



EVALUATION REPORT

NORTH MACEDONIA

Third evaluation round

GRETA

Group of Experts
on Action against
Trafficking
in Human Beings

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

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Executive summary

Since the second round of evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, North Macedonia has continued to develop the legislative framework relevant to action against trafficking in human beings, implementing several recommendations made in GRETA's previous reports. In 2018, a new Law on Foreigners was adopted, providing for a recovery and reflection period and renewable residence permits for victims of trafficking on the basis of their personal situation, and a specific provision on the non-punishment of victims of human trafficking was included in the Criminal Code. Further, the Law on the Payment of Monetary Compensation to Victims of Violent Crimes was adopted in November 2022, introducing state compensation for victims of human trafficking. The Government adopted a National Strategy and National Action Plan for Combating Trafficking in Human Beings and Illegal Migration 2021-2025, as well as a National Action Plan for Combating Trafficking of Children 2021-2025. GRETA also welcomes the designation of the Office of the Ombudsman as National Rapporteur on Combating Trafficking in Human Beings.

North Macedonia is a country of origin, transit and destination of victims of trafficking in human beings. The number of formally identified victims of trafficking has been low (between two and nine per year), except for 2021 when 39 victims from Taiwan were identified. There has been an increase in the number of male victims and a shift to labour exploitation as the predominant form of exploitation. In addition, in the period 2017-2021, 361 potential victims of human trafficking were detected.

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

Despite the existence of legal provisions in North Macedonia for the legal assistance to victims of human trafficking, GRETA notes that they lack clarity and there are gaps in their application in practice. GRETA urges the authorities of North Macedonia to ensure that the legislation provides a clear basis to provide legal assistance as soon as there are reasonable grounds for believing that a person is a victim of trafficking, before they have to decide whether they want to co-operate with the authorities and/or make an official statement to the police.

There are specific state programmes for reintegration of victims of human trafficking, which do not function effectively due to lack of financial resources for their implementation and the insufficient involvement of local self-government in their administration. GRETA considers that the authorities should strengthen effective access to the labour market for victims of trafficking and their economic and social inclusion through the provision of vocational training and job placement, raising awareness amongst employers, and the promotion of micro-businesses, social enterprises and public-private partnerships.

Victims can claim compensation by joining the criminal proceedings as injured party, but this rarely happens in practice. In most cases, victims are referred to a civil court to claim compensation, but no information is available on whether this ever happens. While welcoming the adoption of the Law on Payment of Monetary Compensation to Victims of Violent Crimes, GRETA urges the authorities of North Macedonia to make further efforts to guarantee effective access to compensation for victims of human trafficking, including by ensuring that the collection of evidence about the harm the victim has suffered is part of the criminal investigations, making full use of the legislation on the seizure and confiscation of assets to secure compensation to victims, and ensuring that victims can obtain a decision on compensation from the offender as part of criminal proceedings.

GRETA commends the efforts made to overcome shortcomings in investigating and prosecuting human trafficking offences, including the setting up of a National Unit for Combating Trafficking in Human Beings and Smuggling of Migrants (Task Force). There has been an increase in the number of convictions compared to the previous evaluation period. However, in most of the child trafficking cases and in all adult trafficking cases examined by GRETA, the sentences were well below the statutory minimum. GRETA urges the authorities to strengthen the human, financial and technical capacities of law enforcement agencies to enable them to proactively investigate human trafficking offences, making use of all possible evidence, including evidence gathered through special investigative measures, financial and digital evidence.

GRETA welcomes the adoption of a specific legal provision and guidelines on the non-punishment of victims of human trafficking for their involvement in unlawful activities, to the extent that they have been compelled to do so, and considers that the authorities should ensure their effective implementation in practice, paying particular attention to foreigners who might be victims of sexual or labour exploitation.

The special measures of procedural protection of victims, such as testifying via videoconference and exclusion of the public from the courtroom, are rarely applied to adult victims of trafficking and inconsistently applied to child victims. GRETA considers that the authorities should make full use of these measures to protect victims and witnesses of human trafficking and to prevent intimidation or re-traumatisation during the investigation and during and after the court proceedings. The authorities should also ensure that child victims of trafficking are interviewed in child-friendly interview rooms. Furthermore, GRETA calls upon the authorities to ensure the protection of the private life and identity of victims of trafficking from public exposure, through the issuance of appropriate instructions to all relevant professionals, and to take measures to encourage the media to protect the identity and private life of victims of THB.

The report also examines progress made on the implementation of previous GRETA recommendations on selected topics. While welcoming the steps taken to train labour inspectors and raise awareness about labour exploitation, GRETA urges the authorities of North Macedonia to ensure that the Labour Inspectorate has a clear mandate and adequate human and financial resources to carry out inspections with a view to preventing and detecting cases of human trafficking for the purpose of labour exploitation.

GRETA welcomes the revision of the Standard Operating Procedures for Treatment of Victims of Trafficking in Human Beings and the work of the five mobile teams for the identification of vulnerable persons, including THB victims. However, GRETA urges the authorities of North Macedonia to strengthen the identification of victims of human trafficking, including by involving the Police Unit for Combating Human Trafficking in joint inspections with the Labour Inspectorate and in the raids conducted by other police units on premises where victims of human trafficking are likely to be detected. The authorities should also ensure that pre-removal risk assessments carried out prior to forced removals from North Macedonia fully assess the risks of trafficking or re-trafficking on return, in compliance with the obligation of *non-refoulement*.

GRETA is concerned by the continuing absence of safe accommodation for male victims of trafficking, and urges the authorities of North Macedonia to provide adequate financial and human resources for the assistance of potential and formally identified victims of trafficking, including by specialised NGOs mandated to provide assistance, and to ensure that all victims of trafficking are guaranteed effective access to public health care.

GRETA welcomes the efforts made to prevent and raise awareness of child trafficking, but remains concerned by the lack of adequate accommodation for children who are victims or potential victims of trafficking. GRETA asks the authorities to ensure that child victims of THB benefit from specialised accommodation and services, and strengthen the capacity and human resources of the Centres for Social Work to enable them to play an active role in preventing child trafficking, detecting child victims of human trafficking and assisting them.

Preamble

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

In accordance with Article 38, paragraph 1, of the Convention, GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions of the Convention on which the evaluation procedure is based.

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

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

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

I. Introduction

1. The Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) entered into force for North Macedonia on 1 September 2009. GRETA’s first evaluation report¹ was published on 17 June 2014, and the second evaluation report² on 21 February 2018.

2. On the basis of GRETA’s second report, on 9 February 2018 the Committee of the Parties to the Convention adopted a recommendation to the authorities of North Macedonia, requesting them to inform the Committee of measures taken to comply with the recommendation within a one-year period. The report submitted by the authorities of North Macedonia was considered at the 24th meeting of the Committee of the Parties (5 April 2019) and was made public.³

3. On 3 June 2021, GRETA launched the third round of evaluation of the Convention in respect of North Macedonia by sending the questionnaire for this round to the authorities of North Macedonia. The deadline for submitting the reply to the questionnaire was 3 October 2021 and the authorities’ reply was received on 1 October 2021.⁴

4. In preparation of the present report, GRETA used the reply to the third-round questionnaire by the authorities of North Macedonia, the above-mentioned report submitted by them in reply to the Committee of the Parties’ recommendation, and information received from civil society. An evaluation visit to North Macedonia took place from 14 to 18 March 2022 in order to hold meetings with relevant governmental and non-governmental actors, collect additional information and examine the practical implementation of adopted measures. The visit was carried out by a delegation composed of:

- Ms Julia Planitzer, Second Vice-President of GRETA;
- Mr Sergey Ghazinyan, member of GRETA;
- Mr Mesut Bedirhanoglu, Administrator in the Secretariat of the Convention.

5. During the visit, the GRETA delegation met Mr Oliver Spasovski, Minister of the Interior and Ms Svetlana Vlahovic Dimanovska, Deputy National Co-ordinator for the Fight against Trafficking in Human Beings and Illegal Migration. The GRETA delegation also met Ms Frosina Kiprovska Lukik from the Office of the Ombudsman who acts as National Rapporteur on Combating Trafficking in Human Beings and Illegal Migration. Meetings were also held with officials from the Ministry of the Interior, the Ministry of Justice, the Ministry of Labour and Social Policy, the Ministry of Foreign Affairs, the Ministry of Health, the Ministry of Education and Science, the National Unit for Combating Trafficking in Human Beings and Smuggling of Migrants (Task Force), the State Labour Inspectorate (SLI), the Public Prosecutor’s Office for Organised Crime and Corruption, the Basic Court Skopje 1, as well as representatives of the Kumanovo Local Commission for Combating Trafficking in Human Beings and Illegal Migration. In addition, the GRETA delegation met labour inspectors and members of mobile teams in Skopje, Tetovo and Kumanovo.

6. In the course of the visit, the GRETA delegation visited the Reception Centre for Foreigners, the state shelter for victims of human trafficking and sexual violence, the SOS village for children and a day care centre for street children in Skopje.

¹ <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680631ee1>

² <http://rm.coe.int/greta-2017-39-frg-mkd-en/168078aeba>

³ <https://rm.coe.int/cp-2019-10-mkd-en/16809987f6>

⁴ <https://rm.coe.int/reply-from-north-macedonia-to-the-questionnaire-for-the-evaluation-of-/1680a50c6b>

7. Separate meetings were organised with representatives of non-governmental organisations (NGOs), lawyers, and victims of trafficking in human beings. The GRETA delegation also met representatives of the International Organization for Migration (IOM), the International Centre for Migration Policy Development (ICMPD), the United Nations International Children's Emergency Fund (UNICEF), the Organization for Security and Co-operation in Europe (OSCE), the Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ) and the Migration, Asylum, Refugees Regional Initiative (MARRI).

8. The list of national authorities, NGOs and other organisations with which the delegation held consultations is set out in Appendix 2 to this report. GRETA is grateful for the information provided by them.

9. GRETA wishes to thank the authorities of North Macedonia for their excellent co-operation, and in particular Ms Svetlana Vlahovic Dimanovska, Deputy National Co-ordinator for the Fight against Trafficking in Human Beings and Illegal Migration, Head of Sector for Negotiation and Eurointegration in the Ministry of the Interior, and contact person appointed by the authorities to liaise with GRETA.

10. The draft version of the present report was approved by GRETA at its 44th meeting (27 June - 1 July 2022) and was submitted to the authorities of North Macedonia for comments. The authorities' comments were received on 9 September 2022 and were taken into account by GRETA when adopting the final report at its 45th meeting (26-28 September 2022). The report covers the situation up to 28 September 2022; developments since that date are not taken into account in the following analysis and conclusions, except for the adoption of the Law on the Payment of Monetary Compensation to Victims of Violent Crimes, which was imminent at the time of the adoption of the report.⁵ GRETA's conclusions and proposals for action are summarised in Appendix 1.

⁵ <https://www.coe.int/en/web/skopje/-/law-on-access-to-state-compensation-for-victims-of-human-trafficking-adopted-in-north-macedonia>

II. Overview of the current situation and current trends in the area of trafficking in human beings in North Macedonia

11. North Macedonia is a country of origin, transit and destination of victims of trafficking in human beings (THB). According to official data, the number of formally identified victims was two in 2017 (both children), nine in 2018 (six children and three adults), six in 2019 (four children and two adults), seven in 2020 (six children and one adult), 48 in 2021 (six children and 42 adults), and seven in 2022 until 1 September (six children and one adult).⁶ More than half of the victims (41) were female. 32 victims were nationals of North Macedonia, of whom four were trafficked abroad and the remainder within the country. Foreign victims mainly originated from Taiwan (35 men and four women). The remaining eight foreign victims originated from Albania, Bosnia and Herzegovina, Serbia, Russia and Türkiye. The main form of exploitation of the identified victims was labour exploitation (42), followed by sexual exploitation (15), forced marriage (13), forced begging (3), and a combination of forced marriage and sexual and/or labour exploitation (4).

12. In addition, according to data provided by the national authorities, in the period 2017-2021, a total of 361 potential victims of THB were detected, mostly by the mobile teams (see paragraphs 152 and 153), as follows: in 2017 - 97 (including 41 children); in 2018 - 124 (including 87 children); in 2019 - 124 (including 85 children); in 2020 - 6 (including 5 children); in 2021 - 10 (including 5 children); in 2022 until September - 9 (including 7 children). The low number of potential victims detected in 2020 and 2021 is due to the absence of financial support for the mobile teams. Most of the potential victims were exploited in forced begging or subjected to child marriages, but there were also some potential victims detected among irregular migrants. The potential victims could not be formally identified as victims of trafficking mainly due to the lack of evidence proving the purpose of exploitation (see paragraphs 96 and 158).

13. Sexual exploitation is most often carried out in restaurants, bars and nightclubs in the western part of the country. Labour exploitation occurs in the same facilities as well as in agriculture, construction, textile, animal husbandry and the cleaning sector. Most victims of THB are children from dysfunctional families with a plethora of risk factors, including domestic violence and poor social and economic conditions.

14. North Macedonia continues to be a transit country for migrants and refugees. Approximately 150 000 migrants, including many unaccompanied children, entered the territory of North Macedonia between January 2017 and October 2021.⁷ Only a small number applied for asylum, while the majority continued their journey to EU countries. No victim of THB has been identified among asylum seekers and migrants in transit (see paragraphs 158 and 159).

⁶ By way of comparison, in the period covered by GRETA's second report, a total of 33 victims of trafficking were identified (in 2013: six adults and nine children; in 2014: two adults and six children; in 2015: one adult and three children; in 2016: three adults and three children).

⁷ See [Macedonian Young Lawyers Association \(MYLA\), 2017 CSOs report on irregular migration for South-Eastern Europe; MYLA, State of asylum in the Republic of North Macedonia for 2018 and 2019](#); UNHCR data reported on [Western Balkans - Refugees, asylum-seekers and other people in mixed movements, as of end October 2021](#).

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

15. In May 2018, a new Law on Foreigners was adopted, implementing several recommendations made in GRETA's previous reports (see paragraphs 181-182).

16. In the same year, a specific provision on the non-punishment of victims of human trafficking was included in Articles 418-a (trafficking in adults) and 418-d (trafficking in children) of the Criminal Code (CC), as recommended in GRETA's previous reports.⁸ Further, the minimum prison sentence for trafficking in adults committed by an official person in performing his/her duties was reduced from eight to five years (Article 418a, paragraph 4, of the CC).

17. Following GRETA's previous recommendations,⁹ the Law on the Payment of Monetary Compensation to Victims of Violent Crimes was adopted in November 2022, introducing state compensation, among others, for victims of human trafficking.

18. In March 2018, as a result of amendments to the Law on Social Protection, the mandate of the state shelter for victims of human trafficking was extended to also accommodate victims of sexual violence.

19. The National Commission for Combating THB and Illegal Migration (hereafter, the National Commission) has continued its functions of implementation, co-ordination and evaluation of the Government's anti-trafficking policy. The implementation of the National Commission's decisions is carried out by its Secretariat, in which representatives of governmental institutions, civil society, international organisations and donor countries take part. GRETA was informed that during the Covid-19 pandemic the Secretariat of the National Commission met rarely while previously it was convening quarterly.

20. The National Commission is headed by the National Co-ordinator for THB, who is the State Secretary of the Ministry of the Interior. In its previous evaluation reports, GRETA considered that the national authorities should establish a fully-fledged post of National Co-ordinator, supported by a dedicated office, to enable this body to effectively carry out its mandate. The national authorities stated that in order to implement this recommendation, a Deputy Co-ordinator was appointed to deal with THB, while another Deputy Co-ordinator is in charge of irregular migration. While welcoming this development, **GRETA considers that the National Co-ordinator's Office should be provided with adequate human and financial resources to enable it to effectively carry out the tasks under its mandate.**

21. The Office of the National Referral Mechanism (NRM) for victims of THB, at the Ministry of Labour and Social Policy (MLSP), continues to co-ordinate the referral of identified victims of THB to assistance, their accommodation, protection, re-integration and social inclusion. Within the framework of the NRM, there is a Co-ordinating Office which includes professionals from 30 centres for social work.

22. The Sub-group on Child Trafficking continues to function as a working body within the National Commission. It is headed by a representative of the Office of the NRM and includes representatives of the Ministry of the Interior, ICMPD, IOM, GIZ, UNICEF, the US Embassy in Skopje as well as the NGOs Open Gate/La Strada, For a Happy Childhood and Equal Access. In 2021 representatives of NGOs Children's Embassy, Megjashi, SOS Detsko selo and Luludi were added to the composition of the Sub-group.

⁸ See GRETA's first report, paragraph 195 and GRETA's second report, paragraph 155.

⁹ See GRETA's first report, paragraph 176 and GRETA's second report, paragraph 141.

23. In November 2017, the National Unit for Combating Trafficking in Human Beings and Smuggling of Migrants (Task Force) was set up for a three-year period to improve co-ordination and co-operation between the Basic Public Prosecutor's Office for Organised Crime and Corruption and the Ministry of the Interior. Except for the head and deputy head who are public prosecutors, all the members of the Task Force are police officers of the Police Unit against THB and Smuggling of Migrants, entrusted with the investigation of THB offences.

24. The setting up of the Task Force was followed by the establishment of an Operational Team for co-ordination, monitoring and management of THB cases, formal identification of THB victims and management of their status. The team was set up by a decision of the National Commission taken in July 2021. It is not operational yet, but all the relevant authorities (Ministry of the Interior, Public Prosecutor's Office, MLSP, the Office of the NRM) and NGOs have already appointed their representatives. According to information provided by the authorities, the rules of procedure of the Operational Team have been prepared and would be adopted at the next meeting of the National Commission. **GRETA would like to be kept informed about developments in this respect.**

25. In 2018 mobile teams for the identification of vulnerable persons, including THB victims, were formed in five towns (Bitola, Gevgelija, Kumanovo, Skopje and Tetovo). They comprise police officers from the Police Unit against THB and Smuggling of Migrants, social workers and NGO representatives (see also paragraph 152).

26. Further, in November 2018 the National Commission revised the Standard Operating Procedures (SOPs) for Treatment of Victims of Trafficking in Human Beings¹⁰ (see paragraphs 146 and 152).

27. In order to enable independent functioning of the National Rapporteur on Combating THB in line with the recommendation of GRETA,¹¹ the Office of the Ombudsman was appointed as National Rapporteur by a government decree in December 2019 and a new department within the Ombudsman's Office was established to assume this role. The National Rapporteur is responsible for monitoring and assessing the implementation of the National Action Plan, collecting and analysing data, and issuing recommendations to improve the state response to THB and irregular migration. The current National Rapporteur has prepared and submitted to the National Commission several reports containing recommendations on a variety of issues, such as the criminal justice response to THB and challenges in the process of identifying and protecting THB victims. The National Rapporteur takes part in the meetings of the National Commission as an observer. While welcoming these developments, GRETA notes that the designation of the Office of the Ombudsman as National Rapporteur on THB is not regulated by the Law on Ombudsman, but by a government decree, and that this designation has not been supported by additional human and financial resources. **GRETA considers that the authorities of North Macedonia should examine the possibility of amending the Law on Ombudsman by indicating the Ombudsman institution as the National Rapporteur on Combating THB, and increase the human resources and funding available to the latter in order to guarantee effective monitoring of the anti-trafficking activities of state institutions.**

28. In 2020, with the financial support of GIZ, an external evaluation of the implementation of the National Strategy and National Action Plan for Combating THB and Illegal Migration 2017-2020 was conducted by an anti-trafficking specialist from ICMPD.¹² Among other findings, the evaluation pointed to the need for dedicating separate chapters in the Action Plan on the identification, referral and assistance provision of child victims of THB; enhancement of the quality of data collection and information management; greater involvement of the local actors and municipality budgets in the implementation of the anti-trafficking activities; introducing monitoring, evaluation and review criteria; and use of the term "irregular migration" instead of "illegal migration".

¹⁰ Available at: <https://cutt.ly/Ou88REi>

¹¹ See GRETA's second report, paragraphs 23 and 26.

¹² Elena Petreska, *Evaluation of the Implementation of the National Strategy and National Action Plan for Combating Trafficking in Human beings and Illegal Migration 2017-2020*, July 2020.

29. Based on the above-mentioned evaluation, a new National Strategy and National Action Plan for Combating THB and Illegal Migration for the period 2021-2025 as well as the first National Action Plan for Combating Trafficking of Children (2021-2025) were drafted with IOM support and adopted by the Government on 20 April 2021. In addition to the areas covered by previous action plans (supporting framework, prevention, assistance, protection, integration and voluntary return of victims of THB and migrant smuggling, detection and prosecution of perpetrators), the two new action plans cover the identification and referral of victims of trafficking and migrant smuggling as a new strategic area. The National Action Plan for Combating THB and Illegal Migration had 10 strategic goals, 34 objectives and 120 activities while the National Action Plan for Combating Trafficking of Children had 8 strategic goals, 17 objectives and 33 activities. Both Action Plans specify the timeframe and responsible implementing entities as well as indicators for measuring implementation. The activities are to be funded from the budgets of the relevant institutions, local authorities and through projects funded by international organisations. The amount of the envisaged funding for implementing the Action Plans is not specified. The Ministry of the Interior is the only State institution with a separate programme and budget for action against human trafficking and irregular migration. The budget allocated in 2022 was MKD 2 050 000 (approximately EUR 33 000), while the proposed budget for 2023, 2024 and 2025 is, respectively, MKD 2 450 000, MKD 2 650 000 and MKD 2 550 000 (approximately EUR 40 000, EUR 43 000 and EUR 41 000).

30. To effectively monitor the results of the implemented activities in the National Action Plan, the National Commission and the Sub-group on Child Trafficking have prepared separate annual operational plans for combating trafficking in adults and trafficking in children.

31. In addition to the six already existing local commissions for combating THB and illegal migration in the towns of Bitola, Tetovo, Štip, Veles, Gevgelija and Prilep,¹³ a new local commission was set up in Kumanovo in 2019. Each local commission is chaired by the president of the municipal council and is expected to draft a local action plan that includes strategic goals and activities as envisaged in the National Action Plans. The implementation of the local action plans is supposed to be financed through the municipality budget. GRETA's delegation met the president and a member of the local commission in Kumanovo, who stated that no activities had been conducted by the local commission because the previous local action plan (2019-2020) could not be implemented due to the Covid-19 pandemic and the new local action plan had not yet been adopted by the municipal council. **While welcoming the setting up of the local commission in Kumanovo, GRETA considers that the authorities should strengthen the role and capacity of the local commissions for combating THB, including by providing training on THB to their members.**

¹³ See GRETA's first report, paragraph 26 and GRETA's second report, paragraph 24.

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

1. Introduction

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

33. The right to effective remedies is a reflection of the human-rights based approach underpinning the Convention. Regardless of whether a State is implicated in the trafficking or directly responsible for the harm, the positive obligations arising from international human rights law require States to facilitate and guarantee effective access to remedies if they have failed to take reasonable steps to prevent human trafficking, protect potential or actual victims of trafficking, and effectively investigate trafficking offences.¹⁴

34. According to the Basic principles on the right to an effective remedy for victims of trafficking in persons,¹⁵ the right to an effective remedy is considered to include restitution,¹⁶ compensation,¹⁷ rehabilitation,¹⁸ satisfaction¹⁹ and guarantees of non-repetition.²⁰ All victims of trafficking require access to appropriate and effective remedies, starting with access to justice. The provision of effective remedies serves multiple purposes. The remedy of compensation, for instance, for any injury, loss or harm sustained, can provide critical support in victims' recovery and empowerment, help their social inclusion and prevent re-victimisation. The remedy of rehabilitation can similarly help in the victims' recovery and social inclusion. Of relevance in this respect is also the 1985 United Nations Declaration of Basic Principles

¹⁴ *Rantsev v. Cyprus and Russia*, application no. 25965/04, judgment of 7 January 2010; *L.E. v. Greece*, application No. 71545/12, judgment of 21 January 2016; *Chowdury and Others v. Greece*, application No. 21884/15, judgement of 30 March 2017; *S.M. v. Croatia*, application No. 60561/14, Grand Chamber judgment 25 June 2020.

¹⁵ UN General Assembly, Basic principles on the right to an effective remedy for victims of trafficking in persons, Annex to the Report by the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, 6 August 2014, A/69/269, available at: <https://undocs.org/A/69/269>

¹⁶ Restitution includes restoration of liberty, including release of the victim from detention; enjoyment of human rights and family life, including reunification and contact with family members; safe and voluntary repatriation; temporary or permanent residence status, refugee status, complementary/subsidiary protection or third-country resettlement; recognition of the victim's legal identity and citizenship; restoration of the victim's employment; assistance and support to facilitate social integration or reintegration; return of property, such as identity and travel documents and other personal belongings.

¹⁷ Compensation may cover damages for physical or mental harm; damages for lost opportunities, including employment, education and social benefits; reimbursement of costs of necessary transportation, childcare or temporary housing; material damages and loss of earnings; moral or non-material damages; reimbursement of legal fees and other costs relating to the participation of the victim in the criminal justice process; reimbursement of costs incurred for legal, medical or other assistance.

¹⁸ Rehabilitation includes medical and psychological care, legal and social services, shelter, counselling and linguistic support, independently of the capacity or willingness of the victims to co-operate in legal proceedings.

¹⁹ Satisfaction includes effective measures aimed at the cessation of continuing violations; verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety, privacy and other interests of the victims of their families; an official declaration or a judicial decision restoring the dignity, reputation and rights of the victim; public apologies; judicial and administrative sanction against the perpetrators.

²⁰ Guarantees of non-repetition include ensuring the effective investigation, prosecution and sanctioning of traffickers; all measures necessary to protect victims from re-trafficking; providing or strengthening training of relevant officials; strengthening the independence of the judiciary; modifying practices that cause, sustain or promote tolerance to trafficking, including gender-based discrimination and situations of conflict and post-conflict; effectively addressing the root causes of trafficking; promoting codes of conduct and ethical norms for public and private actors; protecting legal, medical and other professionals and human rights defenders who assist victims.

of Justice for Victims of Crime and Abuse of Power, which outlines the main steps to be taken to improve access to justice, and fair treatment, restitution, compensation and social assistance for victims of crime.²¹

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

36. Children need special support to access remedies, the best interests of the child being the primary consideration in all actions concerning trafficked children. The appointment of legal guardians to represent unaccompanied or separated children plays a vital role in enabling child victims of trafficking to access justice and remedies. Further, facilitating family reunification can be an important element of restitution.²²

37. Civil society, such as NGOs, trade unions, diaspora organisations and employer organisations, plays a vital role in enabling victims of THB to claim compensation and other remedies.²³ In this context, reference should be made to the international projects COMP.ACT - European Action on Compensation for Trafficked Persons²⁴ and Justice at Last - European Action for Compensation of Victims of Crime,²⁵ which aim to enhance access to compensation for trafficked persons.

38. The private sector should also play a role in enabling access to, as well as providing, remedies to trafficked persons, in accordance with the UN 'Protect, Respect and Remedy' Framework and the United Nations Guiding Principles on Business and Human Rights.²⁶ The role of businesses includes steps to ensure that their supply chains are free of trafficked labour, as well as the adoption and implementation of measures to facilitate access to remedies for victims for any harm that occurs. Further, businesses have the potential to help trafficked persons regain economic autonomy.²⁷ States should therefore ensure that business enterprises implicated in human trafficking are held responsible and take steps to reduce barriers that could lead to a denial of access to remedies.

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

²¹ United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Adopted by General Assembly resolution 40/34 of 29 November 1985, available at: https://www.unicef-irc.org/portfolios/documents/472_un-declaration-crime.htm

²² UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 7-8.

²³ OSCE Compensation for Trafficked and Exploited Persons in the OSCE Region, 2008, pp. 48-53.

²⁴ <http://www.compactproject.org/>

²⁵ <http://lastradainternational.org/about-lsi/projects/justice-at-last>

²⁶ United Nations Guiding Principles on Business and Human Rights, implementing the UN 'Protect, Respect and Remedy' Framework, Doc. A/HRC/17/31 (2011).

²⁷ UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 8-9.

2. Right to information (Articles 12 and 15)

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

41. The information that victims of trafficking must be provided with deals with essential matters, including availability of protection and assistance arrangements, the various options open to the victim, the risks they run, the requirements for legalising their presence in the Party's territory, the various possible forms of legal redress, how the criminal-law system operates (including the consequences of an investigation or trial, the length of a trial, witnesses' duties, the possibilities of obtaining compensation from persons found guilty of offences or from other persons or entities, and the chances of a judgment being fully and effectively enforced). The information and counselling should enable victims to evaluate their situation and make an informed choice from the various possibilities open to them.²⁸

42. Many victims do not speak, or barely speak, the language of the country they have been brought to for exploitation. Ignorance of the language adds to their isolation and is one of the factors preventing them from claiming their rights. The provision of translation and interpretation, where needed, is an essential measure for guaranteeing access to rights, which is a prerequisite for access to justice. GRETA has stressed the need for ensuring the availability, quality and independence of interpreters.²⁹

43. Pursuant to Article 122, paragraph 2, of the Law on Foreigners of North Macedonia, victims of trafficking shall be informed in a language they understand about their rights, the relevant judicial and administrative procedures, and the possibility and procedure for their return to their country of origin or the issuance of a temporary residence permit. According to the SOPs for Treatment of Victims of Trafficking in Human Beings (revised in November 2018), as soon as potential victims of trafficking are identified, they should be provided with information in a clear, professional and patient manner by police officers from the Police Unit against THB and Smuggling of Migrants, competent officials from the centres for social work, the Office of the NRM, the MLSP, labour inspectors or members of the mobile teams for identification of vulnerable persons, including THB victims (see paragraph 152). In practice, potential victims of trafficking usually receive information from the earliest stage of their detection through the mobile teams. Formally identified victims are first verbally informed of their rights by the police officers of the Police Unit against THB and Smuggling of Migrants and later by the staff of the state shelter.

44. Pursuant to Article 122, paragraph 1, of the Law on Foreigners, during the period of recovery and reflection, victims are entitled to translation and interpretation. However, this provision is not always implemented because of the lack of translators and interpreters for some languages as well as the lack of state funding allocated to this purpose. In practice, the authorities seek support from NGOs (especially La Strada/Open Gate and MYLA) or international organisations, such as IOM, which provide an interpreter/translator or funding to engage one. For example, in the Taiwanese case mentioned in paragraph 99, interpretation was provided by La Strada/Open Gate.

²⁸ See Explanatory Report on the Convention, paragraphs 160-162.

²⁹ See 8th General report on GRETA's activities, paragraphs 168-169.

45. Several information materials on the rights of victims of trafficking have been prepared (in Macedonian, Albanian, Turkish and Romani) and distributed to the relevant authorities. However, they are not available in all the police stations and are not used by all the frontline professionals who may come into contact with victims of THB, such as labour inspectors. The authorities of North Macedonia indicated in their comments on GRETA's draft report, that additional information materials about human trafficking victims' rights and available services were being prepared and would be translated into a range of foreign languages and made available online as well as to law enforcement officers, prosecutors, judges, members of mobile teams, social workers, labour inspectors, the Reception Centre for Foreigners, the two transit centres for migrants, and the state shelter for victims of human trafficking. **GRETA would like to be kept informed of progress made in this respect.**

46. Victims of trafficking taking part in criminal proceedings are informed by the public prosecutor of their rights as an injured party and are entitled to interpretation pursuant to Article 57 of the Criminal Procedure Law (CPL). Interpretation and translation are to be ensured by a professional from the official list of court interpreters/translators. However, GRETA was informed that in some cases during victims' interviews with the public prosecutor, interpretation was provided by a police officer.³⁰ Further, at court hearings where the victim is not called to testify, interpretation is not provided by the State.

47. As regards the Reception Centre for Foreigners that the GRETA delegation visited, interpreters are provided by international organisations (especially IOM), sometimes by telephone or online calls. The NGO MYLA is present in the reception centre and the two transit centres to provide migrants with information on the asylum procedure. In the centres there are also brochures on the asylum procedure in 10 languages, including Pashto, Urdu, Farsi, Kurdish and Arabic.

48. GRETA considers that the authorities of North Macedonia should strengthen the systematic provision of oral and written information to potential and formally identified victims of trafficking, in a language they can understand, regarding their rights, the services available and how to access them, as well as the implications of being identified as a victim of trafficking. Law enforcement officers, prosecutors, judges, members of the mobile teams, social workers, labour inspectors as well as the staff of the Reception Centre for Foreigners, the transit centres for migrants and the state shelter for victims of trafficking should be trained and instructed on how to properly explain to victims of THB their rights, taking into account their cognitive skills and psychological state.

49. Further, GRETA considers that the authorities of North Macedonia should ensure the availability of interpreters for different languages, as well as their sensitisation to the issue of human trafficking.

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

50. Article 15(2) of the Convention obliges Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. As court and administrative procedures are often very complex, legal assistance is necessary for victims to be able to claim their rights. It is for each Party to decide the requirements for obtaining such free legal aid. Parties must have regard not only to Article 15(2) of the Convention, but also to Article 6 of the ECHR. Even though Article 6(3)(c) of the ECHR provides for free assistance from an officially appointed lawyer only in criminal proceedings, European Court of Human Rights case-law³¹ also recognises, in certain circumstances, the right to free legal assistance in a civil matter on the basis of Article 6(1) of the ECHR. Thus, even in the absence of legislation granting free legal assistance in civil matters, it is for the courts to assess whether, in the interest of justice, an applicant who is without financial means should be granted legal assistance if unable to afford a lawyer.

³⁰ See Open Gate/La Strada, *Monitoring and evaluation of laws and policies for action against human trafficking and their enactment in the Republic of North Macedonia, in 2019*, p. 39.

³¹ *Airey v. Ireland* judgment, 9 October 1979.

51. GRETA's reports highlight the value of a lawyer being appointed as soon as there are reasonable grounds for believing that a person is a victim of trafficking, before the person makes an official statement and/or decides whether to co-operate with the authorities. Early access to legal assistance is also important to enable victims to take civil actions for compensation and redress.³²

52. Article 122 of the Law on Foreigners stipulates that during the recovery and reflection period a victim of trafficking has the right to legal assistance in criminal or other proceedings. The new Law on Free Legal Aid, in force since October 2019, provides for primary and secondary legal support to all citizens and residents of North Macedonia, asylum seekers and persons entitled to legal assistance in accordance with ratified international agreements. Primary legal assistance can be provided by an authorised official of the Ministry of Justice, an association or a legal clinic. It consists of informing victims of their rights and assistance in applying for secondary legal assistance. There are currently 65 persons, with legal training, authorised to provide primary legal assistance. They are not necessarily lawyers registered at the Bar Association.

53. Secondary legal assistance covers the representation of the beneficiary by a lawyer in civil and administrative proceedings, including in order to claim compensation, and is subject to means testing (Articles 13 and 14 of the Law on Free Legal Aid). A victim of trafficking is entitled to ask for exemption from payment of judicial costs, which is decided by the first instance court based on the financial situation of the applicant. Unlike the previous Law on Free Legal Aid, which provided for legal assistance in all court and administrative proceedings, the new law leaves the regulation of the representation of the victim of trafficking in criminal proceedings to the Criminal Procedure Law (CPL). Although there are some provisions in the CPL providing for a legal counsellor (Articles 53, 54, 55 and 232), they are not sufficiently clear and there are gaps in their application in practice. For example, pursuant to Article 53 of the CPL, the victim of a crime punishable by a prison sentence of at least four years has the right to a "counsellor" paid for from the state budget prior to giving a statement or filing a property claim, if the victim had suffered severe psycho-physical damage as a result of the crime. Lawyers met by the GRETA delegation stated that it was not clear if the term "counsellor" included representation by a lawyer. GRETA was informed that in some cases social workers with legal background had been called to provide legal counselling to victims under this article. On the other hand, pursuant to Article 49 of the new Law on Free Legal Aid, Article 8 of the previous Law on Free Legal Aid, which includes trafficking victims among the category of persons entitled to free legal aid "in all court and administrative proceedings", is still in force.

54. Article 145 of the Law on Juvenile Justice prescribes that legal assistance to a child victim should be provided by a lawyer who has attended specialised training on children's rights. There is a list of lawyers trained to deal with cases involving children. Legal aid lawyers are appointed to victims of THB by the Ministry of Justice either from that list or the list of lawyers for the representation of adults, according to the chronological order.

55. According to civil society actors, no victim of trafficking has been assigned a lawyer at the expense of the State. Representatives of the Ministry of Justice met by GRETA confirmed that they had not received any requests for free legal aid in respect of a victim of trafficking. Victims are usually represented by a lawyer paid for by the NGO Open Gate/La Strada. The NGO MYLA has also provided legal assistance to some victims of trafficking. GRETA was informed that in some cases, including three THB cases,³³ judges ordered the defendants to pay the fees of the lawyers representing victims of crimes, however, this is not a consistent practice. It is clear that some THB victims have not been represented by a lawyer in criminal proceedings.³⁴

³² 8th General report on GRETA's activities.

³³ Judgments KOK 64/19, 19 March 2020; KOK 59/18, 15 October 2020; and KOK 20/18, 5 April 2021.

³⁴ See Open Gate/La Strada, *Monitoring and evaluation of laws and policies for action against human trafficking and their enactment in the Republic of North Macedonia in 2019*, p. 41.

56. NGOs have not received state funding to provide legal assistance to victims of trafficking. In March 2022 the Ministry of Justice launched a tender call for NGOs and legal clinics to provide primary legal assistance to persons in need, including victims of trafficking. Five NGOs (Youth Cultural Centre in Bitola, National Roma Centre in Kumanovo, EHO Educational and humanitarian organisation in Štip, KHAM in Delchevo, HOPS in Skopje) and two legal clinics (of the Law Faculty of the University of South-eastern Europe in Tetovo and of the Law Faculty of Goce Delchev University in Štip) have been selected by the Ministry for this purpose; each of them will receive an annual sum of MKD 150 000 (approximately EUR 2 500) for the provision of primary legal assistance.

57. The Council of Europe has been implementing a project entitled "Supporting enhanced access to higher quality free legal aid services in North Macedonia", as part of the joint EU-Council of Europe programme "Horizontal Facility for the Western Balkans and Turkey 2019-2022". The project is focused on the harmonisation of legal provisions, policies and practices related to free legal aid, capacity building for the main actors in the field and awareness raising for the public.³⁵ This project is not specific to THB victims, and it is not clear to what extent they will benefit from it. In addition, the Council of Europe has recently prepared and distributed a leaflet on THB victims' right to legal aid and compensation, as well as a brochure on legal aid for THB victims.³⁶

58. As regards training to legal professionals, the Council of Europe HELP Programme online course on combating THB was followed by lawyers and law students. The Bar Association also prepared a guide for lawyers on the protection of victims of THB.

59. With regard to migrants in transit and asylum seekers, free legal assistance is provided in the Reception Centre for Foreigners by the NGOs MYLA and Jesuit Refugee Service. MYLA is also present in the two transit centres to inform migrants of their rights and provide them with free legal assistance.

60. GRETA notes that access to legal assistance is important during the investigation because a lawyer can assist the victim in preparing a detailed written complaint or submission about the crime, which may limit the number of times a victim is questioned by the police. The lawyer can accompany the victims during police interviews and ensure that their procedural rights are respected, helping to prevent any degrading treatment of the victim. Furthermore, the lawyer can assist the victim to join the criminal proceedings as injured party and claim compensation, and can also ask that the defendant's assets be frozen with a view to guaranteeing compensation. GRETA is concerned by the lack of legal clarity and the fact that access to free legal aid for victims of THB depends on proof of lack of financial means to pay for a lawyer. **GRETA urges the authorities of North Macedonia to take further steps to facilitate and guarantee access to justice for victims of THB, in particular by ensuring that:**

- **the legislation provides a clear basis for providing legal assistance as soon as there are reasonable grounds for believing that a person is a victim of trafficking, before they have to decide whether they want to co-operate with the authorities and/or make an official statement to the police;**
- **investigators and prosecutors instruct victims on their right to legal representation, and such representation is ensured from the outset of criminal proceedings;**
- **the department of the Ministry of Justice responsible for free legal aid is sensitised to the importance of legal representation for victims of THB and takes steps to inform them of the relevant procedures and enable them to access legal assistance;**
- **adequate funding is provided to specialised NGOs providing legal assistance to victims of trafficking, including legal representation in court proceedings.**

³⁵ For details on the activities carried out under this project, see [Supporting enhanced access to higher quality Free Legal Aid services in North Macedonia \(coe.int\)](https://rm.coe.int/-/1680a22606)

³⁶ Available at <https://rm.coe.int/-/1680a22606>

4. Psychological assistance (Article 12)

61. Human trafficking and exploitation may have serious psychological and physical consequences for the victims, including mental health problems and loss of self-esteem. Psychological assistance is needed to help victims of trafficking overcome the trauma they have been through and achieve a sustained recovery and social inclusion. Some victims require long-term therapeutic attention due to the violence that they have suffered. Every victim of trafficking should have a clinical assessment tailored to include an evaluation of their particular readiness for therapy conducted by an experienced clinician.³⁷

62. In North Macedonia, both domestic and foreign victims of trafficking are entitled to medical and psychological assistance pursuant to Article 122, paragraph 1, of the Law on Foreigners and Article 66, paragraph 1, of the 2019 Social Protection Law. The medical health insurance of citizens of North Macedonia covers the fees of psychologists.³⁸ Those who do not have medical insurance are entitled to health care pursuant to Article 66, paragraph 1, of the Social Protection Law. The conditions for providing psychological assistance are detailed in the SOPs.

63. Psychological assistance is provided in the state shelter for victims of THB by the psychologist of the NGO Open Gate/La Strada (see paragraph 165) who also provides support to victims who are not accommodated in the shelter. Victims of trafficking who participate in criminal proceedings are provided with psychosocial support before and during the hearings by NGOs and/or social workers.

64. **GRETA welcomes the existing arrangements for the provision of psychological support to victims of trafficking and invites the authorities of North Macedonia to continue their efforts in this regard.**

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

65. Article 12, paragraph 4, of the Convention requires State Parties to enable victims of trafficking who are lawfully present in the country to have access to the labour market, vocational training and education. An important element of the recovery and successful social inclusion of trafficked persons is their economic empowerment, which can be achieved through job placement, microbusinesses and social enterprises.³⁹ GRETA has stressed the need to develop public-private partnerships with a view to creating appropriate work opportunities for victims of trafficking.⁴⁰

66. Pursuant to Article 10 of the Law on Employment of Foreign Nationals, a work permit can be provided to victims of trafficking for the duration of their residence permit. Foreign victims are also entitled to education in a state educational institution (Article 159, paragraph 8, of the Law on Foreigners).

67. As noted in GRETA's second report,⁴¹ since 2014 there are state programmes for assistance and support for the reintegration of child and adult victims of THB. These programmes cover, among others, services to facilitate victims' access to education and employment support, in accordance with a reintegration plan prepared on the basis of an assessment of the needs of the victim. The need assessment is conducted in co-operation with the competent state authorities (police officers and health workers), mobile teams and/or NGO representatives. Centres for social work are responsible for following the implementation of these programmes in partnership with other institutions at the local level and NGOs.

³⁷ OSCE, *Trafficking in Human Beings Amounting to Torture and Other Forms of Ill-Treatment* (2013), Vienna, p.115.

³⁸ Article 5, paragraph 15, of the Law on Health Insurance.

³⁹ Rebecca Surtees, NEXUS Institute, *Re/integration of trafficked persons: supporting economic empowerment*, Issue paper No. 4, King Baudouin Foundation (2012).

⁴⁰ 8th General report on GRETA's activities.

⁴¹ See GRETA's second report, paragraphs 114 and 119.

68. In addition, since 2012, Open Gate/La Strada has been implementing a programme of accompanying social work which provides long-term support to victims of THB. According to a report prepared by Open Gate/La Strada,⁴² 168 potential and identified victims benefited from the programme in 2005-2020, all of whom were female and the majority were aged 15 to 17. Out of these victims, 131 were accommodated in the shelter for victims of THB, 55 victims received support to continue their education and vocational training, and two victims were enrolled at university; 113 victims did not benefit from education or vocational training due to their short stay at the shelter or lack of interest. The report points out that while many of the victims have been reintegrated in the society, there have also been cases where victims were re-trafficked.

69. According to civil society actors, the above-mentioned state programmes do not function effectively due to lack of financial and technical resources for their implementation and the insufficient involvement of local self-government in their administration.⁴³ Further, victims of THB cannot benefit from the measures provided through the National Employment Agency as the Agency cannot guarantee protection of victims' personal details. Therefore, after leaving the shelter, many victims experience unemployment and problems to find accommodation, which place them at a risk of being re-trafficked.⁴⁴

70. GRETA considers that the authorities of North Macedonia should strengthen effective access to the labour market for victims of THB and their economic and social inclusion through the provision of vocational training and job placement, raising awareness amongst employers, and the promotion of micro-businesses, social enterprises and public-private partnerships, including through secure state supported employment programmes, with a view to creating appropriate work opportunities for victims of trafficking.

6. Compensation (Article 15)

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

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

⁴² Open Gate/La Strada, *Challenges in identification, protection and reintegration of victims of human trafficking, 2000-2020*.

⁴³ See *ibidem*, pages 29 and 30; Elena Petreska, *Evaluation of the Implementation of the National Strategy and National Action Plan for Combating Trafficking in Human beings and Illegal Migration 2017-2020*, July 2020, pp 36-37.

⁴⁴ See Open Gate/La Strada, *Challenges in identification, protection and reintegration of victims of human trafficking, 2000-2020*, p. 30.

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

74. The legal framework for compensation of victims of THB by offenders in North Macedonia has remained unchanged since GRETA's first evaluation.⁴⁵ Victims can claim compensation for material and non-material damages by joining the criminal proceedings as injured party and filing a compensation claim (Articles 56 and 112 of the CPL) and/or in a civil court (Article 114 of the CPL). The prosecutor has an obligation to collect evidence in support of the compensation claim, and the criminal court must decide on the claim when issuing the verdict. To file a compensation claim, it is sufficient to inform, orally or in writing, the prosecutor or the court of the intention to seek compensation before the end of the main hearing (Article 379 of the CPL). However, in some THB cases, victims reportedly could not file a compensation claim because they did not have lawyers to represent them or because neither they nor their lawyers were invited to the main hearing,⁴⁶ although pursuant to Article 348, paragraph 1, of the CPL "the plaintiff and the injured party and their legal representatives" shall be invited to the main hearing.

75. If the court issues a guilty verdict, it can decide to order the defendant to compensate the victim or refer the victim to civil proceedings if there is no sufficient evidence to decide on the compensation claim and the collection of such evidence may considerably prolong the proceedings (Article 114, paragraph 2, of the CPL). The victim has the right to appeal the decision on the compensation claim (Article 411 of the CPL). If the defendant is acquitted of the charges, the victim can seek compensation in civil proceedings.

76. GRETA had the opportunity to examine 15 cases where a judgment for THB had been issued since November 2017 (see paragraph 93). In six of the cases the victim was referred to a civil court, based on the assessment that deciding on the compensation claim would considerably prolong the criminal proceedings. In three of these cases, the victims did not have a lawyer.⁴⁷ In five other cases, the victim or their lawyer informed the court of their intention to claim compensation before a civil court. However, there is no information on whether any victim of trafficking claimed compensation in civil proceedings.

77. It appears that in practice victims are not always notified with a copy of the judgment, even when they join the criminal proceedings as injured party. This constitutes a breach of Article 407, paragraph 5, of the CPL, which provides that the verdict of the criminal court shall be notified to the injured party with instructions on their right to appeal. In several judgments analysed by GRETA, the victim/injured party or their lawyer was not included in the list of persons to whom the judgment was to be notified and the authorities have not provided any explanations for that. Since no written decision is taken by the court on the admission of a person as an injured party until the first instance judgment is received, it is not clear if victims who have asked to join the criminal proceedings as an injured party are indeed recognised as such.⁴⁸ Only when the victim is recognised as an injured party will she/he be notified of the first instance judgment and can appeal it. The representation of the victim by a lawyer is therefore crucial to ensure that the victim is recognised as an injured party and notified of the judgment, making it possible to claim compensation before a civil court within the legal time limit.

⁴⁵ See GRETA's second report, paragraph 136.

⁴⁶ According to a report delivered in 2021, in two out of six THB cases tried in 2019, victims could not seek compensation for this very reason. Open Gate/La Strada, *Monitoring and evaluation of laws and policies for action against human trafficking and their enactment in the Republic of North Macedonia in 2019*, page 39. See also UNODC, [Exploitation and Abuse: The Scale and Scope of Human Trafficking in South Eastern Europe](#), page 45.

⁴⁷ See Open Gate/La Strada, *Monitoring and evaluation of laws and policies for action against human trafficking and their enactment in the Republic of North Macedonia in 2019*, p. 41.

⁴⁸ Pursuant to article 56 of the CPL the victim "shall have the right to report to the police or to the Public Prosecution Office as an injured party until the moment when the indictment is raised, and to report to the court prior to the completion of the main hearing. The application of the victim as an injured party shall be rejected if it is obviously unjustified or untimely."

78. In three criminal cases adjudicated by the Basic Criminal Court Skopje 1 since 2017, victims of THB were awarded non-material damages. In the first case, in June 2016 a girl had been forced by a woman and a man to provide sexual services in exchange for money. Each defendant was sentenced to four years' imprisonment for THB and the victim was awarded MKD 180 000 (approximately EUR 3 000).⁴⁹ In the second case, a girl had been forced by her mother to perform sexual acts in exchange for money over the period from the end of 2015 to March 2016. The mother was sentenced to 12 years' imprisonment for THB and the victim was awarded MKD 300 000 (approximately EUR 5 000).⁵⁰ In the third case, a girl was sold into marriage by her cousin for EUR 1 600 and managed to escape after several attempted rapes by the man who had bought her. The latter was sentenced to four years' imprisonment for THB⁵¹ and the victim was awarded MKD 300 000.⁵² The court decided that if the defendant did not pay the compensation within a set deadline, the compensation awarded should be recovered from the money that was seized from the defendant during a search of his house by the police (equivalent to EUR 24 600). In all three cases, victims were represented by a lawyer and the defendants were ordered by the court to pay their lawyers' fees.

79. According to information provided to GRETA, it is not possible to claim compensation for the amounts of money victims of sexual exploitation are forced to earn and hand over to traffickers, due to the fact that prostitution is illegal in North Macedonia. In GRETA's view, to deny victims of sexual exploitation compensation from traffickers for loss of earnings on that ground would run contrary to the object and purpose of the international instruments set up to provide effective protection to victims of all forms of human trafficking, in particular Article 15 of the Convention.

80. If the perpetrator does not pay the damages within the time limit indicated in the judgment, the victim can resort to enforcement measures. However, GRETA was informed that the execution of judgments is very challenging due to the lack of property registered in the name of perpetrators, and the often unsuccessful procedure of selling perpetrators' properties, as buyers are afraid to purchase them.

81. Articles 97 to 98-a of the CC provide for the seizure and confiscation of assets obtained through or used in the commission of a criminal offence, including extended confiscation of assets for which the prosecutor should provide sufficient evidence that there is reasonable suspicion it was acquired through the commission of certain criminal offences. Confiscated assets can be used to compensate victims under certain conditions spelled out in Article 99 of the CC. However, seizure and confiscation of assets remain very challenging. According to the judgments analysed by GRETA, the court ordered the confiscation of assets only in three cases of THB.⁵³ In two cases in which bar owners were convicted for THB, no assets were confiscated.⁵⁴ GRETA was informed that in all cases the police verify if the perpetrators have real estates and bank accounts, but the prosecutors are reluctant to order more thorough financial investigations at the outset of the investigation due to the risk that the suspects may find out that they are under police investigation.

⁴⁹ Judgment KOK 59/18 issued on 15 October 2020 and upheld on 22 February 2021 by an appellate court.

⁵⁰ Judgment KOK 20/18 issued on 05 April 2021 and became final on an unknown date.

⁵¹ GRETA was informed that the victim's cousin was sentenced by a juvenile court to two years' suspended imprisonment for THB.

⁵² Judgment KOK 86/19 issued on 18 February 2020 and upheld on 05 October 2020 by an appellate court.

⁵³ An amount of denars, equivalent to EUR 24 600, a vehicle and a cell phone in two judgments issued on 18 February 2020 (KOK 86/19 and KOK 109/19) and a vehicle, a cell phone and a laptop in a judgment issued on 20 March 2019 (KOK 35/15).

⁵⁴ Judgments KOK 45/15, 28 May 2018 and KOK 76/14, 5 November 2018.

82. Pursuant to Article 53, paragraph 3, of the CPL, the victim of a crime punishable by a prison sentence of at least four years is entitled to compensation from a state fund under the terms and in the manner prescribed by a special law, if compensation cannot be recovered from the defendant. In order to implement this provision, in November 2022 the Parliament of North Macedonia adopted the Law on Payment of Monetary Compensation to Victims of Violent Crimes. The draft of this law was prepared by an interdisciplinary group composed of representatives of state authorities, NGOs and international organisations, and was supported by the Council of Europe. GRETA was informed that the new Law will only enter into force once the secondary regulations are adopted and the Commission on state compensation is set up. Pursuant to the new Law, the scope of violent crimes covers trafficking in adults and trafficking in children (which are two separate articles of the CC). Victims of violent crimes are entitled to state compensation for crimes committed on the territory of North Macedonia, irrespective of their residence status and regardless of whether a criminal procedure has been initiated against the perpetrator or whether there are factual or legal obstacles to conducting criminal proceedings. The crime has to be reported to the police or the Prosecutor's Office. The types of damages that can be covered by state compensation include medical costs, loss of earnings, funeral costs and loss of support (in case of death) and "solidarity assistance for the consequences of the criminal act". There are no procedural costs for the victim and it is possible to request legal aid in order to claim state compensation, even if it is not compulsory to have a lawyer for that purpose. The Law allows for a maximum payment of EUR 2 000 in MKD counter value to cover medical costs, and a maximum payment of EUR 2 000 in MKD counter value to cover loss of earnings that occurred due to an incapacity for work as a result of the crime. If the criminal act caused the death of the victim, indirect victims (family members) could claim a maximum amount of EUR 4 500 in MKD counter value as compensation for loss of support as well as a compensation for the usual funeral costs. The direct and indirect victims are also entitled to a maximum payment of EUR 500 in MKD counter value as a "solidarity assistance for the consequences of the criminal act". The amount of compensation for solidarity assistance is determined by the severity of the consequences of the crime, the circumstances of the case and/or the type and severity of the crime. The total amount of state compensation to a victim (direct or indirect) for all types of damages cannot exceed EUR 5 000 in MKD counter value. The compensation is to be decided upon by a Commission on state compensation composed of five members appointed by the Government. Applications for state compensation have to be sent in writing to the Commission, within a period of three years from the date of the commission of the criminal offence.

83. As noted in GRETA's second report,⁵⁵ since 2016 there is a programme run by the Ministry of Justice to compensate child victims of violent crimes, including human trafficking. GRETA was informed that MKD 500 000 (approximately EUR 8 000) were allocated by the Ministry of Justice for the implementation of this programme in 2018, one million MKD (approximately EUR 16 000) in 2019, 2020 and 2021 each year, and MKD 3 000 000 (approximately EUR 48 000) in 2022. The victim first needs to be granted compensation by a court and it should be confirmed by another court decision that the victim could not fully recover compensation from the defendant through the procedure of enforcement of judgments. The Ministry of Justice is bound by the amount awarded by the court. Since 2018 six children have received compensation from the Ministry, but only one of them was a victim of trafficking, who received MKD 900 000 (approximately EUR 14 400). The low number of applications received by the Ministry was explained by a lack of awareness about this possibility among lawyers, victims and their legal guardians.

84. According to information provided by the authorities, the Academy for Training of Judges and Public Prosecutors organises continuous training for lawyers, police officers, prosecutors and judges with a focus on THB victims' rights, including the right to compensation.

⁵⁵ GRETA's second report, paragraph 138.

85. While welcoming the adoption of the Law on Payment of Monetary Compensation to Victims of Violent Crimes and the recent court decisions awarding compensation from perpetrators to victims of trafficking, **GRETA urges the authorities of North Macedonia to make further efforts to guarantee effective access to compensation for victims of THB, in particular by:**

- **ensuring that the collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation of the victim or loss sustained by the victim, is part of the criminal investigations with a view to supporting compensation claims in court;**
- **making full use of the legislation on the seizure and confiscation of assets to secure compensation to victims of THB;**
- **systematically informing victims of trafficking of their right to seek compensation in criminal and civil proceedings and the procedure to be followed, and ensuring that they are provided with effective legal assistance, including legal representation, from the early stage of the proceedings in order to exercise this right;**
- **ensuring that victims of human trafficking can obtain a decision on compensation from the offender as part of criminal proceedings, including for loss of earnings, irrespective of the form of exploitation, and requiring courts to state, where applicable, why compensation is not considered/awarded;**
- **adopting the necessary legislative and administrative measures with a view to ensuring the effective implementation of the Law on Payment of Monetary Compensation to Victims of Violence without delay.**

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

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

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

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

89. The CC of North Macedonia provides for a minimum of four years' imprisonment for the basic offence of trafficking in adults (Article 418-a) and a minimum of eight years' imprisonment for trafficking in children (Article 418-d). The maximum penalty for trafficking in adults and in children is 15 years' imprisonment. Pursuant to Article 39, paragraph 2, of the CC, the court has to consider all circumstances which influence the nature of the penalty, i.e. both mitigating and aggravating circumstances. Article 40 of the CC allows the court to determine a sentence lower than the minimum sanction prescribed by law if mitigating circumstances justifying a reduced sentence exist.

90. Article 418-a, paragraph 3, of the CC provides that "whosoever uses or makes it available for another to use sexual services or other type of exploitation of persons knowing that they are victims of human trafficking shall be sentenced to imprisonment from six months to five years." Article 418-d, paragraphs 3 and 4, of the CC prescribes an imprisonment of at least 12 years if the victim is younger than 14 and an imprisonment of from three to eight years if the child victim is 14 or older (see paragraphs 94 and 100). In their comments on GRETA's draft report, the authorities indicated that in 2021 two criminal charges were brought against two persons on the basis of Article 418-d of the CC.

91. Articles 483 to 490 of the CPL regulate the plea-bargaining procedure. A plea-bargaining agreement can be concluded for all offences, including THB, and allows to determine a sanction lower than the minimum sanction prescribed by law. The plea-bargaining agreement should cover the type and amount of any compensation claims and should be examined by a judge, who can reject it if the collected evidence does not justify the pronouncing of the proposed criminal sanction. The judgment should be notified to the injured party, who can appeal it and seek compensation in civil court if the amount of the compensation awarded is not satisfactory. According to the prosecutor and judge whom GRETA met during the visit, plea bargaining is not seen as appropriate for THB cases and is not used in them.

92. According to official statistics, in 2017 there were three investigations for THB against three persons, in 2018 - four investigations against 13 persons, and in 2019 - three investigations against eight persons. In 2017 one criminal charge was brought against a man for THB for the purpose of forced begging committed against a boy; in 2018, there were two criminal charges against six persons (four women and two men) for THB for sexual and labour exploitation committed against three girls; in 2019 there were three criminal charges brought against six persons (two women and four men) for THB for sexual exploitation and forced marriage committed against three girls; in 2020 there was no criminal charge for human trafficking; and in 2021 criminal charges were brought against three persons (one woman and two men) for child trafficking. None of these cases involved public officials or legal persons.

93. Between November 2017 and February 2022, judgments were issued in 15 THB cases by the Basic Criminal Court Skopje 1, which remains the only criminal court dealing with THB cases. All except two of the judgments were final. All the cases concerned trafficking for the purpose of sexual exploitation and/or forced marriage. Three cases concerned trafficking in foreign women for the purpose of sexual exploitation, for which the defendants were convicted to suspended sentences.⁵⁶ The remaining 12 cases concerned child trafficking. Three cases where the victims were awarded compensation by the criminal court have already been described in paragraph 78: in two of these cases four defendants were convicted to four years' imprisonment each, and in one case the defendant (victim's mother) was convicted to 12 years' imprisonment. In the other cases, the sanctions imposed by the Court involved imprisonment ranging between four and 11 years. In some of these cases, taking admission of guilt as a mitigating

⁵⁶ Judgments KOK 67/15, 14 December 2017; KOK 45/15, 28 May 2018; and KOK 76/14, 5 November 2018.

circumstance, the Court issued sentences that are more lenient than the prescribed minimum punishment, and in other cases, the Court lessened the penalty, without any mitigating circumstances.⁵⁷

94. Reference is made to a case which illustrates both good practices and shortcomings in the handling of trafficking cases by the Court:

"X" case

- **Trial court:** Basic Criminal Court Skopje 1
- **Date and number of judgment:** 12 September 2018, KOK 52/18
- **Date of indictment:** 19 July 2018
- **Duration of the trial:** 1 month and 23 days from the indictment to the first instance judgment and 6 months and 24 days from the indictment to the appellate court judgment.
- **Victim:** Child (girl, aged 12)
- **Defendants:** The first defendant was a Macedonian Roma woman, while the second and third defendants were Macedonian men of Turkish origin

Type of exploitation: THB for the purpose of sexual exploitation and forced marriage. On 8 December 2017, the victim ran away from a children's home and was taken by deceit to the house of the first defendant, who forced her to have sexual intercourse with different men for money, receiving an overall payment of MKD 12 000 (around EUR 200). Subsequently, the first defendant took the girl to the house of her common-law husband (the second defendant) where she remained for 10 days, being repeatedly sexually abused and forced to clean the house. The second defendant called his nephew (the third defendant) who came to the house and also forced the girl into sexual intercourse and later on took her to another location in order to offer her to potential clients. The first defendant subsequently took the victim to another town by taxi and forced her to provide sexual services to the taxi driver. When the victim tried to escape, the first defendant beat her and burnt her with cigarettes. On 27 January 2018, the first defendant organised a forced marriage of the victim with a man against the payment of EUR 50. In the meantime, the first defendant continued to force the victim to have sex with various men in their vehicles. After finding out that the victim was pregnant, on 6 February 2018 the first defendant took her to a bus station and bought her a ticket to travel to another town in order to have an abortion, threatening to ruin her and her family's life if she denounced her to the police. The victim went to an NGO, who informed the Centre for Social Work. The victim had an abortion at a medical centre, and it was established that she had multiple bodily injuries as a result of the beating and forced sexual intercourse.

Sentences: The first defendant was sentenced to 13 years' imprisonment for trafficking in children (Article 418-d, paragraph 2, of the CC), while the second and third defendants were sentenced to 12 years' imprisonment each for the use of sexual services from a child victim of trafficking younger than 14 (Article 418-d, paragraph 4, of the CC). The first-instance judgment was reversed by the Appellate Court only with respect to the sentence, based on the appeal of the Public Prosecutor's Office, in the sense that the first defendant's sentence was increased to 17 years' imprisonment and the second and third defendants' sentences were increased to 14 years' imprisonment each (judgment KOK Z 6/19, 11 February 2019). On the basis of Articles 102 and 105 of the CPL, each defendant was sentenced to pay a fine of MKD 3 000 and the costs of the criminal proceedings (including for the *ex officio* lawyers).

Legal assistance: The victim had a legal counsel (*ПОЛНОМОШНИК*) who, according to the information provided by the prosecutor in charge of the case, was paid by the State.

Compensation: No claim for compensation was made in the criminal proceedings.

Good practices:

- The victim received medical and psychological support from the NGO Open Gate/La Strada. She was first treated in a hospital for some time and then taken to the shelter for victims of THB.
- The prosecutor in charge of the file was experienced in dealing with THB cases.
- The first meeting with the prosecutor took place three months after the victim had benefited from medical and psychological assistance and she felt ready to speak to the authorities. The meeting took place at the shelter for victims of THB in the presence of the victim's legal guardian, a lawyer and a staff member of

⁵⁷ See also Open Gate/La Strada, *Monitoring and evaluation of laws and policies for action against human trafficking and their enactment in the Republic of North Macedonia in 2019*, pp 40-41.

the NGO with whom she had a strong relationship. The second interview with the prosecutor was conducted at the Public Prosecution's Office and was recorded, but the recording was not heard during the trial as all the defendants pleaded guilty.

- Given the severity of the case, the defence lawyer's request to conclude a plea-bargaining agreement was rejected by the prosecutor (see paragraph 91).
- The perpetrators were given sentences commensurate with the gravity of the offence.
- The first instance and appellate court judgments were issued swiftly.

Shortcomings:

- The second interview with the public prosecutor was not conducted in a room specially adapted for interviewing child victims of crime.
- The public was not excluded from the trial.
- The published judgment is not fully anonymised; the full name of the child was left in several paragraphs.

95. GRETA was informed of an ongoing investigation against a man who had allegedly forced into prostitution several women, including Macedonian, Russian, Ukrainian and Serbian citizens, in his night club in Gostivar as well as in Tetovo and other places between March 2021 and March 2022 by way of threats, violence and abuse of their vulnerability.⁵⁸

96. Although the CPL allows the use of special investigation techniques in THB cases, including interception of communication, secret surveillance and use of undercover agents (Article 253 of CPL), in practice the main evidence in criminal prosecution of THB cases remains the testimony of the victims as the law enforcement agencies lack technical, personnel and institutional capacities to gather evidence through the use of these techniques.⁵⁹ This considerably limits the capacity of the police to investigate THB, especially when committed by organised criminal groups or through the use of information and communication technology. GRETA notes that many potential victims of trafficking detected by the mobile teams could not be identified as victims and the suspects were not prosecuted for THB because proceedings are built solely upon the victim's testimony, which puts an exorbitant amount of pressure upon the victim, who is often vulnerable and possibly traumatised. GRETA was informed of several cases where potential victims changed their testimony before the prosecutor for various reasons (e.g. fear of retaliation, lack of protection and assistance, the wish of the migrants to leave the country as soon as possible), which led to non-prosecution of the suspects or their prosecutions for lesser offences.⁶⁰

97. Legal entities that are found criminally liable for a trafficking offence incur a fine of up to 60 million MKD (approximately EUR 960 000), which can be accompanied by other sanctions, including exclusion from public procurement, prohibition of performing a specific activity and dissolution.⁶¹ In the reporting period, no legal entity has been convicted of THB. It is clear from the judgments analysed by GRETA that bars, night clubs, hotels and restaurants are used in North Macedonia for sexual exploitation of victims. However, apart from two cases,⁶² the owners or managers of such venues have not been convicted of THB. No business used for sexual exploitation of victims has been closed, even in the two cases where the owners were convicted of THB. Moreover, no fines or ancillary orders for temporary or permanent prohibition of engaging in an activity have been imposed on legal persons, although their involvement is clearly pointed out in some judgments.⁶³ GRETA underlines that establishing corporate liability and imposing appropriate sanctions is of crucial importance for combating THB.

⁵⁸ [Обвинителството отвори истрага: Лице подведувало девојки на проституција, меѓу нив и Русинки, Украинки и Србинки \(360stepeni.mk\)](#) (in Macedonian).

⁵⁹ See Ombudsman – National Rapporteur on THB and Illegal Migration, *Report on the challenges in the process of identification of victims of trafficking in human beings*, December 2020, p. 21.

⁶⁰ For example, GRETA was informed of the case of two Syrian boys discovered in November 2021 by the police. According to the Kumanovo mobile team, the boys had been sold several times and sexually exploited. However, the children changed their testimony before the prosecutor, presumably to be able to continue their journey towards EU countries, and suspects were charged for smuggling of migrants only.

⁶¹ Articles 96b, 418a, paragraph 6, and 418d, paragraph 9, of the CC.

⁶² Judgments KOK 45/15, 28 May 2018 and 76/14, 5 November 2018.

⁶³ For example, one of the judgments (KOK 67/15 of 14 December 2017) specifies that the defendant had bought the victim from the owner of the night club "P" and used force to exploit her in prostitution in the unregistered night club "M". The

98. Furthermore, except for the case described in paragraph 94, there is no indication that persons who had used services of victims have been convicted of THB. GRETA stresses the importance of establishing criminal liability of the users of services of victims of THB.

99. In May 2021, a large-scale case of THB was detected involving 39 persons (35 men and four women) who were recruited in Taiwan and arrived in North Macedonia on tourist visas.⁶⁴ They were locked in a house, their travel documents and cell phones were taken away, and they were compelled to make fraudulent calls to people in Taiwan, pretending to be insurance, bank, postal or police officers, accessing their bank data and withdrawing money. After receiving a tip-off from the Taiwanese authorities in November 2020, the authorities of North Macedonia investigated the case, arrested nine suspects and identified 39 persons as victims of THB for the purpose of labour exploitation. Both the victims and suspects were returned to Taiwan a month later, after being interviewed by Taiwanese officials who travelled to North Macedonia. In their comments on GRETA's draft report, the authorities of North Macedonia indicated that they had not made a formal risk assessment prior to the victims' return to Taiwan (in this respect, see paragraph 161, 3rd bullet point), but they had informed the Taiwanese authorities of the identification of 39 persons as victims of THB and had been given verbal assurance that they would be treated as victims of THB in Taiwan. An NGO in Taiwan reportedly provided the victims with information on the services they could benefit from upon their return to Taiwan.⁶⁵ However, all the persons who were returned to Taiwan, including the victims, were reportedly charged for fraud in Taiwan.

100. GRETA was informed of the case of a nine-year-old boy who was forced to beg by his mother and stepfather through violence and deprivation of food. On 14 September 2021, the boy complained to the employees of a catering facility who took him to a hospital.⁶⁶ At the time of the evaluation visit, the parents were in custody and an indictment had been issued against them for child trafficking. Representatives of the judicial authorities met by GRETA stated that in most cases children would beg to support their family, which is not considered as child exploitation. Although some parents have been prosecuted for the offence of neglecting and maltreating a child (Article 201 of the CC), which also covers the act of inducing a child to begging, prosecutors are reluctant to prosecute parents for forced begging.

101. Forced marriage is mentioned as a form of exploitation in Articles 418-a (adult trafficking) and 418-d (child trafficking) of the CC. However, it is prosecuted as human trafficking only if a cash transaction has occurred or has been promised (see paragraph 94 for a case of THB for the purpose of forced marriage). Otherwise, the adult who married the child and the child's legal representatives who allowed the marriage can be prosecuted under Article 197 of the CC if the child is aged between 14 and 18. If the child is under 14 years, the perpetrators can be sentenced for sexual assault on a child pursuant to Articles 188 and 189 of the CC. The authorities have not provided any statistical data on the application of these articles. At the time of GRETA's visit, there were several ongoing cases which concerned child marriage, but it was not clear if they were prosecuted as THB and no further information has been provided on these cases. According to NGOs met during the visit, there are persistent stereotypes about child marriage in Roma communities which is treated as part of Roma traditions.

102. As for the length of the criminal proceedings, in the 12 trafficking cases analysed by GRETA (see paragraph 93), the time between the indictment and the first-instance judgment varied between 1 month and 23 days and 5 years, 4 months and 8 days, the average duration being 587 days. In six child trafficking cases there was an appeal court judgment, which was issued on average 546 days after the indictment. As for the time elapsed between the detection of the child victims and the issuance of the indictment, it was less than six months, except for three cases⁶⁷ where it was around two years.

defendant transported the victim in a car to the unregistered establishment, where she worked as a dancer, forced her to provide sexual services in a hotel, and locked her in a room above the night club. In another case (judgment KOK 76/14 of 5 November 2018), the defendant bought a woman from the owner of the night club "B", and another woman from the owner of the night club "E", and brought them both to the night club "N" where he restricted their movement and forced them into prostitution.

⁶⁴ [Police in North Macedonia break up Taiwanese criminal ring - ABC News \(go.com\)](#)

⁶⁵ UNODC, [Exploitation and Abuse: The Scale and Scope of Human Trafficking in South Eastern Europe](#), page 63.

⁶⁶ [Мајка и очув осомничени за трговија на деветгодишно момче \(makfax.com.mk\)](#) (in Macedonian).

⁶⁷ Judgments KOK 66/16, 16 December 2019; KOK 59/18, 15 October 2020; KOK 20/18, 05 April 2021.

103. GRETA welcomes the efforts made by the authorities to overcome shortcomings in investigating and prosecuting THB offences, in particular the setting up of a National Unit for Combating Trafficking in Human Beings and Smuggling of Migrants (Task Force), which appears to have improved co-ordination and co-operation between the police and the Prosecutor's Office in combating human trafficking. Further, there has been an increase in the number of convictions compared to the previous evaluation period⁶⁸ and in some cases referred to in paragraphs 78 and 94 penalties commensurate with the gravity of the offence were imposed on the perpetrators. GRETA also commends the fact that the plea-bargaining procedure is not applied in THB cases. However, GRETA notes that in the majority of the child trafficking cases (7 out of 12) and in all adult trafficking cases examined by GRETA, the sentences were well below the statutory minimum, which brings into question whether they can be considered effective, proportionate and dissuasive within the meaning of Article 23 of the Convention.

104. **GRETA urges the authorities of North Macedonia to take further measures to strengthen the criminal justice response to human trafficking, including by:**

- **ensuring that all human trafficking offences, including trafficking for the purpose of labour exploitation and forced begging, are investigated proactively and promptly, regardless of whether a complaint about the reported crime has been submitted or not, making use of all possible evidence, including evidence gathered through special investigative measures, financial evidence, documents and digital evidence, so that there is less reliance on testimony by victims;**
- **reviewing the effectiveness of the legal provisions on corporate liability in relation to human trafficking offences, examining the reasons why no legal entities have been prosecuted and punished for trafficking-related acts and, in the light of their findings, taking measures to ensure that the criminal liability of legal entities can be acted upon in practice;**
- **strengthening the human, financial and technical capacities of law enforcement agencies to proactively investigate human trafficking offences and make use of special investigative techniques.**

105. **Further, GRETA considers that the national authorities should:**

- **intensify their efforts to promptly identify and seize criminal assets generated by trafficking offences and confiscate them;**
- **further sensitise prosecutors and judges to the rights of victims of human trafficking and encourage the development of specialisation amongst prosecutors and judges to deal with human trafficking cases;**
- **ensure that the length of court proceedings in cases of trafficking of human beings is reasonable, in line with the case-law of the European Court of Human Rights (related to Article 6, paragraph 1 of the ECHR) and the standards set by the European Commission for the Efficiency of Justice (CEPEJ).⁶⁹**

⁶⁸ According to GRETA's second report (paragraph 160), in the period 2013-2016 there were 10 convictions for the offence of THB, while in the period 2018-2021 there were 14 convictions.

⁶⁹ <https://rm.coe.int/cepej-2018-26-en-rapport-calvez-regis-en-length-of-court-proceedings-e/16808ffc7b>

8. Non-punishment provision (Article 26)

106. Pursuant to Article 26 of the Convention, Parties must provide for the possibility of not imposing penalties upon victims of THB for their involvement in unlawful activities, to the extent that they have been compelled to do so. As previously stressed by GRETA, the criminalisation of victims of THB not only contravenes the state's obligation to provide services and assistance to victims, but also discourages victims from coming forward and co-operating with law enforcement agencies, thereby also interfering with the state's obligation to investigate and prosecute those responsible for THB.⁷⁰ Furthermore, GRETA has noted that the absence of a specific provision on the non-punishment of victims of trafficking entails a risk of differential treatment, depending on the prosecutor in charge of the case.

107. On 31 December 2018, the CC of North Macedonia was amended and a specific provision on the non-punishment of victims of human trafficking for illegal acts they were compelled to commit while being trafficked was incorporated in its Article 418a (trafficking in adults) and Article 418d (trafficking in children). In 2019, the OSCE, in co-operation with the Academy for Judges and Prosecutors, provided training to a total of 70 representatives of the judiciary, prosecution, police, social services and NGOs on the application of the non-punishment provision. In 2020, the OSCE also assisted the authorities in the development of guidelines on the application of the non-punishment principle⁷¹ for police officers, prosecutors and judges. The guidelines underline that the non-punishment provision applies to both criminal acts and misdemeanours.

108. According to the Public Prosecution's Office, no victims of THB have been prosecuted. However, GRETA notes that failure to identify victims of THB among women providing sexual services in bars and night clubs, as well as foreign nationals working irregularly in construction, agriculture and the hospitality industry, results in imposing administrative sanctions and deportation, contrary to the non-punishment provision (see paragraphs 148 and 155). In this context, GRETA stresses that the non-punishment provision should be capable of being applied to all unlawful acts that victims of THB have been compelled to commit, including administrative and immigration-related offenses.

109. **GRETA welcomes the adoption of a specific legal provision and guidelines on the non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they have been compelled to do so, and considers that the authorities of North Macedonia should ensure their effective implementation in practice, paying particular attention to foreigners who might be victims of sexual or labour exploitation, through providing systematic and continuous training to police officers, prosecutors, judges, lawyers and other relevant professionals.**

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

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

⁷⁰ See GRETA's 2nd General Report, paragraph 58.

⁷¹ Available at <http://nacionalnakomisija.gov.mk/wp-content/uploads/2020/04/450130-MK.pdf> (in Macedonian)

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

112. As explained in GRETA's first report,⁷² pursuant to Article 54 of the CPL of North Macedonia, endangered victims, especially vulnerable victims and child victims of crimes, are entitled to special measures of procedural protection when giving statements or being interviewed at any stage of the criminal procedure. These measures are determined by the court upon proposal from the public prosecutor or the victim or upon its own initiative. They include giving testimony by means of audio-visual equipment with the possibility of using image and voice distortion (Articles 82-84 and 230 of the CPL), the exclusion of the public from the main hearing (Article 354 of the CPL) and examination under a pseudonym (Article 229 of the CPL). The examination of extremely vulnerable victims may be conducted with the assistance of a psychologist, pedagogue, social worker or another competent person (Article 232 of the CPL).

113. Further, the Law on Witness Protection provides for the inclusion of victims in a witness protection programme under which the following measures can be applied: concealing the victim's identity, provision of personal protection, change of identity, and change of residence. In the reporting period, there have been no cases of witness protection measures taken in respect of victims of THB. For details of child protection measures in criminal procedures, see the separate section below (paragraphs 134-136).

114. The court judgments analysed by GRETA show that, in practice, the special procedural measures are rarely applied (see paragraph 135). GRETA was informed that in most THB cases, victims had to testify during the trial and no steps were taken to prevent victims meeting defendants in the courtroom.

115. GRETA notes that the full names of the victims were mentioned in a number of paragraphs of the three published judgments concerning THB victims.⁷³ Further, GRETA was informed that although the names of victims of trafficking are not published by the media, their identity can be guessed from the context of the article and other details provided by journalists (e.g. the name of the parents who trafficked their child), especially in cases of persons residing in rural areas. Under the project "Preventing and Combating THB in North Macedonia", implemented as part of the joint EU-Council of Europe programme "Horizontal Facility for the Western Balkans and Turkey", the Council of Europe published a manual on THB and media in 2021 and organised three training sessions for media representatives and journalists, in 2020 and 2021, with a view to improving sensitive reporting about THB victims.

116. **GRETA urges the authorities of North Macedonia to:**

- **ensure the protection of the private life and identity of victims of trafficking from public exposure, in line with Article 11 of the Convention, through the issuance of appropriate instructions to all relevant professionals;**
- **take measures to encourage the media to protect the identity and private life of victims of THB through self-regulation or regulatory/co-regulatory measures as well as further training for media professionals.**

⁷² See GRETA's first report, paragraph 205.

⁷³ Judgments KOK 52/18, 12 September 2018; KOK 83/18, 19 November 2018; KOK 92/18, 25 October 2019.

117. **Further, GRETA considers that the authorities of North Macedonia should make full use of the available measures to protect victims and witnesses of THB and to prevent intimidation or re-traumatisation during the investigation and during and after the court proceedings, including through the use of video conferences and other suitable means, in order to avoid direct contact and face-to-face cross-examination of victims and alleged perpetrators.**

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

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

119. In North Macedonia, the investigation of all THB offences is entrusted to the Police Unit against THB and Smuggling of Migrants. The Unit consists of 16 police officers at central level and 16 police officers at local level (two in each department of the Ministry of the Interior) as well as 21 contact persons from various organisational units of the Ministry of the Interior.

120. Following the conclusion of a Memorandum of Co-operation between the Ministry of the Interior and the Public Prosecutor's Office on 3 January 2018, a National Unit for Combating Trafficking in Human Beings and Smuggling of Migrants ("Task Force") was set up by a decision of the Minister of the Interior. This development took place with a view to improving co-ordination and co-operation between the police and the Prosecutor's Office. The Task Force officially started working on 1 March 2018 and its initial mandate of three years has been extended until 2025. The head and deputy head of the Task Force are prosecutors from the Office for Prosecution of Organised Crime and Corruption, which is responsible for prosecuting all THB cases. The head of the Police Unit against THB and Smuggling of Migrants is the assistant head of the Task Force. Police officers and contact persons of the Police Unit at the central and local levels are permanent members and contact persons of the Task Force. Over the reporting period, several activities aimed at strengthening the capacity of the Task Force have been conducted by IOM and OSCE, such as training, study visits and provision of material and technical means. The institutionalisation of the Task Force for the purpose of ensuring its sustainability is one of the goals of the current National Strategy for combating THB.

121. Since 2018 various training and capacity building activities have been conducted by the state institutions, international organisations and NGOs active in the field of THB. By way of example, under the above-mentioned project "Preventing and Combating THB in North Macedonia", training on THB was provided by the Council of Europe to prosecutors and judges in May 2020 and April 2021, to lawyers and child education professionals in December 2020, to social workers in June 2021, to psychologists and pedagogues in November 2021 and April 2022, and to labour inspectors (see paragraph 146).⁷⁴ GRETA was also informed that in 2018-2022, the Academy of Judges and Public Prosecutors organised jointly with international organisations 26 educational events on THB, attended by 537 professionals (137 judges, 121 prosecutors, 95 legal assistants, 184 representatives of other relevant institutions). The subjects covered included THB and smuggling of migrants, labour exploitation, victim compensation and confiscation in THB cases. Further, the Training Centre of the Police has continued to conduct training with the support of international donors. Representatives of law enforcement agencies met during the visit underlined that although all the police officers in North Macedonia have received at least one training on THB throughout their career,⁷⁵ some officers need to be further trained as they are not fully aware of the SOPs for treatment of victims of THB.

⁷⁴ For the details of these activities, see [Preventing and Combating Human Trafficking in North Macedonia \(coe.int\)](#)

⁷⁵ For more information on the training activities conducted in the period 2017-2020, see the annual reports of the National Commission for Combating THB and Illegal Migration, available at [Годишни извештаи на Националната Комисија - Национална Комисија \(nacionalnakomisija.gov.mk\)](#)

122. **GRETA welcomes the setting up of the National Unit for Combating Trafficking in Human Beings and Smuggling of Migrants (Task Force) and considers that the positive results obtained by it should be reinforced by providing it with all the necessary human, technical and financial resources and providing continuous training on THB to its new members.**

123. **While welcoming the capacity building activities on THB that have been conducted for relevant professionals, GRETA considers that training on THB should be integrated into the regular training curricula of relevant professional groups, including law enforcement officials, prosecutors, judges, lawyers, forensic experts, labour inspectors, social workers, education staff, health-care staff, and diplomatic and consular staff. Further, joint multi-disciplinary training activities should be organised in co-operation with NGO representatives in order to strengthen the co-operation between state authorities and specialised NGOs.**

11. International co-operation (Article 32)

124. Article 32 of the Convention requires parties to co-operate to the widest extent possible to prevent and combat THB, to protect and to provide assistance to victims, and to investigate and prosecute cases of THB. International co-operation between parties to the Convention is also essential for enabling access to effective remedies for victims of trafficking. Parties must co-operate with one another "to the widest extent possible". This principle requires them to engage in extensive co-operation with one another and to minimise impediments to the smooth and rapid flow of information and evidence internationally. As regards international co-operation in criminal matters for the purposes of investigations or proceedings, the Convention neither cancels nor replaces relevant international or regional instruments⁷⁶ on mutual legal assistance and extradition, reciprocal arrangements between Parties to such instruments and relevant provisions of domestic law concerning international co-operation.

125. In the period covered by this report, North Macedonia has signed protocols on co-operation in the field of combating THB with Bulgaria, Serbia and Montenegro. There are plans to conclude such protocols with Greece and Slovenia.

126. Further, GRETA was informed that members of the National Commission and other public authorities had participated in numerous meetings, conferences, international fora and study visits organised by various international and non-governmental organisations, which contributed to further enhancement of international co-operation on combating THB.⁷⁷

127. North Macedonia participates in the Network of the National Anti-Trafficking Co-ordinators of South-Eastern Europe, which adopted a Joint Ministerial Declaration on regional co-operation to combat trafficking in human beings on 16 March 2018.⁷⁸ The declaration reaffirms commitment to the protection of victims, prosecution of perpetrators, prevention of trafficking, as well as setting up compensation mechanisms for victims, acknowledges the importance of reducing demand for services from victims of trafficking, and stresses the relevance of internet-based technologies to combat trafficking.

128. In the period covered by this report, there were 18 cases of international legal assistance related to THB through rogatory letters. In 2018, North Macedonia appointed its first Liaison Prosecutor to Eurojust, with which it has a Co-operation Agreement since November 2008. For the time being, North Macedonia has not participated in any joint investigation teams (JITs) set up in THB cases or any international co-operation for conducting financial investigations in THB cases.

⁷⁶ For example, the European Convention on Extradition, the European Convention on Mutual Assistance in Criminal Matters and its protocols, Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member states, the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

⁷⁷ See Elena Petreska, *Evaluation of the Implementation of the National Strategy and National Action Plan for Combating Trafficking in Human Beings and Illegal Migration 2017-2020*, July 2020, p. 24.

⁷⁸ [Joint Declaration of the Ministers of Interior of South-East Europe on strengthening regional co-operation in South-East Europe to combat trafficking in human beings](#)

129. GRETA welcomes the participation of the authorities of North Macedonia in international co-operation and invites them to continue their efforts in this respect, including through the setting up of joint investigation teams (JITs) in the investigation of cases of THB.

12. Cross-cutting issues

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

130. As noted in the Committee on the Elimination of Discrimination against Women (CEDAW) General recommendation No. 33 on women's access to justice, discrimination against women, based on gender stereotypes, stigma, harmful and patriarchal cultural norms and gender-based violence, which affects women in particular, has an adverse impact on the ability of women to gain access to justice on an equal basis with men.⁷⁹ The Council of Europe Gender Equality Strategy 2018-2023 notes that while accessing justice might be difficult for everyone, it is even more so for women, due to gender inequality in society and in the justice system, and therefore one of the objectives of the Strategy is to ensure the equal access of women to justice.⁸⁰ GRETA notes that in the case of trafficking in human beings, gender stereotypes, prejudices, cultural barriers, fear and shame impact women's access to justice, and these barriers may persist during investigations and trials. This is particularly true for some groups of women, such as victims of gender-based violence, migrant, refugee and asylum-seeking women, ethnic minority women and women with disabilities. On the socio-economic level the obstacles include lack of awareness of one's legal rights and legal procedures or of how to access legal aid, which can stem from gender differences in educational levels, and access to information. A further obstacle may be the lack of financial resources, including the means to pay for legal representation, legal fees, judicial taxes, transportation to courts or childcare.⁸¹ Such obstacles, and remedies to them, are listed in a Council of Europe training manual for judges and prosecutors on ensuring women's access to justice, as well as in the publication "Women's Access to Justice: Guide for Legal Professionals".⁸²

131. Pursuant to Article 55, paragraph 1, of the CPL of North Macedonia, victims of crimes against sexual freedom have the right to be interviewed by a person of the same gender in the police and the Public Prosecution's Office and to ask for exclusion of the public at the main hearing. Gender sensitivity is one of the basic principles on which the SOPs for dealing with victims of trafficking are based and all competent authorities have a duty to act according to this principle. According to the SOPs, victims of THB should be informed of their right to be interviewed by a police officer of the same gender before the interview starts. Further, the gender of the victim should be taken into consideration in the selection of the interpreter for interviewing victims.

132. As part of the above-mentioned HF project, in September 2021, the Council of Europe organised a training on gender-based protection provision for victims of trafficking, attended by 50 persons, such as social workers, members of the Task Force, labour inspectors, and NGO representatives. In addition, on 17 November 2021, the Council of Europe developed gender sensitive indicators for labour inspectors.

133. GRETA welcomes the ratification by North Macedonia in October 2018 of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence and the adoption of the National Action Plan for its Implementation for the period 2018-2023.⁸³

⁷⁹ CEDAW General recommendation No. 33 on women's access to justice, paragraph 8, CEDAW/C/GC/33 of 3 August 2015

⁸⁰ Council of Europe Gender Equality Strategy 2018-2023, pages 24-26, <https://rm.coe.int/prems-093618-gbr-gender-equality-strategy-2023-web-a5/16808b47e1>

⁸¹ Council of Europe training manual for judges and prosecutors on ensuring women's access to justice, page 13 available at <https://rm.coe.int/training-manual-women-access-to-justice/16808d78c5>

⁸² Available at: <https://rm.coe.int/factsheet-womens-access-to-justice/16808ff44e>

⁸³ [15.10-NAP AP za IK 2018.doc](https://rm.coe.int/15.10-NAP-AP-za-ik-2018.doc) (live.com) (in Macedonian)

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

134. Pursuant to Article 54 of the CPL, when giving statements at any stage of the criminal procedure, child victims of trafficking are entitled to special measures of procedural protection. These measures are determined by the court and include the recording of the child's statement before the prosecutor for later use as evidence in court. In exceptional cases when new circumstances have arisen, the court may hear the child victim only one more time by using technical means of communication. If the examination at courtroom is likely to have harmful consequences for the mental or physical health of the child, the latter should testify with the assistance of a psychologist, pedagogue, social worker or another competent person (Article 232 of the CPL). In addition, the court may exclude the public from the courtroom when a child gives a statement (Article 147 of the Law on Juvenile Justice). Other special measures of procedural protection include the concealment of the identity or appearance of the victim, taking the statement of the child through a mediator, and protection of the privacy of the child and his/her family (Articles 146 and 147 of the Law on Juvenile Justice).

135. GRETA notes that the above-mentioned measures are not consistently applied in child trafficking cases.⁸⁴ Most police officers, prosecutors and judges are not trained on how to interview child victims of trafficking. Despite the existence of child-friendly rooms in some police stations in Skopje and other larger towns, child victims are sometimes interviewed in an inappropriate location. GRETA was informed that in one case a girl, victim of trafficking, waited several years to give a statement before a public prosecutor and the interpretation was provided by a police officer. In another case, a child victim of trafficking was allegedly kept in a police station for 12 hours before giving a statement. The court judgments analysed by GRETA show that in only three child trafficking cases the child's statement before the prosecutor was recorded in order to be used as evidence in criminal proceedings.⁸⁵ GRETA was informed that there were cases in which children had to testify again in court, sometimes even in the presence of the defendant, in contradiction with Article 150 of the Law on Juvenile Justice, which does not allow to face the child victim of trafficking with the suspect/defendant. Further, only in two child trafficking cases was the public excluded from the main hearing.⁸⁶ Although a social worker and a psychologist are usually present during the court hearing, they are not always allowed to talk to the child before the hearing in order not to influence the child. Therefore, rather than preparing the child for the hearing, they would help the judge to assess the credibility of the testimony given.

136. GRETA urges the authorities of North Macedonia to take steps to ensure that child-sensitive procedures are followed when investigating, prosecuting and adjudicating cases of THB, in line with the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.⁸⁷ This should include measures to ensure that all professionals who work with children, including lawyers, prosecutors and judges, receive the necessary interdisciplinary training on the rights and specific needs of children, as well as that child victims of trafficking are interviewed in child-friendly interview rooms and are not cross-examined in the presence of the defendant.

⁸⁴ See Open Gate/La Strada, Monitoring and evaluation of laws and policies for action against human trafficking and their enactment in the Republic of North Macedonia in 2019, page 38.

⁸⁵ Judgments KOK 92/18, 25 October 2019; KOK 64/19, 19 March 2020; KOK 20/18, 5 April 2021.

⁸⁶ Judgments KOK 86/19, 12 March 2020; and KOK 23/20, 6 April 2020.

⁸⁷ [Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice](#) (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies).

c. role of businesses

137. On 18 November 2019, the Accor hotel group, the NGO Open Gate/La Strada and the National Commission signed a code of co-operation for the protection of children from sexual exploitation during travel and in the tourism industry. The code is the first of its kind in the hotel industry in North Macedonia. According to the code, the Accor hotels should provide information to hotel guests regarding the rights of children, prevention of sexual exploitation and on how to report suspicious cases. In addition, the hotels should include a clause in their contracts across the whole value chain, which stipulates zero-tolerance policy for sexual exploitation of children. The signing ceremony was followed by the premiere of a video to promote the SOS line for information and prevention of THB. The event was also used to distribute posters on child trafficking prepared in three languages (Macedonian, Albanian and Romani) with the support of the Council of Europe. As an extension of the code, Open Gate/La Strada carried out a training of the Accor hotel staff, with focus on the prevention, identification and referral of THB cases.

138. The 2021-2025 National Anti-Trafficking Strategy and National Action Plan envisage information sessions with the chambers of commerce, the employers' organisation and the managers-entrepreneurs' club to raise their awareness of human trafficking and the development with the chambers of commerce of a code of ethics to be signed by companies to ensure a full prohibition of use of services provided by human trafficking victims.

139. While welcoming the code of co-operation signed with the Accor hotel group for the protection of children from sexual exploitation, GRETA considers that the authorities of North Macedonia should strengthen further engagement with the private sector, in line with the UN Guiding Principles on Business and Human Rights⁸⁸ and Council of Europe Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business,⁸⁹ with a view to raising awareness of the important role and responsibility of businesses to prevent human trafficking, support the rehabilitation and recovery of victims, and provide access to effective remedies.

d. measures to prevent and detect corruption

140. Trafficking in human beings can occur in various contexts. Human traffickers may form part of organised criminal groups, which frequently use corruption to circumvent the law, and money laundering to conceal their profits. Consequently, other Council of Europe legal instruments are also relevant to combating human trafficking, in particular those designed to combat corruption, money laundering and cybercrime. The Council of Europe body with the main role to play in the fight against corruption is the Group of States against Corruption (GRECO). Its country reports are relevant in addressing structural shortcomings in preventing corruption, including potentially in a THB context. According to GRECO's 2019 report,⁹⁰ corruption is considered a serious problem in North Macedonia. GRECO noted that the overall strength of the existing anti-corruption framework in North Macedonia is questionable as the implementation of different policies and laws is weak and selective in practice. As for the law enforcement authorities, the internal control mechanisms as well as the external oversight performed by the Assembly, the Ombudsman and the Public Prosecutor need to be more efficient to improve the public accountability of the police. Further, GRECO highlighted the need to provide for more transparency around the police and its activities.

⁸⁸ http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

⁸⁹ [Recommendation CM/Rec\(2016\)3](https://rm.coe.int/Recommendation_CM/Rec(2016)3) of the Committee of Ministers to member States on human rights and business, adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies.

⁹⁰ <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/168095378c>

141. According to the authorities, no public officials have been charged or convicted of involvement in human trafficking activities. As noted in paragraph 16, Article 418-a, paragraph 4, of the CC was amended in 2018 to reduce the minimum imprisonment prescribed for trafficking in adults committed by public officials in performing their service from eight to five years. Interlocutors met by GRETA in the course of the evaluation visit raised concerns that some police officers may be complicit in trafficking, including hiding evidence and tipping off perpetrators before raids.⁹¹ GRETA stresses that bearing in mind the high level of corruption in North Macedonia,⁹² the decrease of the punishment for public officials runs contrary to North Macedonia's obligation, under Article 23, paragraph 1, of the Convention, to adopt legislative and other measures necessary to ensure that the human trafficking offence is punishable by effective, proportionate and dissuasive sanctions.

142. **GRETA considers that the authorities of North Macedonia should include, as a matter of priority, measures against corruption in a THB context in the overall policies against corruption, as well as adopt all the necessary measures to ensure that public officials are punished for their direct and indirect involvement in human trafficking.**

V. Follow-up topics specific to North Macedonia

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

143. In its second evaluation report, GRETA urged the authorities of North Macedonia to provide the Labour Inspectorate with the tools and resources required to effectively prevent and combat THB. Further, GRETA considered that the national authorities should increase their efforts to prevent THB for the purpose of labour exploitation, in particular by providing labour inspectors with resources and guidance, raising awareness of the risks of THB for the purpose of labour exploitation, and training relevant officials about THB for the purpose of labour exploitation and the rights of victims.

144. Several awareness-raising measures on THB for the purpose of labour exploitation have been organised with the support of international organisations. By way of example, within a project implemented by MYLA in partnership with GIZ, videos in Macedonian, Albanian and Romani for seasonal work were posted on YouTube, Facebook and Instagram and advertised on TV. Further, in 2021, MYLA produced a manual for seasonal work containing information on how to recognise and report labour exploitation.⁹³ However, civil society actors noted that additional efforts are needed to raise awareness, not least among young people belonging to the Roma community, who are particularly vulnerable to different forms of trafficking, including labour exploitation.

145. The State Labour Inspectorate (SLI) has 30 regional offices with two to three inspectors in each. At the time of the evaluation visit, the SLI had 127 inspectors (of whom 82 dealt with labour relations and employment issues, and 45 with health and safety issues), which indicates a decrease compared to the number of labour inspectors in 2017 (150). GRETA was informed that many labour inspectors were expected to retire. The SLI plans to recruit 30 new inspectors, but even after that it will remain understaffed and will not be able to conduct regular investigations in all the regions. In the last two years, very few inspections have been conducted in the agriculture sector where there are many foreign seasonal workers and Roma persons who do not have an identity document.

⁹¹ See also MYLA, *Trafficking in Human Beings and Smuggling of Migrants in North Macedonia*, May 2019, p. 28.

⁹² As per the Corruption Index 2021 (<https://www.transparency.org/cpi2018>), North Macedonia was at the 87th place out of 180 countries, which puts the country in the category of countries having serious corruption problems.

⁹³ <https://kazistop.mk/wp-content/uploads/2021/04/MZMP-Priracnik-za-sezonski-rabotnici-vnatre-korici-za-web.pdf>.

146. In November 2018, labour inspectors were included in the SOPs for treatment of victims of THB to provide information to potential victims of trafficking, conduct the early risk assessment for them and refer them for further identification and assistance. Following this development, under the above-mentioned project implemented by the Council of Europe, almost all labour inspectors have been trained to detect possible trafficking victims and provide them with access to assistance. They have also received a pocket guide for identifying victims of trafficking.⁹⁴ As these training sessions were organised also for officials of other relevant institutions (police officers, social workers, etc.), they contributed to enhancing inter-institutional co-operation on THB.

147. Labour inspectors have a mandate to inspect all economic sectors and enter business premises at any moment. However, the SLI's mandate covers only breaches of the Labour Code and there are no clear protocols on how to officially report THB cases to the police or the Prosecution's Office. GRETA notes that the lack of such protocols hampers the referral of potential victims, as is illustrated in the case described in paragraph 157.

148. Despite a high unemployment rate in the country, there is a shortage of workers in some sectors, in particular agriculture and construction, which results in recruiting migrant workers, including workers without residence and work permits. In the period 2017-2021, the police and the SLI detected numerous irregular workers, mostly working in the construction sector,⁹⁵ but also in the agricultural and entertainment sectors, originating from Türkiye, Albania and Kosovo*. These persons were immediately deported without attempts to identify victims of THB amongst them and without the Police Unit against THB being informed of the case, which deprives potential victims of assistance and protection, including from re-trafficking. Since fines for undeclared employment are very low (the equivalent of EUR 175 for a small employer) and there is a shortage of workers, the employers continue to recruit irregular migrants (see also paragraph 155).

149. GRETA welcomes the steps taken to train labour inspectors and raise awareness about labour exploitation, but at the same time notes with concern that the SLI does not have a clear competence to detect victims of trafficking and is understaffed, which prevents it from playing an active role in combating human trafficking. Consequently, **GRETA urges the authorities of North Macedonia to ensure that the Labour Inspectorate has a clear mandate and adequate human and financial resources to carry out inspections with a view to preventing and detecting cases of THB for the purpose of labour exploitation. In this context, GRETA refers to Recommendation CM/Rec(2022)21 of the Committee of Ministers of the Council of Europe to member States on preventing and combating trafficking in human beings for the purpose of labour exploitation.**⁹⁶

150. **Further, GRETA considers that the authorities of North Macedonia should:**

- **strengthen co-operation between labour inspectors, other state and municipal bodies carrying out inspections, law enforcement officers dealing with THB cases, mobile teams, trade unions and civil society actors, with a view to collecting evidence necessary for successfully investigating and prosecuting cases of THB for the purpose of labour exploitation;**

⁹⁴ Available at <https://rm.coe.int/skopje-pocket-guide-for-detection-and-preliminary-identification-of-vi/1680786ae3>

⁹⁵ 61 in 2018, 94 in 2019, 91 in 2020 and 97 in 2021. See <https://netpress.com.mk/stranski-gradezhni-kompanii-nosat-rabotnici-od-albani-a-i-od-kosovo-da-rabotat-na-crno/>, <https://bit.ly/3r1Szw9>, <https://sdk.mk/index.php/makedonija/od-97-te-ilegalni-zidari-privedeni-na-gradilishteto-na-limak-94-bile-od-turtsija-trojtsa-od-albanija-sudot-pochna-da-qi-proteruva/>.

* All reference to Kosovo whether to the territory, institutions or population, in this report shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

⁹⁶ [Recommendation on preventing and combating trafficking in human beings for the purpose of labour exploitation](#) (Adopted by the Committee of Ministers on 27 September 2022 at the 1444th meeting of the Ministers' Deputies).

- **separate immigration enforcement functions from labour inspectorate roles and ensure that labour inspectors prioritise the detection of persons working in irregular situations who are vulnerable to THB (see the second bullet point of paragraph 161);**
- **continue to raise awareness about the risks of labour exploitation in various sectors (construction, agriculture, catering, etc.), the rights of victims, where to seek assistance and the responsibility of businesses.**

2. Identification of victims of trafficking

151. In its second evaluation report, GRETA urged the authorities of North Macedonia to promote a multi-disciplinary involvement in victim identification, to ensure that law enforcement officials, social workers, NGOs and other relevant actors increase their outreach work to identify victims of human trafficking, including victims of trafficking for the purpose of labour exploitation, and to pay increased attention to detecting potential victims of trafficking among migrants and asylum seekers.

152. As noted in paragraph 25, five mobile teams for the identification of vulnerable persons, including THB victims, were formed in Bitola, Gevgelija, Kumanovo, Skopje and Tetovo on the basis of a memorandum of co-operation signed between the MLSP and the Ministry of the Interior on 23 January 2018. They comprise NGO representatives (including Open Gate and MYLA), police officers and social workers. The total staff of the mobile teams is 33, including five co-ordinators who are social workers. The role of the mobile teams is to proactively detect vulnerable persons and victims of THB and to provide them with support and services aimed at reducing their vulnerability to being trafficked or re-trafficked. In 2018 the teams' co-ordinators were included in the new SOPs as persons competent to identify victims of trafficking, in addition to the Police Unit against THB, the Office of the NRM and Centres for Social Work.

153. In the period March 2018 - December 2019, the mobile teams detected, assisted and referred for further assistance 797 vulnerable persons (including 78 foreigners), of whom 14 (3 women and 11 girls) were considered by the mobile teams as victims of THB and 190 (including 143 children) as potential victims of THB. From August 2021 to January 2022, the mobile teams detected and referred to assistance 294 persons, of whom 7 (including 6 children) were considered as victims of THB and 73 (including 40 children) as potential victims of THB.⁹⁷

154. The functioning of the mobile teams largely depends on the availability of external funding, which has so far been provided by IOM. The authorities indicated, in their comments on GRETA's draft report, that the mobile teams are currently partially financed under a project, through which the salary of the NGO members of the mobile teams is paid while the salary of the public official members is paid by the ministries or agencies by whom they are employed. Further, within an-EU funded project, a fund for direct assistance was established, through which from March 2018 until December 2019, direct assistance (food, clothes, hygienic items, medical support, education courses, and other types of psycho-social support) was provided to 14 victims of THB and 75 potential victims of THB detected by the mobile teams. GRETA was told that the availability of such direct assistance had greatly facilitated the possibility to reach out to potential victims of trafficking. During the period from January 2020 to August 2021, when no funding was available for the mobile teams, only a few potential victims of trafficking were detected (six in 2020 and 10 in 2021).

⁹⁷ GRETA was informed by the authorities that the fact that a person has been recognised as a potential victim of THB or victim of THB by a mobile team does not mean that the person is officially recognised as such by the state authorities. This status given to a person by a mobile team still needs to be confirmed by the Police Unit against THB, the Office of the NRM or Centres for Social Work. This explains why the statistical data about identified and potential victims of THB provided in paragraphs 11 and 12 are different from the data provided in paragraph 153.

155. GRETA notes that the multi-sectoral approach applied by the mobile teams significantly contributes to strengthening co-ordination between the relevant stakeholders (Ministry of the Interior, MLSP and NGOs). Nevertheless, the existing shortcomings in terms of co-operation and co-ordination between the Police Unit against THB and other police units, in particular the Police Unit for Foreigners, as well as between the SLI and other relevant stakeholders (the Police Unit against THB, mobile teams, NGOs, trade unions) considerably hamper the detection, identification and referral of THB victims. Due to lack of co-operation and awareness, foreign nationals working without work permits in sectors such as the hospitality industry, construction and agriculture, are rarely identified as victims or potential victims of trafficking. For example, GRETA was informed that police officers specialised on THB cases were rarely involved in raids conducted in restaurants, bars and night clubs, which led to detecting foreign citizens in an irregular working situation, and that no effort was therefore made to detect victims of THB among them before deportation (usually within 24 hours).

156. Further, civil society actors and some public officials met by GRETA noted the lack of awareness of the SOPs on the part of certain professionals, such as health-care staff, police officers who are not specialised on THB cases and labour inspectors working outside of Skopje, resulting in ineffective application of the SOPs. Another issue of concern is the turnover of professionals working on THB. The NGO reports referred to several cases where the competent authorities failed to recognise THB cases and provide assistance to victims despite clear indications.⁹⁸

157. Labour inspectors conduct joint investigations with the Police Unit for Foreigners very often but almost never with the Police Unit against THB. Although they have been trained on the detection of THB cases, in the last two years labour inspectors have detected only two possible cases of THB during labour inspections. One concerned an Albanian citizen exploited as a shepherd. As the person was working without a work permit, the case was reported to the Police Unit for Foreigners and the person was deported within 48 hours. Despite clear indications of labour exploitation, the person was not offered a reflection period, and the Police Unit against THB was not informed of the case either.

158. The short stay of migrants in the country as well as the absence of communication between the border police and migrants due to lack of interpreters significantly impact the possibility of detecting potential victims of trafficking. NGOs have raised concern that a significant number of migrants are sent back to Greece immediately without appropriate screening for vulnerabilities, to the extent that illegal returns are becoming a regular practice, unlike the formal procedure of return which is applied in an extremely small number of cases.⁹⁹ GRETA notes that collective expulsions create mistrust in uniformed officers amongst refugees and migrants and raise grave concerns as regards North Macedonia's compliance with certain obligations of the Convention, including the positive obligations to identify victims of trafficking and to refer them to assistance, and to conduct a pre-removal risk assessment to ensure compliance with the obligation of non-refoulement.

159. The mobile teams from Kumanovo and Gevgelija have regularly visited the Temporary Transit Centres Vinojug and Tabanovce to raise migrants' awareness of the risks of becoming victims of criminal acts and detect potential THB victims and other vulnerable persons. GRETA was informed that 75 potential victims of THB, including 20 children, were detected among asylum seekers and migrants in 2017, 24 potential victims, including 4 children, in 2018, 14 potential victims, including 6 children, in 2019,¹⁰⁰ one potential child victim in 2020, and two potential child victims in 2021. However, the authorities noted that due to the short time that migrants remain in the country and their mistrust of the authorities, as well as because of difficulties to collect evidence of exploitation and lack of human and technical resources, the formal status of a THB victim was not granted to any asylum seekers or irregular migrants, nor has anybody been given international protection on the grounds of being a victim of trafficking.

⁹⁸ Open Gate/La Strada, *Challenges in identification, protection and reintegration of victims of human trafficking, 2000-2020*, p. 14.

⁹⁹ According to data provided by MYLA, in 2018 around 7 000 migrants were returned to Greece contrary to the formal procedure, 40 000 in 2020 and 25 000 in 2021.

¹⁰⁰ See Ombudsman – National Rapporteur on THB and Illegal Migration, *Report on the challenges in the process of identification of victims of trafficking in human beings*, December 2020, p. 15.

160. GRETA was informed that 34 nationals of North Macedonia who had travelled to areas controlled by the so-called "Islamic State" (IS) in Syria and Iraq have been repatriated. This group includes women and children, as well as a number of men who were prosecuted upon their return.¹⁰¹ GRETA notes that some of these persons might have joined IS as a result of coercion or deceit or when they were still children or were born in conflict-zone under the control of IS. GRETA notes with satisfaction that in June 2020 the Government adopted a national reintegration plan for repatriated IS fighters and their family members.¹⁰² The plan outlines the roles and responsibilities of different national institutions, ranging from intelligence agencies to health authorities, who can undertake functions such as determining whether there is sufficient evidence to prosecute a returnee, assessing the level of risk he or she poses, and evaluating their health and other needs. The information gathered determines what mix of prosecution, counselling, social support or other services are necessary to reintegrate them into the society.

161. While welcoming the revision of the SOPs and the active engagement of the mobile teams in the detection of victims of trafficking, GRETA urges the authorities of North Macedonia to strengthen the identification of victims of THB, including by:

- **ensuring that whenever there are reasonable grounds for believing that a person is a victim of THB, the person concerned undergoes a victim identification procedure in accordance with the SOPs for Treatment of Victims of THB and has access to assistance and protection measures prescribed for potential victims;**
- **involving the Police Unit for Combating THB in joint inspections with the Labour Inspectorate as well as in the raids conducted by other police units on premises where victims of THB are likely to be detected;**
- **ensuring that pre-removal risk assessments carried out prior to forced removals from North Macedonia fully assess the risks of trafficking or re-trafficking on return, in compliance with the obligation of *non-refoulement*. In this context, reference is made to GRETA's Guidance note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection.¹⁰³**

162. Further, GRETA considers that the national authorities should:

- **extend the scope of the operation of the mobile teams for the identification of vulnerable persons to cover the whole territory of North Macedonia, allocate them adequate state funding in order to secure their sustainability, and ensure that all potential victims detected by them undergo the victim identification procedure in accordance with the SOPs for Treatment of Victims of THB;**
- **train all relevant professionals, including staff working at the reception and transit centres for migrants, on the use of the SOPs for Treatment of Victims of THB;**
- **continue to train labour inspectors throughout the country on combating THB for the purpose of labour exploitation and the rights of victims;**
- **systematically inform all asylum seekers, in a language they can understand, about their rights in the framework of the asylum procedure, and the legal rights and the services available to victims of trafficking.**

¹⁰¹ 11 citizens, including a woman, were repatriated from 2018 to 2020. Four suspected former Islamic State group fighters and their family members (five women and 14 children) were repatriated in July 2021. Criminal courts in North Macedonia have so far given 13 people sentences ranging from six to nine years in jail for fighting with IS in Syria and Iraq. See [North Macedonia Repatriates 4 IS Fighters and Their Families | World News | US News](#)

¹⁰² See <https://www.state.gov/reports/country-reports-on-terrorism-2020/north-macedonia/> (page 94) and [Repatriating ISIS Family Members: A North Macedonia Model? - Just Security](#)

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

3. Assistance to victims

163. According to the revised SOPs for Treatment of Victims of THB, all the victims of trafficking, irrespective of the country of exploitation, place of residence and nationality, are entitled to safe accommodation, counselling, psychological and medical support, psychosocial assistance, legal assistance, and access to the programme of re-socialisation and reintegration, which includes psychosocial support, legal aid, continuous education, vocational training, counselling, assistance for employment and other social measures. Assistance is provided by the MLSP and its Office of the NRM, in collaboration with Centres for Social Work and NGOs and in accordance with an assistance plan prepared on the basis of an assessment of the needs of the victim (see paragraph 67). The re-socialisation programme ends when the victim is fully integrated into the society or returns to the country of origin. However, GRETA was informed that the programme lacks financial resources and expertise of the institutions in charge of its implementation and there is insufficient involvement of the local self-government in its administration.¹⁰⁴

164. Further, GRETA was informed that it had been challenging to provide support services for victims of trafficking and persons at high risk of trafficking (street children, impoverished families, women exposed to violence, etc.) during the Covid-19 pandemic. The challenges included limited access to medical help, suspended training and other professional activities associated with reintegration of victims, decreased funding for NGOs providing services to THB victims, and limited field work of social services.

165. In the course of the visit, the GRETA delegation visited the only shelter for victims of THB in the country, which is intended for female victims (including children; both potential and formally identified victims) and has capacity to accommodate five persons. It is run by the NGO Open Gate/La Strada and its location is kept secret. In March 2018, the shelter extended its services to victims of sexual violence. According to figures provided by the MLSP, 9 victims of trafficking were accommodated at the shelter in 2018, 10 in 2019 and 10 in 2021. At the time of GRETA's third evaluation visit, five girls were being accommodated at the shelter. The MLSP covers the running costs (rent, electricity and water bills). The salary of the staff (a psychologist, a social worker and a child counsellor) and the cost of programme activities are covered by Open Gate/La Strada through international funding. As noted in paragraph 68, Open Gate/La Strada runs a programme through which it provides long-term assistance to potential and identified victims of THB. In 2019, the equivalent of EUR 20 000 was allocated by the MLSP for the first time in support of that programme.

166. There is still no shelter for male victims of THB, nor is there a possibility to divide the existing shelter into separate parts for adult and child victims. Because of lack of accommodation some potential victims do not receive adequate support and protection in due time or at all. In this regard, GRETA welcomes the decision of the MLSP to open a new shelter with 15 beds, which would accommodate also male victims of THB. **GRETA would like to be kept informed of progress made in this respect.**

167. Foreign victims of THB are placed in a separate room in the Reception Centre for Foreigners during the recovery and reflection period. Following the approval of a temporary residence permit by the Ministry of the Interior, which should be done within five days (Article 121, paragraph 5, of the Law on Foreigners), they are moved to the shelter for THB victims. The GRETA delegation visited once again the Reception Centre for Foreigners, which holds irregular migrants until their identity is established and pending deportation. It has a capacity of 90 persons but, at the time of visit, only one person was being held there. GRETA was informed that since 2017, one potential victim of THB had stayed at the centre for a day prior to being transferred to the shelter for victims of THB. The Taiwanese persons identified as victims (see paragraph 99) stayed at the centre for a month prior to being returned to Taiwan. GRETA stresses once again that the Reception Centre for Foreigners is not an adequate facility for the provision of assistance to victims of THB, and lacks professional staff trained to work with such persons.¹⁰⁵

¹⁰⁴ Open Gate/La Strada, *Challenges in identification, protection and reintegration of victims of human trafficking, 2000-2020*, p. 30.

¹⁰⁵ See also MYLA, *Trafficking in Human Beings and Smuggling of Migrants in North Macedonia*, May 2019, p. 43, and Open Gate/La Strada, *Challenges in identification, protection and reintegration of victims of human trafficking, 2000-2020*, p. 20.

168. Pursuant to Article 66, paragraph 1, of the Social Protection Law, victims of trafficking are included in the categories of persons entitled to free health care if they do not have health insurance. However, victims of THB without health insurance encounter difficulties to enjoy this right. Even when they benefit from free medical examination, they cannot have access to free medication as they are not included in the categories of persons entitled to free health insurance (Article 5 of the Law on Health Insurance). In practice, the medical bills of victims without health insurance are covered by NGOs through projects funded by international donors. Further, GRETA was told that potential victims who do not have residence permits and nationals who do not have identity documents as their birth has not been recorded in the Birth Registry face difficulties of access to health care (see paragraph 170).¹⁰⁶

169. GRETA remains concerned by the continuing absence of safe accommodation for male victims of trafficking and the lack of state funding for NGOs providing assistance to victims of trafficking. Consequently, **GRETA reiterates its recommendations from the second evaluation report and once again urges the authorities of North Macedonia to:**

- **ensure that there are adequate financial and human resources for the assistance of potential and formally identified victims of trafficking, including by specialised NGOs mandated to provide assistance;**
- **ensure that all victims of THB are guaranteed effective access to public health care by reviewing the Law on Health Insurance and including them in the categories of persons to be covered by health insurance;**
- **provide adequate assistance measures, including accommodation, to potential and formally identified male victims of THB;**
- **ensure that potential foreign victims of trafficking held at the Reception Centre for Foreigners are moved to the state shelter for victims of THB as soon as there are reasonable grounds to believe that they are victims of trafficking.**

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

170. As pointed out in paragraph 13, most of the victims of trafficking in North Macedonia have been children. Registration of all children at birth as a preventive measure against trafficking is not fully ensured as recommended in the previous reports of GRETA.¹⁰⁷ Persons who do not have identity documents as they have not been registered in the Birth Registry (unregistered persons) cannot have access to social benefits. Several interlocutors pointed out that for some families begging is the only source of revenue. Although the number of unregistered persons has decreased, according to the civil society, there is still a considerable number of unregistered persons, mostly in the Roma community.¹⁰⁸ There continue to be cases of unregistered children detected as potential victims of THB.¹⁰⁹

¹⁰⁶ *Ibidem*, p. 26.

¹⁰⁷ GRETA's first report, paragraph 124 and GRETA's second report, paragraph 73.

¹⁰⁸ According to a statement of the Ombudsman, in April 2021 there were 659 persons without a birth certificate, 60% (or 397 persons) of whom are children, mostly Roma (<https://bit.ly/3nzFokd>). See also [North Macedonia Takes Important First Step Towards Ending Statelessness - European Roma Rights Centre \(errc.org\)](#)

¹⁰⁹ See MYLA, *Analysis on the Legislation and the Application of the Standard Operating Procedures for Treatment of Victims of Trafficking in Human Beings through Case Study*, March 2020, pp 43-44.

171. Children in street situations are particularly vulnerable and their vulnerability has been exacerbated by the Covid-19 pandemic due to the reduced field work of specialised NGOs and social services. It is estimated that 80% of the children working or living on the street are from the Roma community. In several cities mobile teams were set up in 2019, composed of social workers and lawyers for providing support to children in street situations with the support of UNICEF. These teams were subsequently financially supported through the IOM Development Fund. According to data provided by IOM, from August 2019 to July 2020, a total of 362 children in street situations (138 girls and 224 boys) were identified and assisted in Skopje by these mobile teams.¹¹⁰

172. The GRETA delegation visited once again the day care centre for street children in Skopje's neighbourhood of Kisela Voda.¹¹¹ Some 15 children are taken care of in the centre every day. The main aim is to prepare children for their inclusion in school. Children and their families continue to be monitored for a period of six months after the enrolment in school.

173. However, the work of the mobile teams and day care centres and other programmes to reduce the school dropout and increase the number of children enrolled in school have not significantly reduced child begging or the number of children in street situations, especially among Roma children.¹¹² According to civil society actors, the authorities make very little effort to improve the situation and the existing programmes conducted by civil society and international organisations remain insufficient to get children off the streets where they are exposed to violence, abuses and child trafficking.

174. GRETA was informed of several measures to raise awareness of child trafficking. By way of example, under the above-mentioned project "Preventing and Combating THB in North Macedonia", implemented by the Council of Europe, educational videos and booklets on preventing child trafficking (in Macedonian, Albanian, Romani, Turkish and English), as well as a handbook for teachers and education professionals on how to protect children from trafficking were produced and distributed. Further, child education professionals and school psychologists were trained on how to recognise signs of child trafficking, interview potential child victims, and refer them to the competent authorities.¹¹³ Moreover, with the financial support of the EU and the Council of Europe, the Roma women and youth NGO Luludi implemented a project entitled "All together in prevention of child and girls trafficking". As part of this project, workshops on THB were offered to students in December 2020, videos were prepared in Macedonian and Romani and distributed via social media and on TV, and research concerning the perceptions and understanding of THB among secondary school students¹¹⁴ was conducted.¹¹⁵ The result of that research shows that additional efforts are needed to raise awareness of the young people, especially Romani girls who are at risk of human trafficking.

¹¹⁰ 354 of these children (98%) belonged to the Roma community, while the remaining eight children (2%) were Albanians and Macedonians. 159 children (44%) lacked personal documentation, such as birth certificate, health card and/or ID card, 252 (70%) were not enrolled in school nor attended the day care centre for street children, 97% had unemployed parents, 76% had unemployed parents who were not receiving social benefits. 275 children or their parents were referred to the relevant institutions and/or specialised NGOs for support to get documents and social benefits, find a job, enrol in school, etc.

¹¹¹ This day care centre had been visited by GRETA during the first and second evaluation visits. See GRETA's first report, paragraph 121 and GRETA's second report, paragraph 69.

¹¹² See 2020 Findings on the Worst Forms of Child Labour: North Macedonia, https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2020/North-Macedonia.pdf

¹¹³ All the mentioned information materials and videos are available at: [Publications about Combating Human Trafficking \(coe.int\)](https://publications.coe.int/)

¹¹⁴ See Analysis of the research findings concerning the perceptions and understanding of trafficking in human beings among secondary school students, May 2021, at <https://bit.ly/30OoZzC>

¹¹⁵ For more information on the awareness-raising activities conducted in the period 2017-2020, see the annual reports of the National Commission for Combating THB and Illegal Migration, available at: [Годишни извештаи на Националната Комисија - Национална Комисија \(nacionalnakomisija.gov.mk\)](https://nacionalnakomisija.gov.mk/)

175. Most children identified as potential victims of trafficking by the mobile teams mentioned in paragraph 153 have been children from the Roma community subjected to forced begging, forced marriage or sexual exploitation. As soon as a potential child victim of trafficking is detected, the social work centre should be contacted in order to take care of the safety of the child and appoint a guardian.¹¹⁶ However, GRETA was informed that social workers continue to lack material, technical, financial and human resources. Further, due to staff turnover, there is a constant need of enhancing the capacity of social workers to deal with victims of trafficking.

176. Girls who are victims of trafficking are accommodated at the state shelter for victims of THB. Owing to the limited capacity of the shelter (see paragraph 165), some child victims need to be placed with foster families. However, there are not enough foster families, and the existing ones are reluctant to accept victims of trafficking as this requires special care that they cannot provide. While pursuant to Article 83 of the 2019 Social Protection Law victims can reside in the shelter for a period of three to six months, with the possibility to extend their stay to up to one year, many children stay more than two years because it is difficult to find an adequate alternative accommodation for them. There are three foster family support centres, which are the network of foster families: two public centres (one in Skopje, one in Bitola) and one centre led by the SOS Village that the GRETA delegation visited. The SOS Village has 13 houses with an average of four children per foster family. Several interlocutors met by GRETA in the course of the evaluation visit stressed the urgent need for strengthening the social care system by increasing the number of foster families, allocating state funding for the specialisation of some foster families in the provision of care to particularly traumatised children, including victims of trafficking, improving institutional co-operation and building capacity of social workers.

177. Following the deinstitutionalisation of child care in North Macedonia, there have been attempts to place child victims of trafficking in small group houses, but this has failed due to the fact that their staff are not trained to take care of traumatised children. GRETA is particularly concerned by reported cases of potential child victims of trafficking who had not been assisted by social work centres due to lack of accommodation and cases of children who after leaving the shelter for THB victims have been reunited with their families who had exploited them because of lack of alternative care.¹¹⁷

178. The authorities have continued to accommodate unaccompanied migrant children in the Reception Centre for Foreigners. As stressed in GRETA's previous reports, the reception centre is a detention facility and not an appropriate environment for victims of trafficking.¹¹⁸ GRETA recalls once again paragraph 155 of the Explanatory Memorandum to the Convention stating that "the placement of a child in a detention institution should never be regarded as appropriate accommodation".

¹¹⁶ According to the data provided by the authorities, one victim of trafficking was appointed legal guardian in 2017, five in 2018, four in 2019, four in 2020 and five in 2021.

¹¹⁷ See Open Gate/La Strada, *Challenges in identification, protection and reintegration of victims of human trafficking, 2000-2020*, p. 29, and MYLA, *Analysis on the Legislation and the Application of the Standard Operating Procedures for Treatment of Victims of Trafficking in Human Beings through Case Study*, March 2020, p. 27.

¹¹⁸ See GRETA's first report, paragraph 155 and GRETA's second report, paragraph 120.

179. GRETA welcomes the efforts made to prevent and raise awareness of child trafficking, but remains concerned by the lack of adequate, specialised accommodation for children who are victims or potential victims of trafficking, and by inadequate human and financial resources of social work centres, which prevent them from playing an active role in preventing child trafficking, detecting and assisting child victims of trafficking. **GRETA therefore urges the authorities of North Macedonia to:**

- **ensure that child victims of THB benefit from specialised accommodation and services;**
- **seek alternatives to the detention of unaccompanied children, in line with the best interests of the child and the Council of Europe’s Action Plan on protecting vulnerable persons in the context of migration and asylum in Europe (2021-2025).¹¹⁹**

180. **Further, GRETA considers that the authorities of North Macedonia should:**

- **strengthen the capacity and human resources of the Centres for Social Work to enable them to play an active role in preventing child trafficking, detecting child victims of human trafficking and assisting them;**
- **sensitise and train child protection professionals on child trafficking, and strengthen their resources across the country;**
- **develop programmes for the rehabilitation of children in street situations, by offering them and their families vocational training, employment opportunities, placement in alternative care, based on the best interests of the child;**
- **ensure that proper risk assessment is conducted before returning children to their parents, taking into account the best interests of the child;**
- **provide further training to stakeholders (labour inspectors, police, prosecutors, social workers, health-care and education professionals) on the identification of child victims of THB for different forms of exploitation.**

5. Recovery and reflection period and residence permit

181. In line with the recommendation made by GRETA in its previous reports,¹²⁰ Article 121, paragraph 3, of the new Law on Foreigners stipulates that the recovery and reflection period shall not be conditional on the co-operation of the victim of THB with the state authorities. Although the law refers only to foreign victims of THB, the SOPs specify that both foreign and domestic victims are to be offered such a period. While welcoming this development, GRETA notes that Article 121, paragraph 2, of the new Law on Foreigners still imposes an obligation on foreign victims of THB to decide during the period of recovery and reflection to agree to co-operate with the competent authorities in the detection of the crimes and prosecution of their perpetrators or to return to their country of origin or legal residence. This provision is not in compliance with other articles of the Law on Foreigners. For example, in line with GRETA’s previous recommendation,¹²¹ Article 124 of the Law provides for the possibility for victims of trafficking to obtain a six-month renewable temporary residence permit on the basis of their personal situation, without any conditions to show a clear intention to co-operate with the competent authorities.

¹¹⁹ <https://rm.coe.int/action-plan-on-protecting-vulnerable-persons-in-the-context-of-migrati/1680a409fc> .

¹²⁰ See GRETA’s first report, paragraph 163 and GRETA’s second report, paragraph 129.

¹²¹ See GRETA’s first report, paragraph 169 and GRETA’s second report, paragraph 133.

182. In line with the previous recommendation of GRETA,¹²² the new Law does not provide for the termination of the recovery and reflection period, the rejection of temporary residence permit requests or the withdrawal of temporary residence permits on the grounds that the victim of trafficking has not severed contacts or has renewed contacts with the suspected traffickers. Pursuant to Articles 121 and 125 of the new Law, the recovery and reflection period can be interrupted, and temporary residence permit withdrawn only if the victim poses a threat to the national security, abuses or loses the status of victim of THB or has acquired this status illegally.

183. According to the official statistics, 16 female victims of trafficking, mostly nationals of North Macedonia and Albania, were granted a recovery and reflection period since GRETA's second evaluation (in 2017: one girl; in 2018: one woman and four girls; in 2019: two women and four girls; in 2020: four girls). However, only one victim (an Albanian woman from Kosovo* who had been a victim of forced marriage) was granted a temporary residence permit in 2019. The authorities noted, in their comments on GRETA's draft report, that foreign victims of human trafficking are informed of their rights, including the right to receive a temporary residence permit, but insist on returning to their country of origin after being detected.

184. While welcoming the legislative changes introduced by the new Law on Foreigners, GRETA considers that the authorities of North Macedonia should ensure that all persons for whom there are reasonable grounds to believe that they are victims of trafficking are offered in practice a recovery and reflection period.

185. Further, GRETA considers that the authorities should take steps to effectively enable foreign victims of THB to benefit from the right to receive a renewable residence permit without having to co-operate with the law enforcement authorities.

¹²² See GRETA's first report, paragraph 163.

Appendix 1 - List of GRETA's conclusions and proposals for action

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

Topics related to the third evaluation round of the Convention

Right to information

- GRETA considers that the authorities of North Macedonia should strengthen the systematic provision of oral and written information to potential and formally identified victims of trafficking, in a language they can understand, regarding their rights, the services available and how to access them, as well as the implications of being identified as a victim of trafficking. Law enforcement officers, prosecutors, judges, members of the mobile teams, social workers, labour inspectors as well as the staff of the Reception Centre for Foreigners, the transit centres for migrants and the state shelter for victims of trafficking should be trained and instructed on how to properly explain to victims of THB their rights, taking into account their cognitive skills and psychological state (paragraph 48);
- GRETA considers that the authorities of North Macedonia should ensure the availability of interpreters for different languages, as well as their sensitisation to the issue of human trafficking (paragraph 49).

Legal assistance and free legal aid

- GRETA urges the authorities of North Macedonia to take further steps to facilitate and guarantee access to justice for victims of THB, in particular by ensuring that:
 - the legislation provides a clear basis for providing legal assistance as soon as there are reasonable grounds for believing that a person is a victim of trafficking, before they have to decide whether they want to co-operate with the authorities and/or make an official statement to the police;
 - investigators and prosecutors instruct victims on their right to legal representation, and such representation is ensured from the outset of criminal proceedings;
 - the department of the Ministry of Justice responsible for free legal aid is sensitised to the importance of legal representation for victims of THB and takes steps to inform them of the relevant procedures and enable them to access legal assistance;
 - adequate funding is provided to specialised NGOs providing legal assistance to victims of trafficking, including legal representation in court proceedings (paragraph 60).

Psychological assistance

- GRETA welcomes the existing arrangements for the provision of psychological support to victims of trafficking and invites the authorities of North Macedonia to continue their efforts in this regard (paragraph 64).

Access to work, vocational training and education

- GRETA considers that the authorities of North Macedonia should strengthen effective access to the labour market for victims of THB and their economic and social inclusion through the provision of vocational training and job placement, raising awareness amongst employers, and the promotion of micro-businesses, social enterprises and public-private partnerships, including through secure state supported employment programmes, with a view to creating appropriate work opportunities for victims of trafficking (paragraph 70).

Compensation

- GRETA urges the authorities of North Macedonia to make further efforts to guarantee effective access to compensation for victims of THB, in particular by:
 - ensuring that the collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation of the victim or loss sustained by the victim, is part of the criminal investigations with a view to supporting compensation claims in court;
 - making full use of the legislation on the seizure and confiscation of assets to secure compensation to victims of THB;
 - systematically informing victims of trafficking of their right to seek compensation in criminal and civil proceedings and the procedure to be followed, and ensuring that they are provided with effective legal assistance, including legal representation, from the early stage of the proceedings in order to exercise this right;
 - ensuring that victims of human trafficking can obtain a decision on compensation from the offender as part of criminal proceedings, including for loss of earnings, irrespective of the form of exploitation, and requiring courts to state, where applicable, why compensation is not considered/awarded;
 - adopting the necessary legislative and administrative measures with a view to ensuring the effective implementation of the Law on Payment of Monetary Compensation to Victims of Violence without delay (paragraph 85).

Investigations, prosecutions, sanctions and measures

- GRETA urges the authorities of North Macedonia to take further measures to strengthen the criminal justice response to human trafficking, including by:
 - ensuring that all human trafficking offences, including trafficking for the purpose of labour exploitation and forced begging, are investigated proactively and promptly, regardless of whether a complaint about the reported crime has been submitted or not, making use of all possible evidence, including evidence gathered through special investigative measures, financial evidence, documents and digital evidence, so that there is less reliance on testimony by victims;
 - reviewing the effectiveness of the legal provisions on corporate liability in relation to human trafficking offences, examining the reasons why no legal entities have been prosecuted and punished for trafficking-related acts and, in the light of their findings, taking measures to ensure that the criminal liability of legal entities can be acted upon in practice;

- strengthening the human, financial and technical capacities of law enforcement agencies to proactively investigate human trafficking offences and make use of special investigative techniques (paragraph 104);
- GRETA considers that the national authorities should:
 - intensify their efforts to promptly identify and seize criminal assets generated by trafficking offences and confiscate them;
 - further sensitise prosecutors and judges to the rights of victims of human trafficking and encourage the development of specialisation amongst prosecutors and judges to deal with human trafficking cases;
 - ensure that the length of court proceedings in cases of trafficking of human beings is reasonable, in line with the case-law of the European Court of Human Rights (related to Article 6, paragraph 1 of the ECHR) and the standards set by the European Commission for the Efficiency of Justice (CEPEJ) (paragraph 105).

Non-punishment provision

- GRETA welcomes the adoption of a specific legal provision and guidelines on the non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they have been compelled to do so, and considers that the authorities of North Macedonia should ensure their effective implementation in practice, paying particular attention to foreigners who might be victims of sexual or labour exploitation, through providing systematic and continuous training to police officers, prosecutors, judges, lawyers and other relevant professionals (paragraph 109).

Protection of victims and witnesses

- GRETA urges the authorities of North Macedonia to:
 - ensure the protection of the private life and identity of victims of trafficking from public exposure, in line with Article 11 of the Convention, through the issuance of appropriate instructions to all relevant professionals;
 - take measures to encourage the media to protect the identity and private life of victims of THB through self-regulation or regulatory/co-regulatory measures as well as further training for media professionals (paragraph 116);
- GRETA considers that the authorities of North Macedonia should make full use of the available measures to protect victims and witnesses of THB and to prevent intimidation or re-traumatisation during the investigation and during and after the court proceedings, including through the use of video conferences and other suitable means, in order to avoid direct contact and face-to-face cross-examination of victims and alleged perpetrators (paragraph 117).

Specialised authorities and co-ordinating bodies

- GRETA welcomes the setting up of the National Unit for Combating Trafficking in Human Beings and Smuggling of Migrants (Task Force) and considers that the positive results obtained by it should be reinforced by providing it with all the necessary human, technical and financial resources and providing continuous training on THB to its new members (paragraph 122);
- While welcoming the capacity building activities on THB that have been conducted for relevant professionals, GRETA considers that training on THB should be integrated into the regular training curricula of relevant professional groups, including law enforcement officials, prosecutors, judges, lawyers, forensic experts, labour inspectors, social workers, education staff, health-care staff, and diplomatic and consular staff. Further, joint multi-disciplinary training activities should be organised in co-operation with NGO representatives in order to strengthen the co-operation between state authorities and specialised NGOs (paragraph 123).

International co-operation

- GRETA welcomes the participation of the authorities of North Macedonia in international co-operation and invites them to continue their efforts in this respect, including through the setting up of joint investigation teams (JITs) in the investigation of cases of THB (paragraph 129).

Child-sensitive procedures for obtaining access to justice and remedies

- GRETA urges the authorities of North Macedonia to take steps to ensure that child-sensitive procedures are followed when investigating, prosecuting and adjudicating cases of THB, in line with the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice. This should include measures to ensure that all professionals who work with children, including lawyers, prosecutors and judges, receive the necessary interdisciplinary training on the rights and specific needs of children, as well as that child victims of trafficking are interviewed in child-friendly interview rooms and are not cross-examined in the presence of the defendant (paragraph 136).

Role of businesses

- While welcoming the code of co-operation signed with the Accor hotel group for the protection of children from sexual exploitation, GRETA considers that the authorities of North Macedonia should strengthen further engagement with the private sector, in line with the UN Guiding Principles on Business and Human Rights and Council of Europe Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business, with a view to raising awareness of the important role and responsibility of businesses to prevent human trafficking, support the rehabilitation and recovery of victims, and provide access to effective remedies (paragraph 139).

Measures to prevent and detect corruption

- GRETA considers that the authorities of North Macedonia should include, as a matter of priority, measures against corruption in a THB context in the overall policies against corruption, as well as adopt all the necessary measures to ensure that public officials are punished for their direct and indirect involvement in human trafficking (paragraph 142).

Follow-up topics specific to North Macedonia

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

- GRETA considers that the National Co-ordinator's Office should be provided with adequate human and financial resources to enable it to effectively carry out the tasks under its mandate (paragraph 20);
- GRETA considers that the authorities of North Macedonia should examine the possibility of amending the Law on Ombudsman by indicating the Ombudsman institution as the National Rapporteur on Combating THB, and increase the human resources and funding available to the latter in order to guarantee effective monitoring of the anti-trafficking activities of state institutions (paragraph 27);
- While welcoming the setting up of the local commission in Kumanovo, GRETA considers that the authorities should strengthen the role and capacity of the local commissions for combating THB, including by providing training on THB to their members (paragraph 31)

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

- GRETA urges the authorities of North Macedonia to ensure that the Labour Inspectorate has a clear mandate and adequate human and financial resources to carry out inspections with a view to preventing and detecting cases of THB for the purpose of labour exploitation. In this context, GRETA refers to Recommendation CM/Rec(2022)21 of the Committee of Ministers of the Council of Europe to member States on preventing and combating trafficking in human beings for the purpose of labour exploitation (paragraph 149);
- GRETA considers that the authorities of North Macedonia should:
 - strengthen co-operation between labour inspectors, other state and municipal bodies carrying inspections, law enforcement officers dealing with THB cases, mobile teams, trade unions and civil society actors, with a view to collecting evidence necessary for successfully investigating and prosecuting cases of THB for the purpose of labour exploitation;
 - separate immigration enforcement functions from labour inspectorate roles and ensure that labour inspectors prioritise the detection of persons working in irregular situations who are vulnerable to THB (see the second bullet point of paragraph 161);
 - continue to raise awareness about the risks of labour exploitation in various sectors (construction, agriculture, catering, etc.), the rights of victims, where to seek assistance and the responsibility of businesses (paragraph 150).

Identification of victims of trafficking

- While welcoming the revision of the SOPs and the active engagement of the mobile teams in the detection of victims of trafficking, GRETA urges the authorities of North Macedonia to strengthen the identification of victims of THB, including by:
 - ensuring that whenever there are reasonable grounds for believing that a person is a victim of THB, the person concerned undergoes a victim identification procedure in accordance with the SOPs for Treatment of Victims of THB and has access to assistance/protection measures prescribed for potential victims of THB;
 - involving the Police Unit for Combating THB in joint inspections with the Labour Inspectorate as well as in the raids conducted by other police units on premises where victims of THB are likely to be detected;
 - ensuring that pre-removal risk assessments carried out prior to forced removals from North Macedonia fully assess the risks of trafficking or re-trafficking on return, in compliance with the obligation of non-refoulement. In this context, reference is made to GRETA's Guidance note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection (paragraph 161);
- GRETA considers that the national authorities should:
 - extend the scope of the operation of the mobile teams for the identification of vulnerable persons to cover the whole territory of North Macedonia, allocate them adequate state funding in order to secure their sustainability, and ensure that all potential victims detected by them undergo the victim identification procedure in accordance with the SOPs for Treatment of Victims of THB;
 - train all relevant professionals, including staff working at the reception and transit centres for migrants, on the use of the SOPs for Treatment of Victims of THB;
 - continue to train labour inspectors throughout the country on combating THB for the purpose of labour exploitation and the rights of victims;
 - systematically inform all asylum seekers, in a language they can understand, about their rights in the framework of the asylum procedure, and the legal rights and the services available to victims of trafficking (paragraph 162).

Assistance to victims

- GRETA reiterates its recommendations from the second evaluation report and once again urges the authorities of North Macedonia to:
 - ensure that there are adequate financial and human resources for the assistance of potential and formally identified victims of trafficking, including by specialised NGOs mandated to provide assistance;
 - ensure that all victims of THB are guaranteed effective access to public health care by reviewing the Law on Health Insurance and including them in the categories of persons to be covered by health insurance;
 - provide adequate assistance measures, including accommodation, to potential and formally identified male victims of THB;

- ensure that potential foreign victims of trafficking held at the Reception Centre for Foreigners are moved to the state shelter for victims of THB as soon as there are reasonable grounds to believe that they are victims of trafficking (paragraph 169).

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

- GRETA urges the authorities of North Macedonia to:
 - ensure that child victims of THB benefit from specialised accommodation and services;
 - seek alternatives to the detention of unaccompanied children, in line with the best interests of the child and the Council of Europe's Action Plan on protecting vulnerable persons in the context of migration and asylum in Europe (2021-2025) (paragraph 179);
- GRETA considers that the authorities of North Macedonia should:
 - strengthen the capacity and human resources of the Centres for Social Work to enable them to play an active role in preventing child trafficking, detecting child victims of human trafficking and assisting them;
 - sensitise and train child protection professionals on child trafficking, and strengthen their resources across the country;
 - develop programmes for the rehabilitation of children in street situations, by offering them and their families vocational training, employment opportunities, placement in alternative care, based on the best interests of the child;
 - ensure that proper risk assessment is conducted before returning children to their parents, taking into account the best interests of the child;
 - provide further training to stakeholders (labour inspectors, police, prosecutors, social workers, health-care and education professionals) on the identification of child victims of THB for different forms of exploitation (paragraph 180).

Recovery and reflection period and residence permit

- While welcoming the legislative changes introduced by the new Law on Foreigners, GRETA considers that the authorities of North Macedonia should ensure that all persons for whom there are reasonable grounds to believe that they are victims of trafficking are offered in practice a recovery and reflection period (paragraph 184);
- GRETA considers that the authorities should take steps to effectively enable foreign victims of THB to benefit from the right to receive a renewable residence permit without having to cooperate with the law enforcement authorities (paragraph 185).

Appendix 2 - List of public bodies, intergovernmental organisations and civil society actors with which GRETA held consultations

Public bodies

- Ministry of the Interior
 - Deputy National Co-ordinator for the Fight against Trafficking in Human Beings and Illegal Migration
 - Secretary of the National Commission for Combatting Trafficking in Human Beings and Illegal Migration
 - National Unit for Combating Trafficking in Human Beings and Smuggling of Migrants
 - Department for Border Affairs and Migration
- Ministry of Justice
- Ministry of Labour and Social Policy
- Ministry of Foreign Affairs
- Ministry of Health
- Ministry of Education and Science
- State Labour Inspectorate
- Public Prosecutor's Office for Organised Crime and Corruption
- Basic Court Skopje 1
- Office of the Ombudsman - National Rapporteur on Combating Trafficking in Human Beings and Illegal Migration
- Kumanovo Local Commission for Combating Trafficking in Human Beings and Illegal Migration
- Labour inspectors and members of mobile teams in Skopje, Tetovo and Kumanovo

Intergovernmental organisations

- International Organization for Migration (IOM)
- International Centre for Migration Policy Development (ICMPD)
- United Nations International Children's Emergency Fund (UNICEF)
- Organization for Security and Co-operation in Europe (OSCE)

NGOs and other civil society organisations

- For Happy Childhood
- Luludi
- Macedonian Association of Young Lawyers
- Macedonian Red Cross
- Megjashi
- Open Gate/La Strada Macedonia

Government's comments

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

GRETA engaged in a dialogue with the authorities of North Macedonia on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version.

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the authorities of North Macedonia on 2 December 2022 and invited them to submit any final comments. The comments of the authorities, submitted on 13 January 2023, are reproduced hereafter.



Government of the Republic of North Macedonia
**National Commission for fight against human trafficking
and illegal migration**

Ms. Petya Nestorova
Executive Secretary
Of the Council of Europe Convention on Action
Against Trafficking in Human Beings
E-Mail: trafficking@coe.int

Dear Petya,

Thank you very much for your letter transmitting the final GRETA report concerning the implementation of the Convention on Action against Trafficking in Human Beings.

In this context, we would like to thank GRETA for the constructive exchange during the third evaluation process with focus on trafficking victims' access to justice and effective remedies, which is essential for victims' rehabilitation and reinstatement of rights. The process to finalize this report has been intense. North Macedonia would therefore especially like to thank the delegation of GRETA for the cooperation during the process.

The report contains valuable recommendations for further improving our actions against trafficking in human beings. Please find attached North Macedonia's final comments on the report.

Skopje, 23.01.2023

Yours sincerely,
National Coordinator on Fight Against
Trafficking in Human Beings and Illegal Migration
m-r Magdalena Nestorovska

**Comments by North Macedonia on the GRETA report concerning the implementation of the
Council of Europe Convention on Action against Trafficking in Human Beings,
Third Evaluation Round
(in pursuance of Rule 15 of GRETA`s Rules of Procedure)**

The numbering below refers to the paragraphs of the draft report

(23) Where paragraph 23 is concerned, the Macedonian authorities want to clarify that there is a decision to establish a Task Force. It was established in January 2018 by signing the Memorandum of Cooperation between the Ministry of Interior and the Public Prosecutor.

(161) In regard to GRETA`s recommendation 161, the Macedonian authorities want to highlight that the engagement of mobile teams in victim detection, including identification of victims, is regulated by the Memorandum of Cooperation between the Ministry of the Interior and the State Labour Inspectorate, where it is explicitly defines in which cases the Task Force will be involved.

In addition, the Macedonian authorities have a remark regarding GRETA`s recommendation to ensuring that pre-removal risk assessments carried out prior to forced removals from North Macedonia fully assess the risks of trafficking or re-trafficking on return, in compliance with the obligation of non-refoulement, in which context, reference is made to GRETA`s Guidance note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection. Namely, bearing in mind that the reason for this recommendation are the identified victims of human trafficking from Taiwan, GRETA should also be objective and accept that you cannot keep an adult (identified as a victim of human trafficking) by force in a shelter or in the country, when the person explicitly requests to return to his/her country, while refusing any help, protection and support, and he/she is also capable of working (he/she has no disabilities or any limitations in making reasonable judgements). Holding victims of human trafficking by force is victimization by the institutions.

Regarding the risk assessment itself for the return of victims of human trafficking to the country of origin, we depend on the response from the checks done by the competent authorities of that country.

(169) The Macedonian authorities take note of GRETA`s position but wants to point out that regarding the recommendation to ensure that potential foreign victims of trafficking held at the Reception Centre for Foreigners are moved to the state shelter for victims of THB as soon as there are reasonable grounds to believe that they are victims of trafficking, this is not necessary, because in practice, in all cases, after obtaining the temporary residence permit, the victim of human trafficking leaves the Reception Centre for Foreigners and, according to the risk assessment, is accommodated in the Center for the Protection of victims of human trafficking or in another appropriate facility.

(176) The Macedonian authorities highlight that in respect to the SOS village, 65 foster families are included in the professional assistance and support service for foster families and add that none of the foster careers have received specialized training in providing care for child victims of trafficking.

(179) The Macedonian authorities note that according to the SOP for unaccompanied foreign children - this category of children is immediately assigned a temporary guardian by the Social Work Centre and they are accommodated in the Centre for Asylum Seekers, which is of open type (there is no other word for detention), in response to GRETA`s recommendation to seek alternatives to the detention of unaccompanied children, in line with the best interests of the child and the Council of Europe`s Action Plan on protecting vulnerable persons in the context of migration and asylum in Europe (2021-2025).