



EVALUATION REPORT

SERBIA

Third evaluation round

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

GRETA

Group of Experts
on Action against
Trafficking
in Human Beings

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Preamble

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

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

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

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

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

Executive Summary

Since the second round of evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, Serbia has taken steps to further develop the relevant legislative and institutional framework, including by introducing in the Law on Foreigners a recovery and reflection period and a temporary residence permit based on humanitarian grounds for victims of trafficking in human beings, as well as including provisions related to victims of trafficking in the Law on Health Care and the Law on Free Legal Aid. Another important development is the establishment of the position of National Rapporteur, pursuant to the new Law on the Ombudsman adopted in November 2021, to be fulfilled by the Ombudsman.

Serbia remains primarily a country of origin of victims of trafficking in human beings, but it is also to some extent a country of destination and transit. In the period 2017-2022, there were a total of 320 formally identified victims of THB (250 female and 70 male, including 150 children). In addition, there were 367 presumed victims of trafficking. Serbian nationals accounted for the majority of identified and presumed victims of trafficking, most of whom were trafficked internally. Although sexual exploitation remained the prevalent form of exploitation, cases of trafficking for labour exploitation, forced begging and forced criminality were identified as well.

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.

The adoption of the Law on Free Legal Aid, which recognises victims of trafficking as a vulnerable category entitled to free legal aid, represents a positive development. However, in practice victims continue to receive free legal aid and legal assistance from the lawyer appointed by the Centre for the Protection of Victims of Trafficking (CPVT) and specialised NGOs who are funded by private donors. Therefore, GRETA urges the Serbian authorities to take further steps to guarantee trafficking victims' access to legal assistance and free legal aid, including by ensuring that the costs of free legal aid and legal assistance provided to victims of trafficking by NGOs and lawyers hired by them are reimbursed by the State.

While commending the publication of guidelines on the compensation of victims of serious crime in criminal proceedings and the related training provided to judges and prosecutors, the report notes that the number of cases in which victims of trafficking have been awarded compensation in court proceedings is low. GRETA calls on the Serbian authorities to take further steps to facilitate and guarantee access to compensation for victims of trafficking, including by systematically informing victims of their right to compensation and making full use of the legislation on the seizure and confiscation of assets from perpetrators. Further, GRETA urges the Serbian authorities to set up without further delay a state compensation scheme for victims of trafficking.

The report welcomes the existence of specialised investigators and prosecutors to work on human trafficking cases. Nonetheless, it notes that human trafficking cases are often requalified as lesser offences and that when plea-bargaining is used in trafficking cases, victims are not always informed of the procedure and are not asked whether they wish to file a property claim. GRETA urges the Serbian authorities to strengthen the criminal justice response to trafficking, including by ensuring that human trafficking offences are investigated proactively and promptly, and lead to effective, proportionate and dissuasive sanctions for those convicted.

While there is still no specific provision in Serbian legislation concerning the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they have been compelled to do so, guidelines on the implementation of the non-punishment principle have been issued and are included in the training programme of the Judicial Academy. GRETA considers that the Serbian authorities should make further efforts in order to ensure the consistent application of the non-punishment principle in practice.

GRETA was informed that the status of an especially vulnerable witness was granted to 62 victims of human trafficking in the period 2019-2021. However, the assignment of this status often does not lead to greater protection of victims in practice, due to the lack of technical equipment. Moreover, victims' personal information is frequently leaked to the media and published by them. GRETA urges the Serbian authorities to ensure the protection of the private life and identity of victims of trafficking through the issuance of appropriate instructions to all relevant professionals. Further, GRETA considers that the Serbian authorities should make full use of all measures to protect victims and witnesses of human trafficking.

GRETA welcomes the publication of the practice-oriented guidelines on the interviewing of child victims of exploitation and trafficking and children at risk, as well as the training provided by the CPVT to relevant professionals, and considers that the authorities should take further steps to ensure that child-sensitive procedures are followed when investigating, prosecuting and adjudicating cases of trafficking.

The report also examines progress made on the implementation of previous GRETA recommendations on selected topics. While commending the steps taken since the second evaluation to prevent child trafficking, GRETA considers that the authorities should continue to sensitise and train child protection professionals, teachers, Roma health mediators, law enforcement officers and prosecutors with regard to children's vulnerability to trafficking.

The number of identified victims of trafficking for the purpose of labour exploitation remains low, despite the training provided to labour inspectors and the dissemination of the pocket guide on the detection and preliminary identification of victims of human trafficking. There has been an increase in the number of foreign workers employed in construction, but it would appear that there is a lack of proper investigation into their working and living conditions and the possible existence of human trafficking for the purpose of labour exploitation. GRETA therefore urges the Serbian authorities to intensify their efforts to prevent and combat trafficking for the purpose of labour exploitation, including by strengthening the capacity of labour inspectors, proactively and thoroughly investigating allegations of trafficking for labour exploitation involving foreign workers, and ensuring that any possible victims of trafficking among them are identified in a timely manner and are offered appropriate assistance.

The report welcomes the efforts to provide training on the identification of victims of trafficking to relevant professionals and the fact that the identification of victims of trafficking remains disconnected from the criminal investigation into trafficking cases. However, GRETA considers that the Serbian authorities should take further steps to ensure that all victims of trafficking are identified as such and are provided with assistance they are entitled to, including by encouraging the relevant professionals to adopt a more proactive approach to the detection of victims, increasing the involvement of specialised NGOs in the identification of victims of trafficking, paying increased attention to detecting and identifying victims among migrants and asylum seekers, and providing sufficient staff and resources to the CPVT.

The emergency shelter for victims of trafficking operated by the CPVT started receiving victims of trafficking in March 2022. However, there are still no state-funded accommodation facilities for male victims of trafficking, and there is a lack of long-term support measures for victims of trafficking. GRETA urges the authorities to take steps to improve the assistance to victims of trafficking, in particular by guaranteeing the availability of appropriate and safe accommodation for all victims, ensuring that all victims are provided with adequate long-term support and assistance, according to their individual needs, and allocating adequate funding for services delivered by specialised NGOs providing accommodation and support to victims.

I. Introduction

1. The Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) entered into force for Serbia on 1 August 2009. GRETA’s first evaluation report¹ on Serbia was published on 16 January 2014, and the second evaluation report² on 29 January 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 Serbia, requesting them to inform the Committee within a one-year period of measures taken to comply with the recommendation. The report submitted by the authorities of Serbia was considered at the 24th meeting of the Committee of the Parties (5 April 2019), and was made public.³

3. On 1 June 2021, GRETA launched the third round of evaluation of the Convention in respect of Serbia by sending the questionnaire for this round to the national authorities. The deadline for submitting the reply to the questionnaire was 30 September 2021 and the authorities’ reply was received on 29 September 2021.

4. In preparation of the present report, GRETA used the reply to the third-round questionnaire by the authorities of Serbia,⁴ the above-mentioned report submitted by them to the Committee of the Parties, and information received from civil society. An evaluation visit to Serbia took place from 16 to 20 May 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 Ia Dadunashvili, member of GRETA;
- Ms Conny Rijken, member of GRETA;
- Mr Mesut Bedirhanoglu, Administrator in the Secretariat of the Convention;
- Ms Asja Žujo, Administrator in the Secretariat of the Convention.

5. During the visit, the GRETA delegation met with Mr Mitar Đurašković, National Anti-Trafficking Co-ordinator, as well as with representatives of the Office for Co-ordination of Activities in the Fight against Trafficking in Human Beings, the Centre for Protection of Victims of Trafficking, the Police Department for Combating Trafficking in Human Beings and Smuggling, the Commissariat for Refugees and Migration, prosecutors and judges. The GRETA delegation also met with representatives of the Ministry of Justice, the Ministry of Labour, Employment, Veterans and Social Affairs (including the Labour Inspectorate), the Ministry of Human and Minority Rights, the Ministry of Health, Ministry of Education, Science and Technological Development, the Ministry of Trade, Tourism and Telecommunications, and the Ministry of Foreign Affairs. Further, the GRETA delegation met representatives of the Office of the Protector of Citizens. During the visit, GRETA’s delegation also travelled to Novi Sad, Niš and Vranje where it met representatives of the local anti-trafficking teams.

6. In the course of the visit, the GRETA delegation visited the state shelter for victims of trafficking, a Centre for Protection of Infants, Children and Youth in Belgrade, and a shelter for women victims of violence in Novi Sad.

¹ <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168063bdf5>

² <https://rm.coe.int/greta-2017-37-frg-srb-en/16807809fd>

³ <https://rm.coe.int/cp-2019-12-srb-en/16809987c0>

⁴ [https://www.coe.int/en/web/anti-human-trafficking/serbia#{%223412865%22:\[\]}\]](https://www.coe.int/en/web/anti-human-trafficking/serbia#{%223412865%22:[]}])

7. Separate meetings were held with representatives of non-governmental organisations (NGOs), victims of trafficking and lawyers. The GRETA delegation also met representatives of the International Organization for Migration (IOM), the Organization for Security and Cooperation in Europe (OSCE), and the Office of the High Commissioner for Refugees (UNHCR).
8. The list of the national authorities, NGOs and other organisations with which the delegation held consultations is set out in the appendix to this report. GRETA is grateful for the information provided by them.
9. GRETA wishes to place on record the co-operation provided by the authorities of Serbia and in particular by Mr Mitar Đurašković, National Co-ordinator for Combating Trafficking in Human Beings at the time of the visit, as well as the staff of the National Anti-Trafficking Co-ordination Office within the Ministry of the Interior.
10. The draft version of the present report was approved by GRETA at its 46th meeting (14-18 November 2022) and was submitted to the authorities of Serbia for comments. The authorities' comments were received on 27 February 2023 and were taken into account by GRETA when adopting the final report at its 47th meeting (27-31 March 2023). The report covers the situation up to 31 March 2023; developments since that date are not taken into account in the following analysis and conclusions. GRETA's conclusions and proposals for action are summarised in Appendix 1.

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

11. Serbia remains primarily a country of origin of victims of trafficking in human beings (THB), but it is also to some extent a country of destination and transit. According to the statistics provided by the Serbian authorities, in 2017-2022, there were a total of 320 formally identified victims of THB⁵ (250 female and 70 male, including 150 children).⁶ In addition, there were 367 presumed victims of trafficking. Serbian nationals accounted for approximately 90% of the formally identified and 68% of the presumed victims, most of whom were trafficked internally. Foreign victims originated from neighbouring countries (Albania, Montenegro, North Macedonia, Bulgaria, Bosnia and Herzegovina and Croatia), as well as from Asian and African countries, including Afghanistan, Pakistan, Nigeria, Cameroon, Mali, and the Congo.

12. While sexual exploitation remains the prevalent form of exploitation of victims of THB in Serbia, cases of THB for labour exploitation, forced begging and forced criminality were identified as well.⁷ GRETA notes the increasing presence of foreign workers in Serbia in recent years, mainly from Vietnam, China and India, some of whom may have been victims of THB (see paragraphs 186-188). There has been an increase in the number of cases involving labour exploitation in the agricultural industry. An increase in online recruitment of victims was noted during the Covid-19 pandemic. Child victims are exposed to multiple forms of exploitation, namely forced marriage, sexual exploitation, forced criminality and forced begging. Members of the Roma community are particularly vulnerable to these types of exploitation. In addition, a new form of THB involving exploitation of children for pornographic purposes was detected in 2017 (see paragraph 111).

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

13. A number of legislative changes relevant for combating trafficking in human beings have been adopted since GRETA's second report on Serbia was published. Pursuant to the new Law on Foreigners, adopted in March 2018 and amended in April 2019, victims of trafficking can be granted a temporary residence permit for humanitarian reasons, regardless of whether or not they co-operate with investigative authorities. Moreover, the law provides for a recovery and reflection period of 90 days for presumed victims of trafficking.

14. The Law on Asylum and Temporary Protection, adopted in 2018, recognises victims of human trafficking as a particularly vulnerable category which is to be granted special procedural and reception guarantees and appropriate assistance within the asylum procedure.

15. The Law on Free Legal Aid, adopted in 2018, entitles victims of trafficking in human beings to free legal assistance, consisting of legal advice, drafting of submissions, representation in court and administrative proceedings (see paragraphs 50-52).

16. The Law on Health Care, adopted in 2019, stipulates that victims of trafficking are entitled to health care and that the costs of health services provided to foreigners who are victims of THB shall be covered from the state budget. According to the Law on Health Insurance, also adopted in 2019, victims

⁵ A victim is formally identified by the Centre for the Protection of Victims of Trafficking following an identification interview (see paragraph 200-202).

⁶ By way of comparison, in the period covered by GRETA's second report, a total of 296 victims of trafficking were identified (76 in 2013, 125 in 2014, 40 in 2015 and 55 in 2016), 94 of whom were children.

⁷ Of the 320 formally identified victims, 156 concerned sexual exploitation, 52 multiple forms of exploitation, 22 forced begging, 45 labour exploitation, 31 forced marriage, 11 forced criminality, one illegal adoption, and two economic exploitation. As regards the presumed victims for which information is available, 86 concerned sexual exploitation, 7 multiple forms of exploitation, 13 forced begging, 40 labour exploitation, 43 forced marriage, two forced criminality, four illegal adoption, one economic exploitation, and for 53 victims the form of exploitation was not known (not indicated in the relevant reports).

of THB shall be considered as insured, regardless of whether they meet the conditions for insurance under the law.

17. The composition of the Council for Combating Trafficking in Human Beings, an advisory body to the Government, was renewed following the parliamentary elections in 2020, by Decision of the Government dated 18 March 2021. The Council is presided over by the Minister of the Interior and it comprises the First Deputy Prime Minister, the Minister of Finance, the Minister of Labour, Employment, Veterans and Social Affairs, the Minister of Health, and the Minister of Justice. The Council held two meetings in the period between 2017 and 2019 at which it adopted a number of decisions, including on improving the performance of the 17 local anti-trafficking teams, the approval of revised Standard Operating Procedures for the Treatment of Victims of Human Trafficking (see paragraph 199), as well as the decision on the implementation of GRETA's recommendations from the second evaluation report.⁸ Although the Council is supposed to meet at least twice a year, it has not held any meetings since 2019. GRETA is concerned that the absence of regular meetings of the Council for Combating THB risks creating a vacuum in the leadership and co-ordination of anti-trafficking action. **GRETA considers that the Serbian authorities should take steps to improve the co-ordination of anti-trafficking action, including by increasing the frequency of meetings of the Council for Combating THB.**

18. Following GRETA's second evaluation, the position of National Rapporteur on Trafficking in Human Beings was established in Serbia, pursuant to the new Law on the Ombudsman adopted in November 2021, according to which the function of National Rapporteur shall be fulfilled by the Ombudsman (Protector of Citizens). GRETA was informed that the Ombudsman, Mr Zoran Pašalić, assumed the position of National Rapporteur. The role of the National Rapporteur will be focused on preventing and identifying shortcomings in the work of the National Anti-Trafficking Co-ordinator and other relevant public authorities, as well as providing them with guidance in their work. According to information provided by the authorities, the publication of the first report of the National Rapporteur on THB and the creation of additional posts within the Ombudsman's Office to support the work of the National Rapporteur have been delayed due to delays in the procedure for the appointment of the new Ombudsman. **GRETA welcomes the establishment of the position of National Rapporteur and recalls that the role of this entity is to critically monitor the anti-trafficking activities of State institutions and the implementation of national legislation requirements.**

19. In January 2019, competence over the investigation of THB cases was transferred, on the operational level, from the Border Police Directorate to the Criminal Police Directorate within the General Police Directorate.⁹ The Office for Co-ordinating Action against THB, set up in 2017, continues to operate within the General Police Directorate. At the time of GRETA's third evaluation visit to Serbia, the Office consisted of the National Anti-Trafficking Co-ordinator and four other staff members (two men and two women) all of whom are police officers. The National Co-ordinator, Mr Đurašković retired at the end of July 2022, and his replacement has yet to be appointed.

20. The Centre for the Protection of Victims of Trafficking in Human Beings (CPVT) continues to be responsible for the identification of victims of THB and their referral to assistance and protection. The CPVT operates a state shelter for victims of trafficking which was opened on 3 February 2019. The shelter was temporarily closed between September 2020 and March 2022 while awaiting a licence for its operation, but started receiving beneficiaries again in April 2022. It has six places, and it is intended for women and girls above the age of 16 (see paragraph 214).

⁸ The decisions of the Council for Combating THB are available at the following link: <https://www.srbija.gov.rs/cinjenice/316686>.

⁹ The transfer of competence was effected under the Rulebook on Internal Organisation and Systematization of job Positions in the Ministry of the Interior, which came into force on 1 January 2019.

21. On 27 April 2021, the Minister of the Interior issued a decision on the establishment of a new Inter-Sectoral Working Group tasked with improving the proactive detection of THB cases and the protection of victims of THB, the prosecution of natural and legal persons, as well as developing a model for the collection and analysis of statistical data on THB. The current composition of the working group, established through a decision of the Minister of the Interior dated 17 June 2022, includes the Deputy Public Prosecutor (acting as Chair) and representatives of the Ministry of the Interior, the Ministry of Justice, Ministry of Labour, Employment, Veteran and Social Affairs, the Prosecutor's Office for Organised Crime, and the University for Criminal Investigation and Police Studies. The working group has held three meetings and produced proposals for the monitoring of the implementation of recommendations in line with the Functional Analysis and the collection and analysis of statistical data on THB, in August and December 2022 respectively.

22. The current Strategy for the Prevention and Suppression of THB, Especially Women and Children, and Victim Protection covers the period 2017-2022. A working group for the monitoring of the implementation of the Strategy was established through decisions of the Minister of the Interior dated 17 October 2017 and 27 April 2021. The working group comprises representatives of 16 government institutions with expertise in areas relevant for the implementation of the Strategy,¹⁰ as well as the Serbian Red Cross and five NGOs. GRETA was informed that only two NGOs, Atina and Astra, were initially selected since the other organisations that applied did not meet the criteria outlined in the public call. Four additional NGOs were subsequently selected following a renewed public call, namely Group 484, Roma Centre for Democracy, Centre for Youth Integration, and the Serbian Association for Sexual and Reproductive Health (SRH).

23. GRETA was informed that the German Agency for International Co-operation (GIZ) has provided an external independent expert to prepare an evaluation of the Strategy. The expert has begun interviewing stakeholders involved in the implementation of the Strategy, including representatives of government bodies, NGOs and international organisations. The evaluation is expected to be finalised in mid-2023.

24. The Anti-trafficking Strategy is supplemented by biannual action plans. The Action Plan for 2019-2020 was adopted on 11 July 2019. It consists of one general¹¹ and five specific objectives, namely, i) strengthening partnerships on the local, national and international level; ii) improved prevention; iii) improved proactive detection of THB cases, effective prosecution of physical and legal persons, and protection of THB victims; iv) improved identification, protection, assistance and support for victims of THB through long-term and sustainable programmes of social inclusion, and v) protection of children from THB and exploitation in pornography and prostitution and their consequences. The state budget for the implementation of the activities foreseen in the Action Plan 2019-2020 was approximately EUR 66,000, not including donor funds. According to the report on the implementation of the 2019-2020 Action Plan, 36% of the activities have been completed, 55% were partially completed, while 9% of the activities were not carried out at all.¹² The main reason for the non-implementation or partial implementation of activities was the Covid-19 pandemic.

¹⁰ Ministry of the Interior, Ministry of Justice, Ministry of Education, Science and Technological Development, Ministry of Health, Ministry of Labour, Employment, Veterans and Social Affairs, Ministry of Finance, Ministry of Trade, Tourism and Telecommunications, Ministry of Culture and Information, Ministry of Youth and Sports, Ministry of Foreign Affairs, Republic Prosecutor's Office, Office for Human and Minority Rights, Security Intelligence Agency, Commissariat for Refugees and Migration, Social Inclusion and Poverty Reduction Unit, and Centre for the Protection of Victims of Human Trafficking.

¹¹ Ensuring a continuous, comprehensive response of society to human trafficking, in accordance with the dynamics of new challenges, risks and threats, through an improved system of prevention, assistance and protection of victims and suppression of human trafficking, especially women and children, by functional connection and institutional capacity building of all partners.

¹² <http://mup.gov.rs/wps/wcm/connect/cd2d35c1-10a0-4dae-b17e-4a376d55057a/Izve%C5%A1taj+AP+trgovina+ljudima+2019-2020.pdf?MOD=AJPERES&CVID=nugibDG>.

25. GRETA was informed that the adoption of the Action Plan for 2021-2022 was postponed for technical reasons. NGOs have expressed regret regarding the fact that they were not involved in the drafting of the Action Plan, and could only provide input during the public debate which took place in July 2021. According to the authorities, most of the comments provided by NGOs during the public debate were incorporated in the Action Plan. GRETA was informed that the proposal for the new Anti-Trafficking Strategy will be prepared in the second half of 2023, with the support of IOM. **GRETA recalls the importance of involving civil society organisations in the drafting of strategic documents from the beginning of the process.**

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

1. Introduction

26. Victims of human trafficking, by virtue of their status as victims of crime and victims of human rights violations, have the right to 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.

27. 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.¹³

28. According to the Basic Principles on the Right to an Effective Remedy for Victims of Trafficking in Persons,¹⁴ the right to an effective remedy is considered to include restitution,¹⁵ compensation,¹⁶ rehabilitation,¹⁷ satisfaction¹⁸ and guarantees of non-repetition.¹⁹ All victims of trafficking require access

¹³ *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.

¹⁴ 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, 28 July 2014, A/69/33797.

¹⁵ 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.

¹⁶ Compensation may cover damages for physical or mental harm; damages for lost opportunities, including employment, education and social benefits; reimbursement of costs of necessary transportation, child care or temporary housing; material damages and loss of earnings; moral or non-material damages; reimbursement of legal fees and other costs relating to the participation of the victim in the criminal justice process; reimbursement of costs incurred for legal, medical or other assistance.

¹⁷ 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.

¹⁸ 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 or 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.

¹⁹ 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.

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 victims' recovery, as well as social inclusion. Of relevance in this respect is also the 1985 United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 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.²⁰

29. 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 these entitlements. 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 imposed penalties for their involvement in unlawful activities committed while they were being trafficked. 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.

30. 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.²¹

31. Civil society, including NGOs, trade unions, diaspora organisations and employer organisations, plays a vital role in enabling victims of THB to claim compensation and other remedies.²² In this context, reference should be made to the international projects COMP.ACT - European Action on Compensation for Trafficked Persons²³ and Justice at Last - European Action for Compensation of Victims of Crime,²⁴ which aim to enhance access to compensation for trafficked persons.

32. 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.²⁵ 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.²⁶ 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.

²⁰ 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

²¹ UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 7-8, available at: http://icat.network/sites/default/files/publications/documents/Ebook%20ENG_0.pdf

²² OSCE Compensation for Trafficked and Exploited Persons in the OSCE Region, 2008, pp. 48-53.

²³ <http://www.compactproject.org/>

²⁴ <http://lastradainternational.org/about-lsi/projects/justice-at-last>

²⁵ United Nations Guiding Principles on Business and Human Rights, implementing the UN 'Protect, Respect and Remedy' Framework, Doc. A/HRC/17/31 (2011).

²⁶ UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 8-9.

33. 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.

2. Right to information (Articles 12 and 15)

34. 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 address 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.

35. 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.²⁷

36. 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.²⁸

37. In Serbia, all actors participating in the preliminary identification of victims of trafficking, including the CPVT, the police, prosecutors, social services, labour inspectors and NGOs, have an obligation to inform the presumed victims of their rights, in accordance with the Standard Operating Procedures (SOPs) for the Treatment of Victims of Trafficking.²⁹ The SOPs provide a list of rights of which the Centre for the Protection of Victims of Trafficking (CPVT) must inform the victim during the initial contact, in a language he/she understands, including the right to security and protection, appropriate accommodation and other forms of assistance, counselling and information on legal rights and how to exercise them, the right to a recovery and reflection period, the right to legal assistance and compensation, as well as the conditions for obtaining temporary residence and the right to request asylum.³⁰ The Guidelines for Labour Inspectors for Detection and Preliminary Identification of Victims of Trafficking also specify that labour inspectors should inform a presumed victim of his/her rights and how to exercise them.

38. With the support of international donors, the CPVT, together with NGOs, has developed a number of materials aimed at informing potential victims of trafficking of their rights and available assistance. The CPVT, in co-operation with IOM, developed two information leaflets in Serbian, English, Arabic and Farsi entitled "Trafficking does not only happen to others" and "In migrations as well, human trafficking is not the same as human smuggling," as well as an information poster about the CPVT. Moreover, the CPVT collaborated with the IDEAS Centre for Research and Development to develop the information flyer

²⁷ See Explanatory Report on the Convention, paragraphs 160-162.

²⁸ See GRETA's 8th General Report, paragraphs 168-169

²⁹ Standard Operating Procedures, p. 21. Trafficking victims' right to receive information in a language they understand, as well as support in criminal proceedings and with regard to obtaining compensation, is also guaranteed in the Memorandum of Understanding between the Ministry of the Interior, Ministry of Labour and Social Police and the Republic Prosecutor's Office.

³⁰ Ibid, pp. 26 and 27.

“Protect yourself against human trafficking,” aimed at migrant children, particularly those who are unaccompanied, which is available in Serbian, Arabic and Farsi. GRETA was informed that these information materials have been distributed in all centres for migrants and asylum seekers in Serbia.

39. In 2020, the NGO Astra produced a comprehensive brochure (in Serbian, Albanian and Romani),³¹ explaining the rights of trafficking victims and the services available to them and containing an address book of all relevant institutions and organisations providing services to victims of THB. In 2020, as part of an anti-trafficking project implemented by the Council of Europe, ASTRA developed a leaflet on the rights of victims, and it has also produced information leaflets for adults and children on the protection from THB during the Covid-19 pandemic. As a result of a project implemented by the International Rescue Committee (IRC) and NGO Atina in 2021 an information leaflet in Serbian and English was prepared and translated into nine languages.³² Moreover, with the support of the CoE/EU, the NGOs Child Rights Centre (*Centar za prava deteta*) and Atina have developed a comprehensive online platform aimed at informing children aged 12-18 about the risks of THB and ways to protect themselves.³³

40. It is not clear to what extent the leaflets and brochures mentioned above are distributed to victims at the time of their interaction with the relevant actors. In this regard, GRETA notes that some of the materials present information in a manner that may not be easy for victims to understand, particularly when it comes to child victims.³⁴ GRETA was informed that officials who are in contact with victims of trafficking often rely on NGOs to provide them with full information regarding their rights. A concern has also been raised with regard to a lack of co-ordination between different service providers when it comes to the provision of information to victims of THB.³⁵ According to information provided by the authorities, the CPVT informs victims of their rights and services available to them at the time of the first interview.

41. Leaflets on THB and information concerning organisations providing free legal assistance, psychological support and other types of assistance have been translated into Ukrainian and Russian and displayed in the reception centre for refugees from Ukraine in Vranje (see paragraph 222). Representatives of the CPVT visited the reception centre in the course of 2022 and met with the persons accommodated there.

42. Prosecutors and judges have the obligation to inform victims of trafficking participating in criminal proceedings as witnesses and injured parties of their rights, including the right to have an authorised representative (lawyer) and to file a compensation claim, in accordance with Articles 8 and 50 of the Criminal Procedure Code (CPC). Parties, witnesses and other persons participating in the proceedings must also be instructed on the right to use their own language during the proceedings and to be provided with interpretation if they so request (Article 11 CPC).

43. The National Strategy on the Rights of Victims and Witnesses of Crime in the Republic of Serbia (2020-2025) and the accompanying Action Plan, prepared with the support of OSCE, envisage the setting up of a National Network of Victim and Witness Support Services at all 25 higher courts as well as focal points within the police, prosecutor’s offices, basic courts and support services of civil society organisations, which will provide information about the criminal proceedings to injured parties and witnesses. GRETA was informed that 63 police officers, as well as focal points and deputy focal points in 27 police administrations and nine organisational units of the Ministry of the Interior, will receive training in the first half of 2023, in accordance with the Instruction on the treatment of injured parties and the assessment of their vulnerabilities and needs for protection and support measures.

³¹ https://drive.google.com/file/d/1kLtqJ-VMStdU2zS_4APhXUbnsgv0BpGt/view

³² Albanian, Romani, Romanian, Hungarian, Bulgarian, Macedonian, Farsi, French, and Urdu.

³³ <http://trafiking.cpd.org.rs/>.

³⁴ See also Liliana Sorentino, Assessment of the National Referral Mechanism for Victims of Trafficking in the Republic of Serbia (2019), p. 41.

³⁵ Ibid.

44. According to the SOPs, the CPC³⁶ and the Law on Asylum and Temporary Protection, persons who do not understand the official language of the proceedings must be provided with free interpretation services into their native language or a language they understand. GRETA was informed that the CPVT provides translation/interpretation into English directly and in case the victim requires translation/interpretation into another language, such services are provided in co-operation with civil society organisations assisting migrants and asylum seekers. The Commissariat for Refugees and Migration engages interpreters/translators for languages most frequently spoken among the migrant population (Arabic, Farsi, Pashto) and it may also secure services of interpreters/translators through co-operation with civil society and international organisations. The Asylum Office of the Border Police Directorate engages interpreters from the UNHCR list of interpreters, which covers a wider range of languages. IOM also assists the Border Police and prosecutor's offices by covering the costs of interpretation, especially in case of more rarely spoken languages. IOM is currently implementing a regional project aimed at mapping the gaps in interpretation resources and it is exploring the possibility of establishing a pool of certified interpreters.

45. As a rule, interpreters from the on-call roster of court interpreters are used at all stages of criminal proceedings, including the investigation stage. If no on-call court interpreter is available for a specific language, persons who possess the necessary knowledge of the language can be hired, under the condition that they swear an oath to faithfully communicate the questions asked and statements given in accordance with Article 87(3) of the CPC. GRETA was informed that, in practice, interpreters for certain languages are difficult to find.

46. While welcoming the range of available information materials concerning the rights of THB victims, GRETA considers that the Serbian authorities should strengthen the systematic provision of oral and written information to presumed and formally identified victims of trafficking in practice, 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, centres for social work, the CPVT, members of the local anti-trafficking teams, as well as the staff of reception centres for migrants and shelters accommodating victims of trafficking, should be trained and instructed further on how to properly explain to victims of THB their rights, taking into account the victim's cognitive skills and psychological state.

47. GRETA also considers that the Serbian authorities should take additional steps to ensure the availability of interpreters for different languages spoken by victims of trafficking, as well as their sensitisation to the issue of human trafficking. When interpretation is provided by NGOs, the costs should be reimbursed by the state.

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

48. 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 procedure is 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-law³⁷ also recognises, in certain circumstances, the right to free legal assistance in civil matters 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.

³⁶ Article 11. According to research conducted by NGO Astra, interpretation and translation of documents is not always provided free of charge.

³⁷ *Airey v. Ireland* judgment, 9 October 1979.

49. 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.³⁸

50. In Serbia, the right to free legal aid is guaranteed by the Constitution (Article 67), as well as by a number of laws, including the Law on Asylum and Temporary Protection. The Law on Free Legal Aid, which came into force on 1 October 2019, established for the first time a system of state-funded legal assistance and legal aid which is overseen by the Ministry of Justice.

51. Legal assistance, which includes the provision of legal information and filling out of forms, may be provided by lawyers who have not passed the bar exam. Free legal aid comprises the provision of legal advice, drafting of submissions, and representation in court and administrative proceedings. Free legal aid is provided to Serbian citizens and legal residents, stateless persons or persons otherwise entitled to free legal aid (i.e. pursuant to other laws and international agreements), who lack sufficient financial means or belong to a vulnerable category, including victims of trafficking in human beings and children. Under the Law on Free Legal Aid, free legal aid providers are, as a rule, lawyers who have passed the bar exam, including those employed by the free legal aid services in municipalities.³⁹ Lawyers working for civil society organisations which focus on asylum and discrimination may also provide free legal aid in accordance with the relevant laws. Only the costs of legal aid and legal assistance provided through the municipal free legal aid services and the CPVT (see paragraph 55) are covered from the state budget. Legal aid and legal assistance providers must be registered with the Ministry of Justice.⁴⁰ Only one of the specialised anti-trafficking NGOs (Astra) is currently registered as a legal assistance provider. The employees of municipal free legal aid services have undergone two rounds of training with regard to the provision of legal aid. GRETA was informed that the annual training programme of the National Academy of Public Administration for local self-government units, implemented according to their discretion, contains the topic "Improved prevention and elimination of trafficking in human beings at the local level."

52. In order to obtain free legal aid through the municipal free legal aid service, a person must submit a written request specifying the issue in relation to which they seek free legal aid (Articles 27 and 28). GRETA was informed that victims of trafficking need only check the box stating that they belong to a vulnerable category. Interlocutors also mentioned that providing a document from the CPVT confirming they are victims of THB is sufficient. The authorised person within the local free legal aid service is obliged to issue a written decision within eight days from the date the request is submitted, or three days in cases where a delay would cause irreparable damage to the applicant or would cause him/her to miss a legal deadline. Decisions rejecting the request for free legal aid⁴¹ can be appealed to the Ministry of Justice within eight days.

³⁸ See 8th General report on GRETA's activities.

³⁹ Article 8 of the Law on Free Legal Aid stipulates that lawyers within local free legal aid services and NGOs (dealing with asylum and anti-discrimination) who have not passed the bar exam may also provide free legal aid to the extent this is allowed by the relevant procedural laws.

⁴⁰ <https://www.mpravde.gov.rs/tekst/26350/registar-pruzalaca-besplatne-pravne-pomoci-i-besplatne-pravne-podrske.php>.

⁴¹ According to Article 34, a request may be rejected if the person does not fulfil one of the requirements from Article 4, if the provision of free legal aid is not allowed in a given matter (Article 7), or if the applicant conditions the provision of legal aid with the final outcome or success of the proceedings.

53. NGO Astra has established an informal network of around 30 lawyers from different parts of Serbia, who have been trained to represent THB victims. Under the new free legal aid system, Astra and other NGOs can continue to hire these lawyers to represent victims of trafficking,⁴² however, the cost of such representation is not covered by the state budget. On the other hand, the cost of legal aid provided by the municipal free legal aid services is covered by the municipality or it is equally shared by the municipality and the Ministry of Justice in case the municipal service hires an external lawyer from the list of legal aid providers.⁴³ GRETA was informed that lawyers who are hired by the municipal free legal aid services are not necessarily specialised in THB as they are not selected from the list of registered lawyers based on their area of expertise, but rather in order of the list. This represents a problem for victims of trafficking since their access to specialised lawyers effectively depends on the ability of NGOs, who are financed from donor funds, to cover the costs of representation.

54. According to the information provided by the authorities, no victims of trafficking have requested free legal aid from municipal free legal aid services since the Law on Free Legal Aid came into force. GRETA notes that the general lack of awareness with regard to the availability of free legal aid is one of the main shortcomings of the current system identified by the Ministry of Justice.⁴⁴

55. The CPVT employs one lawyer who provides legal assistance to victims of trafficking. The CPVT also co-operates with a specialised external lawyer whom it hires to represent THB victims in criminal proceedings.⁴⁵ The victim is free to choose another lawyer if he/she so wishes. In case of child victims, the consent of a parent or guardian is required for the provision of legal aid, and the lawyer who is appointed must be licensed to work with children.⁴⁶ The prosecutor or the presiding judge in criminal proceedings may also appoint a lawyer for a THB victim if he/she has been designated as a vulnerable witness (Article 103 CPC). The support services for injured parties and witnesses in courts and prosecution offices (see paragraph 43) are supposed to provide general information to injured parties regarding the criminal proceedings. Legal representation in civil proceedings is ensured by NGOs.

56. GRETA was informed that 163 victims of THB received legal aid in criminal proceedings in the period 2017-2020, through the CPVT, specialised NGOs, and lawyers appointed by the prosecutor or the court. Nineteen of the victims who were identified by the CPVT in 2022 used the services of the lawyer hired by the CPVT, including legal representation during criminal proceedings.

57. While welcoming the inclusion of victims of THB in the new Law on Free Legal Aid as a vulnerable category entitled to free legal aid, GRETA is concerned that lawyers appointed through the new system of free legal aid may lack the necessary knowledge of THB. GRETA further notes that, in practice, victims still receive free legal aid and legal assistance primarily from the CPVT and specialised NGOs such as Astra and Atina. While this ensures that they will be appointed a lawyer who is specialised in THB, it also means that the financial burden for the provision of legal aid is often borne by NGOs who rely entirely on donor funds, rather than by the state.

⁴² See YUCOM Lawyers' Committee for Human Rights, *The Law on Free Legal Aid – the first six months of implementation (2020)*, pp.20-21, citing the response of the Government of Serbia to the UN Special Rapporteur on the Independence of Judges and Lawyers from 16 January 2019. This question is currently also before the Supreme Court of Serbia, as part of a request for the determination of constitutionality filed by the Humanitarian Law Centre.

⁴³ Law on Free Legal Aid, Article 39. GRETA was informed that the lawyers who provide legal services under the Law on Free Legal Aid are paid 50% of the regular lawyer's fee.

⁴⁴ Ministry of Justice, *Annual Report on the Implementation of the Law on Free Legal Aid (March 2022)*, p. 11.

⁴⁵ Pursuant to Article 50 of the CPC, an injured party in criminal proceedings is entitled to have an authorised representative (*punomoćnik*). The injured party's representative in criminal proceedings can, *inter alia*, examine witnesses and propose evidence (Articles 396 and 402 CPC), as well as assist the injured party in filing a compensation claim.

⁴⁶ GRETA was informed that there are 11 400 attorneys in Serbia who are licensed to work with children. Article 56 CPC stipulates that injured parties who are minors or who lack legal capacity are appointed a legal representative (*pravni zastupnik*), who may exercise his/her functions through a representative (*punomoćnik*). The Law on Juvenile Perpetrators of Criminal Offences and the Legal Protection of Juveniles in Criminal Proceedings stipulates in Article 154 that an injured party who is a minor must have a representative from the first examination of the defendant, and in case the minor does not have a representative, the president of the court will appoint one from the list of lawyers who are trained to work with children.

58. **GRETA urges the Serbian authorities to take further steps to guarantee trafficking victims' access to legal assistance and free legal aid, in particular by ensuring that:**

- **trafficking victims who are provided free legal aid through the municipal free legal aid services are appointed a lawyer with knowledge of THB;**
- **training and specialisation of lawyers to provide legal aid to trafficking victims is encouraged by the authorities and the Bar Association;**
- **the costs of free legal aid and legal assistance provided to victims of trafficking by NGOs and lawyers hired by them are reimbursed from the State budget.**

59. **GRETA further considers that the Serbian authorities should raise awareness of the availability of free legal aid and legal assistance under the Law on Free Legal Aid among the general public.**

4. Psychological assistance (Article 12)

60. 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 deal with the trauma they have been through, and to achieve a sustained recovery and social inclusion. Some victims require long-term therapeutic attention due to the violence 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.⁴⁷

61. Victims of trafficking are recognised as a vulnerable category under the Law on Health Insurance and as such they are entitled to free health care in Serbia. However, in order to benefit from this right, victims must be registered within the health insurance system.⁴⁸ GRETA was informed that psychological support is covered by health insurance for all persons who are registered. However, there is a general lack of psychologists in the country. One of the aims of the current reform of the health care system is to increase the number of mental health professionals who will, *inter alia*, be able to provide specialised support to victims of trafficking. The Ministry of Health has established a single data base where women victims of violence, including victims of trafficking, can be registered (anonymously if they so wish and in a manner that ensures the protection of personal data), containing cumulative information about the patient which will be accessible to the relevant health care professionals.

62. Victims of THB, who are recognised as beneficiaries under the Law on Social Protection (Article 41), can receive psychological support from centres for social work (CSWs). However, an analysis conducted by NGO Astra in 2021 concluded that only 36.8% of the CSWs provide counselling and psychological support to child and adult victims of trafficking who are Serbian citizens, and only 10% of CSWs provide such services to foreign victims.⁴⁹ By way of example, the CSW in Niš, which is represented in the local anti-trafficking team, has four psychologists who provide support to victims of THB among other beneficiaries.

⁴⁷ OSCE, *Trafficking in Human Beings Amounting to Torture and Other Forms of Ill-Treatment* (2013), Vienna, p.115.

⁴⁸ Astra, *Analysis of Protection and Support Services for Victims of Trafficking in Human Beings in Serbia* (2021), which notes that in order to become a beneficiary of health insurance, a person must have a personal ID/proof of residence and confirmation from the CPVT (p.27).

⁴⁹ *Ibid*, p. 22.

63. Most victims of trafficking in Serbia are provided psychological assistance either through the CPVT⁵⁰ or one of the specialised NGOs. According to the SOPs, the CPVT, in co-operation with other relevant institutions and the victim, prepares an individualised plan for assistance to victims of trafficking, which includes psycho-social support. Either a psychologist or a social worker, employed by the CPVT, is always present in the specialised shelter for THB victims operated by the CPVT. GRETA was informed that the CPVT provided psychological counselling to 353 victims and persons at risk in 2022, through licensed professionals. In 2022, the staff of the CPVT were trained in providing psychological support to victims of THB through a project entitled "Mental Health of Victims of THB and Service Providers." The NGOs Atina and Astra provide psychological support to victims of trafficking whom they assist. Psychological support is also provided to child victims of trafficking and migrants in accommodation centres by the Centre for Youth Integration and other NGOs.

64. As mentioned in paragraph 124, victims of trafficking who have been granted the status of an especially vulnerable witness in criminal proceedings are entitled to be assisted by a psychologist or a social worker during the proceedings.

65. GRETA welcomes the provision of psychological support to victims of trafficking by the CPVT, through licensed professionals, and considers that the Serbian authorities should take further steps to ensure that victims of THB are provided with psychological assistance to help them overcome the trauma they have been through, and to achieve a sustained recovery and social inclusion.

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

66. 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.⁵¹ GRETA has stressed the need to develop public-private partnerships with a view to creating appropriate work opportunities for victims of trafficking.⁵²

67. As noted in GRETA's second report,⁵³ the Law on Employment of Foreigners, adopted in 2014, introduced the right of foreign victims of THB to be granted a work permit for the duration of their residence permit. GRETA was informed that no requests for a work permit had been submitted in accordance with this law since its adoption.

68. The National Employment Service (NES) has offices across Serbia at which victims of trafficking, both citizens of Serbia and foreign residents, can be provided with advice and mediation in finding employment, as well as with career counselling and vocational training.⁵⁴ The NES has concluded a protocol with the CPVT on co-operation in finding employment for victims of THB, as well as a memorandum of co-operation with GIZ and MAPS,⁵⁵ a network of eight NGOs implementing the programme "Pasoš kompetencija" ("Competence Passport," based on the program ProfilPASS developed by the German Institute for Adult Education), aimed at providing employment opportunities for vulnerable groups. GRETA was also informed that the National Action Plan for Employment (2021-2023) recognises victims of trafficking as a priority group, and local authorities may provide subsidies for employment of victims of THB. It has been pointed out that, in order to benefit from the subsidy, a person has to state that he/she is a victim of THB. According to information provided by the authorities there were six victims (including

⁵⁰ The CPVT has concluded MoUs with the Clinic for Psychiatric Diseases Dr Laza Lazarević. See <https://centarzztlj.rs/saradnja-sa-institucijama-organizacijama-i-gradovima/>.

⁵¹ Rebecca Surtees, NEXUS Institute, *Re/integration of trafficked persons: supporting economic empowerment*, Issue paper No. 4, King Baudouin Foundation (2012).

⁵² See 8th General report on GRETA's activities.

⁵³ GRETA's second evaluation report on Serbia, para. 119.

⁵⁴ Astra, *Analysis of Protection and Support Services for Victims of Trafficking in Human Beings in Serbia* (2021), p. 29.

⁵⁵ <https://maps.rs/>.

four women), registered with the NES at the end of 2022.

69. GRETA was informed that victims of trafficking above the age of 17 who are not enrolled in school have the possibility to continue their education through educational programmes for adults. In 2020, such programmes were provided in 110 high schools.

70. **GRETA considers that the Serbian authorities 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 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 being seen as a form of punishment and deterrence of traffickers. As such, compensation plays a crucial role in the fight against human trafficking, not only as an instrument of restorative justice, but also by way of prevention and recognition by States of their failure to meet their human rights obligations.

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. State parties should therefore 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 applicable legislation concerning access to compensation for victims of trafficking in Serbia has not changed since GRETA's second evaluation. Compensation for material and non-material damages may be sought in criminal proceedings, in accordance with Chapter XII of the Criminal Procedure Code (CPC) and the relevant provisions of the Law on Contracts and Torts. The prosecution and the court must inform the injured party of his/her right to file a property claim (Articles 8 and 50 CPC), and they have the obligation to collect the necessary evidence even before the property claim is filed (Article 256 CPC). The claim for compensation can be filed until the end of criminal proceedings in the first instance (Article 254 CPC). If the court convicts the defendant, it will grant the injured party's property claim, either in whole or in part. In cases where only partial compensation is granted, the defendant is acquitted, or there is not sufficient evidence to decide on the property claim, the court will refer the injured party to seek

compensation in civil proceedings (Article 258 CPC).⁵⁶ The court may also decline to consider the property claim if this would significantly prolong the proceedings (Article 252 CPC). Foreign victims who leave Serbia before the conclusion of the criminal proceedings may continue to seek compensation through their authorised legal representative.

75. While material damages refer to the diminution or loss of property and are relatively easy to assess, non-material damages constitute a wide range of categories including physical and psychological pain, reduction of life activity, violation of personal freedom and offence to reputation or honour. Many criminal judges reportedly consider that they lack the necessary knowledge to determine non-material damages, or that such a determination would unduly prolong the proceedings and they are, therefore, more likely than not to refer the injured party to civil proceedings (see paragraph 165).⁵⁷ Moreover, there is a lack of awareness among judges and prosecutors of the fact that a determination of certain non-material damages, such as those constituting psychological pain and suffering, can be made on the basis of the victim's testimony alone without the need to seek an expert's opinion. GRETA was informed that a psychological evaluation of the victim is frequently ordered in THB cases and could easily be expanded to include an evaluation of non-material damages which require an expert assessment.

76. Compensation for unpaid wages and social contributions, as well as injuries sustained at work, can be sought in civil proceedings in accordance with the Law on Contracts and Torts and Labour Law, within three years from the date the damages were sustained.

77. A plea-bargaining agreement concluded between the prosecution and the defendant must contain a provision on the property claim, in case such a claim is filed (Article 314 CPC). In case the injured party has not filed a property claim, the prosecutor shall invite him/her to do so before the conclusion of the plea-bargaining agreement (Article 313 CPC). However, GRETA was informed that victims are not always informed that a plea-bargaining agreement has been concluded and are not given an opportunity to file a property claim. Furthermore, when compensation claims are included in the plea agreement, especially in cases involving non-material damages, the relevant section often states that the claim will be pursued in civil proceedings.

78. In 2019, a working group composed of judges and prosecutors, led by the Court of Cassation and with the support of the OSCE, developed the 'Guidelines for improving court practice in compensation proceedings for victims of serious crime in criminal proceedings'.⁵⁸ The Guidelines include a detailed overview of the right of the injured party to compensation in criminal proceedings as well as the role of the prosecution and the court in this regard. Further, they explain the procedure for the assessment of non-material damages, referring to the relevant provisions of the Law on Contracts and Torts and the jurisprudence of civil courts, and provide templates for a court order for an expert opinion and the section of the judgment containing the decision on the property claim. The Guidelines emphasize that the court should as a rule decide on property claims in criminal proceedings, and that referral to civil proceedings should be exceptional.

⁵⁶ The victim may also file a civil claim for compensation in cases where no criminal proceedings were instituted.

⁵⁷ Guidelines for improving court practice in compensation proceedings for victims of serious crime in criminal proceedings,

p. 8.

⁵⁸ <https://www.osce.org/mission-to-serbia/437723> (in Serbian).

79. GRETA was informed that the first cycle of training for prosecutors and judges at which the Guidelines were presented was carried out in 2019 and 2020. Some of the presentations were shown in video format, due to the Covid-19 pandemic. Since September 2021, the Judicial Academy has provided 57 judges and prosecutors with training on the Guidelines, with the support of the OSCE. According to GRETA's interlocutors, the publication of the Guidelines and related training activities provided to prosecutors and judges have led to an improvement in the overall practice of criminal judges when it comes to the assessment of property claims, but they stressed that more training should be provided in the future. In April 2019, a workshop entitled "Improving access to compensation for victims of THB" was organised for 23 lawyers, legal associates and representatives of victims of THB, who co-operate with the CPVT and NGO Astra, within the CoE/EU Horizontal Facility project "Prevention and Combating Trafficking in Human Beings in Serbia." A flyer containing information on the rights of THB victims to compensation was also produced within the latter project.

80. As noted in paragraph 96, several laws allow for the seizure and confiscation of assets in criminal proceedings, and both the Criminal Code (Article 9) and the Law on Seizure and Confiscation of Proceeds of Crime (Article 45) provide that confiscated assets can be used to compensate the injured party in criminal and civil proceedings. The CPC (Article 257) further stipulates that the court may order temporary measures against the assets of the accused in order to secure the property claim of the injured party. The abovementioned Guidelines stress the importance of determining the amount of criminal proceeds and other assets in the possession of the accused already in the pre-investigation phase, in order to safeguard the injured party's right to compensation. Nonetheless, GRETA was informed that assets are rarely confiscated in THB cases (see paragraphs 96 and 97).

81. As mentioned in paragraph 55, victims of THB, as injured parties, are entitled to be represented by a lawyer who assists them, *inter alia*, with the filing of the compensation claim. The abovementioned Guidelines recommend that victims of certain criminal offences, including victims of THB, always be awarded the status of a particularly vulnerable witness, which guarantees them the assistance of an *ex officio* lawyer appointed by the court.

82. Despite the existing legislation, the number of cases in which victims of THB have been awarded compensation is low. According to analyses of court judgments in THB and related cases prepared by NGO Astra,⁵⁹ out of 10 first-instance judgments from 2018 (four concerned a plea-bargaining agreement), only one contained a decision on the property claim, awarding a victim of THB for sexual exploitation RSD 15,000 (EUR 130) for unpaid wages she earned working as a waitress, and referring her to civil proceedings for the remainder of her claim. Out of 16 first-instance judgments from 2019, only seven contained a decision on the property claim and in all of them the court referred the injured party to seek compensation in civil proceedings. Out of 13 judgments from 2020, 10 were silent with regard to the property claim and two judgments referred the injured party to civil proceedings. In a landmark judgment issued by the Higher Court of Novi Sad in April 2020 (see also paragraph 109), a female victim of THB for sexual and labour exploitation was awarded compensation for material and non-material damages in the amount of RSD 1 117 000 (EUR 9500) on the basis of a plea-bargaining agreement concluded between the prosecutor and the defendant. The Higher Court ordered the temporary freezing of the defendant's bank account in order to secure the funds for the property claim (see also paragraph 102 with regard to the case in which the victim was awarded compensation by the Constitutional Court for the violation of her constitutional rights). In 2021, ten injured parties were referred to civil proceedings, while the judgments contain no information regarding the remaining 16 injured parties.

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<https://www.astra.rs/en/manuals-reports-studies/>.

83. The information provided by the authorities mentions four female victims of THB for sexual exploitation who were awarded compensation by the courts, but three of them were not able to collect it due to the fact that the defendant did not have any assets. Moreover, GRETA was informed that in 2020, property claims were filed for seven male victims of THB for labour exploitation from Serbia (4), Croatia (1), Germany (1) and North Macedonia (1). No victims of THB were granted compensation in criminal proceedings in 2021 and 2022.

84. According to the Law on the Personal Income Tax, victims of crime do not have to pay an income tax on compensation for material and non-material damages awarded by the courts. On the other hand, GRETA is aware of one case from 2021 in which a victim of sexual exploitation who was awarded compensation in the amount of RSD 200,000 (approximately EUR 1,700) was asked by the Basic Court to pay a fee of RSD 40,000 (approximately EUR 340) in order to collect compensation. The authorities have clarified that injured parties may be required to pay court fees in civil proceedings, but that they may request to be exempt from this obligation under the applicable legislation.

85. While victims of THB who are not awarded compensation in criminal proceedings have the option to file a civil claim, the fact that they must bear the costs of civil proceedings and that such proceedings usually take a very long time, effectively bar victims from seeking compensation in civil proceedings. Moreover, victims must present evidence of damages which may include repeated testimony, in the presence of the trafficker, thus exposing them to re-traumatisation. According to the information from civil society organisations, there were only two cases in the period 2011-2019 in which victims of trafficking received compensation in civil proceedings.

86. There has been no progress with regard to the establishment of a State compensation scheme since GRETA's second evaluation. The setting up of a State compensation scheme is not foreseen by the Strategy for the Prevention and Suppression of THB, Especially Women and Children, and Victim Protection (2017-2022),⁶⁰ nor by the Strategy on the Rights of Victims and Witnesses of Crime in the Republic of Serbia (2019-2025).

87. GRETA welcomes the publication of the Guidelines for improving court practice in compensation proceedings for victims of serious crime in criminal proceedings, although it appears that they are not systematically followed in practice. **GRETA considers that the Serbian authorities should take further steps to facilitate and guarantee access to compensation for victims of trafficking, including by:**

- **systematically informing victims of trafficking of their right to seek compensation in criminal and civil proceedings and the procedure to be followed, including in cases in which a plea-bargaining agreement is concluded, and ensuring that they are provided with effective legal assistance from the early stage of the proceedings in order to exercise this right;**
- **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 investigation with a view to supporting compensation claims in court;**
- **ensuring that victims of human trafficking can obtain a decision on compensation from the offender as part of criminal proceedings, in accordance with the Guidelines, and requiring courts to state, where applicable, why compensation is not considered/awarded;**

⁶⁰ As noted in GRETA's second evaluation report, paragraphs 45 and 158, the NGO Astra conducted a feasibility study on the setting up of a compensation fund for victims of crime and possible sources of its financing, including confiscated assets, prosecutorial opportunity and collected fines. The study is available at: <https://drive.google.com/file/d/1TMJrSJD-24Ka5XYP5VCEYbbeh1rMYop4/view>.

- **making full use of the legislation on the seizure and confiscation of assets to secure compensation to victims of THB;**
- **supporting victims to effectively enforce compensation orders, including by ensuring that they have access to free legal aid and that they are exempt from any requirement to pay any fees in enforcement proceedings;**
- **ensuring that the newly adopted Guidelines are applied systematically and including the topic of compensation in the regular training curricula for lawyers, prosecutors and judges.**

88. **Further, GRETA urges the Serbian authorities to set up without further delay a state compensation scheme for victims of THB, regardless of their nationality and residence status.**

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

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

90. Article 23 requires Parties to match their action 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 criminal 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. It requires as a prerequisite to detect, identify and seize the illegal assets at the time of the criminal investigations and to have adequate procedures to do so. The identified, seized and confiscated illegal profits of trafficking should be used to compensate victims of trafficking, directly or through a victim compensation fund.

91. 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.

92. Article 388 of the Serbian CC which criminalises trafficking in human beings prescribes as punishment for the basic form of THB between three and twelve years of imprisonment. The aggravating circumstances are covered in paragraphs 3-7 of Article 388 CC and they include trafficking in children (punishable by at least five years' imprisonment),⁶¹ trafficking resulting in a serious bodily injury (punishable by between five and 15 years' imprisonment in case of adult victims, or at least five years' imprisonment in case the victim is a child), trafficking resulting in the death of one or more persons (at least 10 years' imprisonment), repeated trafficking offence or trafficking by a group (at least five years' imprisonment), and trafficking by an organised group (at least 10 years' imprisonment).

93. The use of services of victims of trafficking, when the perpetrator knew or had reason to know that the person is a victim of THB, is punishable by imprisonment of between six months and five years (Article 388, paragraph 8). If the perpetrator knew or had reason to know that the victim is a child, he/she shall be punished by imprisonment of between one and eight years (Article 388, paragraph 9). GRETA was informed that seven persons were indicted and five were issued with final judgments in connection with the use of services of victims of trafficking in the period 2019-2022 (see also paragraphs 106 and 107).

94. Serbian and foreign legal entities responsible for criminal offences in Serbia, foreign legal entities committing offences on the territory of a foreign country which damage Serbia or a Serbian national or legal entity, and Serbian legal entities committing offences abroad, may be held liable in accordance with the Law on the Liability of Legal Entities for Criminal Offences. The sanctions under this law include a fine and termination of the status of legal entity, and the law also allows for the prohibition of practicing activities and operations, confiscation of instrumentalities and publication of the judgment. According to the authorities, no legal persons were convicted for the offence of THB during the reporting period. **GRETA invites the Serbian authorities to keep under review the application of the corporate liability provisions in THB cases with a view to ensuring that they are effectively applied in practice.**

95. As noted in GRETA's second evaluation report,⁶² the CPC (Chapter 3) allows for the use of special investigative techniques in criminal investigations of THB cases. GRETA was informed that the special investigative techniques most commonly applied in THB cases are covert interception of communication and secret surveillance and recording.

96. The terms and conditions for the seizure and confiscation of proceeds of crime (or property of equivalent value) are set out in Articles 91-93 of the CC, while the relevant procedure is governed by the provisions of the CPC (Articles 537-543) and the Law on Seizure and Confiscation of the Proceeds of Crime. GRETA was informed that the Financial Intelligence Unit and the Money Laundering Administration (Ministry of Finance)⁶³ co-operate with police investigators in THB cases in order to identify and monitor transfers of money and assets. However, in most THB cases financial investigations are not conducted and assets are rarely confiscated from perpetrators. Moreover, the (re)qualification of THB into a lesser offence such as mediation in prostitution⁶⁴ may mean that confiscation measures are not available under the rules of procedure.

97. According to the information provided by the authorities, in the period 1 January 2017-31 July 2021, criminal proceeds were confiscated in two THB cases, in the total amount of RSD 23 220 (EUR 200).

⁶¹ Pursuant to Article 45(1), of the CC, unless otherwise specified in the relevant provision, the maximum punishment is twenty years of imprisonment. Article 57(2) provides that mitigation of punishment below the statutory minimum is not allowed in cases involving THB.

⁶² GRETA's second evaluation report on Serbia, paragraph 185.

⁶³ GRETA was informed that the Money Laundering Administration is preparing an application for reporting suspicious financial transactions by banks and other actors, which will contain a section on THB.

⁶⁴ According to Article 184 of the CC, "1) Whoever induces or incites another to prostitution or participates in handing over a person to another for the purpose of prostitution or who propagates or advertises prostitution through public information systems and other similar means, shall be punished by imprisonment from six months to five years and a fine; 2) If the act referred to in paragraph 1 of this article was committed against a minor, the perpetrator will be punished with imprisonment from one to 10 years and a fine."

GRETA was also informed of one ongoing THB case in which the authorities had seized one residential building, one apartment and several acres of land. GRETA notes that business premises (139 m²) in the centre of Belgrade, confiscated in a non-THB related case, were allocated to the CPVT by a decision of the Commission for Housing Affairs and Distribution of Official Buildings and business Premises of the Government dated 21 November 2019.

98. The prosecution and the defendant may conclude a plea-bargaining agreement at any point before the end of the main trial, with regard to any criminal offence including THB. Before accepting the plea agreement, the court shall verify, *inter alia*, that the defendant's admission of guilt is not contradicted by the evidence and that the proposed criminal sanction is in accordance with the relevant provisions of the law (Article 317 CPC). As mentioned in paragraph 77, the plea-bargaining agreement must contain a provision on the property claim if such a claim has been filed by the injured party (Article 314 CPC).⁶⁵ The injured party is not present at the hearing at which the court (investigative judge or presiding judge) decides whether to accept the plea-bargaining agreement, and the hearing is closed to the public (Article 315 CPC). GRETA was informed that plea-bargaining agreements were concluded in 10 THB cases in the period 2019-2022. According to GRETA's interlocutors, injured parties are not always informed that such an agreement has been concluded and are not asked about whether they wish to file a property claim. The authorities have noted as an example of good practice the judgment of the Higher Court of Novi Sad (K. no. 152/18 of 28 April 2020) mentioned in paragraph 109.

99. Under the rules of criminal procedure, a prosecutor may decide to defer prosecution for criminal offences punishable by a fine or up to five years of imprisonment, if the accused accepts one of the obligations enumerated in Article 283 CPC, including compensating the damage caused by the offence, paying a certain amount of money to an account to be used for humanitarian or other public purposes (Opportunity Fund), and performing community service work. While deferment of prosecution cannot be applied in THB cases, it is available in cases involving lesser criminal offences, such as mediation in prostitution (see paragraph 102).

100. GRETA was informed that possible cases of trafficking are often (re)qualified as mediation in prostitution or another lesser offence, either due to a lack of knowledge regarding the distinction between these offences or because the lesser offence is easier to prove. Moreover, requalification frequently occurs in cases involving plea-bargaining agreements and deferment of prosecution, as noted above.

101. According to the information provided by the authorities, in the period January 2018 – December 2021 criminal reports for THB were filed against a total of 166 persons, namely, 33 in 2018 (27 men and six women), 33 in 2019 (21 men and 12 women), 57 in 2020 (41 men and 16 women) and 43 in 2021 (32 men and 11 women). In addition, the authorities were investigating 86 criminal reports which had been filed before 2018. In the same period, indictments were filed against 94 persons, specifically, 20 in 2018, 22 in 2019, 24 in 2020, and 28 in 2021.⁶⁶ The number of persons convicted for the criminal offence of THB in the period 2018-2021 was 64 (19 in 2018, 11 in 2019, 18 in 2020, and 16 in 2021), of whom 62 received prison sentences (17 in 2018, 11 in 2019, 18 in 2020, and 16 in 2021). Most cases concerned THB for sexual exploitation, followed by THB for labour exploitation, forced begging and forced criminality.

⁶⁵ Pursuant to Article 313 of the CPC, if the injured party has not already done so, the prosecutor shall invite him/her to submit a property claim before the conclusion of the plea-bargaining agreement.

⁶⁶ GRETA notes that some of the indictments may relate to criminal reports filed before the reporting period.

102. A recent development with important repercussions for the criminal justice response to THB is the following decision of the Constitutional Court dated 26 March 2021.

- **Decision of the Constitutional Court** dated 4 March 2021 (Published 26 March 2021)
- **File number:** UŽ – 1526/2017
- **Decision of the Constitutional Court:** Violation of Article 26(2) of the Constitution (prohibition of human trafficking) and Article 32 of the Constitution (reasonable length of proceedings)
- **First instance court:** Higher Court in Belgrade (Case no. K.4219/10)
- **Time and duration of the main trial:** Five years and nine months (from 2011 until September 2016)
- **Victim:** Child (girl, aged 16/17 at the time of the criminal offence)
- **Defendants:** Three (male) defendants
- **Procedural background:** The investigation was opened on 25 November 2010. The victim filed a compensation claim on 1 December 2010. On 10 December 2010 the Higher Public Prosecutor's Office filed the indictment against the three defendants for the criminal offence of THB. The main trial began in 2011. In May 2016, the Prosecutor's Office changed the qualification of the criminal charges against the first two defendants to mediation in prostitution as part of a plea-bargaining agreement which was accepted by the court. In September 2016, the Prosecutor's Office requalified the charges against the third defendant to accessory after the fact and deferred and later dropped the prosecution in accordance with Article 283 CPC (see paragraph 99). Public Prosecutor's Office filed a request for protection of legality in June 2017, at the initiative of the victim's lawyer, the request was rejected by the Supreme Court of Cassation in July 2017.
- **Charges:**
Initial charges against all three defendants: Article 388, paragraphs 6 and 1 of the CC;
Charges against the first two defendants requalified as: Article 184, paragraphs 2 and 1 of the CC (mediation in prostitution), in connection with Article 33 of the CC (Co-perpetration);
Charges against the third defendant requalified as: Article 333, paragraphs 2 and 1 of the CC (accessory after the fact).
- **Type of exploitation:** Trafficking in human beings for the purpose of sexual exploitation
o The victim was aged 16/17 when she was forced to engage in prostitution by the defendants. After they began a romantic relationship and he gained her trust, the first defendant threatened to hurt the victim and her family if she did not agree to offer sexual services to clients selected by the defendant, sometimes up to seven times in one day. The victim was transported to locations where she met the clients by the second and third defendants who would usually collect the payment for the services. The second defendant also forced the victim to provide sexual services to him. She suffered physical abuse from the first defendant, who threatened her with a gun and a knife on multiple occasions.
- **Sentences:** The first and second defendant were sentenced to seven months of imprisonment and a fine of RSD 100 000 (EUR 850);
As part of the deferral of criminal prosecution, the third defendant was ordered to pay RSD 150 000 (EUR 1280) to the Opportunity Fund of the Republic of Serbia within three months from the decision on deferral of prosecution.
- **Legal assistance:** The victim had a lawyer who participated in the proceedings (provided by an NGO).
- **Compensation:** The first instance court did not decide on the victim's compensation claim.
- **Decision of the Constitutional Court:** The court established the following violations of the victim's rights:
 - A violation of the positive obligation of the state, under Article 26(2) of the Constitution, to protect victims of trafficking by providing measures of prevention, registration and assistance to such persons. Namely, the court had failed to take into account the opinion of a psychologist regarding the traumatising of the victim, who was a child at the time of the criminal offence, and adapt the proceedings accordingly; it failed to consider the request of the victim's lawyer to grant her the status of an especially vulnerable witness, as well as the request to testify through the use of audio-visual means, thus causing the secondary traumatising of the victim.
 - A violation of the procedural aspect of the constitutional prohibition of human trafficking (Article 26(2)), due to the fact that the Higher Prosecutor's Office and the Higher Court in Belgrade failed to conduct

effective and fair proceedings, resulting in a relevant court decision. Specifically, the Constitutional Court found that they: failed to prosecute the case as trafficking in human beings on the basis of all the available evidence, and taking into account the irrelevance of the victim's consent due to the fact that she was a child at the time of the offence; requalified the charges against the first and second defendant as mediation in prostitution after five years and six months of proceedings and after the victim had testified twice, without giving her an opportunity to continue with the prosecution; decided to requalify the charges against the third defendant and apply the principle of opportunity (deferment of prosecution) at the stage of the proceedings (five years and six months after the indictment) when the application of the principle was not allowed by the procedural rules.

- A violation of Article 32 of the Constitution concerning trial within a reasonable time, in relation to the decision on the victim's property claim, due to the fact that the first instance proceedings lasted five years and nine months (only five out of the 24 scheduled hearings were held).
- The Court granted the injured party compensation for non-material damages in the amount of EUR 5,000, in relation to the violation of Article 26 of the Constitution, and EUR 800, in relation to the violation of Article 32 of the Constitution.

The Constitutional Court provided a detailed analysis of the relevant international standards, including the Council of Europe Convention against Trafficking in Human Beings, the Palermo Protocol, and the relevant decisions of the European Court of Human Rights. The Court also referred to the conclusions and recommendations in GRETA's first and second evaluation reports on Serbia.

103. GRETA was provided with information regarding several trafficking cases which were finalized in the period 2018-2020. It is of note that almost all of the cases involved child victims of trafficking. Only one case contained a decision on compensation. The cases are summarized below.

104. In a case which became final in May 2018, the Higher Court of Jagodina convicted the defendant of child trafficking and sentenced him to three years of imprisonment, for having forced the victim who was 13 years old at the time to commit larceny. In the judgment, the court stressed that the use of means did not have to be proven in light of the fact that the victim was a child. However, the court did not apply paragraph 3 of Article 388 which provides for the minimum punishment of five years' imprisonment in cases of child trafficking.

105. In another case, the Higher Court in Šabac convicted three defendants of trafficking in human beings committed as part of a group and sentenced them to aggregated sentences of 12 (first defendant) and 10 years of imprisonment (second and third defendant). The court found that the defendants recruited two victims, one of whom was 16 years old, over social media by taking advantage of their difficult circumstances and deceiving them into believing that they would marry one of the defendants. Instead, the victims were forced to engage in prostitution, forced labour, begging and forced criminality (theft) under threats of physical harm to themselves and their family members.

106. In a case which became final in October 2019, the Higher Court in Pirot found two defendants, a woman and a man, guilty of trafficking of children and use of services of child victims of trafficking, and sentenced them to six and four years of imprisonment respectively. The court found that the first defendant had forced her 15-year-old daughter, who had a mental disability, to provide sexual services to the second defendant, in exchange for payment. The victim was supported by the CPVT and she was granted the status of an especially vulnerable witness and represented by a court-appointed lawyer.

107. In another case involving the use of services of a victim of trafficking, which was finalized in 2018, the Higher Court in Negotin accepted a plea-bargaining agreement and sentenced the defendant, a citizen of Serbia, to one year of imprisonment for knowingly engaging in sexual relations with an underage girl from Bulgaria whom he knew to be a victim of human trafficking in exchange for payment he provided to the girl's stepfather.

108. In a case which became final in November 2019, the Higher Court in Valjevo found one defendant guilty of child trafficking, for having forced his son and stepdaughter, who were 10 and 13 years old at the time, to engage in begging from August 2015 until January 2017 and from September 2017 until November 2018. The victims had to hand over to the defendant their daily earnings, which he would use for alcohol and gambling. The court noted that the fact that the defendant did not use force against the victims was irrelevant since the use of such means is not required in case of child victims. The defendant was sentenced to four years and six months of imprisonment, which is below the minimum of five years prescribed under paragraph 3 of Article 388 of the CC.

109. In the judgment from April 2020, mentioned in paragraph 82, the Higher Court in Novi Sad accepted the plea-bargaining agreement between the defendant and the public prosecutor and sentenced the defendant to an aggregated sentence of six years and three months, for repeated counts of trafficking in human beings and domestic violence. The court found that in the period October 2014 – February 2018, the defendant forced the injured party to travel to Slovakia to work and send him the money she earned there, as well as that, upon her return from Slovakia, the defendant would force her to engage in prostitution and hand over all of her earnings to him. As noted in paragraph 82, the court ordered the defendant to pay the victim compensation in the amount of EUR 9,500.

110. In a judgment which became final on 9 March 2021, the Higher Court of Pančevo convicted one defendant of THB and sexual intercourse through the abuse of position, committed against a child in the period 2019 - April 2020, and sentenced him to 20 years' imprisonment. The authorities have highlighted the case as an example of proactive investigation, as well as effective co-operation between the CPVT and NGO Atina which provided support to the victim.

111. GRETA was informed that the number of cases involving online abuse of children has increased in recent years. The Department for Combating High-Tech Crime within the Police, which was established in 2019 and comprises five police officers, most commonly investigates cases related to the criminal offence of displaying, procurement and possession of pornographic material and exploitation of a child for pornography (Article 185 CC) in co-operation with the Special Prosecutor's Office for High-Tech Crime. Since 2010, 467 criminal reports have been filed under Article 185 CC as part of operation "Armageddon." GRETA was informed of one case which involved the exploitation of 10 girls and three women in the production of sexual abuse materials, which was detected in 2017. The perpetrators were two Austrian citizens (a man and a woman) and one Serbian citizen (a woman) who recruited the victims, from poor families in northern Serbia, through printed advertisements and sold the materials over the internet. GRETA was informed that all three perpetrators were convicted of THB by a judgment of the Appellate Court of Novi Sad dated 15 November 2021. The first defendant was sentenced to 12 years and 10 months of imprisonment for the criminal offences of THB and sexual intercourse with a child, and the two other defendants to five years' imprisonment each.

112. **GRETA urges the Serbian authorities to take measures to strengthen the criminal justice response to THB, including by:**

- **ensuring that human trafficking offences 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 or witnesses;**
- **ensuring that human trafficking offences are prosecuted as such, rather than as lesser offences, every time the circumstances of the case allow this, and lead to effective, proportionate and dissuasive sanctions for those convicted.**
- **ensuring that the plea-bargaining procedure is used only exceptionally in human trafficking cases, subject to appropriate safeguards, where the reduction of a sentence is clearly outweighed by the advantages offered by the plea agreement (these advantages being indicated in the judicial decision approving the**

agreement) and that the agreement is not in any way detrimental to the rights of the victims, including their access to compensation;

- **intensifying their efforts to identify, seize and confiscate criminal assets generated by trafficking offences.**

113. **GRETA further considers that the Serbian authorities should strengthen their efforts to provide systematic and continuous training on the application of the legislation related to trafficking in human beings, as well as the abovementioned decision of the Constitutional Court, to police officers, prosecutors and judges.**

8. Non-punishment provision (Article 26)

114. 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.⁶⁷ 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.

115. Serbian legislation still does not contain a specific provision concerning the non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they have been compelled to do so. Instead, the Serbian authorities rely on general provisions in the CC, which establish the principle that there is no criminal offence without an unlawful act or culpability (Article 14(2)), or which exclude culpability for acts of minor significance (Article 18), as well as acts committed out of necessary defence (Article 19) and extreme necessity (Article 20). Further, Article 21 of the CC provides that an act committed under irresistible force would not be considered a criminal offence, while the commission of an offence under force which was not irresistible would trigger the application of mitigating circumstances leading to more lenient sanctions. Article 284 of the CPC stipulates that the prosecutor may, *inter alia*, reject the criminal report for criminal offences which are not prosecuted *ex officio* if he/she finds that prosecution would not be justified. The Law on Misdemeanours also stipulates (Article 15) that if a misdemeanour was committed under force or threat it would not be considered as such. Further, the Law on Foreigners and the Instruction on its implementation contain provisions excluding or reducing the criminal or administrative responsibility of victims of trafficking who entered Serbia illegally or whose stay in Serbia is irregular.

116. GRETA was informed that the guidelines on the implementation of the non-punishment principle, prepared in 2015,⁶⁸ had been presented to criminal judges, misdemeanour judges, and prosecutors at a series of seminars, and included in the continuous training programme of the Judicial Academy. The SOPs mentioned in paragraph 199 provide that Article 26 of the CoE Anti-Trafficking Convention shall be applied directly to victims of trafficking whenever possible. The authorities have also referred to the importance of the MoU between the Ministry of the Interior, the Ministry of Labour, and the Public Prosecutor from June 2018 and the MoU between the Public Prosecutor's Office and NGOs Atina and Astra, which aim to facilitate early identification of victims and the exchange of information between the relevant actors.

⁶⁷ See GRETA's 2nd General Report, paragraph 58.

⁶⁸ See para. 179 of GRETA's second evaluation report on Serbia. The guidelines are available at: <https://www.osce.org/mission-to-serbia/469509>.

117. GRETA was informed that the implementation of the non-punishment principle varies in practice. According to some of GRETA's interlocutors, the fact that the "commission of criminal offences" is specified in Article 388 of the CC as one of the forms of exploitation excludes any culpability on the part of victims of THB for criminal offences they were forced to commit, and this principle is regularly applied by the police and prosecution authorities. However, GRETA was informed that in some cases police officers, prosecutors and judges failed to take into account indicators that the accused may have been a victim of trafficking, especially in cases where possible THB was (re)qualified as a lesser offence (e.g. mediation in prostitution). One of the challenges mentioned to GRETA is the lack of communication between the relevant actors, leading to victims of trafficking being treated as injured parties in a criminal case for THB while they are simultaneously prosecuted for the act which they were forced to commit by the trafficker (often a misdemeanour) at another instance. In one such case, in which the victim was investigated for theft by a lower prosecutor's office while he/she appeared as an injured party in the case against the trafficker, the NGO which was assisting the victim alerted the prosecutor to the parallel proceedings and the case against the victim was discontinued.

118. GRETA welcomes the dissemination of guidelines on the application of the non-punishment principle and the training provided to the relevant authorities, and considers that the Serbian authorities should make further efforts in order to ensure that all of the authorities involved in the investigation and prosecution of potential cases of THB, including misdemeanour judges, receive the necessary training to ensure the consistent application of the non-punishment principle to all victims of trafficking.

119. GRETA further considers that the Serbian authorities should keep the implementation of the non-punishment principle under review so as to determine whether legislative amendments are not necessary to achieve its objectives, as set out by Article 26 of the Convention, and to guarantee consistency of practice in its implementation.

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

120. 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.

121. 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 address extra-judicial protection, the measures referred to in Article 30 are concerned with the procedural measures to be introduced. The following means can be used, in accordance with the European Convention on Human Rights 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.

122. As detailed in GRETA's second report,⁶⁹ the Law on the Protection Programme for Participants in Criminal Proceedings regulates the terms and procedure for the provision of protection and assistance to participants in criminal proceedings, including witnesses and injured parties. Protection measures such as physical protection of persons and property, and change of place of residence are ordered by the Protection Unit of the Ministry of the Interior, while the decision on change of identity is issued by the Commission for the Implementation of the Protection Programme. GRETA was informed that protection measures under the abovementioned law have so far been applied to one witness/victim of human trafficking in criminal proceedings.

123. Article 102 of the CPC imposes a general obligation on the court to protect injured parties and witnesses from verbal abuse, threats and any other form of assault during criminal proceedings. Witnesses whose testimony in a criminal case could place their lives, health, freedom or property in danger, may also be assigned special protection measures in court, pursuant to Articles 105-112 of the CPC. The status of a protected witness is assigned by the judge in a specific case and it allows the witness to be heard without revealing his/her identity and to be provided with security measures in the course of the trial. In this regard, the court may decide that the witness shall testify from a different room or through the use of audio-visual means with image and voice distortion. Article 363 of the CPC further provides that the court may decide to close the main trial proceedings to the public for a number of reasons, including if this is in the interest of a child or in order to protect the privacy of the participants in the proceedings.

124. In addition, pursuant to Articles 103 and 104 of the CPC, a person may be assigned the status of an "especially vulnerable witness," by a prosecutor or a judge,⁷⁰ based on that person's age, life experience, lifestyle, gender, state of health, the nature or consequences of the criminal offence committed, or other circumstances. The status of an especially vulnerable witness entitles the witness to have an authorised representative (*punomoćnik*), who shall be appointed by the court from the list of *ex officio* lawyers. Moreover, especially vulnerable witnesses may be assisted by a psychologist or a social worker, may only be examined through the prosecutor or the judge, depending on the stage of the proceedings, and may not be confronted with the accused. The status of an especially vulnerable witness further allows the witness to testify through audio-visual means from a separate room without the presence of the parties (however, see paragraph 125). GRETA was informed that the Centre for the Protection of THB Victims regularly requests the prosecution and the court to assign the status of an especially vulnerable witness to victims of trafficking who are assisted by the CPVT, and that such status was not granted only in three cases. The CPVT also accompanies victims to the court and requests police protection when necessary (this has been the case with regard to five victims). As mentioned in paragraph 81, the guidelines on the compensation of injured parties in criminal proceedings recommend that victims of THB be assigned the status of especially vulnerable witnesses in criminal proceedings.

125. GRETA was informed that the status of an especially vulnerable witness was granted to 19 victims of THB in 2019, 20 in 2020, and 23 in 2021. Such status was requested for 62 victims in 2022, but GRETA was not informed as to how many of them were effectively granted the status. By way of example, there are currently four ongoing cases in Niš and in all of them injured parties have been granted the status of an especially vulnerable witness.⁷¹ While GRETA's interlocutors have welcomed the use of the especially vulnerable witness status with regard to victims of trafficking, it has also been pointed out that being assigned this status does not necessarily result in greater protection for victims of THB and that they may still be exposed to re-traumatisation when they appear as witnesses in criminal proceedings. One of the main problems noted is the fact that only five higher courts (in Belgrade, Novi Sad, Niš, Novi Pazar and Kragujevac) have the technical equipment needed to facilitate testimony of a witness from another room through audio-video means. GRETA was also informed that most prosecution offices lack such equipment. In one case involving the exploitation of a victim from Serbia in another country, the remote testimony of

⁶⁹ GRETA's second evaluation report on Serbia, paras. 192-199.

⁷⁰ GRETA was informed that under envisaged amendments to the CPC only judges will be able to grant the status of especially vulnerable witness in criminal proceedings.

⁷¹ GRETA was informed that in all of the cases the victim was interviewed by the prosecutor through the use of audio-visual means. Only one of the victims has so far been heard by the court using the same means.

the victim before the authorities of that country was facilitated by an NGO which rented the audio-visual equipment. This problem is meant to be addressed by the National Strategy on the Rights of Victims and Witnesses of Crime in the Republic of Serbia (2020-2025), which envisages that all 25 higher courts and prosecution offices will have the necessary equipment for the remote testimony of vulnerable witnesses by 2025 (see also paragraph 43).

126. The Ministry of the Interior's mandatory instruction concerning the treatment of injured parties, in force since 1 June 2022, contains a vulnerability assessment questionnaire to be filled out by police officers who come in contact with victims of crime. The questionnaire covers concerns related to a victim's physical security as well as possible violations of privacy and requires the acting officer to make an assessment on whether or not the person is considered to be vulnerable. The needs expressed by the injured party, including protection, psychological support and legal aid, are also noted in the questionnaire. According to the Instruction, the questionnaire is to be attached to the criminal report and forwarded to the competent prosecutor.

127. GRETA was informed that it is not uncommon for victims of trafficking and NGO staff assisting them to receive threats from the defendant or persons close to him/her. In such cases, the police officers involved in the case file criminal reports for obstruction of evidentiary proceedings or coercion, which may result with the defendant being placed in detention. Victims may also be placed in the state shelter for victims of THB, which provides police protection (see paragraph 214). GRETA was also informed that the staff of the CPVT received threats from traffickers on two occasions, in 2022 and in early 2023, and that the cases were reported to the competent prosecution office.

128. According to a number of GRETA's interlocutors, information regarding THB cases, including personal information of the victims, is frequently leaked to the media and published by them. This not only violates the privacy and possibly the security of victims of THB, but it may also dissuade them from participating in the criminal proceedings against traffickers. The representatives of the police with whom GRETA met are not aware of where the leaks to the media may come from.

129. GRETA notes the positive example of the local anti-trafficking team from Vranje (see paragraph 137) which reported having a very good co-operation with the local media and has provided training on THB to representatives of the media. An advocacy group of women survivors of THB and violence, established by the NGO Atina, also organises events for targeted groups, such as representatives of the government and students, as well as the general public in order to raise awareness of THB and its effects.

130. **GRETA urges the authorities of Serbia to ensure the protection of the private life and identity of victims of trafficking, in line with Article 11 of the Convention, through the issuance of appropriate instructions to all relevant professionals.**

131. **Further, GRETA considers that the Serbian authorities should:**

- **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;**
- **make full use of all measures to protect victims and witnesses of THB and to prevent intimidation during the investigation, as well as during and after court proceedings;**
- **ensure that the status of especially vulnerable witness is granted to victims of THB whenever possible and that the victims, appearing before any court in Serbia, fully benefit from the protections guaranteed by this status, including testimony through audio-visual means.**

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

132. 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, be composed of both women and men. To combat trafficking effectively and protect its victims, it is essential that proper training is provided to relevant officials.

133. As mentioned in paragraph 19, the General Police Directorate has taken over the co-ordination of anti-trafficking action from the Border Police Directorate. The Office for Co-ordinating Action against THB, established within the latter directorate in 2017, consists of five police officials, including the National Co-ordinator, and it is responsible for monitoring, co-ordinating, overseeing and directing the implementation of anti-trafficking measures and actions, supporting the work of the Council for Combating THB, initiating amendments to relevant legislation and co-ordinating the exchanges between the organisational units of the Police Directorate and other partners. The office holds regular meetings with representatives of the CPVT and NGOs Astra and Atina in order to exchange information and discuss specific cases.

134. The Division for Combating Human Trafficking and Smuggling, established within the Criminal Police Directorate's Service for Combating Organised Crime in 2019, consists of three sections: Section for Co-ordination, Analysis and Prevention of Human Trafficking, Section for Combating Human Trafficking, and Section for Combating Human Smuggling. The Division employs 28 police officials, including the heads of the three sections, six of whom work on THB cases with a focus on organised criminal groups. Sections for combating human trafficking and smuggling have also been set up in the Police Administration for the City of Belgrade, within the Criminal Police Directorate's Division for the Suppression of Violent, Sexual, Traffic Crimes and Human Trafficking, as well as in the Police Administrations of Novi Sad and Niš. Teams or individual inspectors involved in combating THB also exist in other regional police administrations. Altogether, about 120 criminal police officers are assigned to anti-trafficking tasks.

135. In June 2021, the Public Prosecutor issued a general mandatory instruction on designating a public prosecutor or deputy public prosecutor in all higher and appellate public prosecutor's offices as a focal point in charge of acting in all criminal cases involving trafficking in human beings. The role of focal points includes monitoring actions by other higher and appellate prosecutor's offices, as well as immediately lower prosecutor's offices in criminal cases concerning THB-related offences (e.g. mediation in prostitution), with the aim of ensuring uniform practice. Prosecution focal points also participate in local anti-trafficking teams (see paragraph 137).

136. GRETA was informed that police officers in regional police administrations who cover THB cases and THB focal points in prosecutor's offices do not work on THB cases exclusively, but they also investigate other criminal offences. The turnover of staff due to promotion or retirement of police officers can further limit the ability of local law enforcement to successfully detect and investigate THB cases.

137. There are currently 18 local multidisciplinary teams (networks) in Serbia.⁷² The teams are established by a decision of municipal/city authorities and are usually composed of representatives of centres for social work, the police, prosecutor's offices, the judiciary, labour inspectors, the Red Cross of Serbia and specialised NGOs. GRETA was informed that another local anti-trafficking team would be established in Bujanovac in the near future. During the third evaluation visit, GRETA met with the local

⁷² Local teams operate in Pančevo, Kikinda, Sombor, Novi Pazar, Šabac, Smederevo, Požarevac, Leskovac, Pirot, Prokuplje, Niš, Novi Sad, Sremska Mitrovica, Kraljevo, Kragujevac, Vranje, Subotica and Preševo.

anti-trafficking teams in Novi Sad,⁷³ Niš⁷⁴ and Vranje.⁷⁵ The members of the teams meet periodically to discuss co-ordination in specific THB cases and they are also involved in raising awareness of THB in their local communities. While the local teams in Novi Sad and Vranje included representatives of local NGOs, no representatives of civil society organisations were included in the local team in Niš at the time of GRETA's visit.

138. GRETA was informed that between September 2018 and January 2021, 509 representatives of the police and 172 representatives of other entities, including prosecutors, labour inspectors, social workers, representatives of the CPVT and civil society, received training through the project "Support to capacity building in the fight against human trafficking," provided within the National IPA 2014 program, worth EUR 1,000,000. The project aimed to assist Serbia in meeting EU accession criteria by, *inter alia*, improving the detection of THB cases and co-ordination and co-operation between relevant state institutions and partners in action against THB.⁷⁶ A manual entitled "Support to capacity building in the fight against human trafficking in the Republic of Serbia" was also developed as part of the project. The authorities have also organised training sessions for relevant officials using the Council of Europe HELP course on trafficking in human beings. Other training has been provided, including online during the Covid-19 pandemic.

139. There are no judges specialised in trafficking in human beings in Serbia. Judges receive training from the Judicial Academy as well as from specialised NGOs. In 2020, NGO Astra produced a guide for judges and prosecutors entitled "Justice for Victims of Trafficking in Human Beings," which provides an overview of the relevant national and international legal standards, the relationship between THB and related criminal offences, as well as a detailed presentation of the trauma experienced by victims of trafficking and its consequences. GRETA was informed that the guide was used in a training organised by the Judicial Academy, in co-operation with the NGO Astra in 2022, on the topic of promoting the rights of child victims and witnesses of crime. In 2022, in co-operation with the UNODC, the Judicial Academy also organised a three-day workshop on the topic of THB, consisting of mock trials, for 37 participants (judges, prosecutors and police).

140. GRETA welcomes the existence of anti-trafficking units/teams within the police as well as individual police investigators and prosecutors specialised in trafficking in human beings, and considers that the Serbian authorities should provide systematic and continuous training to judges on the topic of THB. To the extent possible, the human and financial resources of the investigators and prosecutors specialised to work on THB cases should not be diverted towards investigations of other criminal offences, and continuity should be ensured in case of turnover of staff.

141. GRETA further invites the Serbian authorities to ensure that civil society organisations are included in all multidisciplinary anti-trafficking teams.

⁷³ The anti-trafficking team in Novi Sad is composed of: Deputy Mayor (criminologist), Deputy Head of City Administration - child protection/team co-ordinator, a psychologist from the Centre for Social Work/head of shelter for women and children victims of domestic violence, a lawyer from the Red Cross, representatives of the NGO Novi Sad Humanitarian Centre, a judge from the appellate court (civil matters), a prosecutor, a doctor (gynaecologist), head of the THB and Smuggling Unit in the police, and a police officer from the same unit.

⁷⁴ The anti-trafficking team in Vranje was established in 2013 and it is composed of: the Mayor and Deputy Mayor, President of the City Assembly, City Council member in charge of social issues and local self-government/Team President, Vice-President of the Team, a prosecutor from the Higher Prosecutor's Office, Commissioner for Refugees and Migration of the City of Vranje, Police, Centre for Social Work, Centre for Development of Local Social Welfare Services, NGO Roma Centre for Democracy, NGO Committee for Human Rights, child protection representatives, Centre for Social Integration, National Employment Service-Vranje branch, Red Cross Vranje, and the Roma Office of the City of Vranje.

⁷⁵ The local anti-trafficking team in Niš, established in 2020, is comprised of a deputy prosecutor (focal point for THB and head of service for witness support), two inspectors from the anti-THB unit, a representative of the centre for social work, a labour inspector, a doctor (GP) from the Niš Health Centre, the director of the regional safe house for women and children victims of violence, and a representative of the National Employment Agency. The team is headed by the Deputy Mayor of Niš, and it will soon include a judge as well.

⁷⁶ In 2019, as part of the IPA 2014 project, the anti-trafficking police units within the Criminal Police Directorate's Service for Combating Organised Crime, the Police Administrations in Belgrade, Niš and Novi Sad, as well as regional police units received 15 vehicles, office furniture, IT and surveillance equipment.

11. International co-operation (Article 32)

142. 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 State 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 provide extensive co-operation to 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 provisions of the Convention neither cancel nor replace the provisions of relevant international or regional instruments⁷⁷ on mutual legal assistance and extradition, reciprocal arrangements between Parties to such instruments and relevant provisions of domestic law concerning international co-operation.

143. On 16 December 2019, the Government of the Republic of Serbia and the Government of the Republic of North Macedonia signed an agreement on co-operation in the field of combating human trafficking, which was ratified by the Serbian National Assembly on 25 February 2021. This is the first THB-specific international agreement concluded between Serbia and another country.

144. Serbia participates in the Network of Anti-Trafficking Co-ordinators of Southeast Europe (“Brdo Process”), which comprises national anti-trafficking co-ordinators from Bulgaria, Serbia, Bosnia and Herzegovina, Montenegro, Croatia, Albania, North Macedonia, Moldova, Romania and Slovenia. Co-operation includes exchange of information and examples of good practice related to the prevention of THB and protection of victims, as well as co-ordination in the voluntary return of victims to their countries of origin. Regional co-operation is also achieved through the MARRI (Migration, Asylum, Refugees Regional Initiative) Network for co-operation of anti-trafficking co-ordinators, which includes co-ordinators from Serbia, Albania, Bosnia and Herzegovina, Montenegro, North Macedonia and Kosovo*.⁷⁸

145. The Ministry of Justice is the central institution for international co-operation in criminal matters, through which requests for mutual legal assistance are received and forwarded.⁷⁹ The Public Prosecutor’s Office, through its Department for International Co-operation and Legal Assistance, also participates in international co-operation in criminal matters within the remit of its competence and in accordance with the relevant international instruments.⁸⁰ In this regard, the Public Prosecutor’s Office co-ordinates the work of lower prosecutor’s offices. GRETA was informed that the Prosecutor’s Office has sent six and received four requests for international legal assistance in THB cases in the period between 1 January 2017 and 15 May 2022, either directly or through the Ministry of Justice. The most common form of assistance sought concerned interviews with witnesses and provision of documents such as bank account records. One of the challenges with regard to international co-operation mentioned by GRETA’s interlocutors is the length of the procedure. As a way of improving the efficiency of international co-operation, the Prosecutor’s Office has focused on increasing bilateral and informal co-operation as well as co-operation through international judicial networks and bodies, such as Eurojust, the European Judicial Network and SEEPAG (Southeast European Prosecutors Advisory Group).

146. On 12 December 2019, Serbia signed a co-operation agreement with Eurojust. GRETA was informed that Serbia has so far participated in 11 Joint Investigation Teams (JITs) with Eurojust member states, one of which concerned the criminal offences of smuggling of persons and illegal crossing of a

⁷⁷ 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.

⁷⁸ All references to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nation’s Security Council Resolution 1244 and without prejudice to the status of Kosovo.

⁷⁹ In their reply to the third-round questionnaire, the Serbian authorities indicated that the judicial authorities of Serbia (courts and prosecutor’s offices) had sent 42 requests for mutual legal assistance in THB cases and responded to 58 such requests from the authorities of other countries.

⁸⁰ Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters and the relevant bilateral agreements (See GRETA’s second evaluation report on Serbia, para. 202).

state border (no victims of THB were detected). There have been no JITs related to trafficking in human beings to date.

147. The Directorate for International Operational Police Co-operation, within the Ministry of the Interior, is responsible for international co-operation on the operational level, namely with Interpol, Europol and SELEC (Southeast European Law Enforcement Centre). There is a 24/7 service desk for exchange of information within the Directorate. With regard to co-operation with Interpol, the Serbian police formed 26 new THB cases and had 148 information exchanges in 2018, 26 new cases were formed and 141 information exchanges effected in 2019, while the number of new cases in 2020 was 36 with 143 information exchanges. Co-operation in THB cases established through Europol was as follows: in 2018, 69 requests were sent and 187 received; in 2019, 85 requests were sent and 176 received; in 2020, there were 69 requests sent and 137 received.

148. According to the information provided by the authorities, some of the cases mentioned above concerned trafficking of Serbian citizens abroad, for the purpose of sexual and labour exploitation, as well as exploitation in forced begging. The authorities have also given examples of cases in which they provided information to the competent authorities in Italy, Germany, France and Belgium (within Europol's Phoenix Analytical Project), as well as Sweden, in connection to exploitation of Serbian citizens, often from the Roma community. As a result, criminal charges were filed against two criminal groups in Serbia and Belgium.

149. In 2019, the Serbian authorities participated in Interpol's anti-trafficking project aimed at strengthening the capacity of law enforcement authorities in the Balkan countries to investigate and prosecute THB cases, through the establishment of a multidisciplinary expert group, delivery of trainings focused on victims, and operational work and assistance in investigations. Within this project, the Serbian police took part in the Regional Operation Action entitled Theseus, carried out from 9-17 December 2019,⁸¹ which included checks of passenger vehicles, trucks, buses and trains, resulting in the detections of 230 migrants, 33 of whom crossed the border illegally, and several persons implicated in smuggling of persons. No victims of THB were detected.

150. GRETA welcomes the Serbian authorities' participation in international co-operation, and invites them to continue their efforts in this respect. The positive use and benefits of utilising Eurojust and co-operation through Interpol and Europol should be included in training for police officers, prosecutors and judges.

12. Cross-cutting issues

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

151. 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.⁸² 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.⁸³ 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

⁸¹ <https://www.interpol.int/en/News-and-Events/News/2020/Balkans-Operation-Theseus-busts-human-trafficking-and-migrant-smuggling-rings>.

⁸² CEDAW General recommendation No. 33 on women's access to justice, paragraph 8, CEDAW/C/GC/33 of 3 August 2015

⁸³ Council of Europe Gender Equality Strategy 2018-2023, pp.24-26, <https://rm.coe.int/prems-093618-gbr-gender-equality-strategy-2023-web-a5/16808b47e1>.

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.⁸⁴ 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".⁸⁵

152. The Law on the Prohibition of Discrimination, which was amended in 2021, prohibits, *inter alia*, direct and indirect discrimination on the basis of sex, gender and gender identity. GRETA was also informed that the Gender Equality Strategy and Action Plan, which are in force until 2030, contain measures aimed at the broader inclusion and empowerment of women, Roma and other minorities.

153. Prohibition of discrimination on the basis of sex, gender and gender identity is also enshrined in the Law on Asylum and Temporary Protection (Article 7), and it is explicitly stipulated that all provisions of the law will be interpreted in a gender-sensitive manner (Article 16). An asylum seeker may request to be interviewed by a person of the same sex and/or with the assistance of an interpreter of the same sex. All searches, body checks and other actions in the course of the procedure which require physical contact with the asylum seeker are conducted by a person of the same sex. When female asylum seekers are accompanied by a man, they submit requests for asylum and are interviewed separately. Whenever there is a suspicion that an asylum seeker is a potential victim of trafficking he/she is provided with interpretation by a person of the same sex.

154. GRETA was informed that an effort is made to include female police officers in THB teams, but this is not always the case due to staff turnover.⁸⁶ The CPVT uses gender-sensitive indicators in the process of identification of victims of THB.

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

155. According to the Law on Juvenile Perpetrators of Criminal Offences and the Legal Protection of Juveniles in Criminal Proceedings (Articles 150-157), children who appear as injured parties in criminal proceedings concerning serious criminal offences, including THB, shall be questioned with the assistance of a psychologist, pedagogue or another qualified person. The examination shall not be conducted more than twice, save exceptionally if this is necessary to achieve the purpose of the criminal proceedings. The examination of a child may be conducted through the use of audio-visual means, without the presence of the parties or other participants in the proceedings, and the parties shall not examine the child directly but shall pose questions to him/her through the judge, psychologist, pedagogue, social worker or another qualified person. If the child is particularly vulnerable due to the nature of the criminal offence, confrontation between him/her and the defendant is prohibited. Hearings involving injured parties who are children are closed for the public. A witness/injured party who is younger than 18 can also be assigned the status of an especially vulnerable witness pursuant to Article 103 of the CPC (see paragraph 124).⁸⁷

156. A child who is an injured party shall have a legal representative (parent/guardian) from the first questioning of a defendant. Law enforcement officials, prosecutors, judges and lawyers who are involved in criminal proceedings where the injured party is a child must have completed specialised training in the area of children's rights and the protection of children in criminal proceedings. GRETA was informed that the Judicial Academy has provided training and certification related to representation of children in court proceedings to 11400 lawyers since 2005.

⁸⁴ 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>.

⁸⁵ Available at: <https://rm.coe.int/factsheet-womens-access-to-justice/16808ff44e>.

⁸⁶ For example, the police team in Vranje currently has three male police officers working on THB, two of whom will be retiring in the near future.

⁸⁷ The Serbian authorities also apply the Special Protocol on the Conduct of Judicial Bodies in the Protection of Juveniles.

157. In October 2020, the NGO Centre for Children's Rights published a report entitled "Child-Friendly Justice – the Perspectives of Children and Youth,"⁸⁸ which was based on a survey of 1,505 children and young adults who have been in contact with the judiciary, of whom 67 (aged 10-22) had been placed in correctional institutions and 1,438 (aged 10-18) were children from the general population who had been in contact with the justice system. The survey found a number of shortcomings in the treatment of children in criminal proceedings, including that they are not sufficiently informed of their rights by the police and the judicial system, or that the information is not provided in a language tailored to children.⁸⁹ The survey also found that interviews with children are often conducted on premises which are not suited for this purpose, sometimes in the presence of a large number of persons.⁹⁰ The survey showed that most cases did not last longer than one year.⁹¹ In their comments to the draft report, the Serbian authorities referred to the Rulebook on the manner and conditions under which police authority is exercised towards minors (Official Gazette RS, No. 83/2019), the Instruction on the procedure to be followed by the employees of the Ministry of Interior in THB cases, and the Instruction for the Treatment of Injured Parties, which require the relevant officials to provide children with information on their rights and to ensure the presence of parents and legal guardians during the proceedings.

158. Guidelines entitled "Hearing Child Victims of Exploitation and Trafficking and Children at Risk: Practice-Oriented Guidance for Child-Sensitive Communication and Interviewing to Obtain Accurate and Reliable Statements from Children," published in June 2021 within the CoE/EU Project "Preventing and combating trafficking in human beings in Serbia," provides, *inter alia*, recommendations for conducting interviews with child victims of trafficking. GRETA was informed that the guidelines are applied by the CPVT and have been disseminated to centres for social welfare across the country. In 2022, the CPVT conducted six training sessions for 150 employees of centres for social welfare on their role in the preliminary identification of and support to victims of THB, and the Judicial Academy, in co-operation with UNICEF and the NGO Astra, organised six two-day training sessions for relevant professionals in Belgrade, Valjevo, Kraljevo, Kragujevac, Novi Sad, and Niš, on the promotion of the rights of children victims and witnesses of crimes. Moreover, GRETA was informed that the Ministry of the Interior, the Criminal Police Directorate and the University of Criminal Investigation and Police Studies have developed guidelines on the procedure for conducting interviews with child victims of crime.

⁸⁸ <https://cpd.org.rs/publications/?lang=en#istrazivanja>.

⁸⁹ Centre for Children's Rights, Child-Friendly Justice – the Perspectives of Children and Youth, pp. 7-10.

⁹⁰ Ibid, p. 11. The report found that, "almost 2/3 of the respondents believe that the premises in which they were interrogated were not adapted for children. A number of respondents also estimate that a large number of people are present at the hearing. ...two respondents answered 'many' and one respondent stated that '9 people' were present."

⁹¹ GRETA also notes the report "Mankind owes to the child the best that it has to give," published in April 2021 by the NGO Atina which analyses in detail the case of a potential child victim of THB (17), who was sexually abused by her father and forced to provide sexual services to other men for money. Information about her abuser and herself, that could lead to her identification was published by the media, who reportedly obtained it from the prosecution. In the report, Atina presented 12 recommendations for the prevention of the violation of the right to data privacy and confidentiality of child victims of sexual abuse and human trafficking, including granting child witnesses the status of an especially vulnerable witness, putting in place mechanisms to prevent leaking of information, initiating criminal and misdemeanour proceedings against media owners who publish information from criminal proceedings which are closed to the public, and providing continuous training for representatives of the media and establishing closer networking with organisations working on THB prevention and child protection. The report is available at: <http://atina.org.rs/en/publications>.

159. **GRETA welcomes the development of the above-mentioned guidelines and the training provided to professionals coming into contact with child victims of trafficking, and considers that the Serbian authorities should take further 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.⁹² 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.**

c. role of businesses

160. Under the Law on Public Procurement, which has been in force since 1 July 2020, the contracting authority is obliged to exclude from the public procurement procedure an economic operator which fails to prove that it and its legal representative have not been criminally convicted of one of the enumerated criminal offences (including THB) within five years preceding the deadline for the submission of bids, unless a different period of prohibition is imposed by a final judgment of a court (Article 111). The law further stipulates (Article 37) that the contracting authority may conduct a reserved public procurement procedure in which only economic operators whose main goal is the professional integration and employment of persons with disabilities and disadvantaged persons (i.e. persons who receive social benefits/protection, including victims of THB, or hard-to-employ persons, including vulnerable categories) may participate. The Public Procurement Office does not have information as to whether any companies have been excluded from public procurement due to their involvement in THB since the Law on Public Procurement came into force.

161. Under the amended Law on Accounting, annual business reports of large legal entities (i.e. those with more than 500 employees and companies of public interest) shall include a consolidated non-financial report containing information on implemented activities in the field of environmental protection, social and personal issues, respect for human rights and anti-corruption activities (Articles 37 and 38). The first official reports under the law, covering the year 2021, were expected to be submitted in 2022. The information will be included in a database of non-financial reports which will allow for an analysis of achieved results and the development of a more detailed reporting methodology which may include the topic of prevention and eradication of THB in business operations and supply chains (in accordance with the Global Reporting Initiative methodology). The Serbian Chamber of Commerce has promoted the topic of non-financial reporting and has organised related trainings for its members since 2019.

162. **GRETA welcomes the abovementioned legislative changes and considers that the Serbian authorities should ensure their consistent application in practice. Moreover, the authorities should further strengthen engagement with the private sector, in line with the UN Guiding Principles on Business and Human Rights⁹³ and the Council of Europe Committee of Ministers Recommendations CM/Rec(2016)3 on human rights and business and CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation,⁹⁴ with a view to raising awareness of the important role and responsibility of businesses to prevent human trafficking in their supply chains, to support the rehabilitation and recovery of victims, and to provide access to effective remedies.**

⁹² [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).

⁹³ http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

⁹⁴ [Recommendation CM/Rec\(2016\)3](#) of the Committee of Ministers to member States on human rights and business, adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies
[Recommendation CM/Rec\(2022\)3](#) of the Committee of Ministers to member States on preventing and combating trafficking in human beings for the purpose of labour exploitation and Explanatory Memorandum, adopted by the Committee of Ministers on 27 September 2022 at the 1444th meeting of the Ministers' Deputies.

d. measures to prevent and detect corruption

163. 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.

164. 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. GRETA refers to GRECO's fifth evaluation report on Serbia published on 5 July 2022,⁹⁵ which notes that the police has been identified in the recently adopted Operational Plan on Corruption Prevention as an area where action is needed, specifically with regard to strengthening the capacity of the Internal Control Sector and the Anti-Corruption Department as well as providing training. GRECO recommended that a strategic document on corruption prevention in the police identifying risk areas and setting clear goals be adopted and made public as soon as possible.

165. GRETA was informed that in 2018, the Internal Control Department of the Ministry of the Interior filed with the competent prosecutor's office a criminal report against a police officer of the Police Administration in Jagodina suspected of having committed THB against an underage girl. According to the charges, the police officer took advantage of his position and the vulnerable situation of the girl, who had placed an ad on social media offering sexual services to cover living and education expenses, to force her into prostitution and oblige her to pay him RSD 2000 (EUR 17) of her weekly earnings and provide sexual services to him. The Higher Prosecutor's Office in Jagodina filed an indictment against the police officer on 25 November 2019 and he was sentenced to five years' imprisonment in October 2021. The injured party was instructed to pursue her compensation claim in civil proceedings. According to the information provided by the authorities, the appeal in the case is pending.

166. In another case, allegations have been raised against the former President of the Jagodina Assembly (now member of the Serbian National Assembly) as well as a number of other persons in connection with alleged prostitution of young women, some under the age of 18, at parties organised by the suspects.⁹⁶ The Prosecutor's Office in Jagodina conducted the preliminary investigation into the case in April 2021, but the case was later transferred to the Prosecutor's Office in Kraljevo. GRETA was informed during the visit that the Prosecutor's Office in Kraljevo interviewed over 30 persons in connection with the case and concluded in August 2021 that there were no grounds for the initiation of criminal proceedings. Civil society organisations have raised concern with regard to the way the case was covered in the media and the effect it may have on potential victims in the case.

167. GRETA considers that the Serbian authorities should ensure that a thorough and independent investigation is conducted into all cases concerning alleged involvement of government officials in THB. Further, the authorities should include measures against corruption in a THB context in the general policies against corruption, and effectively implement them.

⁹⁵ <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680a7216b>.

⁹⁶ <https://rs.n1info.com/vesti/slucaj-palma-seli-se-u-kraljevo-u-jagodini-cutanje-i-potpisivanje-u-kabinetu/>.

V. Follow-up topics specific to Serbia

1. Prevention of child trafficking

168. The Serbian authorities have taken a number of steps aimed at preventing child trafficking. The Centre for the Protection of Victims of Trafficking (CPVT) and NGO IDEAS, with the support of the UNHCR, have developed an information leaflet for refugee and migrant children, and in particular unaccompanied children, entitled 'Protect yourself against human trafficking,' which is available in Serbian, Farsi and Arabic.⁹⁷

169. In 2017, the Ministry of Trade, Tourism and Telecommunications established the National Contact Centre for Safety of Children on the Internet,⁹⁸ which contains information and advice for children and adults regarding internet safety. Children and adults can also report cases of online harassment through a hotline (19833) or an online form which is anonymous. The Ministry is connected with the Department for High Tech Crime at the Ministry of the Interior, prosecutor's offices, centres for social work, the Ministry of Education, and health centres through an online application and forwards to them the received information (including photos, screen shots and links), depending on the nature of the case. Since 2017, 33,639 communications, including reports of specific cases, have been received, mostly from adults. Of these, 136 cases which involved attempted recruitment of children, blackmail and threats were identified as potential THB cases.

170. The Ministry of Trade, Tourism and Telecommunications has also organised 532 presentations on internet safety in over 205 schools for teachers, parents (6,156) and children (20,932), including through the campaign 'IT Caravan.' In 2021, the Ministry visited 16 towns, as part of a campaign initiated by the Office of the Prime Minister and held information sessions on internet safety. They have observed that parents are often not aware of dangers on the internet, and thus they provide information on fake advertisements for jobs, foreign language camps and other means of recruitment of children over the internet. The CPVT, in co-operation with the National Association of Local Youth Offices, has organised training on the prevention of THB among children and youth for members of youth offices across the country.

171. In 2020, the NGO Atina published 'Behind the Screen: Analysis of human trafficking victims' abuse in digital surroundings,' which analysed the experience of 178 formally identified victims of trafficking who had been receiving assistance from Atina.⁹⁹

172. In 2022, the Ministry of Education, Science and Technological Development, in co-operation with the Institute for the Advancement of Education, developed three online training courses for employees in educational institutions aimed at improving their competence to create a safe and supportive environment for children. The training covers the revised indicators for preliminary identification of victims of trafficking among children (see paragraphs 199 and 205) and the organisation of preventive activities for protection against THB. The Serbian Government has also established an online platform for the prevention of violence against children called "Čuvam te" ("I take care of you"),¹⁰⁰ which provides information to children, teachers and parents. GRETA was also informed that the Strategy on the Prevention of Violence against Children includes a chapter on trafficking in children.

⁹⁷ <https://ideje.rs/zastiti-se-od-trgovine-ljudima-informacije-za-decu-bez-pratnje/>.

⁹⁸ <https://pametnoibezbedno.gov.rs/>.

⁹⁹ <http://www.atina.org.rs/en/behind-screens-analysis-human-trafficking-victims-abuse-digital-surroundings>.

¹⁰⁰ <https://cuvamte.gov.rs/>.

173. The NGO Centre for Youth Integration operates two drop-in centres for children in street situations. Most of the 300 children who visit the drop-in centres monthly are Roma, living in informal settlements, in extreme poverty (see also paragraphs 192 and 193). They are usually involved in begging, washing car windows at intersections, or collecting recyclable materials. GRETA was informed that the Ministry of Social Protection had issued an instruction to the 17 centres for social welfare in Belgrade to remove any children from the street and place them in a shelter, as well to issue a fine to the parents. However, there is no indication that this instruction, which appears to be in contradiction with the UN General Comment 21 to the Convention on the Rights of the Child,¹⁰¹ has ever been implemented. On 25 May 2022, the authorities adopted a plan for the protection of children in street situation from violence, neglect and abuse, which was prepared by the Ministry of the Interior in co-operation with other relevant ministries.

174. Although child marriages are recognised as a problem, particularly affecting the Roma community, civil society representatives have stressed that there is a lack of proactive measures on the part of social welfare centres and school authorities aimed at preventing such marriages.¹⁰² The slow reaction of prosecutor's offices to reports of cases of child marriages is seen as another problem.¹⁰³ One of the reasons for the lack of adequate response to child marriages, according to GRETA's interlocutors, is the fact that they are seen as part of the Roma tradition. The National Coalition to End Child Marriage, which was established in 2019 and includes 40 institutions and civil society organisations, has proposed a number of amendments to the Family Law, including a prohibition of marriages involving persons under the age of 18.¹⁰⁴ In co-operation with the Roma Women's Network, the National Coalition organised a conference in June 2022 entitled "Child Marriage Is Not a Roma Tradition," and launched its first newsletter. Child marriages will also be addressed in the action plan to the Strategy for the Social Inclusion of Roma which is currently being prepared (see paragraph 192).

175. The Serbian Red Cross uses various video materials for education on THB prevention in elementary and high schools, as well as in universities.¹⁰⁵ In 2021, it carried out 78 presentations for 1,074 pupils in elementary and high schools and at the University of Novi Sad.

176. Since 2019, the UNHCR, through its partner organisations the Danish Refugee Council, the Crisis Response and Policy Centre, and the IDEAS Centre for Research and Development, has been implementing a Peer Educators project for unaccompanied children and young adults from the refugee and migrant populations. The project includes workshops and interactive activities covering a range of topics, including human trafficking in the context of migration.

177. While welcoming the steps taken since the second evaluation to prevent child trafficking, GRETA considers that the Serbian authorities should continue to sensitise and train child protection professionals, teachers, Roma health mediators (see paragraph 193), law enforcement officers and prosecutors with regard to children's vulnerability to trafficking, paying special attention to children from the Roma community.

¹⁰¹ <https://bettercarenetwork.org/library/particular-threats-to-childrens-care-and-protection/children-living-or-working-on-the-street/un-crc-general-comment-no-21-2017-on-children-in-street-situations#:~:text=General%20Comment%2021%20%22provides%20authoritative,Child.%22%20While%20the%20Convention%20does>. GRETA's interlocutors have also stressed that the definition of a child differs from law to law, and it is not always aligned with the definition provided in the Convention on the Rights of the Child.

¹⁰² See also Praxis, 2021 Annual Report on Child Marriages in Serbia with Special Focus on the Practice of Public Prosecutor's Offices, pp. 15-16, and GREVIO Baseline Evaluation Report on Serbia, pp. 45 and 46.

¹⁰³ Ibid, pp. 17-18. According to the report (pp.6-7), no prosecutor's office has received a criminal complaint for coercion into marriage since 1 January 2019, and in the period 2019-2021, only every third criminal complaint has led to a motion to indict for the criminal offence of cohabiting with a minor.

¹⁰⁴ Currently, persons between the ages of 16 and 18 can be legally married with the consent of a parent or guardian. However, this does not include informal marriages which may involve children as young as 11.

¹⁰⁵ <https://drive.google.com/drive/folders/1IVt420Op7Pe2oXkIM-6yC8sPme8QIsJm?usp=sharing>.

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

178. Serbian citizens are vulnerable to trafficking for the purpose of labour exploitation, both at home and abroad, due to socio-economic factors which disproportionately affect women and members of minority communities such as the Roma.¹⁰⁶ Many persons are employed informally or on a temporary basis, particularly in the agriculture and construction industries. Recruitment through online job advertisements and social media platforms, as well as through temporary employment agencies exposes individuals to the risk of being trafficked. Moreover, in recent years, Serbia and the region have experienced increased migration flows towards Western Europe. Migrants,¹⁰⁷ foreign workers and persons who come to Serbia on a visa-free regime (e.g. from Iran and Burundi) are particularly vulnerable to THB for labour exploitation.

179. A number of awareness campaigns aimed at preventing THB for the purpose of labour exploitation have been organised within the joint project of the Council of Europe and the European Union (Horizontal Facility) "Prevention and Combating Trafficking in Human Beings in Serbia" in the period 2019-2020. These include the LABOUR RIGHTS – NOW! campaign during which leaflets were distributed to workers at six construction sites across the country and the launch of a portal with information for young people about how to avoid deceptive and non-adequate job offers – both carried out by the NGO Astra.

180. Serbia has concluded an agreement with Slovenia on the temporary employment of Serbian citizens in Slovenia, which provides for the co-operation between the national employment agencies of the two countries. GRETA was informed that in 2021, around 1,100 people from Serbia were employed in Slovenia through this procedure.

181. The Serbian Ministry of Labour, Employment, Veterans and Social Affairs (hereinafter: Ministry of Labour) and the Market Inspection (within the Ministry of Foreign and Internal Trade and Telecommunications) monitor the work of the 107 licensed recruitment agencies which, *inter alia*, assist Serbian citizens in finding employment abroad. The agencies are obliged to provide employment contracts both in Serbian and the language of the country of employment, and they must ensure that employees have the necessary residence and work permits. The agencies which do not fulfil these and other requirements under the Law on Agency Employment may have their licenses revoked for a period of three years. The Ministry of Labour has not received any complaints with regard to the work of the recruitment agencies to date. However, many Serbian citizens seek employment abroad without the assistance of recruitment agencies or the National Employment Agency, which renders them vulnerable to labour exploitation.

182. The Labour Inspectorate, which operates under the Ministry of Labour, has 27 departments across Serbia, including two in Belgrade, and it currently employs 207 labour inspectors (out of a total of 282 posts), a decrease compared to the 238 labour inspectors employed at the time of GRETA's second evaluation visit. GRETA was informed that the Ministry is in the process of hiring additional labour inspectors. The Labour Inspectorate conducts inspections dealing with labour relations and health and safety, in all economic sectors, and can inspect businesses which are not officially registered. Pursuant to the MoU between the Ministry of the Interior, Ministry of Labour, the Police and the Prosecutor's Office, the Labour Inspectorate co-operates with other authorities in the detection of possible cases of trafficking, and conducts joint inspections with the police. Labour Inspectors also participate in local multidisciplinary teams (see paragraph 137), and have participated in joint seminars with representatives of labour unions.

¹⁰⁶ See the report "Labour trafficking in Serbia: risk factors, trends and challenges" (September 2022), prepared within the Horizontal Facility project "Prevention and Combating Trafficking in Human Beings in Serbia," available at <https://rm.coe.int/serbia-preventing-and-combating-trafficking-in-human-beings-pdf/168075f341>

¹⁰⁷ According to the UNHCR Serbia Snapshot September 2021, the majority (84%) of migrants transiting through Serbia are male, traveling alone without any means to support themselves.

183. In 2018, a pocket guide for labour inspectors on the detection and preliminary identification of victims of THB was published as part of the abovementioned Council of Europe-EU project. The guide provides an overview of the relevant legal and institutional framework, the role of labour inspectors in detecting THB, as well as a detailed list of indicators of THB for the purpose of labour exploitation. The pocket guide has been distributed to all labour inspectors and 20 market inspectors, and a series of training sessions on the identification of victims of THB for labour exploitation have been organised for labour inspectors and other relevant authorities as part of the project. Labour inspectors met by GRETA stated that they regularly use the pocket guide in their work.

184. The number of victims of THB for the purpose of labour exploitation identified in Serbia during the reporting period has remained low given the estimated extent of this problem. Namely, 18 victims were identified in 2018, three in 2019, 12 in 2020, four in 2021, and nine in 2022.

185. There has been an increase in the number of foreign workers, mostly from India, China, Türkiye, and Albania, who are employed at various construction sites across Serbia, often by companies from China. In many cases the workers lack work permits, in which case the Labour Inspectorate will file misdemeanour charges against the employer. However, it would appear that there is a lack of proper investigation into the working and living conditions of foreign workers and possible existence of THB for the purpose of labour exploitation, even in the presence of clear indicators.

186. At the end of 2021, the Serbian media and a number of NGOs issued reports regarding the working and living conditions of some 500 Vietnamese workers employed at the Linglong Tyre Factory near Zrenjanin. According to the reports, workers were hired by another Chinese company which had been contracted by Linglong International and which in turn used a recruitment agency in Vietnam to hire the workers. The Vietnamese workers were obliged to work 26 days a month in nine-hour shifts. The cost of personal protection equipment was deducted from their salaries which were paid in cash. Their passports were held by the employer, supposedly to keep them safe, and their freedom of movement was restricted. Many of them did not have the necessary residence and work permits, although they were told otherwise. They were housed in overcrowded barracks which had only two toilets and lacked electricity, hot water and heating.

187. The reports about the alleged abuse of the Vietnamese workers prompted demands for investigation, including from UN human rights experts and the European Parliament.¹⁰⁸ In December 2021, GRETA sent a letter to the Serbian authorities expressing concern regarding the situation of Vietnamese workers and requested to be informed of any steps taken by the authorities to investigate allegations of human trafficking and identify and assist potential victims of trafficking amongst the workers. In January and February 2022, GRETA received responses from the Ministry of Labour, Employment, Veteran and Social Affairs and the Ministry of the Interior. GRETA was informed that the Labour Inspectorate had carried out inspections at the factory and subcontracting companies, resulting in a number of misdemeanour charges being filed for failure to obtain work permits and for violation of health and safety measures.¹⁰⁹ After the inspection of the workers' accommodation facility by the police, it was decided to relocate the workers to another, somewhat more suitable accommodation facility. The Office of the Ombudsman and the CPVT also visited the site where the Vietnamese workers were living. Two workers agreed to speak to the CPVT through the assistance of two interpreters (Vietnamese-Chinese and Chinese-Serbian). However, no victims of trafficking were identified among the workers. According to available information, the Vietnamese workers have returned to Vietnam. The Linglong company continues to operate in Serbia and new reports regarding strikes and discontent among Chinese and

¹⁰⁸ See <https://news.un.org/en/story/2022/01/1110332> and https://www.europarl.europa.eu/doceo/document/TA-9-2021-0511_EN.html.

¹⁰⁹ In its concluding observations on Serbia (...), the CESCR observed in para. 46, "The Committee is concerned about the narrow scope of labour inspections carried by the Labour Inspectorate, which has led to the situations such as the case of workers at the Linglong Tyre Plant in which violation of labour regulations was not detected despite a number of labour inspections carried out. It is also concerned about the limited powers and capacity of Labour Inspectorate to effectively carry out its mandate (Art.7)."

Serbian workers came out in mid-2022.¹¹⁰ GRETA was informed that the jurisdiction of the Serbian authorities in the field of labour law is limited by the agreement between Serbia and China which concerns Chinese investments in Serbia. Nonetheless, this should not affect the ability of the Serbian authorities to investigate possible cases of trafficking in human beings.

188. In another case from 2019, around 92 workers from India were hired to work on the construction of a highway ("Corridor 11"). The construction was carried out by a Chinese company, through a Serbian contractor, while the workers had signed contracts with a company from the U.S. The workers were recruited through an agency in India. During their stay in Serbia, their passports were withheld by their employer for eight months and their salaries were either late or not paid at all. When they refused to work due to these conditions the workers were punished financially by the employer. Eventually, all of the workers quit and returned to India. GRETA was informed of another case involving the construction of another highway ("Corridor 10"), in which the authorities from Vranje identified foreign workers from Albania, Bulgaria, Türkiye and Romania, who did not have the necessary work permits. Misdemeanour charges were filed against the employer. There is no information as to whether there were any possible victims of THB among them. Further, in 2021, Chinese workers employed by a Chinese company operating a copper mine near Bor were reported to be working and living in very difficult conditions and were suspected of being victims of trafficking.¹¹¹ It does not appear that any investigation was carried out into this case. GRETA was informed that the CPVT had not received any reports with regard to these cases.

189. In this context, GRETA refers to the judgment of the European Court of Human Rights in the case *Zoletic and others v. Azerbaijan* from 2021, issued on 7 October 2021.¹¹² The case had been brought by 33 nationals of Bosnia and Herzegovina who were part of a group of workers from the region (including from Serbia and North Macedonia), who were recruited to work for a construction company, Serbaz Design and Construction LLC, in Azerbaijan. The Court found that the totality of the applicants' arguments and submissions made both before the domestic courts in their civil claim and before the Court (concerning forced excessively long work shifts, lack of proper nutrition and medical care, physical and other forms of punishments, retention of documents and restriction of movement) constituted an "arguable claim" that the applicants had been subjected to human trafficking and forced labour. The Court found that the failure of the authorities of Azerbaijan to conduct an effective investigation into the migrant workers' arguable claims of cross-border human trafficking and forced labour constituted a violation of Article 4, paragraph 2, of the European Convention on Human Rights.

190. GRETA was provided with examples of cases involving labour exploitation in the agricultural industry which had been detected during the reporting period. By way of example, the Labour Inspectorate in Novi Sad, together with the police, inspected three farms in the past two years where workers were employed illegally. GRETA was informed that an indictment was filed against one person for THB in July 2020 and that the main trial is ongoing. According to the indictment, in the period from 2002 to March 2020, the defendant, using force, threats and false promises to pay them wages, recruited and transported five men, Serbian nationals, to his farm where they were forced to work with no pay and were subjected to inhumane living conditions and physical violence. In another case from the same region, two men (nationals of Serbia and North Macedonia) who were assisted by the NGO Astra, had been exploited at a farm for 18 and four years respectively. They worked 12 hours a day and lived in inhumane conditions, without a toilet and hot water. They were not allowed to take breaks or leave the property at any time. Charges for THB were brought against two defendants in November 2020 (a third defendant died during the investigation), but the case against the second defendant was discontinued due to serious illness. The main trial against the first defendant was ongoing.

¹¹⁰ ASTRA, "Would You Really Buy This?: The mass case of trafficking in human beings for the purpose of labour exploitation in Serbia: Reinventing Slavery in the 21st century" (2022), p. 18.

¹¹¹ <https://balkaninsight.com/2021/01/26/like-prisoners-chinese-workers-in-serbia-complain-of-exploitation/>.

¹¹² <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%5B%22001-212040%22%5D%7D>.

191. **GRETA urges the Serbian authorities to intensify their efforts to prevent and combat THB for the purpose of labour exploitation, taking into account GRETA's Guidance Note on combating trafficking for labour exploitation¹¹³ and the CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation.¹¹⁴ This should include steps to:**

- **strengthen the capacity of labour inspectors so that they can be actively engaged in the prevention of THB and ensure that their mandate includes a concrete focus on detecting potential victims of THB for labour exploitation;**
- **address the risks of THB in the construction and agriculture sector and ensure that sufficient resources are made available to labour inspectors to fulfil their mandate and carry out proactive and systematic inspections;**
- **with a view to preventing trafficking of migrant workers, ensure that the living and working conditions of migrant workers meet all the requirements laid down in legislation and relevant international instruments, and provide adequate information on rights and social insurance coverage to migrant workers;**
- **proactively and thoroughly investigate allegations of THB for labour exploitation involving foreign workers, ensuring that any possible victims of trafficking among them are identified in a timely manner and are offered appropriate assistance;**
- **provide further training to labour inspectors, law enforcement officers, prosecutors and judges, on combating THB for the purpose of labour exploitation and the rights of victims;**
- **raise awareness among the general public as well as, in a targeted manner, among migrant workers, about the risks of THB for the purpose of labour exploitation;**
- **work closely with trade unions, civil society and the private sector to raise awareness of trafficking for the purpose of labour exploitation, prevent trafficking in supply chains and strengthen corporate social responsibility, drawing on the Guiding Principles on Business and Human Rights¹¹⁵ and Recommendation CM/Rec(2016)3 on human rights and business.¹¹⁶**

3. Social and economic initiatives for groups vulnerable to THB

192. GRETA was informed that the Strategy for the Social Inclusion of the Roma, which was revised in February 2022 and will be in force until 2030, specifically refers to THB. The action plan for the strategy, which was planned to be adopted in June 2022, foresees activities aimed at tackling issues which affect the Roma community, such as child marriages and forced marriages, family violence, and children in street situations.

¹¹³ <https://rm.coe.int/guidance-note-on-preventing-and-combating-trafficking-in-human-beings-/1680a1060c>.

¹¹⁴ Recommendation CM/Rec(2022)21 of the Committee of Ministers to member States on preventing and combating trafficking in human beings for the purpose of labour exploitation and Explanatory Memorandum, adopted by the Committee of Ministers on 27 September 2022 at the 1444th meeting of the Ministers' Deputies.

¹¹⁵ http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

¹¹⁶ 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.

193. There are currently 85 Roma health mediators across Serbia whose role is to facilitate access to health care and education for members of the Roma community. As part of measures to increase the social inclusion of vulnerable groups, the Ministry of Human and Minority Rights will implement a project aimed at employing 30 members of the Roma community in municipalities. GRETA was also informed that measures have been taken to legalise housing and provide access to water for the Roma communities, as well as to facilitate registration of children born to parents who lack identification documents.

194. The Commissariat for Refugees and Migration runs programmes aimed at improving the living conditions of the internally displaced Roma population and Roma returnees. Since 2018, the UNHCR has implemented a project in partnership with the NGO A11 Initiative for Economic and Social rights, which focuses on the provision of legal assistance to the displaced Roma population in the area of social and economic rights. Between January 2018 and July 2021, 2,414 counselling services were provided and 167 administrative or court proceedings were initiated.

195. The Law on Gender Equality and the Strategy for Gender Equality (2030), which were adopted in 2021, envisage specific measures for the social inclusion of vulnerable groups. In the period 15 November 2021 – 15 May 2022, at the initiative of the Ministry of Human and Minority Rights and Social Dialogue and in co-operation with the Centre for the Development of the Roma Community Amaro Drom and GIZ, the Office for Roma Inclusion of Vojvodina organised workshops for 100 Roma women to help them acquire new skills and increase their participation in local communities. The project included women from rural communities. The Ministry has also created an online application where vacancies are published with the aim of providing employment for vulnerable groups. Further, it has supported projects of several NGOs aimed at vulnerable youth and the empowerment of civil society organisations, with the support of EU funding.

196. The Commissariat for Refugees and Migration has integration advisors who assist asylum seekers in obtaining personal documents, temporary accommodation, access to health care and education, as well as the labour market, with the aim of facilitating their integration and decreasing their vulnerability to exploitation. In the period 2018 - 2021, the Commissariat and the NGO Atina organised 602 workshops for 2,223 women and children in three asylum centres and five reception centres, aimed at informing them on how to protect themselves from THB. The NGO Atina has also provided safe accommodation, psychological support and legal assistance to migrants since 2015.

197. GRETA welcomes the continuous work of Roma health mediators and considers that the Serbian authorities should increasingly involve them in the prevention and detection of human trafficking in the Roma community, by providing them with training for this purpose.

198. While commending the measures taken since the second evaluation, GRETA considers that the Serbian authorities should take further measures to strengthen prevention of human trafficking through social, economic and other measures for vulnerable groups, including members of the Roma community, migrants and asylum seekers.

4. Identification of victims of trafficking

199. The new SOPs (see paragraph 17) provide an overview of the procedure related to the identification, referral and protection of victims of THB.¹¹⁷ With the support of the OSCE, the CPVT has developed indicators for the formal identification of child and adult victims of THB and indicators for the expert assessment of cases involving violence against adults and children and risks related to these two categories. Moreover, with the support of the CoE/EU, the Ministry of Education, Science, and Technological Development revised the list of indicators for the preliminary identification of THB victims in schools (see also paragraph 205). GRETA was informed that the CPVT is planning to develop a new software and an application for the preliminary identification of victims of trafficking, with the support of IOM.

200. While all actors, including NGOs and members of local THB teams, may identify presumed victims of trafficking, the formal identification of victims remains the prerogative of the CPVT. The formal identification of a victim of THB is not dependent on the outcome of the criminal investigation. The CPVT currently has four employees working on identification of victims of THB, including one person specialised in working with the migrant population, who is employed through a project financed by the EU Madad Fund. Once the CPVT is informed of a presumed victim, an expert associate from the CPVT gathers relevant information from other actors (police, NGOs, etc.) and conducts an identification interview with the presumed victim within the first 24 hours, whenever possible. Persons of trust, such as psychologists, may be present during the interview, although the staff of the CPVT prefer to conduct one-on-one interviews with presumed victims as this is more conducive to putting the victim at ease and creating a relationship of trust. However, some of GRETA's interlocutors have pointed out that this practice may have the opposite effect as was the case with one victim who wished to have her lawyer present during the interview but was not allowed to.

201. The staff of the CPVT also usually accompany the victim during the interview with the police, in order to provide support to the victim and gather information necessary for the identification procedure, thus avoiding a possible re-traumatisation of the victim during the subsequent interview at the CPVT. NGO Atina has raised as an issue the fact that representatives of the CPVT who accompany victims of THB during the interview at the prosecutor's office in order to provide them with support are often called to testify in the criminal case with regard to their finding that the person was a victim of trafficking. As a result, the defence has challenged the victims' statements to the prosecutor, which were given in the presence of another witness (representative of the CPVT), requiring the victim to give a full statement again before the court and exposing him/her to re-traumatisation and re-victimisation. GRETA was informed that the CPVT subsequently changed its practice so that one representative of the CPVT accompanies the victim during the interview at the prosecutor's office, while another prepares a report on the case and may appear in court as a witness.

202. According to the SOPs, the CPVT must issue a reasoned decision on the formal identification of a victim of THB within three months, or nine months in exceptionally complicated cases. The written decision is delivered to the police, the competent prosecution office and social welfare centre, and it must also be communicated to the victim and other participants in the preliminary identification procedure. GRETA was informed that the CPVT usually takes a long time to issue the decision on formal identification due, *inter alia*, to a lack of staff, and that the decision is usually communicated to the victim and his/her lawyer only orally. According to the CPVT, there were no delays in the issuance of decisions in 2022, and some victims specifically request to be informed over the telephone because they do not want the persons they live with to find out what happened to them. In case of a negative decision, the person concerned or the actor who conducted the preliminary identification of the victim may ask the CPVT to reconsider its decision.¹¹⁸ The SOPs clarify that this does not constitute a right of appeal under the Law on Administrative Procedure. Civil society organisations with whom GRETA met stressed that victims who are

¹¹⁷ GRETA was informed that the SOPs will be updated with the support of IOM and taking into account suggestions provided by civil society organisations.

¹¹⁸ SOPs, p. 29, footnote 76.

not formally identified by the CPVT will not have access to certain types of assistance provided by the state authorities (such as continued medical care and residence permits).¹¹⁹

203. In the period 2017-December 2022, 687 presumed victims of trafficking were identified in Serbia. Of these, less than half (320, of whom 150 were children) were given the formal status of a victim of trafficking by the CPVT. According to the CPVT, this is partly due to the fact that some of the presumed victims who are migrants cannot be interviewed as they are on the move and may leave the country in a short period of time. There have also been cases in which the CPVT assessed that the persons in question were victims of domestic violence or child neglect, rather than victims of THB. GRETA was informed that the identification procedure was initiated for 117 persons in 2022, of whom 62 were identified as victims of trafficking (including 25 children). The identification procedure is ongoing for 29 persons, while 26 were determined not to be victims of THB.

204. GRETA was informed that the CPVT applies the practice-oriented guidance for child-sensitive communication and interviewing, developed with the support of the Council of Europe, when interviewing presumed child victims of trafficking. Cases of suspected child victims of trafficking are treated as a priority by the CPVT. However, GRETA was informed of several cases where the CPVT did not act with urgency. In a decision issued in 2021, the Office of the Ombudsman found that the CPVT had failed to conduct a timely identification procedure in the case of an underage girl who had been sexually abused by her father and forced to provide sexual services to other men in exchange for money.¹²⁰ After the initial contact with the victim, the CPVT conducted two subsequent interviews, over a period of one year, before it identified her as a victim of THB. In another case involving a young girl who had allegedly been forced to beg by her husband's family, the CPVT considered that insufficient information was collected during the first interview with the presumed victim, however, a second interview was never conducted and she was not identified as a victim of THB.

205. In 2022, the "Guidance for the use of the revised indicators for the preliminary identification of children who are potential victims of trafficking in human beings"¹²¹ was developed within the framework of the above-mentioned Council of Europe – EU project. The guidance will be distributed to all schools, together with the revised list of indicators. In May 2022, seminars on the preliminary identification of victims of trafficking were organised for 50 educational advisors and associates from school administrations and 50 health care professionals within the same project. A list for fast screening of trafficking risks among refugee and migrant children in mixed migration was also developed by the IDEAS Centre for Research and Social Development, in co-operation with the CPVT and with the support of the UNHCR.

206. The Asylum Office within the Border Police, which decides on asylum claims in the first instance, has nine staff members who cover the entire territory of Serbia, and there are offices within three asylum centres where asylum claims can be submitted.¹²² According to an instruction issued by the Minister of the Interior on 29 September 2020, when a foreigner belonging to a vulnerable category (including unaccompanied children and persons who have been subjected to psychological, physical or sexual violence) expresses the intention to apply for asylum, he/she shall be referred to the competent services, including the CPVT. The staff of the Asylum Office have received training on the interviewing and identification of victims of THB, including from the European Asylum Support Office (EASO), and they apply IOM indicators for the identification of victims of trafficking. The staff of the Asylum Office report any cases of suspected THB to the CPVT and they co-operate with NGOs Astra and Atina to provide assistance to presumed victims of THB.

¹¹⁹ See also ASTRA, Challenges of Recognition of the Status of Human Trafficking Victims in the Republic of Serbia (2022), available at: https://drive.google.com/file/d/1x_mnFXbhzWLB9k-EV4ifEDR1sWicPhk/view.

¹²⁰ The Office of the Ombudsman also established a number of failings on the part of the competent social welfare centres.

¹²¹ <https://prosveta.gov.rs/wp-content/uploads/2022/06/Vodic-trgovina-ljudima-finalna-verzija-jun-2022.pdf>.

¹²² Before filing an asylum claim, migrants must declare their intention to file such a claim. This can be done at any police station.

207. The staff of the Commissariat for Refugees and Migration, which operates 14 reception and six asylum centres across Serbia, have received training on the detection of possible victims of trafficking among migrants, as well as prevention of human trafficking and smuggling from the CPVT. During the reporting period, such training was provided to 267 staff members of the Commissariat. GRETA was informed that the staff of reception centres live in the centre for seven days at a time, which allows them to establish better communication with persons accommodated there and to recognise potential signs of THB. The Commissariat also has field teams which visit places where migrants who do not wish to be accommodated in reception centres typically gather. However, detection of possible victims of THB among them is rendered difficult by the fact that they reportedly do not wish to stay in Serbia and are constantly on the move. When a suspected victim of trafficking is detected, the Commissariat informs the CPVT and the police. GRETA's interlocutors have pointed out that more training is needed for frontline workers to better understand the risks and vulnerabilities the migrant population is susceptible to.

208. The number of identified victims among migrants and asylum seekers is rather low, considering the fact that around 60,000 migrants, including unaccompanied and separated children as well as women, transited through Serbia in 2020 and 2021. GRETA was also informed of frequent push backs of migrants at the Hungarian, Romanian and Croatian borders. Many of these migrants live in informal settlements where they are particularly vulnerable to smugglers and traffickers. According to the statistics provided by the authorities, between 2017 and July 2021, the CPVT formally identified nine victims who were in the asylum procedure at the time, and three victims among migrants for whom asylum procedure was not initiated. Within the former group, four victims were granted some type of international protection (one refugee status and three subsidiary protection). The victims originated from Syria, Nigeria, Pakistan, Mali, Afghanistan, Iraq, Cameroon and the Congo, and they included women and unaccompanied children. They were victims of sexual exploitation, forced marriage and multiple types of exploitation. In 2022, the CPVT began treating suspected cases of THB victims among migrants and asylum seekers with urgency and designated one staff member, who was specially trained in working with the migrant population, to monitor all suspected cases. Other staff have also received relevant training. Six victims of THB were identified among migrants in 2022, compared to one victim identified in 2021. Three victims were placed in the CPVT shelter.

209. GRETA was informed that no victims were identified among persons fleeing Ukraine (see paragraph 222), as this group mostly consisted of families which travelled to Serbia in their own vehicles and many stayed with friends and family members in the country (around 5,800) or only passed through Serbia *en route* to other countries (around 33,000). Representatives of the Commissariat are present at border crossings and, together with Border Police, they distribute leaflets in Ukrainian and Russian with relevant telephone numbers where persons from Ukraine can seek help, as well as packages with aid as needed.

210. **While welcoming the efforts to provide training to relevant professionals and the fact that the identification of victims of trafficking in Serbia remains disconnected from the criminal investigation into THB cases, GRETA considers that the Serbian authorities should take further steps to ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures contained in the Convention, in particular by:**

- **encouraging law enforcement officials, social workers, asylum officials, and other relevant actors to adopt a more proactive approach and increase their outreach work to detect victims of human trafficking for different forms of exploitation;**

- **increasing the involvement of specialised NGOs in the identification of victims of trafficking and strengthening multi-disciplinary co-operation between all relevant partners;**
- **paying increased attention to detecting and identifying victims of trafficking among migrants and asylum seekers;**
- **providing sufficient staff and resources to the Centre for the Protection of Victims of Trafficking to enable it to carry out timely identification of victims of trafficking.**

5. Assistance to victims

211. In the second evaluation report, GRETA urged the Serbian authorities to improve assistance to victims of THB, by ensuring that specialised support and services are provided to victims of trafficking, that appropriate and safe accommodation is guaranteed to all victims, including men, providing adequate financing for services delivered by specialised NGOs, and facilitating the integration of victims of trafficking into society. GRETA further invited the Serbian authorities to keep under review the impact of the licensing procedure for service providers on the quality and range of the services provided.

212. As mentioned in GRETA's second report,¹²³ according to the Law on Social Protection, victims of trafficking are recognised as beneficiaries of social protection services, without having to prove that they are in social need, and accommodation of trafficked persons should be financed from the State budget. The CPVT is responsible for establishing victims' needs and referring them to assistance, and it has concluded a number of protocols with various service providers.¹²⁴ The CPVT draws up a personal assistance plan for all victims who are formally identified, in consultation with other stakeholders. GRETA was informed that anticipated amendments to the Law on Social Protection are expected to more clearly define the competencies and responsibilities of the CPVT with regard to the provision of social services to victims of trafficking.

213. The annual budget of the CPVT for 2022 is RSD 30 million 733 thousand (approximately 260,000 euros), of which RSD 21 million (179,000 euros) is spent on the salaries of the 16 persons currently employed by the CPVT (out of 24 posts).¹²⁵

214. The CPVT operates an emergency shelter for victims of THB, opened in February 2019, which can accommodate six women over the age of 16, together with their children.¹²⁶ The shelter decided not to receive victims between September 2020 and March 2022, while it was in the process of obtaining a licence for its operation. The victims who had been in the shelter were transferred to assisted housing run by NGO Atina. The shelter obtained its licence on 22 February 2022. The shelter currently has eight employees, namely the manager of the shelter, four expert associates (psychologists and social workers), one associate (who takes care of food and hygiene needs), a driver, and a cleaner. GRETA was informed that the shelter needed additional staff, in particular a lawyer. Either a psychologist or a social worker is present in the shelter 24 hours a day. Security at the shelter is ensured by the police which is located on the first floor of the same building, and there is a panic button in the shelter which alerts the police. According to internal rules, victims can stay at the shelter for up to six months, but there have been

¹²³ GRETA's second evaluation report on Serbia, paras. 119 and 120.

¹²⁴ The CPVT has concluded MoUs with the following: Special Hospital for Addiction Diseases, IDEAS Centre for Research of Social Development, NGO Astra, the Serbian Red Cross, the Jesuit Refugee Service, the "Laza Lazarević" Clinic for Psychiatric Diseases, the Public Library Smederevo, the Smederevo Cultural Centre, the Smederevo Sports Centre, the City of Novi Sad, the Tijana Jurić Foundation, the Voždovac Health Centre, the City of Leskovac, the National Employment Service, the Smederevo Health Centre, the Municipality of Trstenik, and the Lighthouse Education Centre, Aleksandra Djordjević, ent. The protocol between the Ministry of Labour, the Prosecutor's Office and the Ministry of the Interior, as well as the protocol between the Ministry of the Interior and NGOs Astra and Atina concerning the identification and assistance to victims of THB are also in place.

¹²⁵ GRETA was informed that the CPVT had previously received financing from the Opportunity Fund but this has not been the case in the past few years.

¹²⁶ A manual for the shelter for victims of human trafficking was developed within the Horizontal Facility project "Preventing and Combating Trafficking in Human Beings in Serbia." See <https://rm.coe.int/hf26-guiding-principles-shelter-eng/1680a4ad6b>.

victims who stayed a full year. Since it opened, the shelter has received 22 victims and six children. At the time of GRETA's visit to the shelter, one young woman and her child were housed there, and another victim was expected to arrive from Denmark shortly. There is a small health centre next to the shelter which can provide basic health services. GRETA was informed that three of the victims placed in the shelter in 2022 were under the age of 16. They were accommodated at the shelter with the special approval of the Ministry of Labour, Employment, Veteran and Social Affairs, due to the lack of other appropriate accommodation for child victims of THB.

215. Female victims of trafficking and their children can also be accommodated in shelters for victims of domestic violence which are run by the social services on the local level. One such shelter was visited by GRETA in Novi Sad. It can accommodate 20 persons, including children, but usually receives two victims of THB a year (there were two women and two children during the time the state shelter for victims of THB was not operational). The shelter for women and children victims of domestic violence in Niš also receives several victims of trafficking per year. Accommodation is usually provided in emergency situations, but some victims can stay for up to two months. GRETA's interlocutors have expressed the opinion that shelters for victims of domestic violence are not suited for victims of THB who have experienced a different type of trauma and may need more specialised care. The limited capacity and expertise on the part of centres for social welfare were noted as another obstacle.

216. There are still no state-funded accommodation facilities for male victims of trafficking, despite the growing number of presumed male victims. GRETA was informed that male victims are currently accommodated in housing provided by NGOs and the Serbian Red Cross, or in care homes for the elderly and homeless shelters.

217. There are five shelters for unaccompanied children, of which three are run by the state and two by NGOs. From 2017 around 1,000 unaccompanied children have been accommodated in these shelters. GRETA visited a centre for the protection of infants, children and youth in Belgrade, which can accommodate up to 10 unaccompanied migrant children. At the time of the visit, there were six boys at the shelter, between the ages of 17 and 19. Most of the children who have stayed at the centre came from Afghanistan, Iran, Niger, Pakistan, Syria, Somalia, and about 95% decided to apply for asylum in Serbia. The children stay for an average of one year, although one boy has been at the centre for four years. The centre also accommodates 35 Serbian children without parental care or who face problems in their families, 32% of whom are Roma children. It provides food, medical care, psychological support, education and extracurricular activities to the children. Both Serbian and foreign beneficiaries can stay at the centre until the age of 26, provided that they are enrolled in school.

218. As mentioned in GRETA's second report,¹²⁷ all providers of social protection services must be licenced by the state. There are currently two NGOs which are licensed to provide services to victims of THB, namely, NGO Astra which operates a hotline for victims of trafficking¹²⁸ and NGO Atina which operates a safe house for victims of THB. Both of these NGOs are financed entirely from donor funds. GRETA visited the safe house run by NGO Atina in Belgrade, which can accommodate up to six women and girls. The safe house (an apartment) provides accommodation for victims of THB in emergency situations, and it also serves as an assisted housing facility. At the time of GRETA's visit, there were three women living at the safe house as part of Atina's assisted housing programme.

¹²⁷ GRETA's second evaluation report on Serbia, para. 125.

¹²⁸ In 2018, the hotline received 3500 calls, in 2019 3,729, and in 2020 3,120 calls.

219. According to NGO Astra's annual reports for 2018-2020, the organisation provided/organised direct assistance to 140 presumed victims and 30 children, in the form of urgent assistance (food, toiletries, clothes, etc.), medical assistance, psychological support, legal assistance, and economic empowerment, and accommodation. Similar services were also provided by the NGO Atina during the reporting period. The existence of anti-trafficking teams on the local level has contributed to better co-ordination between the relevant actors with regard to the provision of assistance to victims of trafficking. However, GRETA's interlocutors have stressed the problem of the lack of long-term support measures for victims of trafficking in Serbia.¹²⁹

220. As noted in paragraph 61, victims of trafficking are recognised as a vulnerable category under the Law on Health Insurance and are entitled to free health care, as long as they are registered within the health insurance system. GRETA was informed that a written decision from the CPVT stating that someone is a victim of THB, or in some cases even a verbal statement, is sufficient to obtain access to ordinary medical care. The presence of doctors in local anti-trafficking teams, as is the case in Niš, also facilitates the provision of medical care to victims of THB. However, GRETA notes that in case of specialised medical treatments which are not covered by the ordinary health scheme, the CPVT turns to NGOs and centres for social work to arrange for treatment and ensure that the costs are covered.

221. Pursuant to the Family Law (Article 132, paragraphs 1 and 2), the guardianship authority (Centre for Social Work) may decide to appoint a temporary guardian for a child if it deems it indispensable for temporary protection of the child and/or his/her rights and interests. A guardian must be appointed in case of an unaccompanied foreign child. The deadline for the decision regarding guardianship is 30 days from the identification of an unaccompanied child, following an assessment of his/her needs, and taking into account the opinion of the child. In 2016, SOPs for the protection of unaccompanied minors were developed in partnership with UNHCR, UNICEF and the civil society organisation IDEAS. GRETA was also informed that a model of professional guardianship has been developed by the Ministry of Labour, in co-operation with the UNHCR and IDEAS. The model has been applied since 2018, and there are currently nine professional guardians who have been trained to work with the migrant population. Between 2017 and 2020, 5,319 unaccompanied foreign children were provided with guardianship protection by centres of social work. Of the total 172 child victims of trafficking who were appointed guardians during the reporting period, 153 were provided with accommodation while 19 lived with their families.

222. During the evaluation visit, GRETA visited a reception centre for persons fleeing the war in Ukraine near Vranje. The centre, which had been fully renovated prior to the onset of the war in Ukraine, consists of 63 rooms and it has received 240 persons to date, of whom 70 were still at the centre at the time of GRETA's visit. Around 15 children attend local schools and adults are provided with Serbian classes. The centre has a children's corner and a medical office used by a general practitioner who comes once a week. Information on available assistance is posted on a board in Ukrainian and Russian. Persons fleeing Ukraine can receive temporary protection, which entitles them to work in Serbia. At the time of GRETA's visit, 492 persons had requested temporary protection and four had requested asylum.

223. The Commissariat for Refugees and Migration organises the assisted voluntary return of victims of THB to their country of origin, with the support of the IOM. In the period 2017-2021, six THB victims were repatriated from Serbia to their countries of origin, namely Albania (one female adult victim), Austria (one female child victim), Croatia (a boy and a girl) and North Macedonia (one woman and one man). The types of exploitation involved were forced marriage, illegal adoption, sexual exploitation, and labour exploitation. During the same period, 30 citizens of Serbia (nine girls, one boy, seven women and 13 men) were repatriated to Serbia from Belgium, France, Germany, Italy, Montenegro, Slovenia, Switzerland, Luxembourg, Denmark and Russia. They were victims of sexual exploitation, forced criminality, labour exploitation, forced marriage, as well as multiple types of exploitation (forced criminality and forced begging). It is of note that the 13 men who were repatriated from Russia were

¹²⁹ See also Liliana Sorentino, *Assessment of the National Referral Mechanism for Victims of Trafficking in the Republic of Serbia* (2019), p. 44.

victims of THB for labour exploitation. Another 26 victims returned to Serbia on their own and were provided assistance.

224. GRETA once again urges the Serbian authorities to take steps to improve assistance to victims of trafficking, in particular by:

- **guaranteeing the availability of appropriate and safe accommodation for all victims of trafficking, including men and children;**
- **ensuring that victims of trafficking are provided with adequate long-term support and assistance, according to their individual needs;**
- **allocating adequate funding for services delivered by specialised NGOs providing accommodation and support to victims of THB.**

225. GRETA further considers that the Serbian authorities should provide training and sensitisation to representatives of centres for social welfare and staff of centres for victims of domestic violence who provide support and accommodation to victims of trafficking.

6. Recovery and reflection period

226. In the second evaluation report, GRETA urged the Serbian authorities to ensure that all presumed foreign victims of trafficking are offered a recovery and reflection period and all the measures of protection and assistance envisaged by the Convention.¹³⁰

227. As noted in paragraph 13, a provision on the recovery and reflection period of 90 days, for presumed victims of trafficking, has been added in the new Law on Foreigners (Article 62). During the recovery and reflection period, presumed victims of trafficking are entitled to safe accommodation, psychological and material assistance, access to emergency medical services, access to education for children, and information regarding their rights in a language they understand. Presumed child victims who are unaccompanied shall be assigned a guardian. During the recovery and reflection period, a presumed victim of THB cannot be deported.

228. GRETA was informed that, in practice, the recovery and reflection period is determined for each victim individually, according to their needs, and that in most cases the period has not been longer than a few weeks. Noting that precise data on the number of victims who were granted the recovery and reflection period is not available, the authorities have informed GRETA of three such cases, concerning one presumed victim from Bosnia and Herzegovina and two presumed victims from Italy, in which the recovery and reflection period was granted in 2020 and 2021.

229. GRETA welcomes the inclusion of a provision on the recovery and reflection period in the new Law on Foreigners, and considers that the Serbian authorities should ensure that all presumed victims of trafficking are offered a recovery and reflection period, in accordance with the law, and all forms of assistance and protection that go with it, in accordance with Article 12, paragraphs 1 and 2, of the Convention.

¹³⁰ GRETA's second evaluation report on Serbia, para. 147.

7. Residence permits

230. According to the abovementioned Law on Foreigners, temporary residence on humanitarian grounds for a period of six month to one year (renewable) may be granted to foreigners who are victims of serious criminal offences and who co-operate with the authorities conducting the criminal proceedings, to unaccompanied children, or on the basis of other serious and justified personal reasons (Article 61). Article 63 of the law further provides that victims of trafficking can be granted a one-year renewable temporary residence permit if: i) the Centre for the Protection of Victims of Trafficking deems the stay necessary due to the victim's personal situation or ii) the court, prosecutor's office or police deem the stay necessary for the victim's co-operation in the criminal proceedings. The temporary residence permit entitles the holder to work in Serbia.

231. Based on the information provided by the CPVT, in the period 2017-2021, eight foreign victims of trafficking have been granted a temporary residence permit in accordance with the Law on Foreigners. The victims originated from Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Germany, Montenegro, North Macedonia, and the Russian Federation.

232. GRETA was informed that victims of trafficking who are identified in the asylum procedure are usually not granted a temporary residence permit. Rather, they remain in the asylum procedure and are usually granted asylum. It also appears that the authorities do not deport foreigners who have not been formally identified as victims of trafficking and such persons may remain in Serbia without a residence permit. While this may protect them from being re-trafficked in their countries of origin, it also exposes them to a risk of trafficking in Serbia since they are in the country illegally and do not have the right to work.

233. **GRETA welcomes the inclusion of a provision on residence permits based on a trafficking victim's personal situation in the Law on Foreigners, and considers that the Serbian authorities should ensure that victims of trafficking can fully benefit from the right to obtain a renewable residence permit, without prejudice for the right to seek and enjoy asylum.**

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 Serbian authorities should strengthen the systematic provision of oral and written information to presumed and formally identified victims of trafficking in practice, 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 local anti-trafficking teams, as well as the staff of reception centres for migrants and shelters accommodating victims of trafficking, should be trained and instructed further on how to properly explain to victims of THB their rights, taking into account the victim's cognitive skills and psychological state (paragraph 46);
- GRETA also considers that the Serbian authorities should take additional steps to ensure the availability of interpreters for different languages spoken by victims of trafficking, as well as their sensitisation to the issue of human trafficking. When interpretation is provided by NGOs, the costs should be reimbursed by the state (paragraph 47).

Legal assistance and free legal aid

- GRETA urges the Serbian authorities to take further steps to guarantee trafficking victims' access to legal assistance and free legal aid, in particular by ensuring that:
 - trafficking victims who are provided free legal aid through the municipal free legal aid services are appointed a lawyer with knowledge of THB;
 - training and specialisation of lawyers to provide legal aid to trafficking victims is encouraged by the authorities and the Bar Association;
 - the costs of free legal aid and legal assistance provided to victims of trafficking by NGOs and lawyers hired by them are reimbursed from the State budget (paragraph 58);
- GRETA considers that the Serbian authorities should raise awareness of the availability of free legal aid and legal assistance under the Law on Free Legal Aid among the general public (paragraph 59).

Psychological assistance

- GRETA welcomes the provision of psychological support to victims of trafficking by the CPVT, through licensed professionals, and considers that the Serbian authorities should take further steps to ensure that victims of THB are provided with psychological assistance to help them overcome the trauma they have been through, and to achieve a sustained recovery and social inclusion (paragraph 65).

Access to work, vocational training and education

- GRETA considers that the Serbian authorities 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 state supported employment programmes, with a view to creating appropriate work opportunities for victims of trafficking (paragraph 70).

Compensation

- GRETA considers that the Serbian authorities should take further steps to facilitate and guarantee access to compensation for victims of trafficking, including by:
 - systematically informing victims of trafficking of their right to seek compensation in criminal and civil proceedings and the procedure to be followed, including in cases in which a plea-bargaining agreement is concluded, and ensuring that they are provided with effective legal assistance from the early stage of the proceedings in order to exercise this right;
 - 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 investigation with a view to supporting compensation claims in court;
 - ensuring that victims of human trafficking can obtain a decision on compensation from the offender as part of criminal proceedings, in accordance with the Guidelines, and requiring courts to state, where applicable, why compensation is not considered/awarded;
 - making full use of the legislation on the seizure and confiscation of assets to secure compensation to victims of THB;
 - supporting victims to effectively enforce compensation orders, including by ensuring that they have access to free legal aid and that they are exempt from any requirement to pay any fees in enforcement proceedings;
 - ensuring that the newly adopted Guidelines are applied systematically and including the topic of compensation in the regular training curricula for lawyers, prosecutors and judges (paragraph 87);
- GRETA urges the Serbian authorities to set up without further delay a state compensation scheme for victims of THB, regardless of their nationality and residence status (paragraph 88).

Investigations, prosecutions, sanctions and measures

- GRETA invites the Serbian authorities to keep under review the application of the corporate liability provisions in THB cases with a view to ensuring that they are effectively applied in practice (paragraph 94);

- GRETA urges the Serbian authorities to take measures to strengthen the criminal justice response to THB, including by:
 - ensuring that human trafficking offences 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 or witnesses;
 - ensuring that human trafficking offences are prosecuted as such, rather than as lesser offences, every time the circumstances of the case allow this, and lead to effective, proportionate and dissuasive sanctions for those convicted;
 - ensuring that the plea-bargaining procedure is used only exceptionally in human trafficking cases, subject to appropriate safeguards, where the reduction of a sentence is clearly outweighed by the advantages offered by the plea agreement (these advantages being indicated in the judicial decision approving the agreement) and that the agreement is not in any way detrimental to the rights of the victims, including their access to compensation;
 - intensifying their efforts to identify, seize and confiscate criminal assets generated by trafficking offences (paragraph 112);
- GRETA considers that the Serbian authorities should strengthen their efforts to provide systematic and continuous training on the application of the legislation related to trafficking in human beings, as well as the abovementioned decision of the Constitutional Court, to police officers, prosecutors and judges (paragraph 113).

Non-punishment provision

- GRETA welcomes the dissemination of guidelines on the application of the non-punishment principle and the training provided to the relevant authorities, and considers that the Serbian authorities should make further efforts in order to ensure that all of the authorities involved in the investigation and prosecution of potential cases of THB, including misdemeanour judges, receive the necessary training to ensure the consistent application of the non-punishment principle to all victims of trafficking (paragraph 118);
- GRETA considers that the Serbian authorities should keep the implementation of the non-punishment principle under review so as to determine whether legislative amendments are not necessary to achieve its objectives, as set out by Article 26 of the Convention, and to guarantee consistency of practice in its implementation (paragraph 119).

Protection of victims and witnesses

- GRETA urges the authorities of Serbia to ensure the protection of the private life and identity of victims of trafficking, in line with Article 11 of the Convention, through the issuance of appropriate instructions to all relevant professionals (paragraph 130);
- GRETA considers that the Serbian authorities should:
 - 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;
 - make full use of all measures to protect victims and witnesses of THB and to prevent intimidation during the investigation, as well as during and after court proceedings;

- ensure that the status of especially vulnerable witness is granted to victims of THB whenever possible and that the victims, appearing before any court in Serbia, fully benefit from the protections guaranteed by this status, including testimony through audio-visual means (paragraph 131).

Specialised authorities and co-ordinating bodies

- GRETA welcomes the existence of anti-trafficking units/teams within the police as well as individual police investigators and prosecutors specialised in trafficking in human beings, and considers that the Serbian authorities should provide systematic and continuous training to judges on the topic of THB. To the extent possible, the human and financial resources of the investigators and prosecutors specialised to work on THB cases should not be diverted towards investigations of other criminal offences, and continuity should be ensured in case of turnover of staff (paragraph 140);
- GRETA further invites the Serbian authorities to ensure that civil society organisations are included in all multidisciplinary anti-trafficking teams (paragraph 141).

International co-operation

- GRETA welcomes the Serbian authorities' participation in international co-operation, and invites them to continue their efforts in this respect. The positive use and benefits of utilising Eurojust and co-operation through Interpol and Europol should be included in training for police officers, prosecutors and judges (paragraph 150).

Child-sensitive procedures for obtaining access to justice and remedies

- GRETA welcomes the development of the above-mentioned guidelines and the training provided to professionals coming into contact with child victims of trafficking, and considers that the Serbian authorities should take further 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 (paragraph 159).

Role of businesses

- GRETA welcomes the abovementioned legislative changes and considers that the Serbian authorities should ensure their consistent application in practice. Moreover, the authorities should further strengthen engagement with the private sector, in line with the UN Guiding Principles on Business and Human Rights and the Council of Europe Committee of Ministers Recommendations CM/Rec(2016)3 on human rights and business and CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation, with a view to raising awareness of the important role and responsibility of businesses to prevent human trafficking in their supply chains, to support the rehabilitation and recovery of victims, and to provide access to effective remedies (paragraph 162).

Measures to prevent and detect corruption

- GRETA considers that the Serbian authorities should ensure that a thorough and independent investigation is conducted into all cases concerning alleged involvement of government officials in THB. Further, the authorities should include measures against corruption in a THB context in the general policies against corruption, and effectively implement them (paragraph 167).

Follow-up topics specific to Serbia

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

- GRETA considers that the Serbian authorities should take steps to improve the co-ordination of anti-trafficking action, including by increasing the frequency of meetings of the Council for Combating THB (paragraph 17).

Prevention of child trafficking

- GRETA considers that the Serbian authorities should continue to sensitise and train child protection professionals, teachers, Roma health mediators (see paragraph 193), law enforcement officers and prosecutors with regard to children's vulnerability to trafficking, paying special attention to children from the Roma community (paragraph 177).

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

- GRETA urges the Serbian authorities to intensify their efforts to prevent and combat THB for the purpose of labour exploitation, taking into account GRETA's Guidance Note on combating trafficking for labour exploitation and the CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation. This should include steps to:
 - strengthen the capacity of labour inspectors so that they can be actively engaged in the prevention of THB and ensure that their mandate includes a concrete focus on detecting potential victims of THB for labour exploitation;
 - address the risks of THB in the construction and agriculture sector and ensure that sufficient resources are made available to labour inspectors to fulfil their mandate and carry out proactive and systematic inspections;
 - with a view to preventing trafficking of migrant workers, ensure that the living and working conditions of migrant workers meet all the requirements laid down in legislation and relevant international instruments, and provide adequate information on rights and social insurance coverage to migrant workers;
 - proactively and thoroughly investigate allegations of THB for labour exploitation involving foreign workers, ensuring that any possible victims of trafficking among them are identified in a timely manner and are offered appropriate assistance;
 - provide further training to labour inspectors, law enforcement officers, prosecutors and judges, on combating THB for the purpose of labour exploitation and the rights of victims;
 - raise awareness among the general public as well as, in a targeted manner, among migrant workers, about the risks of THB for the purpose of labour exploitation;

- work closely with trade unions, civil society and the private sector to raise awareness of trafficking for the purpose of labour exploitation, prevent trafficking in supply chains and strengthen corporate social responsibility, drawing on the Guiding Principles on Business and Human Rights and Recommendation CM/Rec(2016)3 on human rights and business (paragraph 191).

Social and economic initiatives for groups vulnerable to THB

- GRETA welcomes the continuous work of Roma health mediators and considers that the Serbian authorities should increasingly involve them in the prevention and detection of human trafficking in the Roma community, by providing them with training for this purpose (paragraph 197);
- While commending the measures taken since the second evaluation, GRETA considers that the Serbian authorities should take further measures to strengthen prevention of human trafficking through social, economic and other measures for vulnerable groups, including members of the Roma community, migrants and asylum seekers (paragraph 198).

Identification of victims of trafficking

- While welcoming the efforts to provide training to relevant professionals and the fact that the identification of victims of trafficking in Serbia remains disconnected from the criminal investigation into THB cases, GRETA considers that the Serbian authorities should take further steps to ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures contained in the Convention, in particular by:
 - encouraging law enforcement officials, social workers, asylum officials, and other relevant actors to adopt a more proactive approach and increase their outreach work to detect victims of human trafficking for different forms of exploitation;
 - increasing the involvement of specialised NGOs in the identification of victims of trafficking and strengthening multi-disciplinary co-operation between all relevant partners;
 - paying increased attention to detecting and identifying victims of trafficking among migrants and asylum seekers;
 - providing sufficient staff and resources to the Centre for the Protection of Victims of Trafficking to enable it to carry out timely identification of victims of trafficking (paragraph 210).

Assistance to victims

- GRETA urges the Serbian authorities to take steps to improve assistance to victims of trafficking, in particular by:
 - guaranteeing the availability of appropriate and safe accommodation for all victims of trafficking, including men and children;
 - ensuring that victims of trafficking are provided with adequate long-term support and assistance, according to their individual needs;
 - allocating adequate funding for services delivered by specialised NGOs providing accommodation and support to victims of THB (paragraph 224);

- GRETA considers that the Serbian authorities should provide training and sensitisation to representatives of centres for social welfare and staff of centres for victims of domestic violence who provide support and accommodation to victims of trafficking (paragraph 225).

Recovery and reflection period

- GRETA welcomes the inclusion of a provision on the recovery and reflection period in the new Law on Foreigners, and considers that the Serbian authorities should ensure that all presumed victims of trafficking are offered a recovery and reflection period, in accordance with the law, and all forms of assistance and protection that go with it, in accordance with Article 12, paragraphs 1 and 2, of the Convention (paragraph 229).

Residence permits

- GRETA welcomes the inclusion of a provision on residence permits based on a trafficking victim's personal situation in the Law on Foreigners, and considers that the Serbian authorities should ensure that victims of trafficking can fully benefit from the right to obtain a renewable residence permit, without prejudice for the right to seek and enjoy asylum (paragraph 233).

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

Public bodies

- Ministry of the Interior
 - o Office for Co-ordination of Activities in the Fight against THB
 - o Department for Combating THB and Smuggling
 - o Financial Investigations Unit
 - o Department for Combating High-Tech Crime
 - o Administration for the Prevention of Money Laundering
 - o Border Police Directorate
 - o Office for Asylum
- Ministry of Labour, Employment, Veterans and Social Affairs
 - o Centre for the Protection of Victims of Human Trafficking
 - o Labour Inspectorate
- Ministry of Foreign Affairs
- Ministry of Justice
- Ministry of Education, Science and Technological Development
- Ministry of Trade, Tourism and Telecommunications
- Ministry of Health
- Ministry of Human and Minority Rights
- Commissariat for Refugees and Migration
- Public Prosecutor's Office
- Higher Prosecutor's Office in Novi Sad
- Supreme Cassation Court
- Appellate Court in Novi Sad
- Anti-trafficking teams in Novi Sad, Niš and Vranje
- Centre for Social Work Belgrade
- Office of the Protector of Citizens

Intergovernmental organisations

- International Organization for Migration (IOM)
- Organisation for Security and Co-operation in Europe (OSCE)
- United Nations High Commissioner for Refugees (UNHCR)

NGOs and other civil society organisations

- Astra
- Atina
- Belgrade Centre for Human Rights
- Centre for Youth Integration
- Centar za prava deteta (Child Rights Centre)
- Group 484
- Serbian Red Cross
- Novi Sad Humanitarian Centre
- Roma Association Novi Bečaj
- Freedom Has No Price
- Centre For Girls - Niš

Government's comments

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

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

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the Serbian authorities on 6 April 2023 and invited them to submit any final comments. The comments of the authorities, submitted on 5 May 2023, are reproduced hereafter.

62. Victims of THB, who are recognised as beneficiaries under the Law on Social Protection (Article 41), can receive psychological support from centres for social work (CSWs). However, an analysis conducted by NGO Astra in 2021 concluded that only 36.8% of the CSWs provide counselling and psychological support to child and adult victims of trafficking who are Serbian citizens, and only 10% of CSWs provide such services to foreign victims. By way of example, the CSW in Niš, which is represented in the local anti-trafficking team, has four psychologists who provide support to victims of THB among other beneficiaries.

Centres for social work are under the obligation to provide assistance and support to victims of THB, in coordination with CPVT.

68. The National Employment Service has offices throughout Serbia, both citizens of Serbia and foreign residents, can be provided with advice and mediation in finding employment, as well as with career counselling and vocational training.⁵⁴ The NES has concluded a protocol with the CPVT on co-operation in finding employment for victims of THB, as well as a memorandum of co-operation with GIZ and MAPS,⁵⁵ a network of eight NGOs implementing the programme “Pasoš kompetencija” (“Competence Passport,” based on the program ProfilPASS developed by the German Institute for Adult Education), aimed at providing employment opportunities for vulnerable groups. GRETA was also informed that the National Action Plan for Employment (2021-2023) recognises victims of trafficking as a priority group, and local authorities may provide subsidies for employment of victims of THB. It has been pointed out that, in order to benefit from the subsidy, a person has to state that he/she is a victim of THB. According to information provided by the authorities there were six victims (including four women) registered with the NES at the end of 2022.

Victims of THB are included in the Action Plan for the period 2021-2023 for the implementation of the Employment Strategy of the Republic of Serbia 2021-2026, as the category of hard-to-employ persons, which means they are given priority for inclusion in active labour market measures. It is indicated that the requirement for inclusion in active labour market measures is that the person is registered with the NES unemployed registry, that they are able and ready to start working, that they have not signed an employment contract or started working in another way, and that they are actively seeking employment.

The situation on 31 December 2022 is that there were 6 persons (4 women) registered with NES belonging to the category of victims of THB.

During 2022, 3 persons (3 women) were included in active labour market measures/services.

122. As detailed in GRETA’s second report, the Law on the Protection Programme for Participants in Criminal Proceedings regulates the terms and procedure for the provision of protection and assistance to participants in criminal proceedings, including witnesses and injured parties. Protection measures such as physical protection of persons and property, and change of place of residence are ordered by the Protection Unit of the Ministry of the Interior, while the decision on change of identity is issued by the Commission for the Implementation of the Protection Programme. GRETA was informed that protection measures under the abovementioned law have so far been applied to one witness/victim of human trafficking in criminal proceedings.

Also, there is measure of identity concealment (which is temporary), that is also issued by the Protection Unit.

181. The Serbian Ministry of Labour, Employment, Veterans and Social Affairs (hereinafter: Ministry of Labour) and the Market Inspection (within the Ministry of Foreign and Internal Trade and Telecommunications) monitor the work of the 107 licensed recruitment agencies which, *inter alia*, assist Serbian citizens in finding employment abroad. The agencies are obliged to provide employment contracts both in Serbian and the language of the country of employment, and they must ensure that employees have the necessary residence and work permits. The agencies which do not fulfil these and other requirements under the Law on Agency Employment may have their licenses revoked for a period of three years. The Ministry of Labour has not received any complaints with regard to the work of the recruitment agencies to date. However, many Serbian citizens seek employment abroad without the assistance of recruitment agencies or the National Employment Agency, which renders them vulnerable to labour exploitation.

Ministry of Labour, Employment, Veteran and Social Affairs and the Market Inspectorate (within the Ministry of Internal and Foreign Trade and Telecommunications) monitors the work of 107 licensed employment agencies which, among other things, also act as employment agents for Serbian citizens abroad. The agencies are under the obligation to provide protection to persons employed abroad, which, among other things, entails signing a labour contract both in Serbian and in the language of the country of employment before leaving for work abroad,

as well as obtaining work and residence permits. Agencies that do not fulfil these and other obligations set out in the Law on Employment and Unemployment Insurance are revoked the license to operate, for a period of three years. In accordance with the Law on Employment and Unemployment Insurance, employment agencies and the National Employment Agency are the entities responsible for employment-related tasks. The Ministry of Labour, Employment, Veteran and Social Affairs has not received any complaints regarding employment agencies until now. However, many Serbian citizens seek employment abroad without the assistance of employment agencies or the National Employment Agency, which makes them vulnerable to exploitation.

196. The Commissariat for Refugees and Migration has integration advisors who assist asylum seekers in obtaining personal documents, temporary accommodation, access to health care and education, as well as the labour market, with the aim of facilitating their integration and decreasing their vulnerability to exploitation. In the period 2018-2021, the Commissariat and the NGO Atina organised 602 workshops for 2,223 women and children in three asylum centres and five reception centres, aimed at informing them on how to protect themselves from THB. The NGO Atina has also provided safe accommodation, psychological support and legal assistance to migrants since 2015.

In the period 2018 - June 2021, the Commissariat and the NGO Atina organised 602 workshops, in three asylum centres (Krnjača, Bogovađa and Banja Kovičjača), as well as in five reception centres (Vranje, Bujanovac, Bosilegrad, Šid and Preševo). The topics of the workshops related to the prevention of human trafficking, opportunities for protection, identification of gender-based violence, economic empowerment, relationship with oneself, improving the capacities for self-protection and resilience. The workshops were conducted using the methods of psychological advice, empowerment, psychological education and experiential learning.

200. While all actors, including NGOs and members of local THB teams, may identify presumed victims of trafficking, the formal identification of victims remains the prerogative of the CPVT. The formal identification of a victim of THB is not dependent on the outcome of the criminal investigation. The CPVT currently has four employees working on identification of victims of THB, including one person specialised in working with the migrant population, who is employed through a project financed by the EU Madad Fund. Once the CPVT is informed of a presumed victim, an expert associate from the CPVT gathers relevant information from other actors (police, NGOs, etc.) and conducts an identification interview with the presumed victim within the first 24 hours, whenever possible. Persons of trust, such as psychologists, may be present during the interview, although the staff of the CPVT prefer to conduct one-on-one interviews with presumed victims as this is more conducive to putting the victim at ease and creating a relationship of trust. However, some of GRETA's interlocutors have pointed out that this practice may have the opposite effect as was the case with one victim who wished to have her lawyer present during the interview but was not allowed to.

Paragraph 200 states that GRETA has been informed that in one case a presumed victim was not allowed to have her lawyer present during the identification interview. What actually happened was that the NGO that hired the lawyer proposed that she be present during the identification interview, but before this, the expert associate explained to the presumed victim the nature of the interview and that it would entail intimate and sensitive topics, as well as that its function is advisory and motivational, and therefore it would be more appropriate as few persons as possible to be present during the interview, after which the victim agreed to have the interview without the lawyer present, who she had not even met before that.

202. According to the SOPs, the CPVT must issue a reasoned decision on the formal identification of a victim of THB within three months, or nine months in exceptionally complicated cases. The written decision is delivered to the police, the competent prosecution office and social welfare centre, and it must also be communicated to the victim and other participants in the preliminary identification procedure. GRETA was informed that the CPVT usually takes a long time to issue the decision on formal identification due, inter alia, to a lack of staff, and that the decision is usually communicated to the victim and his/her lawyer only orally. According to the CPVT, there were no delays in the issuance of decisions in 2022, and some victims specifically request to be informed over the telephone because they do not want the persons they live with to find out what happened to them. In case of a negative decision, the person concerned or the actor who conducted the preliminary identification of the victim may ask the CPVT to reconsider its decision.¹¹⁷ The SOPs clarify that this does not constitute a right of appeal under the Law on Administrative Procedure. Civil society organisations with whom GRETA met stressed that victims who are not formally identified by the CPVT will not have access to certain types of assistance provided by the state authorities (such as continued medical care and residence permits).¹¹⁸

CPVT is under the jurisdiction of the Ministry of Labour, Employment, Veteran and Social Affairs. This Ministry has a functional Inspection Department, which is responsible to oversee the work of all social protection institutions, including CPVT.

217. There are five shelters for unaccompanied children, of which three are run by the state and two by NGOs. From 2017 around 1,000 unaccompanied children have been accommodated in these shelters. GRETA visited a centre for the protection of infants, children and youth in Belgrade, which can accommodate up to 10 unaccompanied migrant children. At the time of the visit, there were six boys at the shelter, between the ages of 17 and 19. Most of the children who have stayed at the centre came from Afghanistan, Iran, Niger, Pakistan, Syria, Somalia, and about 95% decided to apply for asylum in Serbia. The children stay for an average of one year, although one boy has been at the centre for four years. The centre also accommodates 35 Serbian children without parental care or who face problems in their families, 32% of whom are Roma children. It provides food, medical care, psychological support, education and extracurricular activities to the children. Both Serbian and foreign beneficiaries can stay at the centre until the age of 26, provided that they are enrolled in school.

In Serbia at the moment, there are also three drop-in centres and three reception centres for children.

218. As mentioned in GRETA's second report, all providers of social protection services must be licenced by the state. There are currently two NGOs which are licensed to provide services to victims of THB, namely, NGO Astra which operates a hotline for victims of trafficking and NGO Atina which operates a safe house for victims of THB. Both of these NGOs are financed entirely from donor funds. GRETA visited the safe house run by NGO Atina in Belgrade, which can accommodate up to six women and girls. The safe house (an apartment) provides accommodation for victims of THB in emergency situations, and it also serves as an assisted housing facility. At the time of GRETA's visit, there were three women living at the safe house as part of Atina's assisted housing programme.

NGO Astra is licensed to provide services to victims of THB, while NGO Atina is licensed for the service of assisted housing, and not the safe house for victims of THB.

There are no safe houses, but rather reception centres.

232. GRETA was informed that victims of trafficking who are identified in the asylum procedure are usually not granted a temporary residence permit. Rather, they remain in the asylum procedure and are usually granted asylum. It also appears that the authorities do not deport foreigners who have not been formally identified as victims of trafficking and such persons may remain in Serbia without a residence permit. While this may protect them from being re-trafficked in their countries of origin, it also exposes them to a risk of trafficking in Serbia since they are in the country illegally and do not have the right to work.

Article 49 of the Law on Asylum and Temporary Protection provides that upon reception in the asylum centre or another facility for the accommodation of asylum seekers, the asylum seeker has the right to reside in the Republic of Serbia, and during this time may move freely on its territory, unless there are reasons to limit their movements, as defined in Article 77 of this law.

Also, article 89 of the same law provides that within three days from the date when the asylum seeker submitted their asylum application, the Asylum Office shall issue an ID for asylum seekers using the provided template, which shall serve as an identification document and residence permit in the Republic of Serbia, until the asylum procedure is finalized.