stresses the need for improvement of the knowledge and sensitivity of relevant professionals, in particular prosecutors and judges, about the seriousness of human trafficking, the severe impact of exploitation on the victims and the need to respect their human rights, including the right to redress and protection.

190. **GRETA urges the Hungarian authorities to take measures to ensure that THB cases are investigated proactively, prosecuted and result in effective, proportionate and dissuasive convictions, including by:**

- **identifying gaps in the investigation and prosecution of THB cases;**
- **providing further training to police officers and prosecutors to investigate and prosecute cases of THB for different purposes of exploitation, including through co-operation with other relevant actors, such as child protection services and labour inspectors;**
- **ensuring, as far as possible, that THB investigations or charges are not re-qualified into other offences which carry lighter penalties and deprive victims of THB of access to protection, support and compensation;**
- **strengthening efforts to investigate and prosecute cases of trafficking for the purpose of labour exploitation;**
- **encouraging the Police not to react only to complaints but to be proactive in investigating possible THB offences, including when presumed victims of THB do not consider themselves as victims;**
- **ensuring that units investigating THB offences are properly resourced and make use in practice of special investigation techniques;**
- **carrying out financial investigations into THB cases in order to effectively locate, seize and confiscate criminal assets related to this offence.**

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<sup>89</sup> Study on Blocking, Filtering and Take-down of Illegal Internet Content in the 47 Member States of the Council of Europe, commissioned by the Secretary General of the Council of Europe and prepared by the Swiss Institute of Comparative Law. 2016, available at <https://www.coe.int/en/web/freedom-expression/study-filtering-blocking-and-take-down-of-illegal-content-on-the-internet>

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

191. In its first report, GRETA urged the Hungarian authorities to evaluate whether measures available to protect victims and witnesses of THB, including children, are used in practice and to take additional measures to ensure that victims and witnesses are adequately protected from potential retaliation or intimidation in the course of judicial proceedings.

192. New provisions on protection of witnesses and victims were introduced into Chapter 14 of the CPC (Act no. XC of 2017). Section 81(2) of the CPC lays out the criteria for special treatment and protection of witnesses and victims, which include age, mental and physical, relation to the defendant and violence suffered. Section 82 of the CPC provides that children, persons with disabilities and victims of crimes against the sexual freedom are eligible for special treatment and protection.

193. To transpose Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, the Ministry of the Interior adopted Decree 65/2015 which entered into force on 1 November 2015. According to this decree victims of THB or forced labour are to be considered as victims with special protection needs and the Police must examine the victims' protection needs, using a checklist provided in an annex to the decree. The Police must inform victims both in writing and orally about their right to support, and victims have to sign a document acknowledging that they have received the information. Following a survey showing that there were continuing shortcomings in the dissemination of information by the Police to victims, the Ministry of Justice issued a protocol in 2016 entitled "Increasing the efficiency of disseminating information by the Police about victim care services". It offers practical guidance on the timing and the content of the information to be provided to victims by the police.

194. Chapter 14 of the CPC allows the victim or witness in a court hearing to participate by means of video and audio links rather than by appearing directly in the court room in the presence of the defendant. Technical means may be used to distort the voice of the witness in order for it not to be recognised. Witness or victim statements recorded by the Police at the investigation stage can be used in court, thus the victim does not necessarily need to repeat his or her testimony in court, especially if the statement is not in conflict with other evidence available.

195. Decree IM 13/2018 of the Minister of Justice regulates the design, operation and use of police rooms used for conducting procedural acts with the participation of "persons needing special treatment", who include all persons under 18 years of age (a previous decree limited the special treatment to children under 14 years of age). The Budapest Police Headquarters and each county Police Headquarters must have at least one room for interviewing children, which has audio-visual recording equipment. Furthermore, special hearing rooms for child victims and witnesses have been introduced in court buildings employing more than seven judges.

196. In case a procedural act requires the participation of a person under the age of 18, the court, the public prosecution service and the investigating authority shall use audio-visual recordings if possible and may order that a forensic psychologist also be present at the procedural act. A cross-examination ("confrontation") of a witness under the age of 18 with the defendant may only be ordered with the consent of the former.

197. If a victim of THB is acting as a witness, s/he has the right to be assisted and represented by a lawyer, who can be provided by an NGO. In addition to a lawyer, the victim may have a support person with her or him in court. For example, under an agreement between the Police and Hungarian Baptist Aid, the latter may provide psychosocial assistance to the witness during a court hearing. Further, the National Judicial Office offers a service referred to as witness care, whereby an administrator of the court explains to the witness how s/he should testify in conformity with applicable legislation.

198. Act no. LXXXV of 2001 on the Protection Programme for Participants of Criminal Procedures and Persons Co-operating with the Criminal Justice governs the possibility of a person entering a witness

protection programme.<sup>90</sup> The Prosecution Service confirmed to GRETA that victims of THB have been included in the witness protection programme, but for reasons of confidentiality no further details could be given.

199. GRETA welcomes the new provisions on protection of witnesses and victims introduced into the new CPC, as well as the associated Decrees no. 12/2018 of 6 February 2018 and IM 13/2018. **GRETA considers that the Hungarian authorities should make full use of all existing provisions for the protection of witnesses and victims with a view to ensuring that victims are adequately protected from retaliation or intimidation before, during and after judicial proceedings.**

### **c. Jurisdiction (Article 31)**

200. Section 3(1)a of the CC provides that the Hungarian law enforcement authorities have jurisdiction to investigate any crime committed on Hungarian territory or committed on a commercial ship, or on an aircraft flying under Hungarian flag outside the territory of Hungary (Section 3(1)b). According to Section 3(1)c, Hungarian criminal law shall apply to any act of Hungarian citizens committed abroad, which are criminalised by the Hungarian CC.

201. According to Section 3(2) of the CC, Hungarian criminal law shall apply to any act committed by non-Hungarian citizens abroad, if: a) it is criminalised under Hungarian law and in accordance with the laws of the country where it is committed, b) it is recognised as an offence against the State, regardless of whether or not it is criminalised in accordance by the law of the country where it is committed, c) it constitutes a criminal act under Chapter XIII or XIV, or any other criminal offences, which are to be prosecuted under an international treaty ratified by an act of the Parliament.

202. The Hungarian CC applies to any criminal act committed by non-Hungarian citizens abroad against a Hungarian citizen or against a legal person or unincorporated business association established under Hungarian law. Double criminalisation is not a requirement for Hungarian jurisdiction to apply in this case.

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

### **a. International co-operation (Article 32 and 33)**

203. During the reporting period, Hungary and North Macedonia signed an agreement on police co-operation on 20 March 2018 in which the two Parties agreed to exchange information and experiences gained from the fight against irregular migration, trafficking in human beings and smuggling of migrants.

204. Hungary participates in international co-operation in criminal matters in the area of THB, including by participating in the work of Europol and Eurojust.<sup>91</sup> In the reporting period Hungary has taken part in six joint investigation teams (JITs) in THB cases. In 2015 there was a JIT with France in a case concerning sexual exploitation, which resulted in the arrest of 12 persons and the interrogation of 31 persons in Hungary. A JIT was also set up with the Netherlands in 2015, concerning THB for sexual exploitation, which resulted in the arrest of three persons in Hungary, who were subsequently extradited to the Netherlands. In 2016 there was a JIT with Belgium concerning THB for sexual exploitation, which resulted in the interrogation of five persons in Hungary and charges raised in Belgium. In 2017 there were JITs concerning THB for the purpose of sexual exploitation with the UK and the Netherlands respectively. In the first one, which is still on-going at the time of writing, three persons were interrogated in January 2018 and in the second one, money laundering was an additional aspect investigated. Another on-going JIT with the UK started in 2018 and concerns THB for sexual exploitation, which involved suspects arrested

<sup>90</sup> For further details, see paragraph 206 of the first GRETA report.

<sup>91</sup> For further details on international co-operation and relevant international agreements to which Hungary is a party, see paragraphs 12, 13, 89 and 93 of the first GRETA report.

outside Hungary, a house search and 14 witnesses interviewed in Hungary. Only one of the JITs in the reporting period was initiated by Hungary.

205. The Police in Békéscsaba told the GRETA delegation that they, given that their jurisdiction is in a border area towards Romania, routinely co-operate with Romanian police, though the co-operation is not based on formal agreements. Such co-operation does not only concern police investigation, but also for example participation in relevant events such as conferences related to police work.

206. A one-year project between Hungary and Switzerland on transnational co-operation on the referral of victims of trafficking was launched on 1 April 2017. The project is implemented by the IOM Office in Budapest in partnership with the Hungarian Ministry of Interior, the Hungarian Police, the Federal Office of Police of Switzerland and the IOM Office in Bern. Through this project, national co-ordination and referral mechanisms for victims of THB in the two countries were mapped and a comprehensive database of services and service providers was compiled, existing links between stakeholders in Switzerland and Hungary were strengthened and new links were created.

207. Co-operation between the Austrian and Hungarian child protection and police bodies is in place for the return and subsequent assistance of Hungarian children who are absent without permission from the place of care designated by the Hungarian guardianship authority and considered as victims of human trafficking by the Austrian authorities.

208. Hungary was a partner in the project SAFE (Safe and Adequate Return, Fair Treatment and Early Identification of Victims of Trafficking),<sup>92</sup> which was implemented from 1 January 2017 to 31 December 2018 and co-ordinated by the Dutch shelter organisation HVO Querido.

209. **GRETA welcomes the steps taken in the area of international co-operation by Hungary and invites the Hungarian authorities to continue their efforts in this regard, including by:**

- **taking the initiative to the setting up of Joint Investigation Teams, including in cases when Hungarian victims of THB have been exploited abroad;**
- **initiating further bilateral agreements on action against THB with neighbouring countries.**

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

210. The informal NGO Roundtable<sup>93</sup> is a forum for NGOs involved in anti-trafficking activities and set up to facilitate the flow of information between the authorities and NGOs. It continues to convene, at least twice per year, under the chairmanship of the National Anti-Trafficking Co-ordinator.

211. As noted in paragraph 17, Act no. VI of 2018 "On the Amendment of Certain Acts on Connection with Measures against Illegal Migration", added Section 353/A to the CC, which criminalises the "promotion and facilitation of illegal migration". The previously mentioned joint legal opinion issued by the Venice Commission and OSCE/ODIHR concluded that Section 353/A criminalises organisational activities which are not directly related to the materialisation of illegal migration, such as "preparing or distributing informational materials", runs counter to the role of assistance to victims by NGOs, restricts disproportionately the rights guaranteed under Article 11 ECHR (freedom of assembly and association), and criminalises advocacy and campaigning activities, thus constituting an illegitimate interference with the freedom of expression guaranteed under Article 10 of the ECHR. The Hungarian Helsinki Committee filed a complaint about Section 353/A to the European Court of Human Rights,<sup>94</sup> but the Court found it inadmissible because it considered that the domestic remedies had not been exhausted. In the meantime,

<sup>92</sup> <http://lastradainternational.org/about-lsi/projects/safe>.

<sup>93</sup> See paragraphs 24 and 25 of the first GRETA report.

<sup>94</sup> Petition available at [https://www.helsinki.hu/wp-content/uploads/Application\\_HHC\\_SS3.pdf](https://www.helsinki.hu/wp-content/uploads/Application_HHC_SS3.pdf)



following a complaint by Amnesty International,<sup>95</sup> the Hungarian Constitutional Court ruled that the new criminal provision was not unconstitutional, but in its reasoning it argued that the criminal provision cannot be used against those clearly acting upon humanitarian grounds.<sup>96</sup> GRETA is concerned by the impact of the new criminal offence on the ability of civil society identify and assist presumed victims of trafficking.

212. Further, Chapter V of the Act on the Police was amended to introduce “restraining measures for border security”. According to Section 46F of the Act on the Police, police officers shall prevent a person from entering the eight kilometre zone counted from the borderline or boundary marker corresponding to the external border or shall require a person staying in that area to leave if that person is subject to criminal proceedings pursuant to Section 353A of the CC. The infringement procedure by the European Commission referred to in paragraph 111 also concerns the border zone aspect of Section 353A of the CC.<sup>97</sup> This measure constitutes a restriction of free movement in the sense of Article 2 of Protocol No. 4 to the ECHR as it grants a push-back power in relation to persons who are under criminal proceedings for offences under Section 353A of the CC. As a result, NGOs who are subject to a police investigation pursuant to Section 353A of the CC could be prohibited to enter an area less than eight kilometres from Hungary’s border, rendering it impossible for such NGOs to approach the transit zones for the purpose of identifying or assisting victims of THB in the transit zones.

213. In addition, on 20 June 2018 the Hungarian Parliament adopted Act no. XLI of 2018 on the Amendment of certain Tax Acts and related Acts, and the Special Immigration Tax, which introduced a 25% tax on organisations which promote migration.<sup>98</sup> Similarly to the new Section 353/A of the CC, this measure threatens to prevent NGOs from providing assistance to victims of trafficking. The above-mentioned joint legal opinion by the Venice Commission and OSCE/ODIHR has criticised the special tax law for constituting an unjustified interference with the rights to freedom of expression and of association of the NGOs affected and calls for it to be repealed.<sup>99</sup> According to the UNHCR, it is unclear whether the 25% tax applies to UNHCR’s implementing partners in the NGO community. The Hungarian Helsinki Committee has filed a complaint about the 25% tax to the European Court of Human Rights.<sup>100</sup>

214. Moreover, on 13 June 2017, the Hungarian Parliament adopted Act no. LXXVI of 2017 “on the Transparency of Organisations Supported from Abroad”. It obliges associations and foundations that receive at least 7.2 million HUF (about 22 000 Euros) annually from foreign sources to register with a court as organisations receiving foreign funding, to annually report about their foreign funding, and to indicate the label “organisation receiving foreign funding” on their website and publications.

215. GRETA is concerned that the previously mentioned legislation regulating the activities and funding of NGOs may unduly impede their ability to engage in identifying and assisting victims of THB, contrary to Articles 10 and 12 of the Convention, and consequently inhibit the building of strategic partnerships between the authorities and civil society with the aim of achieving the purpose of the Convention, as

<sup>95</sup> Available at: <http://public.mkab.hu/dev/dontesek.nsf/0/DB659534A12560D4C12583300058B33D?OpenDocument>

<sup>96</sup> Constitutional Court Decision 3/2019 (III. 7.) AB. The Hungarian Helsinki Committee also submitted a complaint about Section 353A of the CC, but using a different legal argumentation from that of Amnesty International. Nonetheless, the Constitutional Court rejected the Hungarian Helsinki Committee’s complaint based on *res iudicata*.

<sup>97</sup> [http://europa.eu/rapid/press-release\\_IP-19-469\\_en.htm](http://europa.eu/rapid/press-release_IP-19-469_en.htm)

<sup>98</sup> Section 253 of the Act (“on the special immigration tax”) imposes a 25% tax (1) on financial support to an immigration-supporting activity carried out in Hungary or (2) on the financial support to the operations of an organisation with a seat in Hungary that carries out immigration-supporting activity. Under paragraph 2 of Section 253, an immigration-supporting activity is defined as “any programme, action or activity that, either directly or indirectly, aims at promoting immigration.” According to the same paragraph, the immigration-supporting activity is realised through a) carrying out of media campaigns and media seminars, and participating in such activities; b) organising education; c) building and operating networks, or d) propaganda activities that portray immigration in a positive light.

<sup>99</sup> The Venice Commission and OSCE/ODIHR further in their opinion CDL-AD(2018)035 conclude that “the imposition of this special tax will have a chilling effect on the exercise of fundamental rights and on individuals and organisations who defend these rights or support their defence financially. It will deter potential donors from supporting these NGOs and put more hardship on civil society engaged in legitimate human rights’ activities. The opinion is available at: [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2018\)035-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2018)035-e)

<sup>100</sup> The petition is available at: [https://www.helsinki.hu/wp-content/uploads/Application\\_HHC\\_25\\_percent.pdf](https://www.helsinki.hu/wp-content/uploads/Application_HHC_25_percent.pdf)



envisaged in paragraph 35 of the Convention. GRETA refers to Resolution 2226 (2018) of the Parliamentary Assembly of the Council of Europe (PACE) on “New restrictions on NGO activities in Council of Europe member States”, in which PACE expresses deep concern about the adoption by the Hungarian Parliament of the “Stop-Soros” package of laws which restrict the freedom of NGOs working for refugees’ and migrants’ rights, and calls on Hungary to revise these laws in accordance with the relevant opinion of the Venice Commission and OSCE/ODIHR adopted on 22 June 2018 (see paragraph 111).

**216. GRETA urges the Hungarian authorities to build strategic partnerships with civil society actors with the aim of achieving the purpose of the Convention, and to review any legislation which may impede the work of specialised anti-trafficking NGOs to ensure that all such NGOs have effective access to adequate funding and are enabled to participate in the prevention of THB, identification of victims and their protection and assistance, as envisaged in Articles 5, 10 and 12 of the Convention (see also the recommendation in paragraph 112).**

## IV. Conclusions

217. Since the adoption of GRETA's first report on Hungary in May 2015, progress has been made in some areas.
218. Action against human trafficking has been addressed through several policy documents, such as the National Security Programme and the National Social Inclusion Strategy, and more recently the Hungarian authorities have approved an interim action plan against human trafficking, until the end of 2019, while preparing the next National Strategy against Human Trafficking.
219. A range of professionals who may come across victims of human trafficking have received relevant training, sometimes with the involvement of NGOs and international organisations.
220. A database for the registration of presumed victims of trafficking in human beings, EKAT, was launched in September 2017, enabling the collection of information from a range of relevant professionals, including NGOs.
221. Research on different aspects of human trafficking has also been carried out by different actors, often within the framework of international projects, paying particular attention to child trafficking.
222. With a view to preventing child trafficking, a number of awareness-raising activities have been carried out by the Police, the Ministry of Human Capacities and NGOs, targeting in particular child care institutions and crisis centres.
223. The list of professional groups entitled to perform identification of victims of human trafficking has been extended to include the victim support services, the probation services and the legal aid services. Further, with a view to strengthening the identification of victims of trafficking amongst asylum seekers, relevant questions have been added to the standard questions used during asylum interviews.
224. The Ministry of Justice has established three support centres for victims of crime, including victims of human trafficking, which provide psychological support and assist victims in preparing for criminal proceedings.
225. The adoption of new provisions on the protection of witnesses and victims has the potential of promoting the rights of trafficking victims.
226. With a view to improving the criminal justice response to human trafficking, in October 2018 the Office of the Prosecutor General issued guidelines to the effect that cases of pandering which include exploitation should be investigated as human trafficking.
227. Further, GRETA welcomes the efforts made by Hungary in the area of international co-operation, in particular the setting up of Joint Investigation Teams in transnational cases and the participation in international projects.
228. However, despite the progress achieved, some issues give rise to concern. In this report, GRETA requests the Hungarian 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**

- **For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA urges the Hungarian authorities to take all necessary steps to further develop the EKAT data base and make it fully operational in order to be able to compile comprehensive and coherent statistical data on trafficking in human beings, including reliable data on measures to protect and promote the rights of victims of THB. 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. This should be accompanied by all the necessary measures to ensure the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national database (paragraph 42);**
- **While noting the steps taken to raise awareness of child trafficking, GRETA urges the Hungarian authorities to strengthen their efforts in the area of prevention of child trafficking, in particular by:**
  - **sensitising and training staff working with children, including in residential care institutions, as well as other child protection professionals across the country;**
  - **raising awareness of THB and online safety among children, including those in residential care institutions;**
  - **taking further measures to strengthen the prevention of THB through social, economic and other measures for groups vulnerable to THB, including outreach work and fostering access to education and employment in Roma communities (paragraph 68);**
- **GRETA urges the Hungarian authorities to take further efforts to ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures provided for in the Convention, including by:**
  - **not requiring written consent from trafficked persons for them to be identified as victims and provided with assistance;**
  - **adopting a framework for the identification of victims of THB among third-country nationals without legal residence, which ensures that victim identification is dissociated from the presumed victim's co-operation with the investigation;**
  - **improving the identification of victims of trafficking among asylum seekers and irregular migrants (as regards training, see paragraph 38);**
  - **organising regular and co-ordinated multi-agency inspections by labour inspectors, the Police and other relevant agencies in at-risk sectors;**
  - **enabling specialised NGOs with experience in identifying and assisting victims of THB to have regular access to transit zones;**
  - **ensuring that there are appropriate facilities in transit zones where asylum seekers can meet in privacy with persons of trust, including lawyers, employees of specialized NGOs, officials of international organisations and social workers (paragraph 97);**

- **GRETA urges the Hungarian authorities to take further measures to provide victims of THB with adequate assistance, and in particular to:**
  - ensure that all assistance measures provided for in law are guaranteed in practice to victims of THB, regardless of their migration status and whether they are in possession of a certificate on victim status; when the provision of assistance is delegated to NGOs as service providers, the State has an obligation to provide adequate financing and ensure the quality of the services delivered by all NGOs to whom the State refers victims of THB for assistance;
  - enable male victims of THB to benefit from all the assistance measures provided for in law, including safe accommodation;
  - ensure that presumed foreign victims of trafficking are moved to a shelter for victims of THB as soon as there are reasonable grounds to believe that they are victims of trafficking;
  - ensure that the legislation criminalising the promotion and facilitation of irregular migration is not applied in a way which would prevent NGOs from being involved in providing assistance to all victims of trafficking (paragraph 112);
- **GRETA urges the Hungarian authorities to strengthen their efforts to identify child victims of trafficking and to provide them with assistance adapted to their needs, including by:**
  - setting up child-specific identification procedures which involve child specialists and take into account the special circumstances of child victims of trafficking;
  - repealing legislation allowing the imposition of administrative fines on children engaged in prostitution and instructing police officers to consider all children (including those 14-18 years of age) who are engaged in prostitution as victims, including possible victims of trafficking rather than as offenders;
  - ensuring the timely appointment of trained guardians to unaccompanied or separated children kept in transit zones and enabling guardians to effectively fulfil their tasks by limiting the number of children for which each guardian is responsible;
  - reviewing the age assessment procedures applied in the transit zones, with a view to ensuring that the best interests of the child are effectively protected and that the benefit of the doubt is given in cases of doubt, in accordance with Article 10, paragraph 3, of the Convention, and taking into account the requirements of the UN Convention on the Rights of the Child, General Comment No. 6 of the Committee on the Rights of the Child and the European Asylum Support Office (EASO) practical guide on age assessment. The Alien Policing Authority should be given sufficient time to involve expertise such as forensic medicine experts, psychologist and psychiatrists to carry out age assessment before having to assert a young person's age;
  - placing presumed child victims of trafficking in accommodation which has suitably qualified staff and is appropriate in terms of their specific needs, in line with Article 12.7 of the Convention (paragraph 129);

- **GRETA once again urges the Hungarian authorities to ensure that the recovery and reflection period, as provided for in Article 13 of the Convention, is specifically defined in law and that all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention are made available during this period to persons for whom there are reasonable grounds to believe are victims of THB, regardless of whether they are detected inside Hungary or in a transit zone. In order to ensure that trafficked persons are effectively granted such a period, the Hungarian authorities should take further steps to ensure through training and the issuing of guidance that all relevant stakeholders are familiar with the recovery and reflection period (paragraph 137);**
- **GRETA once again urges the Hungarian authorities to adopt measures to facilitate and guarantee compensation from the perpetrators for victims of trafficking, including by:**
  - **ensuring that victims of trafficking are systematically informed of their right to legal aid and to seek compensation and the procedures to be followed;**
  - **enabling victims of trafficking to effectively 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 and the judiciary;**
  - **review the legislation concerning State compensation so that all victims of trafficking are able to benefit from it regardless of their nationality or the regularity of their stay in Hungary or in any other country (paragraph 148);**
- **GRETA urges the Hungarian authorities to:**
  - **duly conduct pre-removal risk assessments prior to forced removals of irregular migrants or return of victims of trafficking or failed asylum seekers from Hungary, fully assessing the risks of trafficking or re-trafficking on return;**
  - **give full consideration to the UNHCR's Guidelines on the application of the Refugees Convention to trafficked people;**
  - **ensure that the repatriation of all trafficking victims is carried out with due regard for their rights, safety and dignity and preferably on a voluntary basis and in compliance with the obligation of *non-refoulement*. This requirement includes the provision of information to victims on existing support programmes and protection against re-victimisation and re-trafficking;**
  - **make sure that the best interests of the child are effectively respected, protected and fulfilled, *inter alia*, through an assessment of risks and safety carried out, prior to any removal measure, by specialised bodies in co-operation with the competent contacts in the country of origin, especially for unaccompanied children; this assessment must also enable the child to properly exercise his/her right to education and measures to secure adequate care or receipt by the family or appropriate care structures (Article 16(5) of the Convention) (paragraph 155);**
- **Given that Article 4(a) of the Convention provides the minimum content of the types of exploitation included in the definition of THB, GRETA once again urges the Hungarian authorities to include the different types of exploitation mentioned in the Convention, including slavery, practices similar to slavery and servitude, in the definition of trafficking in human beings in the Criminal Code (paragraph 163);**

- **GRETA urges the Hungarian authorities to adopt a specific legal provision on the non-punishment of victims of trafficking for their involvement in unlawful activities to the extent that they were compelled to do so and/or to issue guidance to the Police and public prosecutors on the application of the non-punishment provision. As regards children, GRETA stresses that obligations of States to protect all children, including those aged 14-18, from sexual exploitation, and refers to the recommendation in paragraph 129 (paragraph 176);**
- **GRETA urges the Hungarian authorities to take measures to ensure that THB cases are investigated proactively, prosecuted and result in effective, proportionate and dissuasive convictions, including by:**
  - **identifying gaps in the investigation and prosecution of THB cases;**
  - **providing further training to police officers and prosecutors to investigate and prosecute cases of THB for different purposes of exploitation, including through co-operation with other relevant actors, such as child protection services and labour inspectors;**
  - **ensuring, as far as possible, that THB investigations or charges are not re-qualified into other offences which carry lighter penalties and deprive victims of THB of access to protection, support and compensation;**
  - **strengthening efforts to investigate and prosecute cases of trafficking for the purpose of labour exploitation;**
  - **encouraging the Police not to react only to complaints but to be proactive in investigating possible THB offences, including when presumed victims of THB do not consider themselves as victims;**
  - **ensuring that units investigating THB offences are properly resourced and make use in practice of special investigation techniques in;**
  - **carrying out financial investigations into THB cases in order to effectively locate, seize and confiscate criminal assets related to this offence (paragraph 190);**
- **GRETA urges the Hungarian authorities to build strategic partnerships with civil society actors with the aim of achieving the purpose of the Convention, and to review any legislation which may impede the work of specialised anti-trafficking NGOs to ensure that all such NGOs have effective access to adequate funding and are enabled to participate in the prevention of THB, identification of victims and their protection and assistance, as envisaged in Articles 5, 10 and 12 of the Convention (paragraph 216).**

## Further conclusions

- GRETA considers that the Hungarian authorities should examine the possibility of establishing an independent National Rapporteur or designating another mechanism as an independent organisational entity with a view to ensuring an effective monitoring of the anti-trafficking activities of State institutions and making recommendations to persons and institutions concerned (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report) (paragraph 20);
- GRETA welcomes the adoption of an interim action plan against trafficking in human beings, which reflects some of GRETA's recommendations, and considers that the Hungarian authorities should adopt a comprehensive strategy in which concrete activities and stakeholders responsible for their implementation are clearly defined and budgetary resources allocated, accompanied by a mechanism for monitoring its implementation and evaluating its impact. The strategy should include measures to:
  - address all victims of trafficking for all forms of exploitation, including forced marriages, forced begging, forced criminality and the removal of organs, while taking into account the gender-dimension of trafficking;
  - address trafficking in children, in particular for the purpose of sexual exploitation, taking into account the particular vulnerability of children;
  - prioritise the identification of victims of trafficking amongst asylum seekers and irregular migrants;
  - strengthen action to combat THB for the purpose of labour exploitation and improve the identification of, and assistance to, victims of this form of trafficking, involving civil society, trade unions, the labour inspectorate and the private sector (paragraph 25);
- GRETA considers that the Hungarian authorities should continue their efforts to provide regular training on THB to all relevant professionals and to mainstream it in the training curricula of different professional groups, including police officers, staff of the Immigration and Asylum Office, social workers, staff working in transit zones, health-care staff, prosecutors and the judiciary (paragraph 38);
- GRETA considers that the Hungarian authorities should promote and fund further research in order to shed light on the extent and nature of THB in Hungary, in particular as regards trafficking in children and trafficking for the purpose of labour exploitation. Further, GRETA invites the Hungarian authorities to research the issue of live-sexual abuse of children online and its possible linkages to human trafficking (paragraph 49);
- GRETA considers that the Hungarian authorities should make continuous and consistent efforts to raise awareness of THB among the general public and vulnerable groups. Impact assessment should be made an integral part of future projects to raise awareness (paragraph 53);

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- GRETA considers that the Hungarian authorities should make further efforts to prevent THB for the purpose of labour exploitation, in particular by:
    - ensuring that continuous training is provided to labour inspectors to enable proactive identification of victims of human trafficking;
    - ensuring that labour inspections are properly resourced and targeted at economic sectors with a heightened risk of human trafficking, including agriculture;
    - separating immigration enforcement functions from labour inspectorate roles and ensuring that labour inspectors prioritise the detection of persons working in irregular situations who are vulnerable to THB;
    - strengthening the monitoring of recruitment and temporary work agencies and reviewing the legislative framework for any gaps that may limit protection or preventive measures;
    - continuing to sensitise other relevant officials, including police officers, prosecutors and judges about human trafficking for the purpose of labour exploitation and the rights of victims;
    - raising awareness amongst the general public as well as, in a targeted manner, amongst migrant workers, about the risks of THB for the purpose of labour exploitation.
    - working closely with trade unions, civil society and the private sector to raise awareness of trafficking for the purpose of labour exploitation, prevent trafficking in supply chains and strengthen corporate social responsibility, drawing on the Guiding Principles on Business and Human Rights and Recommendation CM/Rec(2016)3 on human rights and business (paragraph 58);
  - GRETA encourages the Hungarian authorities to sign and ratify the Council of Europe Convention against Trafficking in Human Organs as this would contribute to the prevention of trafficking for the purpose of organ removal (paragraph 72);
  - GRETA considers that the Hungarian authorities should adopt and strengthen legislative, administrative, educational, social, cultural or other measures to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society, trade unions and the media, including by:
    - implementing educational programmes at schools which stress the importance of gender equality and respect for the dignity and integrity of every human being and the consequences of gender-based discrimination;
    - raising awareness, among men and boys in particular, of trafficking and other forms of sexual and gender-based violence linked to prostitution;
    - raising awareness of the role and responsibility of the media and advertising in tackling demand which leads to human trafficking;
    - working closely with the private sector, in line with the Guiding Principles on Business and Human Rights (paragraph 78);



- GRETA considers that the Hungarian authorities should step up their efforts to detect victims of THB during border controls, in particular by:
  - reinforcing training for the Border Police carrying out identity checks so that they are more effective in detecting signs pointing to a potential trafficking victim;
  - providing advanced practical training for some members of the Border Police, enabling them to provide assistance to colleagues in detecting signs of trafficking and to carry out second-line interviews;
  - developing awareness within transport companies of the detection of victims of THB using indicators (paragraph 83);
- GRETA considers that the principle of the best interest of the child should be fully respected at all times and that the Hungarian authorities should keep under review the application of Act no. XXXI of 1997 on Child Protection and Custody Administration as regards the limiting of a child's personal freedom (paragraph 130);
- GRETA considers that the Hungarian authorities should ensure that victims of trafficking, regardless of the form of exploitation, can fully benefit in practice from the right to obtain a renewable residence permit and give full consideration to the UNHCR's Guidelines on the application of the Refugees Convention to trafficked people (paragraph 142);
- GRETA considers that the Hungarian authorities should keep under review the effectiveness and dissuasiveness of the penalties provided for in section 192, paragraphs 2 and 3, of the CC (paragraph 164);
- GRETA considers that the Hungarian authorities should ensure that Section 203 of the CC is implemented in respect of all children (paragraph 166);
- GRETA considers that the Hungarian authorities should adopt legislative measures to criminalise the use of services of a victim of trafficking, with the knowledge that the person is a victim of THB, regardless of the form of exploitation, as stipulated by Article 19 of the Convention (paragraph 167);
- GRETA considers that the Hungarian authorities should examine the reasons why no legal entities have been prosecuted and punished for trafficking-related acts and, in the light of the findings, take measures to ensure that the criminal liability of legal entities can be acted upon in practice (paragraph 169);
- GRETA considers that the Hungarian authorities should make full use of all existing provisions for the protection of witnesses and victims with a view to ensuring that victims are adequately protected from retaliation or intimidation before, during and after judicial proceedings (paragraph 199);
- GRETA welcomes the steps taken in the area of international co-operation by Hungary and invites the Hungarian authorities to continue their efforts in this regard, including by:
  - taking the initiative to the setting up of Joint Investigation Teams, including in cases when Hungarian victims of THB have been exploited abroad;
  - initiating further bilateral agreements on action against THB with neighbouring countries (paragraph 209).

## **Appendix**

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

#### **Public bodies**

- Ministry of the Interior, including National Co-ordinator against Trafficking in Human Beings
- Ministry of Justice
- Ministry of Human Capacities
- Ministry of Foreign Affairs and Trade
- Ministry of Finance
- Office of the Prosecutor General
- Office of the Judiciary
- National Headquarters and National Bureau of Investigation of the Police
- National Asylum and Migration Office
- Department of Child Protection of the City of Budapest
- Parliament
- Office of the Commissioner for Fundamental Rights

#### **Intergovernmental organisations**

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

#### **Civil society organisations**

- Anonymous Ways
- Central European University
- Cordelia Foundation
- European Roma Rights Centre
- Hungarian Baptist Aid
- Hungarian Helsinki Committee
- LIGA Trade Union Federation
- Menedek Association
- Terre des Hommes

## **Government's comments**

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

GRETA engaged in a dialogue with the Hungarian 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 Hungarian authorities on 26 July 2019 and invited them to submit any final comments. The comments of the authorities, submitted on 16 September 2019, are reproduced hereafter.



MINISTRY OF INTERIOR

MÁTYÁS HEGYALJAI  
Deputy State Secretary for EU and International Relations

**Ms. Petya Nestorova**  
**Executive Secretary**

**Council of Europe, Group of Experts on  
Action against Trafficking in Human Beings**

Strasbourg

Budapest, "20" September 2019

**Dear Madam Executive Secretary,**

Thank you for providing the opportunity for comments on the report on Hungary by the Group of Experts on Action against Trafficking in Human Beings. We have received and reviewed the final report with the involvement of the organisations concerned.

Please find attached our final comments on the second evaluation report of GRETA on Hungary in English and Hungarian.

Considering that the third evaluation round of Hungary will start only in February 2022, we have included updates on certain developments which had occurred since April 2019 in the field of prevention of trafficking in children and labour exploitation.

I would like to kindly ask you to take note of the attached remarks and to consider publishing them in their present form together with the final report.

Hungary remains committed to the fight against human trafficking and we are looking forward to further cooperation opportunities with GRETA.

**Yours sincerely,**



**Mátyás Hegyaljai**

## **Final comments of Hungary to GRETA's second round evaluation report**

### **Paragraph 33**

#### **National Directorate-General for Aliens Policing**

Within the framework of the obligation to maintain the project titled 'The Successful Identification of Victims of Trafficking in Human Beings in Course of the Procedures of the Asylum and Citizenship Office (BBA-5.3.4-16-2016-00001)', during the years 2018 and 2019 the training of additional 63 colleagues had been realized. The professionals of the Hungarian Baptist Aid held trainings for the social workers of the reception facilities on 17 October 2018 and 29 March 2019, while the aliens policing and permit administrators of the regional directorate-generals participated in sensitivity trainings in 4 December 2018 and 5 June 2019.

### **Paragraph 38**

#### **Ministry of Justice, Deputy State Secretariat for Justice Methodological Management**

The series of trainings No. BBA-5.4.3 organized by the National Police Headquarters (ORFK) and titled 'Victim Protection Trainings in the Field of Trafficking in Human Beings' ended in May 2018. The employees working at the Deputy State Secretariat for Justice Methodological Management of the Ministry of Justice (IM IMIFHÁT) participated as well, and the online EKAT (Emberkereskedelem Áldozatainak Azonosítása és Támogatása – Identification and Support of Victims of Trafficking) system was presented for the agencies obliged to perform identifications. In total 625 persons participated in the training.

In April 2018, the Academy of Law of Justice Services (Igazságügyi Szolgálatok Jogakadémiája) organized a training for victim support colleagues, parole officers and legal aid colleagues about the identification procedure of trafficking in human beings, their obligations, as well as about the use of the EKAT system. 232 victim support staff members, 188 parole officers and 47 legal aid provider colleagues took part in the training.

On 20 July 2018 the Deputy State Secretariat for Justice Methodological Management of the Ministry of Justice (IM IMIFHÁT) held a lecture for consuls departing to services abroad (13 persons) about the identification procedure of the victims of trafficking in human beings and the use of the EKAT system.

On 8, 9 and 15 October 2018 the Deputy State Secretariat for Justice Methodological Management of the Ministry of Justice (IM IMIFHÁT) organized a training for police officers about the use of the EKAT system; 75 officers participated in the training.

On 2 April 2019 the Deputy State Secretariat for Justice Methodological Management of the Ministry of Justice (IM IMIFHÁT) organized a training for victim support administrators for the purpose of preparation for the administrative exam; the lecture titled 'Special Scopes of Victims' was a part of one of the modules of the training, where the victims of trafficking in

human beings and the functioning of the EKAT system were priority topics. 13 victim support administrators took part in the training.

On 6 August 2019 the Deputy State Secretariat for Justice Methodological Management of the Ministry of Justice (IM IMIFHÁT) held a lecture for consuls departing to services abroad about the identification procedure of victims of trafficking in human beings and the use of the EKAT system. The targeted training of consuls getting prepared for service has been organized annually by the Ministry of Interior since 2016, in the framework of the cooperation with the Ministry of Foreign Affairs and Trade.

### **National Directorate-General for Aliens Policing**

In addition to the trainings listed, two social workers who work in the transit zone took part in the regional workshop organized by the UN High Commissioner for Refugees (UNHCR) in September 2018, the topic of which was the prevention of sexual and gender-based violence (SGBV). In the summer of 2018, the staff of the asylum authority participated in two trainings accredited by the EASO ('Interviewing Persons in Danger' and 'Interviewing Children' training). With regard to the topic of trafficking in human beings CEPOL organized a training between 20 and 24 May 2019 at the Polish Police Academy in Szczytno. One colleague of the Asylum Directorate of the Directorate-General also participated in the training. An additional colleague working in the transit zone in the field of asylum law and familiar with interviews, as well as a colleague working in the field of coercive measures participated in the training of EASO titled 'Trafficking in Human Beings' between 11 and 14 June 2019.

In addition to the colleagues working in the field of asylum affairs, the Directorate-General will pay special attention to the trafficking in human beings-related training of employees working in the fields of coercive measures and permits as well.

### **Paragraph 58**

### **National Directorate-General for Aliens Policing**

With regard to the third and the sixth recommendation of the paragraph it shall be highlighted that in course of the aliens policing procedures the aliens policing authority is obliged to examine whether the person subject to the procedure is a person eligible for preferential treatment. The aliens policing authority shall also examine this circumstance during the on-site inspections. The aliens policing authority conducts inspections on the basis of the joint directive of the Ministry and Justice and Law Enforcement, Ministry of Social Affairs and Labour, Ministry of Finance and Ministry of transport, Communication and Energy (IRM-SZMM-PM-KHEM) No. 8/2010 on Increasing the Efficiency and Coordination of the Actions of Authorities Against Illegal Migration and Related Illegal Acts, as well as in cooperation with other authorities (National Tax and Customs Authority, labour authorities). In addition, it shall be noted that the contact details of the Hungarian victim support system were displayed in multiple languages at the customer service offices and at the permanent duty service of the

Directorate-General (in English, Arabic, Dari, Farsi, French, Kurdish, Chinese, Pashto, Serbian, Ukrainian and Urdu languages).

### **Ministry of Finance**

Concerning the recommendation ‘ensuring that labour inspections are properly resourced and targeted at economic sectors with a heightened risk of human trafficking, including agriculture’, please note that agriculture has been among the four or five priority labour authority inspection target sectors for years, therefore the critique of the GRETA is not understandable.

In our opinion the ‘separation of immigration enforcement functions from labour inspectorate roles and ensuring’ is already established, these tasks are performed by two separate organizations.

‘Strengthening the monitoring of recruitment and temporary work agencies and reviewing the legislative framework for any gaps that may limit protection or preventive measures’ – the monitoring of the temporary work and recruitment agencies does not fall within the scope of competence of the labour authority.

### **Paragraph 86**

#### **Ministry of Justice, Deputy State Secretariat for Justice Methodological Management**

According to the section, since the beginning of 2018, the victim support services is the body performing the identification, which finding is correct in respect of the probation officers and the legal aid providers. The victim support service has been part of the scope of bodies performing identification since 1 January 2017.

### **Paragraph 93**

#### **National Directorate-General for Aliens Policing**

According to the report, from February to May 2018, 14 identification interviews had been carried out with possible victims of trafficking in human beings in the two transit zones. The form was filled out much more times than that in 2018, however, no actual identification occurred. With regard to the additional two persons (citizens of Afghanistan and Iran) mentioned in the report it was noted that no actual identification had occurred in their case either, since they left in the direction Serbia voluntarily, therefore further examination and provision of assistance could not occur in their cases. The victim identification sheet of the two persons was presented to GRETA for the purpose of illustration during the visit, in order to allow them to see the structure of the form.

## **Paragraph 96**

### **National Directorate-General for Aliens Policing**

The report identifies the placement in the transit zone as detention. It is necessary to emphasize that the laws applied in the Hungarian asylum procedures include specific provisions regarding asylum detention, as well as regarding placement in the transit zones. The foreign citizens placed in the transit zones are not deprived of their freedom of movement and personal freedom, the transit zone may be exited in the direction of Serbia freely at any time; the applicants are also notified of this.

## **Paragraph 97**

### **National Directorate-General for Aliens Policing**

Regarding the provisions of the first recommendation about not requiring prior written consent I would like to emphasize that filling out the form designated to identify the victims of trafficking in human beings functions on a voluntary basis and nobody can be obliged to fill it out. The written statement of consent does not prevent identification; however, it is an important element of compliance with the strict personal data protection and freedom of information rules. Taking into consideration the obligation to protect personal data, the data subject shall grant his/her consent in writing to conducting the identification interview as well as the processing of the personal data in course of the victim identification procedure by the bodies proceeding in such procedures. Thus, the statements are made in the interest of the protection of the personal data and in compliance with the relevant European Union and Hungarian laws related to data and information protection. Under no circumstances does the denial to make the written statement of consent results in the refusal of necessary health or social services. In addition, it is important to emphasize that in justified cases, persons may be placed outside of the transit zone as well, provided that the person concerned belongs to an extremely vulnerable group and if his/her proper healthcare and/or psychosocial care would not be feasible within the transit zone for any reason.

With regard to the improving identification specified in the third recommendation I would like to highlight that in 2014 the Border Police Department of the National Police Headquarters issued the Hungarian version of the Manual containing risk profiles, which had been prepared by Frontex for the purpose of identifying the potential victims of trafficking in human beings on the external Schengen borders. A separate mechanism functions for the identification of victims of trafficking in human beings. The basis of this is constituted by Govt. Decree No. 354/2012. (XII. 13.) on the Identification Order of Victims of Trafficking in Human Beings, while additional provisions on the aids to be provided to the foreign victims of trafficking in human beings are included in the aliens policing laws. The Directorate-General supports this kind of activity of employees – both on in the asylum and the aliens policing fields – also through internal trainings and information materials prepared in 2017.



The training and further training of the staff of the Directorate-General is continuous and permanent, however, it can be connected to the main legislative changes occurring currently. The other part of the trainings and further trainings is realized typically in respect of the co-authorities, such as the consul trainings, trainings helping the work of border policing bodies, trainings supporting the work of law enforcement opinion/specialised authority bodies.

The remark related to Paragraph 58 is applicable to the fourth recommendation of Paragraph 97 as well.

With regard to paragraphs five and six please be informed that in the framework of the 'Global Assistance Fund' programme of IOM, the assistance provided by IOM (in the form of both financial and logistics aid) are constantly available to the target group of the project. Furthermore, please be informed that in case of compliance with the provisions of the relevant Hungarian laws applicable to everybody, regular visits to the transit zones is ensured for civil society organizations. In connection with the fifth recommendation, the Directorate-General complies with the recommendation made in paragraph 216 as well, since it cooperates with multiple international and Hungarian civil society organizations – and allows them to enter the transit zones – who have appropriate expertise in the field of efficient action against trafficking in human beings, as well as victim identification and victim support.

The asylum seekers may talk to aid organisations in their own sectors either in community premises or in their residential containers. The social workers of the National Directorate-General may host the asylum seekers in their work containers if the applicant wishes to request information of assistance. The third-country nationals subject to aliens policing procedure are not restricted in maintaining contact with their authorized legal counsel, meetings with authorized legal counsels may also take place at any time.

The mandate of UNHCR extends to the persons subject to asylum procedure, therefore in the aliens policing procedure they may maintain contact with the persons expelled if they have power of attorney from the person concerned and with regard to the case of the third-country national.

### **Ministry of Finance**

In our opinion, the recommended 'organising regular and co-ordinated multi-agency inspections by labour inspectors, the Police and other relevant agencies in at-risk sectors' takes place, as far as our circumstances allow it. Approximately 15 thousand on-site labour inspections are performed in Hungary every year, the majority of which is carried out without specific permission or notification.

### **Paragraph 103**

#### **Ministry of Justice, Deputy State Secretariat for Justice Methodological Management**

According to the 2018 data included in Paragraph 103, the maximum amount of the emergency financial support was HUF 113,164, which amount increased to HUF 127,717 in 2019.

### **Paragraph 112**

#### **National Directorate-General for Aliens Policing**

In connection with the recommendations I would like to refer to the remarks made with regard to the fifth and sixth recommendation of Paragraph 97, and uphold the previous remarks, according to which Section 130(5) of Government Decree No 114/2007 implementing Act II of 2007 (hereinafter: Harmtv.) on the Admission and Right of Residence of Third-Country Nationals (the Government Decree hereinafter: Harmvhr.) stipulates that if the third-country national is a victim of human trafficking, a reception centre for the placement of the victims of human trafficking or other accommodation maintained under contract may be designated to them. Third country nationals may be accommodated at a shelter based on this legal provision.

### **Paragraph 117**

#### **National Police Headquarters**

It is necessary to reiterate the comments to the draft report in connection with the paragraph.

The National Police Headquarters issued an action plan under No. 29000/8998-3/2018 (hereinafter: Action Plan) for the prevention of child prostitution by taking into account the measures taken for the prevention in future of any abuse of fundamental rights, stated in the report of the commissioner for fundamental rights under No. AJB-1485/2018 on child prostitution in Hungary.

The training ‘Police tasks related to prostitution’ defined in Section 1 of the Action Plan has been included in the individual training plan of each official member of staff working in the criminal police and law enforcement. Until 31 December 2018, a total of 34,686 policemen completed the training.

According to Section 2 of the Action Plan, the further training ‘infringements relating to prostitution and police tasks in handling trafficking in human beings’ was available for the police in the form of an e-learning course by the deadline of 31 March 2019. The training was obligatory for the regular staff serving in criminal police and was optional for policemen working in other fields (including those working in the border police). 32,163 policemen completed the training.

Section 3 of the Action Plan defined the organisation of mentor training on the basis of the developed training material, which was completed by the ORFK Criminal Directorate General, Criminal Department, Crime Prevention Unit (hereinafter: Crime Prevention Unit) by ordering it among the respective criminal police and law enforcement staff on 28 August 2018. On the basis of feedback received from the regional units (Section 4) the trained mentors delivered the training, in a documented form for the respective law enforcement and criminal police staff.

According to Section 5 of the Action Plan, the territorial police units and child protection institutions had to propose cooperation agreements, using the draft cooperation agreement distributed by the Crime Prevention Unit. According to feedback received, cooperation agreements were signed in 6 counties (Baranya, Békés, Borsod-Abaúj-Zemplén, Hajdú-Bihar, Tolna, Zala). All county police headquarters proposed cooperation agreements and conducted consultations but the child protection institutions objected to a few sections of the agreement (Section 3. b) and c) and Section 6. g) and, according to the information received from the police headquarters, the Directorate-General of Social and Child Protection is in charge of the consultations across the country. Each of the objected sections relates to the removal of apprehended minors from police objects or from the child protection institutions which is closest to the police object. The child protection institution cannot undertake the transfer of children to the child protection institution designated for their care. The Directorate-General of Social and Child Protection has not informed the police of the results of consultations so far. In relation to that task, the Directorate-General for Public Security of the Ministry of Interior proposed consultations with Ministry of Human Capacities, which are still in progress.

According to Section 6 of the Action Plan the county police headquarters reviewed the programmes developed and run by them and have made the required modifications.

According to Section 7 of the Action Plan the Crime Prevention Unit reviewed the youth programmes of the police. During the review of the DADA (programme for primary school students) and ELLEN-SZER (programme for secondary school students) programmes, it was concluded that ‘child prostitution’ as a separate topic was not included among the topics of the programmes.

The teacher training assistance for the DADA and ELLEN-SZER programmes are prepared and issued by the National Crime Prevention Council and therefore National Police Headquarters made a proposal for adding the topic of recognition and prevention of ‘child prostitution’ and supplementing the existing topics.

The National Police Headquarters suggested the revision of topic 15 ‘Sexual violence’ in the DADA programme, aimed at students of higher forms and the revision of topic 3 ‘Online worlds’ and topic 4 ‘Virtual world, live online and offline’ in the ELLEN-SZER programme.

## **Paragraph 122**

### **National Directorate-General for Aliens Policing**

With regard to the critique related to unaccompanied minors I would like to note that unaccompanied minors between the ages of 14 and 18 are not deprived of the guarantees provided in the national child protection system at all. On the day of filing the application, the asylum authority notifies the competent guardianship office, which appoints the ad hoc guardian within 8 days; starting from the date of appointment this guardian may enter the transit zone without hindrances and restrictions, and who ensure proper representation of the minor asylum seeker throughout all the asylum proceedings. Although the Report does not discuss the number of unaccompanied minors, it may be worthwhile noting on a statistical basis that between 1<sup>st</sup> January 2018 and 14<sup>th</sup> August 2019 altogether 52 unaccompanied minors have submitted applications for asylum. In monthly breakdown: 13 persons in January 2018, 4 in February, 5 in March, 3 in April, 10 in May, 5 in June, 1 in July, 1 in September and 2 in October. In January 2019, 1 application was submitted, while in February, March, April, May and June 2019 no applications were submitted by unaccompanied minors. In July 2019 7 unaccompanied minors submitted applications for asylum.

## **Paragraph 123**

### **National Directorate-General for Aliens Policing**

We do not agree with the use of the term ‘detained’ in the English version, instead we consider using the expression ‘accommodated’ as appropriate, considering that Hungary under no circumstances agrees with identifying the placement in the transit zone as detention. I would like to emphasize again that an interpreter participates in the interviews in the transit zones in all cases, and the interpreter explains in details the information which is included in the notices and other documents. Therefore the findings that assess the activity of the ad hoc guardians as ‘do not have access to trained interpreters’ in Paragraph 123 is not true.

## **Paragraph 128**

### **National Directorate-General for Aliens Policing**

The ECHR decision adopted in the Ilias and Ahmed v Hungary case – which is currently before the Grand Chamber – cannot be referred to in support of the statement made by GRETA, considering that decision is not final yet.

## **Paragraph 129**

### **National Directorate-General for Aliens Policing**

If circumstances arise based on which the transferring body (Police) establishes that the asylum seeker has special needs, then the transferring body will notify the asylum authority thereof without delay. The asylum authority monitors the needs for specialized care (arising

from being underage, having illness, injury, mental problems, etc.) during the procedure continuously, and the asylum authority will take the necessary measures in consideration of the individual circumstances of the applicant. Owing to the versatility of the nature of the vulnerability and the special needs, these measures may be of various kind. The most common measures include the provision of necessary healthcare (on site, in hospital, medicines, psychiatric care, etc.), the customised provision of in-kind care (catering to special diets, accommodation quarters fit out for people with reduced mobility, appropriate clothing, etc.), as well as providing urgent administration for unaccompanied minors, in addition to the appointment of a guardian. The asylum authority ensures the identification of asylum seekers with special needs and the taking of the necessary measures through internal regulations and regular trainings for both the administrators of the authority and the social workers. In addition, it shall be noted that the administrators who proceed in the course of the asylum procedure are familiar with the EASO publication titled ‘Practical Guide on age assessment’ and apply it during the procedures.

If the applicant applying for recognition is an unaccompanied minor, then the asylum authority will take measures for the temporary placement of the child and simultaneously will contact the guardianship authority in order to have the child protection guardian who represents the minor appointed. The child protection guardian shall be appointed within eight days of the receipt of the request of the asylum authority. The guardianship authority shall notify the unaccompanied minor and the asylum authority of the identity of the appointed child protection guardian without delay.

Considering Point 13 of Section 92/C of the Harmtv., according to Section 71 of Act CL of 2016 on General Public Administration Procedures, an expert shall be consulted or an expert opinion shall be obtained – with a prescribed time limit of at least fifteen days - if special knowledge is required in the case for establishing a material fact or other circumstance, and if the competent authority does not have sufficient expertise. The asylum authority appoints an expert based on this provision of law (which entered into force on 1<sup>st</sup> January 2018) in order to establish the age of the foreigner. The expert establishes the age of the person based primarily on the physical characteristics. In addition, with regard to the last recommendation of Paragraph 129, please take into consideration the statements made with respect to Paragraph 112.

### **Paragraph 137**

#### **National Directorate-General for Aliens Policing**

According to Section 45(4) of the Harmtv., third-country national victims of human trafficking may only be expelled during the reflection period provided to them if their stay in the territory of Hungary violates national security, public security or public order. This provision cites Article 13 of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties signed in Warsaw on 16 May 2005.

## **Paragraph 142**

### **National Directorate-General for Aliens Policing**

If after the one-month reflection period the third-country national human trafficking victim notifies the asylum authority of his/her intention to cooperate with the authorities, then the asylum authority shall issue such third-country national a residence permit for humanitarian purposes, the validity period of which is six months.

## **Paragraph 155**

### **National Directorate-General for Aliens Policing**

Before ordering and/or implementing expulsion, the alien policing authority obtains the asylum authority's opinion concerning non-refoulement. The asylum authority conducts an individual assessment, so that in the event that a suspicion arises in the alien policing procedure that the foreigner is a victim of human trafficking, the asylum authority acts and opines with special care. According to the provisions of Section 124(3) of the Harmvhr., the proceeding alien policing authority may not depart from the contents of the asylum authority's opinion.

As regards unaccompanied minors, it should be highlighted that pursuant to Section 45(5) of the Harmtv., unaccompanied children may only be expelled if family reunification or institutional care by state or other institutions is guaranteed in their country of origin or another host country. In order to establish such obstacles to expulsion, the alien policing authority contacts the guardianship office forthwith to ascertain that the unification of the family or state or other institutional care is properly ensured in the State of nationality of an unaccompanied minor, and obtains country information about the institutional care provided to minors.

To protect the interests of unaccompanied minors, the alien policing authority is obliged to arrange forthwith for the appointment of a trustee when a procedure is instituted, and propose the appointment of a guardian during the procedure.

Furthermore, I would like to amend the information provided previously in response to the draft report with that – as it is included in the GRETA report – in case of third-country national identified as the victims of trafficking in human beings, the return of the persons concerned to their countries of origin (or any other country obliged to receive them) took place in the framework of the IOM 'Global Assistance Fund', similarly to the case of the Bosnian citizen specified in the GRETA report. The Bosnian citizen expressed his/her intention to return to Bosnia, regarding the earnestness of which intention no doubt arose, and the person was placed in his/her homeland in safe circumstances.

Furthermore, in May 2019 the return of a minor Bulgarian citizen placed in the Károlyi István Children's Centre to Bulgaria was realized in the framework of the 'Global Assistance Fund' programme of the IOM. In course of the procedure the proceeding authorities paid special

attention to assess whether the child could be returned to his/her parents, and the procedure was concluded with favourable outcome in this regard as well, considering there was no obstacle to the reunification of the family and the family was placed in a shelter.

In case of the Bulgarian citizen the District V Office of the Budapest-Capital Government Office made the ‘victim of trafficking in human beings’ notification to the Ministry of Interior and the Ministry of Justice. With respect to the Bulgarian citizen, neither the National Police Headquarters, nor the National Directorate-General for Aliens Policing conducted an asylum procedure.

### **Paragraph 163**

#### **Ministry of Justice, Department for Criminal Law Codification**

Regarding this section we emphasize again that the legal fact regulates human trafficking for the purpose of exploitation separately, in paragraph (2) (which is a separate sub-case of the legal facts), which was required due to Article 2(1) of Directive 2011/36/EU, so it can be established that this purpose represents an additional element compared to those defined by conventions on slavery.

Neither the Convention nor Directive 2011/36/EU nor any other international documents concerning the prevention and combatting of trafficking in human beings specify an accurate definition of exploitation, they merely list the typical cases that occur. These are: exploitation by prostitution or other forms of sexual exploitation, forced labour, forced services including begging, slavery, practices similar to slave keeping, servitude, exploitation related to crime and the removal of organs. No exhaustive list of exploitative behaviours can be provided.

With regard to this, the new Criminal Code provides a concept for exploitation in an interpreting provision by appropriate abstraction. According to this, ‘exploitation’ means the abuse of power or of a position of vulnerability for the purpose of taking advantage of the victim forced into or kept in such situation. Thus, the new Criminal Code enables the penalisation of any conduct that may correspond to exploitation in practice in addition to the most typical forms and perpetration of exploitation listed above. It should be noted that the advantage in the definition is not only a financial benefit, it may also consist of any other allowance, or more favourable situation, which is related to the potential or actual exploitation of the victim’s vulnerable position.

In this respect, any more accurate definition of the conduct of exploitation would restrict the number of purposes, which would bring about the danger that acts might not be punishable in the case of certain forms of conduct - that may have been omitted from the definition of exploitation provided by the Act - and the Member State’s legislative body would end up having the opposite effect.

Neither criminal law nor the Hungarian legal system contain a verbatim definition for slavery and slavery-like practices.

The International Convention on Slavery signed in Geneva on 25 September 1926 was promulgated by Act III of 1933. Under this Convention, slavery is a condition or situation of an individual in which the criteria of ownership over the individual are exercised by others; slave trade includes capture, acquisition, transfer aimed at putting the person in slavery, sale of the person, acquisition of the person for the purpose of exchange, that is, trade in general.

Based on the right to human dignity, human beings may not be treated as objects and may not be subject to trade, which is why Section 192(1) of the Criminal Code penalises all conduct in the course of which another person is sold, bought, exchanged, provided or received as consideration, regardless of the purpose and method of perpetration.

Furthermore, based on the Warsaw Convention, it may be said that in the case of “slavery”, the “slavekeeper” aims to secure an advantage by exploiting the work, body or bodily strength of the person deprived of personal freedom (which clearly means a vulnerable position, and is a substantial component of the grammatical interpretation of slavery).

That is, even if not by the specific wording, the provisions appearing as qualifiers concerning the person deprived of personal freedom in the legal facts of the Criminal Code [paragraph (3)a), paragraph (4)b), paragraph (5)b) and paragraph (6)a) of Section 192] may be applied to slavery, servitude or other similar practices in judiciary practice.

In our position, the rules cited above give an appropriate answer to the GRETA’s concerns, because slavery and similar practices appear in the legal facts of the Criminal Code, even if not verbatim.

#### **Paragraph 164**

##### **Ministry of Justice, Department for Criminal Law Codification**

The Criminal Code stipulates that the base criminal act of trafficking in human beings shall be punishable by imprisonment not exceeding three years, while trafficking in human beings for the purpose of exploitation shall be punishable by imprisonment from one year to five years. Meanwhile – subject to the gravity of the act - the punishments to be imposed for the qualified cases of the criminal acts specified in the Criminal Code are 2 to 8 years, 5 to 10 years, 5 to 15 years and 5 to 20 years of imprisonment, however, the gravest cases may also be punishable by life imprisonment. In our opinion, these sentences are sufficiently proportionate and have a deterring effect, which comply with the upper limit of the sentences to be imposed in the various cases of trafficking in human beings specified in Directive 2011/36 (EU) as well.

#### **Paragraph 165**

##### **Ministry of Justice, Department for Criminal Law Codification**

With regard to this finding of the report we note that the finding according to which the use of services of a victim of trafficking in human beings, with the knowledge that the person is a



victim, is not criminalised in Hungary is not true, since - among others – according to Section 193 of the Criminal Code it is punishable to force that passive subject to work who is in a vulnerable situation as a result of trafficking in human beings and whom the perpetrator acquired through trafficking in human beings.

Thus the person who did not actively cause the vulnerable situation of the victim – and it occurred as a result of the trafficking in human beings – but later maintained it and used the victim's services in awareness of this shall be responsible as offender, too.

### **Paragraph 166**

#### **Ministry of Justice, Department for Criminal Law Codification**

With respect to this section it still can be stated that the Criminal Code penalises the exploitation of child prostitution as a separate set of legal facts (Section 203 of the Criminal Code). The reason for this is that international documents also address these acts separately, and certain conduct would be hard to fit into the legal facts of the Criminal Code in effect dealing with prostitution (promotion of prostitution, living on the earnings of prostitution, pandering).

Based on Section 203(1) of the Criminal Code, any person who endeavours to profit from the exploitation of the prostitution of a person under the age of eighteen years is guilty of a felony punishable by imprisonment not exceeding three years. Based on paragraph (2), any person who gives any form of remuneration for sexual activities with a person under the age of eighteen years is punishable in accordance with paragraph (1).

That is, this provision of the Criminal Code protects all persons under the age of 18, there is no division between ages 14 to 18 and below, in contrast with misdemeanour regulations where the division is already made. The possibility of establishing the existence of legal facts under criminal law is not related to whether the victim commits a misdemeanour or not.

Pursuant to the amendments to the law made in 1993 and then in 1999, prostitution is not deemed to be a felony, and is considered a misdemeanour only in the event that the sexual service is provided within the so-called protection zone. Legislation affords special protection to minors when it comes to methods of perpetration associated with prostitution.

According to the rules in force, there is no liability under either criminal or misdemeanour legislation if a person performs prostitution activities voluntarily, in conformity with the conditions defined in Act LXXV of 1999 (in a patience zone, a private home or outside a protection zone, in possession of a medical certificate). In such cases, therefore, persons between ages 14 and 18 cannot be held liable, either. Persons between ages 14 and 18 cannot be held liable, either, if they perform the activity under duress or threat or by mistake.

Based on Section 172 of Act II of 2012 on misdemeanours, misdemeanour proceedings and the system of misdemeanour registration (hereinafter by the Hungarian abbreviation: Szabs.tv.), those who violate restrictions and/or prohibitions related to sexual services

specified in separate law or municipality decree adopted based on the authorisation granted by law commit a misdemeanour.

According to Section 172 of the Szabs.tv., it is possible to establish the liability of a person aged between 14 and 18 engaged in prostitution activities for prohibited prostitution if they fail to meet the requirements of Act LXXV of 1999 and it is not proven that they were forced to or pursue the activity by mistake.

With regard to the issue whether the age group between 14 and 18 years of age may be excluded from the misdemeanour act of prohibited prostitution, we continue to consider the opinion of the Ministry of Interior – which is responsible for the regulation – prevailing.

In connection with the legislative background of the unlawful act committed as a victim we continue to consider the statements explained previously prevailing, according to which the principle of principle of preclusion of punishability is built into the law, and within that, in the general provisions of the Criminal Code, as based on Section 15, the criminal responsibility can be totally or partially exempted, if the victim – among others, the victims of human trafficking - was coerced or threatened to commit a crime. Section 15 of the Criminal Code lists the reasons that preclude punishability, detailed in the sections that follow Section 15.

Force and threat as reasons that preclude punishability are detailed in Section 19 of the Criminal Code. According to Section 1(1), any person who has committed a criminal act under undue influence by coercion or threat, depriving him of the capacity to act according to his own free will, shall not be prosecuted.

That is, the provisions of the general part of Hungarian criminal law exclude the punishability of the victim, and it makes no sense to repeat them in the special section and would also be contrary to the codification principles.

With regard to the above, it can be established that in the event the victim perpetrates an illegal act pursuant to exposure to trafficking in human beings, it needs to be investigated whether the act was committed under threat or duress. The Office of the Prosecutor General's guidelines referred to in an earlier stage of the GRETA assessment call attention to this separately.

With a view to the above, in our position, the Criminal Code provides properly for the exclusion of punishability of the victims, and GRETA offers no specific explanation as to why it considers the provisions of the general part not applicable to victims of human trafficking and why this does not conform with the agreement.

### **Paragraph 167**

#### **Ministry of Justice, Department for Criminal Law Codification**

See Paragraph 165.

## **Paragraph 168**

### **Office of the Prosecutor General**

According to the provisions of Section 12 (1) of Act CIV of 2001 on Measures Applicable to Legal Entities under Criminal Law, if based on criminal complaint or in course of any investigation any data arises implying that the application of any measure may be justified against the legal entity, then the prosecutor's office or the investigating authority shall extend the investigation to investigating the connection between the criminal offense which gave rise to the procedure and the legal entity. According to Section 3 (2) of the act – provided that certain conditions are fulfilled - the measures specified in Subsection (1) may be applied also in cases where committing the criminal offense was aimed at or resulted in acquiring advantage or benefit for the legal entity, or where the criminal offense was committed by using the legal entity. Section 3 (1) stipulates that the court imposes any punishment on the perpetrator of the criminal offense specified in Section 2, or the court applies warning or conditional sentence against, or orders confiscation or confiscation of property against the same. The following measures may be applied against legal entities: dissolution of legal entity, restriction of the activity of the legal entity, as well as fines.

In all cases – therefore also in cases of trafficking in human beings – the prosecutor's office (and the investigating authority) examines ex officio whether the committing of the criminal offense was aimed at or resulted in acquiring advantage or benefit for the legal entity, or whether it was committed by using the legal entity. The circumstances that there was no criminal procedure for trafficking in human beings where measures were applied against any legal person does not mean that the Hungarian authorities do not use their best efforts during the criminal procedure to have the measure mentioned applied against the legal entity concerned, provided that it is justified.

## **Paragraph 173**

### **National Police Headquarters**

It is important to emphasize that in case of the misdemeanour prohibited prostitution exclusively the court is authorized to impose fines as punishment. Neither the imposing of the fine, nor the amount is influenced by the Police.

## **Paragraph 176**

### **Office of the Prosecutor General**

With regard to the requirement stipulated by GRETA in Paragraph 176, the content of Paragraph 171 shall prevail. Therefore, coercion and threat are specified in Section 15 of the Criminal Code, among the grounds for total or partial exemption from criminal responsibility. According to the provisions of Section 19 of the Criminal Code, punishability – and therefore the opportunity to impose any punishment – is excluded with regard not only to trafficking in human beings but any other criminal offense in case of any person who has committed a

criminal act under undue influence by coercion or threat, depriving him of the capacity to act according to his own free will. The punishment may be reduced without limitation if the coercion or threat deprives the perpetrator of the capacity to act according to his own free will.

**Ministry of Justice, Department for Criminal Law Codification**

See paragraph 166.

**Paragraph 181**

**National Police Headquarters**

The National Bureau of Investigation of the Riot Police investigates any and all forms of trafficking in human beings, not only trafficking inhuman beings for purpose of sexual exploitation. Although the cases which were in progress during the evaluated period were all related to exploitation for sexual purposes, this does not exclude the National Bureau of Investigation from proceeding in cases of exploitation for other purposes as well.

**Paragraph 183**

**National Police Headquarters**

It shall be highlighted that the effectiveness of the investigation does not rely exclusively on the testimony of the victim; the investigating authority decides on the termination of the procedure or the indictment based on the evaluation of all the evidence obtained in the procedure.

The fact that a child victim is not willing to cooperate cannot in itself result in the termination of the investigation.

**Paragraph 190**

**Ministry of Finance**

In respect of the second recommendation please be informed that the Ministry of Finance supports the training of the labour inspectors concerned, which may be realized with the involvement of the Prime Minister's Office as functional director.

**Paragraph 211**

**Ministry of Justice, Department for Criminal Law Codification**

In respect of this section we uphold our opinion elaborated previously in full, according to which the above points of the report emphasise at various places that the new legal fact integrated into Act C of 2012 on the Criminal Code (hereinafter: Criminal Code) with Section 353/A impedes the victim support activities of civil society organisations and NGOs, i.e., it

prevents information from being supplied to potential foreign victims of trafficking human beings of the applicable laws and regulations and legal assistance options. The conducts to be published are absolutely different from those indicated in the report, which is clear from the facts themselves and from the reasoning attached thereto and taken into account during the establishment of the purpose of the legal regulation pursuant to Article 28 of the Fundamental Law. The new criminal fact relates to human smuggling (Section 353 of the Criminal Code) and facilitation of unauthorised residence (Section 354 of the Criminal Code) which relate to crimes, which constitute an organising activity that may have an encouraging and supporting effect on the potential perpetrators of the acts of the other two criminal offences (illegal immigration). Knowing that in Hungary natural persons could pursue organising activities in order to facilitate illegal immigrants initiating asylum proceedings and people illegally staying in the country could still obtain a title for residents could be encouraging for foreigners thinking of illegal entry or transit or illegal stay in the country.

By using the term ‘in order to’, the provision makes it clear that it a purposeful, criminal offence, i.e., it can only be implemented with a direct intention (*dolus directus*). The legislator also confirmed the need for a purpose with the fact that during the interpretation provision relating to the perpetrator’s conduct of this offence [Section 353/A (5) of the Criminal Code] the purpose is referred to again when the law states that the conducts included in the list of examples are only deemed punishable organising activities, when they are pursued for the purpose specified Paragraph (1) of the section. This means that during perpetrations the perpetrator must be aware of the facts that the organising activity is pursued for the initiation of an asylum procedure or for a person not eligible for obtaining any title for stay. Consequently, the intended act must extend to awareness of the facts, namely the circumstances of life included in the provision of the law, implementing the objective elements of a specific criminal offence and the perpetrator must wish for the consequences of their conduct. An act may only be deemed a criminal offence when the examined conduct also implemented all elements (aspects) of the special section of the law. If the conscious or emotional-wilful aspects are not complete at the perpetrator (because e.g., the perpetrator is mistaken, is not aware of the objective facts, does not wish for the consequences of their conduct but resigns to them (*dolus eventualis*), or proceeds negligently (*luxuria/negligentia*), then the crime of promotion and support of illegal immigration does not take place due to lack of the objective.

The above explanation shows that information given to the potential victims of trafficking in human beings of the applicable laws and regulations and assistance and the victim support activity does not constitute a basis of criminal responsibility. In order to punish the perpetrator, it is not enough to guess that the applicant is unlikely to be eligible for defence. In the text of the norm, the demand for an intention, i.e., a direct intention results in a situation that if the perpetrator does not intend to achieve the objective prohibited under Section 353/A of the Criminal Code but only resigns to it, or only proceeds negligently in that regard, they will not be punishable for the promotion or support of illegal immigration.

A punishable intentional activity is implemented when the assisting party pursues the activity with an objective of organising support for individuals about whom they know, already during the performance of the act that they are not eligible for a refugee status, yet they unlawfully initiate asylum proceedings for such persons. Anyone who proceeds for such purposes conducts an organised act aimed at avoiding the law.

In its 3/2019 resolution of the Constitutional Court on the establishment of a constitutional requirement relating to Section 353/A (1) of Act C of 2012 on the Criminal Code (published in Issue 35 of the Hungarian Gazette, hereinafter 3/2019 resolution of the Constitutional Court) the Constitutional Court established that “the new crime can only be committed purposefully and it is intentional, i.e., the perpetrator must be aware that they pursue organising activities in the interest of an individual who in fact is not exposed to any persecution, or whose fear of direct pursuit is not founded. Similarly, they must also be aware that they assist a person unlawfully entering the territory of the country or unlawfully staying in the territory of the country with their activities to obtain a title for residence.” The investigative authorities must prove what was in the perpetrator’s conscious when they committed the crime and whether or not they were aware of the above.

The Constitutional Court also established that the provisions of the law do not refer to the prohibition of humanitarian assistance activities either and, with a reasonable interpretation required under the Fundamental Law, the court cannot reach such a conclusion either. Assisting the vulnerable and the poor is an obligation under the Fundamental Law (according to the National avowal: ‘We hold that we have a general duty to help the vulnerable and the poor.’), and it would be incompatible with that to threaten with punishment any assisting and unselfish activity which is not related to an objective prohibited under the Criminal Code. In that regard, the Constitutional Court concluded that during the interpretation and application of Section 353/A (1) of the Criminal Code, pursuant to Article XXVIII (4) of the Fundamental Law, it is a constitutional requirement that it cannot extend to conducts that are not related to any unselfish activity performing the obligation of assisting the vulnerable and the poor or related to an objective prohibited under the provisions of the law. This statement included in the resolution of the Constitutional Court is a constitutional requirement and no contrary judgment may be adopted by any judge.

In addition, the organising activity cannot be identified with consultation or information, because organisation is a much more complex and comprehensive, purposeful type of conduct which also involves coordination for the purposes of implementation. The conduct may not be punished without organisation and therefore if someone monitors the border but does not organise it does not perform a criminal offence.

Finally, the above statement of the report does not stand either, because any lawful information, advice or assistance is an activity which is expressly permitted under the Hungarian legal regulations on asylum. Pursuant to Section 24 of the Hungarian Criminal Code, the legal permission is a reason precluding criminality because it precludes the unlawfulness of the act. If there is a permission granted by the legal regulations, the criminal offence does not even exist.

Act LXXX of 2007 on Asylum and Government Decree 301/2007 on the implementation on the Act clearly state the rights of any individual applying for recognition as a refugee. The former states that the applicant is eligible for assistance, care and accommodation as specified in the Act and in a separate legal regulation, as well as for establishing and maintaining contact with the High Commissioner for Refugees (UNHCR) or other international organisation or civil society organisation. According to the Government Decree, the refugee authority may enter into a contract especially with civil society organisations, local governments, religious legal entities, foundations, their institutions, business associations and other legal entities to provide information to individuals applying for recognition, refugees protected individuals, accepted and asylum seekers about their rights and obligations [Section 14 (2) d) of the Government Decree]. In addition, Section 17 (3) of the Government Decree states that following the submission of the application for asylum, the refugee authority informs the applicant in writing, in their native language or in any other language understood by them, of all the care and assistance available to them, the obligations related to the conditions of acceptance and organisations providing individual assistance and legal assistance during the acceptance process. It is clear that the Hungarian legislation also expressly recognises the conducts protected by the report and the legal regulations clearly allow for their pursuit. Consequently, according to the Hungarian legislation lawful information, advice or assistance may not be deemed a criminal offence. Considering that the legal permission precludes the unlawfulness of the above acts, when they are pursued, no criminal act can be established on the basis of the law.

### **Issues for immediate action**

#### **Office of the Prosecutor General**

Regarding the recommendation related to the necessity of identifying the inadequacies of the investigation and the prosecution activity it is justified to note that the role and weight of the prosecutor's office related to trafficking in human beings crimes are underrepresented in the report, and the proactive prosecutor's office activity which was declared lacking was realized through actual actions taken recently, and as a result of the based on the review of the directives and the cases in progress.

The next recommendation emphasizes – among others – the necessity of the further training of the prosecutors. Similarly to previous years, when organizing trainings and conferences, the Office of the Prosecutor General will continue to pay special attention to that lectures with THB-related topics are parts of these events regularly, in course of the continuous further training of the prosecutor trainees, junior prosecutors, prosecutors, as well as the chiefs of the prosecution offices alike.

#### **Ministry of Human Capacities, Deputy State Secretariat for Youth Policy and Equality**

The national-level awareness-raising and training of the professionals working with children (especially the professionals working in child protection) is identified by the GRETA as an issue for immediate action.

With the coordination of the background institution operated by the Ministry of Human Capacities, the series of trainings titled ‘Facilitating the Cooperation of the Members of the Child Protection Alert System – Identification and Treatment of Domestic Violence and the Harms Caused by Trafficking in Human Beings’ was launched in April 2019.

Over the next 2 years, 225 local trainings will be realized, with the involvement of 5000 members of the child protection alert system. The duration of the training: 40 hours, including 24 hours of training to be realized with the joint participation of the various members of the alert system. The training is realized using development funds.