



EVALUATION REPORT

BULGARIA

Third evaluation round

GRETA

Group of Experts
on Action against
Trafficking
in Human Beings

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

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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, Bulgaria has continued to develop the legislative and policy framework relevant to action against trafficking in human beings. The Law on Combating Trafficking in Human Beings was amended in 2019. Further, the Council of Ministers adopted, by a decision of 20 June 2016, the National Referral Mechanism for Support of Trafficked Persons (NRM), which is an updated version of the NRM developed in 2008-2010. Bulgaria also adopted its first National Strategy for Combating Trafficking in Human Beings for the period 2017-2021. However, GRETA notes that the financial resources invested by the Government in action against human trafficking are not commensurate with the actual needs, and urges the Bulgarian authorities to allocate appropriate funding from the State budget in order to ensure the sustainability of anti-trafficking measures.

Bulgaria continues to be predominantly a country of origin for trafficked persons, a transit country and, to a much lesser extent, a country of final destination. Around 65% of the identified victims in the period 2015-2019 were Bulgarian women and girls trafficked for the purpose of sexual exploitation abroad and within Bulgaria. There has been an increase in the number of men, women and children trafficked abroad for the purpose of forced labour, forced begging and forced criminality. Only five presumed foreign victims of human trafficking were identified during the reporting period, and no victims of trafficking have been identified amongst asylum seekers.

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 provision of information on rights to victims of trafficking takes place at different stages and is provided by different bodies. Stressing that access to information on rights must not in any way depend on the victim's willingness to act as a witness, GRETA considers that the Bulgarian authorities should strengthen the systematic provision of information to victims of trafficking regarding their rights, the services available and how to access them, as well as the implications of being identified as a victim of trafficking.

GRETA also urges the Bulgarian authorities to take further steps to facilitate and guarantee access to justice for victims of trafficking, in particular by ensuring that a lawyer is appointed as soon as there are reasonable grounds for believing that a person is a victim of human trafficking, and by encouraging training and specialisation of lawyers to provide legal aid to trafficking victims.

Further, GRETA considers that the Bulgarian authorities should strengthen effective access to the labour market for victims of trafficking and their economic and social inclusion through the provision of vocational training and job placement, raising awareness amongst different employers, and the promotion of micro-businesses, social enterprises and public-private partnerships.

The effective access of victims of trafficking to compensation remains sporadic. Victims are reluctant to claim compensation due to the length of legal proceedings and the track-record of failed compensation claims. Further, the effective enforcement of compensation awards is a recurring problem. Moreover, the requirements to be met for a victim of trafficking to be eligible for state compensation are so high that only one such victim has received state compensation. GRETA urges the Bulgarian authorities to make efforts to guarantee effective access to compensation for victims of trafficking, in particular by ensuring that the collection of evidence about the harm the victim has suffered is part of the criminal investigations, by setting up as a matter of priority a victim compensation fund which uses confiscated assets of perpetrators of human trafficking to fund compensation and reparation, and by simplifying the procedure and eligibility criteria for claiming compensation.

GRETA is concerned that a significant number of the penalties upon conviction for human trafficking were suspended. GRETA urges the Bulgarian authorities to take measures to ensure that human trafficking offences are proactively and promptly investigated, and lead to effective, proportionate and dissuasive sanctions. The plea-bargaining procedure should be used only exceptionally in human trafficking cases, subject to appropriate safeguards. Further, the authorities should ensure that the length of court proceedings in cases of trafficking of human beings is reasonable.

While welcoming the existence of a specific provision on the non-punishment of victims of human trafficking, GRETA considers the Bulgarian authorities should take further measures to ensure effective compliance with the principle of non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so. Such measures should include the development of guidance for police officers and prosecutors on the scope and application of the non-punishment provision.

Increasing use has been made of the specially equipped facilities for interviewing children involved in criminal proceedings, known as "blue rooms", which exist in a number of locations. GRETA considers that the Bulgarian authorities should take further steps to ensure child-sensitive procedures when investigating, prosecuting and adjudicating cases of human trafficking, including by systematically preventing contacts between child victims and defendants and avoid repeated interviews of children to prevent traumatisation and revictimisation.

The report examines progress made on the implementation of previous GRETA recommendations on selected topics. GRETA considers that the Bulgarian authorities should refine the data collection system on victims of trafficking in order to ensure that there is not double counting, and that the data collection process is based on a systematic methodology with comparable indicators.

While welcoming the steps taken since the second evaluation to prevent and combat trafficking for the purpose of labour exploitation, GRETA considers that the Bulgarian authorities should train labour inspectors and ensure that the Labour Inspectorate has adequate resources to carry out inspections with a view to preventing and detecting cases of trafficking for the purpose of labour exploitation, including in remote locations.

GRETA welcomes the updating and formalisation of the NRM, as well as the assessment of its implementation. However, there are continuing gaps, in particular in the identification of foreign victims of trafficking in Bulgaria. GRETA urges the Bulgarian authorities to further improve the identification of victims of trafficking, including by making a budgetary allocation for the implementation of the NRM, providing systematic training to asylum and migration officials, and ensuring that pre-removal risk assessments prior to all forced removals from Bulgaria fully assess the risks of trafficking or re-trafficking on return.

In the period following the second evaluation by GRETA, the Bulgarian authorities have re-opened the two specialised shelters for victims of trafficking, run by NGOs in Burgas and Varna, and have further developed the specialised services for victims. GRETA also welcomes the opening of a specialised crisis centre for child victims of trafficking in Sofia, as well as the Safety Zone for unaccompanied asylum-seeking children, which has the potential to protect such children from falling victim to human traffickers. However, the availability of State funding for the assistance of victims of trafficking remains low. Further, the provision of health care to victims of trafficking, who often lack health insurance, remains problematic. GRETA makes a series of recommendations to address the remaining gaps.

Finally, GRETA urges the Bulgarian authorities to enshrine in law the recovery and reflection period, and to ensure that it is systematically offered to all presumed foreign victims of human trafficking, including EU and EEA citizens, regardless of whether a temporary residence permit and access to assistance can be secured on other grounds.

I. Introduction

1. The Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) entered into force for Bulgaria on 1 February 2008. GRETA’s first evaluation report on Bulgaria was published on 14 December 2011,¹ and the second evaluation report on 28 January 2016.²

2. On the basis of GRETA’s second report, on 23 May 2016, the Committee of the Parties to the Convention adopted a recommendation to the Bulgarian authorities,³ requesting them to inform the Committee within a one-year period of measures taken to comply with the recommendation. The report submitted by the Bulgarian authorities was considered at the 21st meeting of the Committee of the Parties (13 October 2017), and was made public.⁴ Subsequently, on 8 February 2018, the Bulgarian authorities submitted additional information as a follow-up to their report sent in reply to the Committee of the Parties’ recommendation.

3. On 18 February 2019, GRETA launched the third round of evaluation of the Convention in respect of Bulgaria by sending the questionnaire for this round to the Bulgarian authorities. The deadline for submitting the reply to the questionnaire was 18 June 2019 and the authorities’ reply was received on 21 June 2019.

4. In preparation of the present report, GRETA used the reply to the third round questionnaire by the Bulgarian authorities,⁵ the above-mentioned report and additional information submitted by them in reply to the Committee of the Parties’ recommendation, as well as information received from civil society. An evaluation visit to Bulgaria took place from 9 to 13 December 2019 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;
- Mr Kevin Hyland, member of GRETA;
- Ms Petya Nestorova, Executive Secretary of the Convention;
- Ms Ursula Sticker, Administrator in the Secretariat of the Convention.

5. During the visit, the GRETA delegation met the Deputy Minister of Justice and Deputy Chair of the National Commission for Combating Trafficking in Human Beings, Mr Nikolay Prodanov, other members of the National Commission, the Executive Secretary of the National Commission, Ms Kamelia Dimitrova, officials from the Ministries of Justice, the Interior, Foreign Affairs, Labour and Social Policy, and Health, as well as representatives of the State Agency for Child Protection, the State Agency for Refugees, the Commission for Combating Corruption and Forfeiture of Illegally Acquired Property, the Prosecutor’s Office, the National Investigation Service, and judges from the Supreme Court of Cassation. Further, the GRETA delegation met a Member of Parliament. Discussions were also held with staff from the Office of the Ombudsman.

6. In addition to holding meetings in Sofia, the GRETA delegation travelled to Blagoevgrad and Plovdiv, where it met members of the local commissions for combating trafficking in human beings, including representatives of the municipalities, law enforcement agencies, judges, prosecutors, lawyers and civil society representatives.

1 <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680630d69>

2 <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680630d6c>

3 <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680654cb5>

4 <https://rm.coe.int/cp-2017-15-rr2-bgr-en/1680726bfa>

5 <https://rm.coe.int/greta-2018-26-bgr-rep-en/16809823f2>

7. Separate meetings were held with representatives of non-governmental organisations (NGOs), trade unions, lawyers and researchers. The GRETA delegation also met representatives of the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR).
8. In the course of the visit, the GRETA delegation visited crisis centres for victims of human trafficking and domestic violence in Sofia and Pernik, as well as the Safety Zone for unaccompanied asylum-seeking children at the Reception Centre of the State Agency for Refugees in Sofia.
9. The list of the national authorities, NGOs and other organisations with which the delegation held consultations is set out in Appendix 2 to this report. GRETA is grateful for the information provided by them.
10. GRETA wishes to place on record the co-operation provided by the Bulgarian authorities and in particular by the Secretariat of the National Commission for Combating Trafficking in Human Beings and Mr Stefan Ralchev, Chief Expert, who was acting as contact person for GRETA during the third evaluation visit.
11. The draft version of the present report was approved by GRETA at its 37th meeting (29 June - 3 July 2020) and was submitted to the Bulgarian authorities for comments. The authorities' comments were received on 15 September 2020 and were taken into account by GRETA when adopting the final report at its 39th meeting (18-20 November 2020). The report covers the situation up to 20 November 2020; 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 Bulgaria

12. Bulgaria continues to be predominantly a country of origin for trafficked persons, a transit country and, to a much lesser extent, a country of final destination. According to data collected by the Supreme Cassation Prosecutor's Office, the number of formally identified victims of trafficking in human beings (THB) who took part in pre-trial proceedings was 409 (353 women, 28 girls, 23 men, 5 boys) in 2015, 447 (388 women, 21 girls, 34 men, 4 boys) in 2016, 508 (407 women, 37 girls, 59 men, 5 boys) in 2017, 443 (336 women, 53 girls, 50 men, 4 boys) in 2018, and 406 (322 women, 31 girls, 51 men, 2 boys) in 2019.⁶ These figures are cumulative, including victims involved in pre-trial proceedings initiated during the year in question, as well as victims identified in proceedings continuing from previous years, which is why the annual number of newly identified victims is in fact lower.⁷ In addition, the Secretariat of the National Commission for Combating Trafficking in Human Beings (NCCTHB) collects alerts about presumed victims detected by NGOs, international organisations, citizens and other sources. The number of such victims was 200 in 2015, 136 in 2016, 142 in 2017, 155 in 2018, and 94 in 2019. These figures include informally and formally identified victims (as part of pre-trial proceedings), as well as persons at risk of being trafficked, therefore they partially overlap with the Supreme Cassation Prosecutor's Office statistics. Consequently, there is still no comprehensive data collection system enabling the collection of coherent and comparable statistics on the number of victims of THB (see paragraph 193).

13. The majority of the identified victims (around 65%) were Bulgarian women and girls trafficked abroad for the purpose of sexual exploitation (in particular to Germany, Austria, the Netherlands, Belgium, Italy and Switzerland), as well as internally, particularly in the capital city Sofia, other large cities, Black Sea and mountain resort areas, and border towns. According to data collected by the Supreme Cassation Prosecutor's Office, the second most common form of exploitation of women is that of pregnant women trafficked for the purpose of selling their new-born children in Greece and Cyprus. Another form of exploitation is through sham or child marriages. There has been an increase in the number of men, women and children trafficked abroad for the purpose of forced labour, predominantly in agriculture, construction and the service sector, as well as for the purpose of forced begging and forced criminality, which concerns mainly persons from the Roma communities and persons with disabilities. Isolated cases of men and boys trafficked for sexual exploitation are also reported. There were two men identified as victims of THB for the purpose of organ removal in 2018 (one of whom in a case opened in a previous year) and seven in 2019. According to the authorities, there has been a decrease in the use of violent methods by perpetrators, who rely on deception, emotional dependency ("loverboy" method) and the use of internet and technology to groom, recruit, advertise and control victims.

14. The identification of foreign victims of THB remains a challenge. The authorities have reported only five presumed foreign victims of THB.⁸ In 2014-2016, the number of refugees and migrants passing through Bulgaria reached 25,000 per year, due to Bulgaria's location along the route from conflict-torn regions in the Middle East and Asia to Western Europe. Subsequently, the number of registered asylum seekers considerably dropped.⁹ Nevertheless, Bulgaria remains a transit country for migrants entering from Turkey or Greece and continuing their journey through Serbia, often transported in sealed lorries. Due to the lack of adequate reception conditions and integration prospects, many asylum seekers leave Bulgaria before their claims have been processed or shortly after they have been granted asylum. No victims of THB have been identified amongst asylum seekers.

⁶ By comparison, in the previous reporting period, there were 540 victims of THB in 2011, 579 in 2012, 538 in 2013, and 491 in 2014 (see paragraph 16 of GRETA's second report on Bulgaria).

⁷ For example, in the first nine months of 2019, there were 250 continuing pre-trial proceedings and some 50 new pre-trial proceedings opened in 2019 (Annual report of the NCCTHB for 2019).

⁸ A woman from Sierra Leone, victim of domestic servitude; a woman from Burkina Faso, victim of domestic servitude in a diplomatic household; a woman from Ukraine; two Romanian girls detected in the process of being trafficked to the UK.

⁹ According to UNHCR data, in 2018, 2,536 applications for international protection were registered, refugee status was granted to 804 persons, and 900 persons were granted subsidiary protection (humanitarian status). In the first 10 months of 2019, 1,965 applications were registered, 168 persons were granted refugee status and 257 subsidiary protection.

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

15. Since the second evaluation of Bulgaria by GRETA, the 2003 Law on Combating Trafficking in Human Beings (hereinafter "the Anti-Trafficking Law") has been repeatedly amended, the most recent amendments being published on 15 October 2019.¹⁰ As a result of these amendments, certain changes were made to the composition and functions of the National Commission for Combating Trafficking in Human Beings (NCCTHB) and the local anti-trafficking commissions, which are now obliged to report to the relevant mayor and the National Commission twice a year. Further, the minimum period a victim can remain in a shelter was increased from 10 to 30 days, with a possibility of extension until the end of criminal proceedings, as well as the introduction of a provision entitling victims to free legal assistance and, if necessary, interpretation during this time-period. Another amendment concerns the possibility for the NCCTHB to set up shelters for continued reintegration of victims of THB.

16. The NCCTHB was set up in 2004 pursuant to the Anti-Trafficking Act. It is subordinated to the Council of Ministers, and is chaired by one of the Deputy Prime Ministers¹¹ designated by the Council of Ministers. All relevant ministries and agencies are represented at deputy minister or chair level.¹² The NCCTHB is a high-level political structure, supposed to meet at least four times a year, but usually meets three times a year. Relevant civil society and international organisations can participate in its meetings.

17. The day-to-day work of the NCCTHB is ensured by its Secretariat, which at the time of GRETA's third evaluation visit was employing 10 persons.¹³ The Secretariat of the NCCTHB acts under the Council of Ministers as a national co-ordinator, ensuring interaction between ministries and agencies, local communities, civil society, international organisations and partners in other countries. The state budget allocated in 2019 to the activities of the NCCTHB was BGN 393 600 (equivalent to approximately €195 000).¹⁴ The budget in 2020 is BGN 440 400 (approximately €218 000). In addition, each ministry and agency implementing activities under the National Programme for Countering THB (see paragraph 22) is supposed to fund them from its budget. GRETA is concerned that the financial resources invested by the Bulgarian Government in action against human trafficking are not commensurate with the actual needs. As a result, anti-trafficking action continues to rely to a significant extent on external funding, and anti-trafficking measures are not sustainable. **GRETA once again urges the Bulgarian authorities to allocate appropriate funding from the State budget to action against THB.**

18. Two specialised shelters for victims of THB, run by NGOs through public procurement, are funded by the NCCTHB. These two shelters were not functioning at the time of the second GRETA visit, but have re-opened since (see paragraph 241). The shelter in Burgas received €30 000 and the one in Varna, €31 000 in 2019. The NGO Demetra in Burgas provides, in addition to the shelter, a support centre and a centre for continuing reintegration of victims of THB, while the NGO SOS Families at Risk in Varna operates a shelter and a support centre. A shelter for adult victims (women and men) of THB and a crisis centre for child victims of THB were opened in Sofia in 2017, as part of the Bulgarian-Swiss Programme of Co-operation for the Prevention of THB and the Identification, Protection, Support, Return and Reintegration of Victims (2015-2018). At the expiry of the programme, these shelters stopped functioning, but at the time of the third visit by GRETA in December 2019, funding had reportedly been secured under the EU Internal Security Fund (BGN 450 000) for their continued operation. GRETA welcomes the re-opening of the specialised shelters and the setting up of new facilities for victims of THB.

¹⁰ <https://www.lex.bg/laws/ldoc/2135467374>

¹¹ At the time of GRETA's evaluation, the Chair of the NCCTHB was Mr Krassimir Karakachanov, Deputy Prime Minister for Public Order and Security and Minister of Defence.

¹² Ministries of: Foreign Affairs; Labour and Social Policy; the Interior; Justice; Health; Education and Science; State Agency for Child Protection; Central Commission for Combating Juvenile Delinquency; Supreme Court of Cassation; Prosecutor General's Office; National Investigation Service.

¹³ Following GRETA's visit in December 2019, there have been staff changes in the Secretariat of the NCCTHB, with the Executive Secretary and one chief expert leaving. Currently the Secretariat employs 10 persons.

¹⁴ [Budget NCCTHB 2019](#) (in Bulgarian).

19. The permanent expert working group under the NCCTHB, which comprises some 30 experts from relevant ministries, agencies, international organisations and NGOs, has reportedly rarely met in recent years.

20. Local commissions for combating trafficking in human beings have been set up in 10 of the 28 regions (*oblast*) of the country (Blagoevgrad, Burgas, Montana, Pazardzhik, Pleven, Plovdiv, Ruse, Varna, Sliven and Veliko Tarnovo).¹⁵ Reports on the activities of these local commissions are included in the annual reports on the implementation of the National Anti-Trafficking Programme.

21. Pursuant to the amendments to the 2019 Anti-Trafficking Law, the National Commission acts as an equivalent mechanism to a National Rapporteur on THB in the sense of Article 19 of Directive 2011/36/EC. An annual report on the implementation of the National Programme, containing statistics and analyses, is drawn up by the Secretariat of the NCCTHB and published on the website of the NCCTHB.¹⁶ However, GRETA notes that there is no external, independent evaluation or monitoring of the implementation of the National Programme. As noted in the second report on Bulgaria, the key features of National Rapporteurs' mechanisms within the meaning of Article 29, paragraph 4, of the Convention should be the ability to critically monitor the efforts and effectiveness of all state institutions, including national co-ordinators, and to that end maintain a constant exchange with civil society, the research community and other relevant stakeholders. A structural separation between these monitoring functions and executive functions makes possible an objective evaluation of the implementation of anti-trafficking legislation, policy and activities, identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations. Therefore, **GRETA reiterates its recommendation from the second evaluation report that the Bulgarian authorities should examine the possibility of establishing an independent National Rapporteur or designating another already existing mechanism as an independent organisational entity with a view to ensuring effective monitoring of the anti-trafficking activities of state institutions and making recommendations to persons and institutions concerned (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).**

22. In 2017, Bulgaria adopted its first National Strategy for Combating Trafficking in Human Beings for the period 2017-2021, a policy document setting out priorities and objectives for an effective and long-term response to the offence of THB and its consequences. The Strategy follows the goals and priorities of the EU Strategy on the Elimination of Human Trafficking 2012-2016. It outlines main challenges; key principles; national priorities, objectives and measures to combat trafficking in human beings; as well as implementation and monitoring strategies. According to the Strategy, the main challenges include : the dynamic profile of victims of trafficking, their timely identification, and the provision of comprehensive and relevant assistance; enhancing the efficiency, effectiveness and scope of prevention activities; increasing knowledge of the crime of THB and ensuring effective and victim-sensitive investigations, prosecution and punishment; and challenges related to the migration crisis. The objectives to be achieved are: building effective mechanisms for countering THB, on the basis of analysis of empirical evidence; preventing trafficking, both at the individual level and at the level of the family, social group, and society; creating trust in citizens, society, institutions and organisations (including NGOs) working on the issue, and stimulating civic activity in countering THB; strengthening the legal and institutional mechanisms for effective prosecution and conviction of organisers, perpetrators and collaborators of the crime; effective prosecution and punishment through the use of EU mechanisms and structures for international judicial and law enforcement co-operation; ensuring timely and individualised support and protection to victims of trafficking; ensuring the reintegration and social rehabilitation of victims; creating a system of procedures guaranteeing the identification, assistance and support of victims.

¹⁵ The composition of the local commissions can be found at: <https://antitrafficking.government.bg/en/local/9-LCCTHB-Plovdiv>, <https://antitrafficking.government.bg/en/local/2-LCCTHB-BLAGOEVGARD> .

¹⁶ The annual national reports are available at: <https://antitrafficking.government.bg/en/about>

23. The monitoring of the implementation of the Strategy is carried out by the Secretariat of the NCCTHB and the permanent expert working group. **In the absence of an independent National Rapporteur, GRETA considers that the Bulgarian authorities should commission an external, independent evaluation of the implementation of the National Action Strategy and Programmes.** The Bulgarian authorities have indicated that the evaluation of the Strategy will be assigned to an external contractor and the next strategic document will build on the outcome of the evaluation.

24. The National Anti-Trafficking Strategy is implemented through annual National Programmes for Countering Human Trafficking and Protection of Victims prepared by the Secretariat of the NCCTHB and the permanent expert working group, and submitted for approval to the Council of Ministers.¹⁷ The 2019 annual National Programmes consisted of seven sections: 1) Institutional and organisational measures; 2) Prevention; 3) Training and staff qualification; 4) Protection, recovery and re-integration of the victims of human trafficking; 5) Research, analysis and statistical reporting on data on human trafficking; 6) International co-operation; and 7) Legislative amendments. Every activity listed in the Programme has a clear description, objective, timeframe, expected results, responsible party and financial dimension.

25. The Council of Ministers adopted, by a decision of 20 June 2016, the National Referral Mechanism for Support of Trafficked Persons (NRM),¹⁸ a document regulating the steps and procedures to be followed with a view to rendering immediate and adequate assistance and support to victims of human trafficking. The document is an updated version of the NRM developed in 2008-2010, under the MATRA programme of the Dutch Ministry of Foreign Affairs, which was implemented by the NGO Animus Association Foundation, in partnership with the NCCTHB. The NCCTHB, through its Secretariat, acts as the co-ordinating body for implementing the NRM. To enhance the implementation of the NRM, a multi-agency and multi-disciplinary team co-ordinated by the NCCTHB, was set up in the framework of the previously mentioned Bulgarian-Swiss Programme of Co-operation for the Prevention of THB and the Identification, Protection, Support, Return and Reintegration of Victims of Trafficking¹⁹ to respond to complex cases of human trafficking. As part of this programme, an assessment of the implementation of the NRM was carried out by ICMPD and Animus Association Foundation in 2018.²⁰

26. Since its establishment on 1 January 2001 by the Council of Ministers, the State Agency for Child Protection (SACP) has been involved in the fight against trafficking in children, and has a co-ordinating role in the implementation of national measures against trafficking in children. The activities of the SACP include participation in the development of legal changes and programmes for prevention as well as practical work for providing assistance in the context of the repatriation and reintegration of children who are victims of trafficking. The SACP also co-ordinates the implementation of the Co-ordination Mechanism for Referral, Care and Protection of Repatriated Unaccompanied Children (see paragraph 252).

27. The social services have been decentralised and their management has been assigned to the mayors of the municipalities, who also act as the local child protection authority. Social services are funded from the state budget through the municipal budgets and are referred to as "state-delegated activities". The municipalities are given the option to assign the management of state-funded social services to private providers. As of 30 June 2020, there were 25 crisis centres with a total capacity of 260 places (including 19 for children with a capacity of 196 places) which operate as a state-delegated activity. In 2019, the Social Service Law was adopted and entered into force on 1 July 2020. As a result, social services are in the process of being reformed. The new law regulates the establishment of a new Agency for the Quality of Social Services.

¹⁷ The annual national programmes are available at: <https://antitrafficking.government.bg/en/about>

¹⁸ Available in English at: https://antitrafficking.government.bg/wp-content/uploads/NRM_Bulgaria_EN.pdf

¹⁹ The Swiss-Bulgarian Programme was implemented in 2015-2018 by the Animus Association Foundation, IOM and NCCTHB, in partnership with ICMPD and the Swiss NGO FIZ (for more information, see paragraph 36 of the second GRETA report on Bulgaria).

²⁰ ICMPD, *Assessment of the Implementation of the National Mechanism for Referral and Support of Trafficked Persons in Bulgaria*, January 2018.

28. Bulgarian NGOs play a key role in action against THB, through carrying out awareness-raising activities, training and research, running helplines, providing assistance to victims, and participating in international projects. Some NGOs (e.g. Animus Association Foundation) have been active in this area since the mid-1990s. In recent years, a number of NGOs have been set up at local or regional level. Some of them act as service providers, running crisis centres for victims of violence and human trafficking, with funding from the Agency for Social Assistance (this is referred to as a “delegated social service”).

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

1. Introduction

29. 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.

30. 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 THB, and effectively investigate trafficking offences.²¹

31. According to the Basic Principles on the Right to an Effective Remedy for Victims of Trafficking in Persons,²² the right to an effective remedy is considered to include restitution,²³ compensation,²⁴ rehabilitation,²⁵ satisfaction²⁶ and guarantees of non-repetition.²⁷ All victims of trafficking require access to appropriate and effective remedies, starting with access to justice. The provision of effective remedies serves multiple purposes. The remedy of compensation, for instance, for any injury, loss or harm

²¹ *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, judgment 30 March 2017; *S.M. v. Croatia*, application No. 60561/14, Grand Chamber judgment 25 June 2020.

²² 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.

²³ 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.

²⁴ 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.

²⁵ 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.

²⁶ 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.

²⁷ 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.

sustained, can provide critical support in victims' recovery and empowerment, help their social inclusion and prevent re-victimisation. The remedy of rehabilitation can similarly help in the victims' recovery, 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.²⁸

32. 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 subjected to penalties for their involvement in unlawful activities that they have been compelled to commit. Further, the Convention requires State Parties to enable the seizure and confiscation of the assets of traffickers, which could be used to fund State compensation schemes for victims.

33. 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.²⁹

34. 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.³⁰ In this context, reference should be made to the international projects COMP.ACT - European Action on Compensation for Trafficked Persons³¹ and Justice at Last - European Action for Compensation of Victims of Crime,³² which aim to enhance access to compensation for trafficked persons.

35. 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.³³ 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 victims' access to remedies for any harm that occurs. Further, businesses have the potential to help trafficked persons regain economic autonomy.³⁴ 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.

36. 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.

²⁸ 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

²⁹ 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

³⁰ OSCE Compensation for Trafficked and Exploited Persons in the OSCE Region, 2008, pp. 48-53.

³¹ <http://www.compactproject.org/>

³² <http://lastradainternational.org/about-lsi/projects/justice-at-last>

³³ United Nations Guiding Principles on Business and Human Rights, implementing the UN 'Protect, Respect and Remedy' Framework, Doc. A/HRC/17/31 (2011).

³⁴ UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 8-9.

2. Right to information (Articles 12 and 15)

37. 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.

38. 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.³⁵

39. 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.³⁶

40. In Bulgaria, the right to information of all victims of crime, including victims of THB, is guaranteed by the 2006 Law on the Assistance and Financial Compensation of Crime Victims. Pursuant to Chapter Two "Informing Victims of Crime of their Rights", Article 6, paragraph 1, of this Law, the authorities of the Ministry of the Interior, investigators and victim support organisations shall immediately notify victims of: i) their options for access to medical care, the organisations to which victims can turn for counselling and support provided free of charge, and the types of counselling and support which they can obtain free of charge; ii) victims' right to legal aid, the services to which they can turn in order to exercise that right, and the terms and procedures for obtaining legal aid free of charge; iii) the services to which a crime can be reported, the procedures following such a report, and the types of action which victims can take under the applicable terms and procedures; iv) the services to which an alert may be submitted in case of violation of their rights by the competent authority acting in the framework of the criminal proceedings; v) victims' rights in the criminal process and the options for their participation in it; vi) the services to which victims can turn for protection for themselves and their relatives, and the terms and procedures for obtaining such protection; vii) the services to which victims can turn for financial compensation from the State, and the terms and procedures for obtaining such compensation; viii) possible ways of protecting victims' rights and interests if they are foreign nationals who are victims of crime in Bulgaria; ix) possible ways of protecting victims' rights and interests if they are victims of crime in another country, and the services to which they can turn in such cases.

³⁵ See Explanatory Report on the Convention, paragraphs 160-162.

³⁶ See 8th General Report on GRETA's activities, paragraphs 168-169.

41. As regards more specifically the right of victims of THB to information, pursuant to Article 26, paragraph 1, of the Anti-Trafficking Law, after identifying victims of trafficking, the pre-trial authorities are required to immediately inform them of the possibility of receiving special protection if they declare within one month their consent to co-operate with the investigation.³⁷ In the same spirit, Article 25 of the Anti-Trafficking Law envisages "special protection" for victims who have agreed to co-operate with the investigation, which includes the issuing of a residence permit and extended shelter accommodation. GRETA notes with concern that these provisions make the provision of information on "special protection" contingent on the victim's co-operation with the investigation. Victims of THB are not freed from the obligation to attend interviews or questioning by the police when summoned, even though they can state at the interview/questioning that they do not wish to co-operate with the authorities and act as witnesses (which means that their names and the protocols of their interviews should not be included in the pre-trial file and would not be made available to the defendants).³⁸

42. The NRM contains concrete and detailed instructions about the provision of information to victims of trafficking at the outset of their informal and formal identification, including on the reflection period, the non-punishment provision, the right to medical, psychological and legal aid, as well as to financial compensation and protection, in accordance with the relevant legislation. Further, according to Article 4 of the Regulations Governing Temporary Placement Shelters and Protection and Support Centres for Victims of THB, adopted by Decree of the Council of Ministers No. 49 of 1 March 2004, the local anti-trafficking commissions set up protection and support centres in service to the victims of trafficking in human beings, which shall: 1. provide information about administrative and court procedures that accord victims of human trafficking protection and support in a language the latter understand; 2. ensure specialised psychological and medical care; 3. assist in the reintegration of victims in the family and social environment. Pursuant to Article 23 of the Regulations, victims of THB shall be informed in a language they understand about their rights and obligations during their stay at shelters, their right to seek asylum, and the services provided by the protection and support centres.

43. Under the Code of Criminal Procedure (CCP), victims of criminal offences, including trafficking in human beings, insofar as they have suffered material or non-material damage from the crime, have the status of an injured party in the criminal proceedings. If criminal proceedings have been initiated, injured parties have the following rights in pre-trial proceedings, pursuant to Article 75 of the CCP: to be informed of their rights in the criminal proceedings; to receive protection for their safety and that of their relatives; to be informed about the course of the criminal proceedings; to participate in the proceedings as set out in the CCP; to make requests, remarks and objections; to appeal against acts that lead to the suspension or termination of the criminal proceedings; to have a legal counsel; to receive a translation of the decree terminating or suspending the criminal proceedings if they do not speak Bulgarian. These rights arise if the injured party has explicitly requested to participate in the pre-trial proceedings and has provided an address at which he/she can be notified and summoned in Bulgaria.

44. In practice, the provision of information on rights to victims of trafficking takes place at different stages and is provided by different bodies. Pursuant to the NRM, at the stage of informal identification (first-level identification), information on rights is provided by officials or NGO representatives who enter into first contact with victims. When formally identifying victims of trafficking in human beings, law enforcement officers must inform them about their right to a recovery period, medical, psychological and legal aid, compensation and protection. When providing information to victims, the competent authorities must take into account the state of the victims, including their age. The provision of information is made orally and in writing by means of a standard form in a language that the victims understand. The authorities responsible for pre-trial proceedings provide the following documents to each victim: a rights' form under Article 6a, paragraph 2, of the Law on the Assistance and Financial Compensation of Crime Victims (which includes contact details of agencies providing support to victims); a declaration pursuant

³⁷ At the suggestion of the State Agency for Child Protection (SACP), this period can be extended to two months when the victim is a child (Article 26, paragraph 3, of the Anti-Trafficking Law).

³⁸ Natasha Dobрева, Marijan Wijers, Nadya Kozhuharova, *Legal procedures for the protection of victims of human trafficking: Guidance for lawyers*, Sofia, 2015, p. 50.

to Article 26 of the Anti-Trafficking Law notifying the victim of his/her right to special protection; a declaration pursuant to Article 18, paragraph 7, of the Law on the Assistance and Financial Compensation of Crime Victims; and a statement signed by the victim certifying that he/she has been notified of his/her rights. These documents are available in Bulgarian and if the victim does not understand Bulgarian, an interpreter is engaged. The prosecutor supervising the pre-trial proceedings monitors the fulfilment of the obligations of the investigating authorities to provide the information envisaged in the CCP. A good example is the initiative of a prosecutor at the Oryahovo Regional Prosecutor's Office to add to the form on victims' rights the specific rights that trafficking victims have under Bulgarian legislation concerning special protection and compensation.

45. According to civil society organisations, prosecutors generally fulfil their obligation to check if the protocol and form on rights are signed by victims. However, NGOs have observed that the information on rights is provided in a formalistic way, and is not always comprehensible to the victim as it does not take into account the cognitive skills and psychological state of the victim. For example, victims who are traumatised may have difficulties in adequately understanding and analysing the information before taking a decision. This is why it is important that information on rights be provided repeatedly by different professionals, including psychologists, social workers and lawyers, while ensuring that the provision of information is structured and consistent throughout the victims' pathway of engaging with different agencies and organisations.

46. According to Article 7 of the Victim Assistance and Compensation Law, the National Council for Assistance and Compensation to Victims of Crime ("National Council") shall publish and distribute a brochure, in Bulgarian, English, German and French, containing the information required under Article 6, paragraph 1, of the Law. This brochure has to be made available, for the purpose of its wide distribution, to the services and organisations referred to in Article 6, paragraph 1, of the Law and to medical treatment facilities, social assistance services and organisations which, in the course of their operation, come into contact with victims of crime. The information contained in the brochure has been published on the Internet page of the National Council, in Bulgarian and English.³⁹ GRETA notes that the brochure basically consists of quotes of relevant legal provisions, which might be difficult to comprehend by people without legal skills.

47. According to information provided by the Bulgarian authorities, the National Council for Assistance and Compensation to Victims of Crime, together with the National Police General Directorate, organised in 2018 a seminar for all heads of police investigative departments, at which the need to explain to victims their rights when they are not distressed was emphasized. GRETA notes that information should be provided to victims at an early stage, when they are likely to be stressed, but it is the content and manner and of how the information is imparted that is important.

48. The National Legal Aid Bureau (NLAB) provides information on the rights of human trafficking victims prior to the commencement of legal proceedings and in the form of consultation, legal advice and preparation of documents before the relevant investigative bodies or a court for the opening of criminal or civil proceedings. The information is provided through the national legal aid hotline, which is operated by lawyers from the Sofia Bar Association, the 12 regional counselling centres operated by lawyers from the relevant Bar Associations, *ex officio* lawyers appointed upon the request of trafficked persons, information brochures and videos.

³⁹ The information materials are available online at <http://www.compensation.bg/en>

49. In criminal proceedings, victims who participate in the proceedings and who do not speak Bulgarian have the right to an interpreter (Article 21, paragraph 2, of the CCP). NGOs providing services to victims of THB have in their contracts with the NCCTHB the possibility of providing translation and interpretation to foreign victims. The number of foreign victims of THB accommodated in the two specialised shelters, in Varna and Burgas, has been low (a total of five in the period 2015-2018). Occasionally, presumed foreign victims of THB have also been accommodated in some of the crisis centres, prior to being moved to the specialised shelters. GRETA was informed that there were no state-provided interpretation services at the centres for temporary accommodation of foreigners to facilitate the submission of applications for international protection, which raises concerns as to whether the needs of persons placed in such centres, in particular victims of trafficking, are identified and addressed.

50. GRETA notes that the willingness of victims of trafficking to co-operate in the investigation of THB offences depends on the manner in which they are treated at the moment they enter into contact with law enforcement authorities, as well as their access to information and protection. GRETA stresses that access to information on rights must not in any way depend on the victim's willingness to act as a witness.

51. GRETA considers that the Bulgarian authorities should strengthen the systematic provision of information to informally and formally identified victims of trafficking 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 should be trained and instructed on how to properly explain to victims of THB their rights, taking into account their cognitive skills and psychological state, and apply the NRM to systematically refer them to specialised services which enable victims to exercise their rights. Similarly, staff working at asylum reception centres and detention centres should continue to be trained and instructed on how to provide information, in a proactive manner, to persons and groups at risk of being trafficked (see paragraph 231).

52. GRETA also considers that the Bulgarian authorities should take additional steps to ensure the availability and sensitisation to the issue of human trafficking of interpreters.

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

53. 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-law⁴⁰ also recognises, in certain circumstances, the right to free legal assistance in a civil matter on the basis of Article 6(1) of the ECHR. Thus, even in the absence of legislation granting free legal assistance in a civil matter, 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.

54. 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.⁴¹

55. In Bulgaria, the right to legal assistance arises from the moment a person is identified as a victim of THB, in accordance with the provisions of the Law on the Assistance and Compensation of Crime Victims (in particular, Article 6, paragraph 1) and the NRM.

⁴⁰ *Airey v. Ireland* judgment, 9 October 1979.

⁴¹ See 8th General report on GRETA's activities, paragraph 167.

56. The access of victims of crime to free legal aid funded by the State is regulated by the 2005 Law on Legal Aid. The following types of legal aid are envisaged: i) consultation with a view to reaching an agreement before the commencement of legal proceedings or the filing of a case; ii) preparing documents for filing a case, which may include a claim for compensation; iii) representation in legal proceedings; iv) representation in case of detention. The provision of legal aid is organised by the National Legal Aid Bureau (NLAB) and the regional Bar Associations.

57. As a result of amendments to the Law on Legal Aid in 2013, victims of THB were added among the categories of victims who are entitled to primary legal aid (i.e. legal consultation and preparation of documents), provided that they do not have the necessary means and wish to be assisted by a lawyer (Article 22, paragraph 1, item 7). Children at risk (within the meaning of the Child Protection Act),⁴² victims of domestic or sexual violence, and persons seeking international protection are also entitled to primary legal aid. When it comes to free legal aid for the purpose of representation in legal proceedings, it is provided to parties in criminal, civil and administrative proceedings upon the submission of proof⁴³ to the court or the NLBA that they do not have the means to pay for a lawyer themselves (Article 23 of the Law on Legal Aid).

58. There are several possible procedural roles for victims of THB in criminal proceedings, all of which involve the participation of a lawyer. First, victims may request to constitute themselves as an injured party in the criminal proceedings and as such they have the right to a legal counsel (*повереник*), pursuant to Article 75 of the CCP. Even if a victim of THB does not participate as an injured party, but only as a witness, he/she is entitled to a legal consultation by a lawyer whose role is to guarantee that the witness does not reply to questions which may lead to self-incrimination. Further, according to Article 76 of the CCP, a victim who has suffered material and non-material damage from a crime has the right to constitute him/herself as a private prosecutor (*частен обвинител*) in the proceedings. Private prosecutors may support the accusation even after the public prosecutor has stated that he/she does not support it. Moreover, according to Article 80 of the CCP, a victim of a crime which is being prosecuted on the basis of a complaint filed by that victim can press charges as a private complainant (*частен тџжител*), upon the submission of a written complaint and the payment of a state duty (fee). Finally, pursuant to Article 84 of the CCP, victims of crimes or their heirs, who have suffered damages from a crime, can file a civil claim for compensation as part of the criminal proceedings and obtain the status of a civil claimant (*граждански ищел*). Pursuant to Article 100 of the CCP, the private prosecutor, private complainant and civil claimant have the right to engage a legal counsel (*повереник*), or, if they do not have financial resources to pay for a lawyer and the interests of justice require that such legal defence is provided, to ask the first instance court to appoint them a legal counsel.

59. Child victims of trafficking fall into the category of children at risk and as such are entitled to special protection, pursuant to Article 3, paragraph 4, of the Child Protection Act. Children may be represented by a lawyer, their parents or grandparents. Where the interests of a child victim and his/her parent, guardian or trustee are in conflict, the relevant body (prosecution or court) shall appoint a special counsel (lawyer) to represent the child (Article 101 of the CCP). The special counsel acts ad hoc. Following changes to the Law on Foreigners in 2017, a new Article 7a was introduced, which regulates the powers of the Social Assistance Directorates to represent unaccompanied foreign children in proceedings under the Law on Foreigners. In any judicial proceedings where the rights and interests of children are affected, the Social Assistance Directorates' participation is required (by sending a representative who expresses an opinion or submits a report). UNICEF Bulgaria funds a project which provides legal aid for children affected by all forms of violence, including victims of trafficking, in Sofia, Shumen and Montana.

⁴² In paragraph 1, item 11b, of the Supplementary Provision of the Child Protection Act, amongst the categories of children at risk are victims of "abuse, violence, exploitation or any other inhuman or degrading treatment or punishment within or outside the family".

⁴³ The victim has to provide evidence of his/her income or that of his/her family; any property; family situation; health status; employment status; age; any other relevant circumstances.

60. Following amendments to the Anti-Trafficking Law in 2019, shelters for victims of trafficking must provide them with free legal assistance (Article 10, paragraph 5). This appears to be at variance with the Law on Legal Aid, according to which victims of THB are entitled to free primary legal aid (i.e. legal consultation and preparation of documents), provided that they do not have the necessary means and wish to be assisted by a lawyer (in Article 22, paragraph 1, item 7). According to the agreements signed by the NCCTHB and NGO service providers which run the shelters, lawyers trained and specialised in working with victims of THB provide legal assistance to victims placed in the shelters (some of these lawyers may be listed in the National Legal Aid Register). These lawyers may also represent victims throughout the criminal proceedings, but this is not always possible due to the limited funding available, and therefore external funding outside the scope of the agreement with the NCCTHB is sought in order to pay for external lawyers. The National Bureau for Legal Aid (NBLA) is in the process of developing a mechanism for co-operation with shelters for the provision of consultations by *ex officio* lawyers to victims placed in the shelters.

61. According to the Law on Legal Aid, persons seeking international protection are entitled to primary legal aid (i.e. consultation and preparation of documents). Persons who are detained are entitled to representation in all legal proceedings.

62. Pursuant to Article 25, paragraph 1, of the Law on Legal Aid, victims have to specifically ask to be appointed an *ex officio* lawyer by the court or the NBLA. Victims can nominate the specific lawyer they would like to assist them. The NBLA has a list of lawyers registered in the National Legal Aid Register who are trained to advise and represent victims of trafficking in human beings. The NBLA has recommended to the regional Bar Associations to indicate in their registers the profile of each lawyer with a view to assisting in the appointment of a suitable lawyer in a particular case. However, at present, the only differentiation made between lawyers is on the basis of whether they specialise in criminal, civil or administrative cases. According to NGOs supporting victims of THB, *ex officio* lawyers appointed to assist victims of THB are often not familiar with the specificities of THB and the quality of the legal assistance provided by *ex officio* lawyers appointed by the NBLA is variable.

63. As an illustration of the practical implementation of the legal provisions, GRETA was informed of the case of a woman who participated as a witness in pre-trial proceedings for human trafficking in January 2019. She applied for free primary legal aid to the NBLA on the basis of her status as a trafficked person by enclosing the appropriate evidence from the pre-trial proceedings. The NBLA required her to provide a declaration of assets and granted her an *ex officio* lawyer pursuant to the provisions of the Law on Legal Aid. The legal assistance was not for the main case, but for the settlement of the custody of the victim's child.

64. GRETA was informed of recent research carried out by the NGO Gender Alternative, based in Plovdiv, which monitored 30 legal proceedings in THB cases in six different towns of Bulgaria. The monitoring revealed that the victims in these cases participated in the proceedings as witnesses, rather than injured parties. In only one of the cases was the victim involved as a civil claimant and private prosecutor, and in only three of the cases were the victims consulted by lawyers provided by NGOs.

65. Specialised legal assistance is provided to victims of THB by lawyers working for NGOs active in providing support to victims. Reference should be made to the setting up of a network of specialised lawyers practicing across Bulgaria, as part of a three-year EU-funded project "Promotion of the rights of trafficked persons in Bulgaria, Romania and Slovakia with emphasis on legal support - a human rights-based approach". The project was designed and co-ordinated by the Netherlands Helsinki Committee, and implemented in Bulgaria by the Animus Association Foundation.⁴⁴ As part of this project, 23 lawyers were trained in 2015 to work with victims of trafficking. Their names and contact details have been included in the NRM. For the purpose of training, a handbook for lawyers entitled "Legal procedures for the protection of victims of human trafficking" was developed.⁴⁵ The handbook was based on a report analysing Bulgarian legislation and its compliance with international legal standards, analysing the position of trafficked persons in criminal and other proceedings and their treatment by the judicial system (on the basis of 14 case files and 44 court decisions).⁴⁶ It gives practical information and guidance to lawyers on how to effectively apply Bulgarian legislation to defend the interests of victims of trafficking.

66. While welcoming the setting up of a network of specialised lawyers to assist and represent victims of THB, GRETA notes that there is no obligation for lawyers to specialise in an area to be able to represent clients. Only in 2018 was a statutory requirement for lawyers to upgrade their qualifications introduced, in line with Ordinance No. 4 of 2006 on maintaining and raising the qualification of lawyers and lawyers from the European Union, which requires lawyers to participate annually in no less than eight hours of training in a form and on a subject chosen by them. The enforcement of the lawyers' duty to maintain and increase their qualification is exercised by the Bar Associations in an order determined by the Supreme Bar Council. Further, despite the existence of a network of specialised lawyers trained to represent the interests of victims of THB, there is a problem of linking these trained lawyers to the state-funded system of legal aid. *Ex officio* lawyers are appointed at random and many Bar Associations consider any form of selection, including any requirement of specialisation, to be a form of unfair competition. This division between non-specialised legal aid lawyers and specialised private lawyers who are paid through projects run by NGOs is one of the obstacles to integrating qualified legal aid in the national assistance systems. In practice, this means that victims are largely dependent on NGOs for the provision of specialised legal aid, whereas NGOs are dependent on donors who are willing to fund legal assistance or lawyers who are willing to work pro bono. The National Legal Aid Bureau has indicated that it has issued guidelines concerning the provision of legal aid to victims of crime, which are distributed to all Bar Associations and require them to set up specialised registers of lawyers, including ones trained to represent victims of THB, as well as to introduce criteria for case allocation and to apply minimum standards to the provision of legal aid to victims of THB.

67. In 2017-2018, training was provided to lawyers inscribed in the National Legal Aid Register on "Rights of Victims of Trafficking", as a result of which 283 lawyers were trained.⁴⁷ The NBLA has conducted training of legal counsels and public defenders from nine Bar Associations on the application of minimum standards for the provision of legal aid to victims of trafficking. The NBLA has also been training judges from the Plovdiv, Burgas, Haskovo and Sliven district courts on the application of the unified procedures and criteria for the provision of legal aid to victims of trafficking.

⁴⁴ Marijan Wijers, *Position of victims of trafficking in human beings in criminal and other legal proceedings in Bulgaria, Slovakia and Romania: A Human Rights Based Approach*, November 2015.

⁴⁵ Natasha Dobрева, Marijan Wijers, Nadya Kozhuharova, *Legal procedures for the protection of victims of human trafficking: Guidance for lawyers*, Sofia, 2015.

⁴⁶ Natasha Dobрева, *Promotion of the Rights of Trafficked Persons in Bulgaria*, Animus Association Foundation, Sofia, July 2013. Available at: <http://www.animusassociation.org/wp-content/uploads/2014/03/Promotion-of-the-rights-of-the-trafficked-persons-in-Bulgaria.pdf>

⁴⁷ The lawyers were from the following Bar Associations: Sofia - 58, Veliko Tarnovo - 50, Stara Zagora - 47, Blagoevgrad - 87, Varna - 41. Altogether, some 4,000 lawyers are inscribed in the National Legal Aid Register.

68. GRETA is concerned that in Bulgaria, access to free legal aid for victims of THB depends on proof of lack of financial means to pay for a lawyer. Another challenge is the provision of interpretation and translation at the stage of primary legal aid since the budget available for legal aid does not cover such costs. GRETA notes that access to legal assistance is important during the investigation because a lawyer can assist the victim in preparing a detailed written complaint or submission about the crime, which may limit the number of times a victim is questioned by the police. The lawyer can accompany the victims during police interviews and ensure that their procedural rights are respected, helping to prevent any degrading treatment of the victim. Furthermore, the lawyer can assist the victim to constitute him/herself as a civil claimant or private prosecutor, and can ask that the defendant's assets be frozen with a view to guaranteeing compensation.

69. **GRETA urges the Bulgarian authorities to take further steps to facilitate and guarantee access to justice for victims of THB, in particular by ensuring that:**

- **a lawyer is appointed as soon as there are reasonable grounds for believing that a person is a victim of human trafficking, before the person concerned has to decide whether or not he/she wants to co-operate with the authorities and/or make an official statement;**
- **adequate funding is made available for the provision of legal assistance, legal representation and interpretation/translation to victims of THB placed in shelters;**
- **Bar Associations encourage training and specialisation of lawyers to provide legal aid to trafficking victims, and ensure that trafficking victims are systematically appointed a specialised lawyer;**
- **access to free legal aid for victims of THB is unconditional and does not depend on proof of lack of financial means to pay for a lawyer.**

4. Psychological assistance (Article 12)

70. Human trafficking and exploitation may have serious psychological and physical consequences for the victims, including mental health problems and loss of self-esteem. Psychological assistance is needed to help victims of trafficking overcome the trauma they have been through, and to achieve a sustained recovery and social inclusion. Some victims require long-term therapeutic intervention 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.⁴⁸ In the case of trafficked children, specialist child psychologists should be employed.

71. In Bulgaria, the Law on the Assistance and Financial Compensation to Victims of Crime provides for the right to free psychological counselling to victims who have suffered pecuniary and non-pecuniary damage as a result of a crime of a general nature, including human trafficking. Pursuant to Article 9 of this law, free psychological counselling and support shall be provided by specialised psychologists from victim support organisations, in accordance with the needs of the victim and his/her psychological condition. The procedure for selection of victim support organisations, their financing and the control of their activities are set out in a separate implementing regulation. Further, pursuant to Article 17 of the law, an application to receive free psychological counselling has to be made by the victim to the victim support organisation of his/her choice.

⁴⁸ See OSCE, *Trafficking in Human Beings Amounting to Torture and Other Forms of Ill-Treatment* (2013), Vienna, p.115.

72. According to representatives of the Ministry of Health met by GRETA, victims of trafficking can receive psychological counselling and psychiatric care in hospitals in the context of emergency hospitalisation, diagnostic treatment and out-patient care, pursuant to the general rules for the provision of health care. If the victim is not medically insured, the costs would be paid from the budget of the Medical Insurance Agency. However, according to NGOs working with victims of trafficking, in practice, the medical insurance covers only a minimum of services and its amount is so low that it is impossible to provide qualified psychological and psychiatric assistance without the help of donor funding. On many occasions, victims placed in shelters funded by the NCCTHB require long-term psychological and psychiatric care, including after leaving the shelters. The shelters' managers struggle to find solutions. Support is sought from the Social Assistance Agency, which in some cases help in placing victims in homes for persons with disabilities.

73. The NRM includes guidance on the provision of emergency psychological aid, psychological counselling during the recovery and reflection period, and psychotherapeutic work on overcoming the symptoms of post-traumatic stress disorder. In practical terms, the provision of psychological assistance and counselling is part of the duties of specialised shelters and crisis centres. Through public procurement procedure, having satisfied eligibility criteria, NGOs running such shelters and crisis centres employ or contract psychologists to provide counselling of victims. The number of sessions varies depending on the individual needs of the victim. After the victims leave the shelter/crisis centre, psychologists try to maintain contact with them.

74. According to NGOs working with victims of trafficking, there are a number of difficulties related to the provision of psychological support to victims. It is difficult to employ psychologists who are experienced and motivated to work with victims of trafficking (some of whom are girls and young women who have suffered sexual violence), the salaries tend to be low (e.g. the equivalent of around 250 euros per month) and there is a considerable turnover of staff. NGOs highlighted the importance of providing appropriate training and motivation to psychologists working with victims of THB. According to the law, perpetrators have to cover the cost of psychological counselling provided to victims, but only at the end of the proceedings in case of a conviction. The absence of a victim support fund which would cover, *inter alia*, the cost of psychological support at an early stage, was highlighted as a problem.

75. **GRETA considers that the Bulgarian 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)

76. 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, micro-businesses and social enterprises.⁴⁹ GRETA has stressed the need to develop public-private partnerships with a view to creating appropriate work opportunities for victims of trafficking.⁵⁰

⁴⁹ Rebecca Surtees, NEXUS Institute, *Re/integration of trafficked persons: supporting economic empowerment*, Issue paper No. 4, King Baudouin Foundation (2012).

⁵⁰ See 8th General report on GRETA's activities, paragraph 183.

77. As noted in paragraph 12, the vast majority of identified victims of THB have been Bulgarian citizens. Through the specialised shelters, consultation centres and labour offices, victims of THB are offered vocational training which would help their empowerment and social reintegration. In 2018, nine victims of THB were integrated in the labour market. Three of the victims in the shelter in Varna got jobs (two in the restaurant sector and one as a manicurist), three of the victims in the shelter in Burgas (packaging salt and sugar), and three victims in the Sofia shelter (two on domestic work under a programme run by A21 Foundation, and one was accepted at Sofia University and worked in a café part-time). Further, one victim was accepted at Burgas Free University to study pharmacy. Securing employment or study was not possible in the case of the other victims because of their health, psychological or cognitive state.

78. In some cases, NGOs report that they have managed to enrol victims of THB in vocational training courses with the help of donors. Using personal contacts, NGOs have also managed to find jobs for victims of THB in private and municipal companies (e.g. bakeries, launderettes, packaging, meat processing factories). Many of the victims have physical or mental problems which make it difficult to find appropriate employment for them. However, there are currently no subsidised or preferential employment programmes for victims of THB. According to specialised NGOs, there is an absence of long-term programmes for the reintegration of victims of THB and a number of women and girls exploited in prostitution eventually fall back into exploitation after spending time in shelters or crisis centres.

79. The Employment Agency plays a role in facilitating the integration of victims of THB in the labour market through the provision of information, consultation and vocational training. Particular attention is paid to encouraging the employment of people in at-risk groups (young people, members of Roma communities), though the work of Roma mediators, youth mediators and labour intermediaries.

80. **GRETA considers that the Bulgarian 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 different 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)

81. 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.

82. 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.

83. 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.

84. The legal framework for compensation of victims of THB in Bulgaria has remained largely unchanged since the second evaluation.⁵¹ Victims of THB can claim compensation from the perpetrators during criminal proceedings and/or in a civil court. The court does not have the power to award damages to the victim on its own initiative, but is bound by the victim's initiative to bring civil action against the defendant. Pursuant to Article 84, paragraph 1, of the CCP, victims of crime or their heirs may bring a civil claim for damages as part of the criminal proceedings and obtain the status of a civil claimant (*граждански ищец*). Another possibility is envisaged by Article 76 of the CCP, pursuant to which a victim who has suffered material and non-material damage from a crime has the right to constitute him/herself as a private prosecutor (*частен обвинител*). Where there is a civil action filed and accepted for joint trial in criminal proceedings, pursuant to Article 45 of the Law on Obligations and Contracts, the court may determine compensation in an appropriate amount for the damage suffered.

85. Further, pursuant to Article 51 of the CCP, there is the possibility for the prosecutor to bring civil action in favour of the victim if the latter cannot defend his/her rights due to being a child or having a physical or mental disability. On the basis of the claim brought by the prosecutor, the court may award to the victim compensation for damages caused by the offence subject to the criminal proceedings.

86. As explained in paragraph 58, civil claimants and private prosecutors have the right to engage a legal counsel (*повереник*), or, if they do not have financial resources and the interests of justice require it, to ask the first instance court to appoint an *ex officio* legal counsel.

87. If the victim claims compensation for pecuniary damages, the maximum amount of the compensation may reach the value of the pecuniary damages caused by the offence. This amount is fixed in the indictment and if compensation is awarded, the court is obliged to award the corresponding compensation up to that amount. Victims have the option of bringing an action under the Civil Procedure Code if they consider they have suffered pecuniary damage not included in the indictment.

88. Where victims claim compensation for non-pecuniary (moral) damage, they shall, at their discretion, determine the amount they wish to receive; there is no upper limit of the amount that can be claimed as compensation. The court shall award fair compensation in accordance with Article 52 of the Law on Obligations and Contracts. If the victim is dissatisfied with the compensation award, he/she can appeal the decision to the appellate court and subsequently to the court of cassation. If it is established that the victim contributed to the damage through his/her own behaviour, the court may reduce the amount of compensation pursuant to Article 51 of the Law on Obligations and Contracts.

⁵¹ See paragraphs 163-167 of GRETA's second report on Bulgaria.

89. Compensation for non-pecuniary damages is calculated on the basis of previous cases of enforced judicial acts concerning human trafficking or rape. Sexual exploitation is an unwanted sexual act, like rape, and therefore compensation for rape can serve as a reference for compensation for trafficking in human beings. The amount is determined individually in each case and depends on, for example, the period of exploitation, the age of the victim, whether the victim became pregnant or was infected with sexually transmitted diseases, and the use of physical violence. According to specialised lawyers representing victims of THB, there are no practical difficulties when it comes to awarding compensation for moral damages to victims of THB for the purpose of sexual exploitation and there are a number of examples from case-law. By way of example, reference can be made to the following judgments of the Supreme Court of Cassation, I c.d., upholding civil claims for non-pecuniary damages for THB for the purpose of sexual exploitation: judgment No. 134 of 27 September 2016 on criminal case No. 481/2016 awarding BGN 20 000 (approximately €10 000) for exploitation lasting four years and nine months; judgment No. 170 of 13 May 2015 on criminal case No. 308/2015 awarding BGN 20 000 for exploitation lasting six and a half months; and judgement No. 91 of 24 March 2009 on criminal case No. 64/2009, awarding BGN 10 000 (approximately €5 000) for exploitation lasting two years and ten months.⁵²

90. However, there are problems when it comes to claiming compensation for pecuniary damages when the victim was exploited in illegal work. In practice, it is not possible to claim compensation for the often considerable amounts of money victims of THB were forced to earn from prostitution and hand over to the trafficker, even when this happened in countries where prostitution is legal. There is a growing body of case-law⁵³ treating such claims as inadmissible or ill-founded, with the argument that the victim has no legal ground to claim compensation since prostitution is considered to bring "immoral earnings", which are criminalised under Article 329, paragraph 1, of the CC.⁵⁴ This provision, combined with Interpretative Decision No. 29 of 29 November 1984 of the General Assembly of the Criminal Bar, which states that "work performed in prohibited professions or activities such as illicit trade, entrepreneurship, betting, speculation, gambling, etc. is not considered work for the public benefit", serves as a justification for judges to reject such claims. GRETA understands that Article 329 has been removed from the draft new CC, which is pending adoption. Another provision reportedly used by courts to reject compensation claims is Article 53, paragraph 2b, of the CC, according to which direct and indirect benefits obtained through illegal means are to be confiscated by the State. The apparent "consent" of the victim to engage in prostitution is used in defence of the perpetrator and as an argument to reject compensation claims.

91. GRETA was informed that in many THB cases, the accused confesses and the prosecutor ends the investigation with a proposal for a settlement (plea bargaining), which involves the payment of a sum of money to the victim on the condition that he/she withdraws his/her witness statement (see also paragraph 122). As a consequence, the participation of the victim in the criminal proceedings ends and he/she has no other way to claim compensation but to initiate civil proceedings.⁵⁵ If a settlement is reached at the court stage and the victim is a party to the trial, then the settlement is only possible with the agreement of the victim, and the settlement decision can be used as proof for compensation claims before civil courts.

⁵² In a judgement No. 160 of 30 October 2014 on appeal criminal case No. 555/2014 the Ruse Regional Court awarded BGN 60,000 (equivalent to approximately 30,000 euros), but this judgment was repealed by the Supreme Court of Cassation with judgement No. 170 of 13 May 2015 on criminal case No. 308/2015 (<http://www.vks.bg/pregled-akt?type=otdelo&id=90F527E2CED82AF8C2257E44002D923D>). For additional examples of case-law on compensation awarded to victims of THB for non-pecuniary damages by criminal courts, see Bulgarian authorities' reply to GRETA's third round questionnaire.

⁵³ See, for example, judgment No. 160 of the Ruse Regional Court of 30 October 2014 in appeal criminal case No. 555/2014; judgment of the Sofia City Court (composition IX) of 5 December 2017 in appeal criminal case No. 3947/2017; decision on admissibility No. 50496 of the Sofia District Court (composition 176) dated 25 February 2020 in civil case No. 64718/2019.

⁵⁴ Article 329, paragraph 1, of the CC (entitled "earning income in an immoral way"), reads as follows: "An adult capable for work who for a long time does not engage in any socially useful work, but receives unearned incomes in an illegal or immoral way, shall be punished by imprisonment for up to two years or probation."

⁵⁵ See Natasha Dobreva, *Promotion of the Rights of Trafficked Persons in Bulgaria*, Animus Association Foundation, Sofia, July 2013, p. 70.

92. The number of adult victims of THB who have joined criminal proceedings with the status of a civil claimant and/or private prosecutor is apparently small, and the number of child victims, even smaller. According to the research referred to in paragraph 64, out of 30 monitored cases of THB, only in one case did the victim claim compensation as a civil claimant and was awarded BGN 54 000 for non-pecuniary damages. According to NGOs assisting victims of trafficking, courts frequently do not consider civil claims for compensation as part of criminal proceedings, instructing victims to seek compensation in civil proceedings. There is no record of any civil claim having been submitted by a trafficked person before a civil court. Civil proceedings can take years and if the victim loses the case, he/she might have to pay the cost of the entire procedure.

93. There has been one successful compensation claim submitted on behalf of a child victim of THB, who received legal aid from an NGO. With final verdict of the Vratsa District Court (composition IV) dated 22 January 2020 in criminal case No. 281/2019 the trafficker was ordered to pay the sum of BGN 10 000 (approximately €5 000) to his two-year old daughter, for forcing her mother to prostitute herself while pregnant, as a result of which the child was born prematurely. In addition, there were two compensation claims on behalf of children - also represented by an NGO lawyer – but both were overturned on appeal on the grounds of procedural irregularities (judgment of the Pleven Regional Court dated 31 March 2011 in appeal criminal case No. 239/2011 and judgment of the Pleven Regional Court dated 24 June 2011 in appeal criminal case No. 341/2011).

94. Article 72 of the CCP provides for the right of the prosecutor and the injured party to request the freezing of the property of the accused during the pre-trial and court proceedings to secure a fine, confiscation or future civil claim for compensation. However, according to research, such requests are in practice made very rarely; requests for freezing of assets reportedly come more frequently from magistrates from other EU countries, on the basis of mutual legal assistance agreements, when the accused traffickers are Bulgarian citizens.⁵⁶

95. GRETA notes as a positive development the setting up of the Commission for Combating Corruption and Forfeiture of Illegally Acquired Property in 2018. Prosecutors have to inform the Commission about the opening of pre-trial proceedings in THB cases and send a copy of the indictment, which mentions the amount gained from the criminal activity. The Commission then opens the case under the Law on Countering Corruption and Forfeiture of Unlawfully Acquired Assets Act, which runs in parallel with the criminal case. Pursuant to this Law, at least 30 % of the value of any assets forfeited to the Exchequer shall be used for social purposes. The Council of Ministers decides how forfeited assets are to be used, upon a proposal by the Commission.⁵⁷ A council has been set up for managing forfeited assets, involving ministers and chairs of relevant agencies. However, no link is made between the forfeited assets and the payment of compensation to victims of trafficking.

96. There have reportedly been enforceable decisions for the forfeiture of assets in human trafficking cases: two in 2015, amounting to BGN 602 894 (approximately €301 000); three in 2016, amounting to BGN 560 338 (approximately €280 000); three in 2017, amounting to BGN 2 816 775 (approximately €1 408 000); none in 2018.⁵⁸ During the visit, GRETA was informed of several ongoing cases of forfeiture of assets (bank accounts, real estate, cars, gold) acquired through trafficking of Bulgarian victims to Germany, Austria and France.

⁵⁶ Ibid., p. 74.

⁵⁷ The Commission put forward proposals to the Council of Ministers regarding 297 judgements with forfeited assets amounting to BGN 138 million.

⁵⁸ According to the Bulgarian authorities, since 2009, there have been a total of 21 decisions on court cases on THB with forfeited assets amounting to BGN 8 497 407.

97. It is not known how many of the victims actually received compensation from perpetrators, but according to lawyers and NGOs, perpetrators usually do not have assets in their name and victims do not receive assistance from the State for the enforcement of compensation orders. GRETA was informed of a case in which a lawyer working for an anti-trafficking NGO asked the court to oblige the defendant to work and pay part of his salary to the victim by way of compensation. In this case, the Sofia District Court issued a writ of execution in favour of a victim of trafficking for the amount of BGN 8 000 (approximately €4 000) awarded as compensation for moral damages by the perpetrator. The compensation was to be collected in the Sofia region. The lawyers representing the victim contacted all seven private enforcement offices competent for this region, explaining that the woman had no means to pay the fee for the execution of the enforcement, that she was a victim of a serious crime, and was being represented *pro bono*. Two of these offices agreed to form the enforcement case without an initial fee and collect it only if there were proceeds from the perpetrator's assets. Eventually, execution case No. 24/2018 was opened at the office of a private bailiff competent in the region of the Sofia Regional Court. She froze the bank account on which the perpetrator received his salary, but the latter sold his house, paying the notary a sum equal to half the compensation due to the victim. The bailiff then made an inventory of the perpetrator's remaining property with a view to auctioning three cars and his movable property.

98. In another case, the Vratsa District Court issued two writs of execution in favour of two victims of trafficking (mother and baby), each for the amount of BGN 10 000 (approximately €5 000) awarded as compensation for moral damages by the perpetrator. Execution cases No. 325/2020 and No. 326/2020 were opened at the office of a private bailiff competent in the region of the Vratsa Regional Court.

99. There have been a number of cases in which Bulgarian victims of THB were awarded compensation in other countries (e.g. the UK, Norway, Switzerland, France, the Netherlands).⁵⁹ When this happens and the compensation awards are considerable, NGOs look for ways to protect victims from being cheated out of the compensation award by their relatives or other persons, for example by setting up bank accounts which limit the amount of money that can be withdrawn.

100. If a victim of labour exploitation has worked under a labour contract, claiming unpaid wages is done pursuant to Article 245 in connection with Article 357 of the Labour Code, and if there was no labour contract, pursuant to Article 55 of the Law on Obligations and Contracts. Pursuant to Article 73, paragraph 3, of the Law on Encouraging Employment, employers who engage irregular foreign workers are obliged to pay them the wages agreed upon, and at least the minimum wages set in Bulgaria for a period of three months, unless there is proof that the period of work was longer. The payment of back wages is due even if the foreign worker has returned to his/her country.

101. Victims of trafficking are among the categories of victims of crime who can receive compensation from the State pursuant to the Law on the Assistance and Financial Compensation to Crime Victims, which transposes the provisions of Council Directive 2004/80/EC relating to compensation to crime victims. Under this law, victims can claim one-off financial compensation for material damages directly caused by the crime. The following costs can be compensated upon the provision of supporting documentations: 1. medical expenses, except for expenses covered by the budget of the National Health Insurance Fund; 2. lost income; 3. legal fees and litigation costs; 4. lost support to dependants; 5. funeral expenses; 6. other pecuniary damages (e.g. medical treatment; fees paid to lawyers; other court fees; lost wages). The maximum amount that can be awarded was increased to BGN 10 000 (equivalent to approximately €5 000).⁶⁰ State compensation can be granted after the entry into force of: 1. a guilty verdict, including in cases tried in the defendant's absence; 2. an agreement for settling the case in the pre-trial proceedings;⁶¹ 3. a prosecutorial or court instrument by which criminal proceedings are discontinued, except in cases where the discontinuation is in pursuance of Article 24, paragraph 1, items 1, 7, 9 and 11

⁵⁹ For more information, see the Bulgarian authorities' reply to GRETA's third round questionnaire.

⁶⁰ At the time of the second evaluation by GRETA, the maximum amount was BGN 5 000 (approx. €2 500).

⁶¹ The Law on the Assistance and Financial Compensation to Crime Victims was amended to allow victims to apply for compensation in cases where plea bargaining was used in the pre-trial phase.

of the CCP; 4. a prosecutorial or court instrument by which criminal proceedings are dismissed on the grounds of failure to identify the perpetrator of the crime. Compensation is granted after a decision of the National Council for Assistance and Compensation to Victims of Crime, which is not subject to appeal. Compensation is not awarded when: 1. the victim has been sentenced for a crime referred to in Article 3, paragraph 3, of the Law in the five years prior to applying for financial compensation; 2. the crime was committed in a state of high agitation, provoked by the victim with unlawful action, due to which grave consequences occurred or could have occurred for the perpetrator or the perpetrator's next-of-kin; 3. the crime was committed by exceeding the limits of reasonable self-defence; 4. the victim has received compensation by other means; 5. the victim did not report the crime to the competent authorities, except if the victim had valid reasons for failing to do so.

102. In its first report on Bulgaria, GRETA urged the Bulgarian authorities to make state compensation accessible to all victims of THB, irrespective of their nationality and residence status. The legal provisions have not changed in this respect. Article 1, paragraph 2, of the Law on the Assistance and Financial Compensation to Crime Victims provides that "in accordance with the terms and procedure under this Law, assistance and financial compensation may also be provided to foreign nationals in the cases laid down in treaties to which Bulgaria is a signatory." Therefore, according to the Bulgarian authorities, State compensation is accessible to all victims of trafficking, regardless of their nationality and residence status, if there is a treaty which provides for such an obligation to which Bulgaria is a signatory. All the other requirements mentioned in paragraph 101 would apply, including that criminal proceedings be initiated in Bulgaria. Victims can apply for state compensation after their return to their countries of origin. In practice, there have been no foreign victims of THB claiming compensation in Bulgaria.

103. GRETA was informed that, since the entry into force of the Law on the Assistance and Financial Compensation to Crime Victims in 2007, only one victim of THB had been awarded compensation by the National Council for Assistance and Compensation of Victims of Crime. The victim, a woman trafficked for the purpose of sexual exploitation, was awarded BGN 7 400 (approximately €3 700) in 2018 for expenses incurred in court and other legal expenses. According to specialised NGOs, the system for state compensation remains relatively unknown and the requirements are rather burdensome. In practice, victims of THB hardly ever claim state compensation, as they are unable to support their claims with documentation. Moreover, victims have to await the end of the criminal proceedings (either a final decision or a suspension/termination of the criminal proceedings) to obtain compensation. Some of the applications received by the National Council from victims of THB were turned down because the victims had participated in a settlement (plea bargaining) at the pre-trial stage, one of the requirements for which is that material damages be compensated, hence removing the possibility for state compensation.

104. During the third evaluation visit, GRETA was informed that working groups had been set up by the Ministry of Justice to prepare proposals for amendments to the Law on the Assistance and Financial Compensation to Crime Victims and the CCP, which concern victims of serious intentional criminal offences, which is related to the transposition of Directive 2012/29/EU. The proposals were published on 31 July 2020 for public consultation. The proposed amendments expand the list of procedural rights of victims, including the right to be accompanied by a person of their choice during the investigation, to receive a written translation of a possible refusal to initiate criminal proceedings, if the victim does not understand Bulgarian, and to restrict the possibilities for additional questioning of the victims as witnesses in order to avoid revictimisation. Further, the proposed amendments to the Law on the Assistance and Financial Compensation to Crime Victims include a new chapter on the individual assessment of victims, immediately after a crime has been reported, with a view to establishing special protection needs and to determine the measures to be taken in respect of the victim.

105. The previously mentioned brochure on victims' rights (see paragraph 46) includes information on how to claim compensation, which consists of quotes from the Law on the Assistance and Financial Compensation to Crime Victims. The National Council of Assisting and Compensating Victims of Crime has appointed a staff member who is available for two hours twice a week to provide consultations to victims on how to claim compensation.

106. In 2018-2019, the NGO Animus Association Foundation participated in the EU-funded project "Justice at Last", together with partners in other European countries, which involved research, advocacy and training on access to compensation for victims of trafficking.⁶² The project resulted in a number of recommendations on how to improve access to compensation for victims of THB. As part of this project, a leaflet on compensation for victims of THB was issued in Bulgaria, with practical information for lawyers and other professionals assisting victims.

107. Pursuant to Article 13, paragraph 1, of the Law on the Personal Income Taxation, compensation and other payments in cases of medium and grievous bodily injury, occupational disease or death, as well as compensation for pecuniary and non-pecuniary damages, with the exception of the compensation for loss of profit, are non-taxable.

108. It is also possible for victims of THB to submit a request for a one-off financial assistance pursuant to the Law on Social Assistance (BGN 375, or the equivalent of €188).

109. Further, victims of THB have the right to compensation from the State for the excessive duration of the criminal proceedings, on the basis of the Law on the Judicial System, or through a civil claim pursuant to Article 26 of the Law on the Responsibility of the State and Municipalities for Damages. By way of example, in 2018, the Ministry of Justice paid BGN 1 000 (approximately €500) in compensation to a woman who was a victim of trafficking, due to the fact that the criminal case had lasted almost five years, during which time she had been cross-examined twice in a courtroom in the presence of the defendant. Of relevance in this respect is the European Court of Human Rights judgment of 3 March 2015 in the case of *S.Z. v Bulgaria* (application No. 29263/12) in which the Court found a violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights on account of the shortcomings in the investigation carried out into the illegal confinement and rape of the applicant, having regard in particular to the excessive delays in the criminal proceedings.⁶³

110. GRETA is concerned that, in practice, the effective access of victims of trafficking to compensation remains sporadic. Despite the possibility given under Bulgarian law for victims to constitute themselves as civil claimants and/or private prosecutors in the criminal proceedings, this happens relatively rarely, only when the victim is supported by an NGO which ensures that he/she is represented by a specialised lawyer. In practice, most trafficking victims are treated as witnesses and not as injured parties entitled to compensation. Victims are reluctant to claim compensation due to the length of legal proceedings and the track-record of failed compensation claims. Further, the effective enforcement of compensation awards is a recurring problem. Moreover, the requirements to be met for a victim of trafficking to be eligible for State compensation are so high that only one such victim has received State compensation.

111. GRETA urges the Bulgarian authorities to make additional efforts to guarantee effective access to compensation for victims of THB, in particular by:

- **ensuring that the collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation of the victim or loss sustained by the victim, is part of the criminal investigations with a view to supporting compensation claims in court;**
- **ensuring that the Prosecutor's Office applies in practice Article 51 of the CCP by claiming compensation on behalf of child victims in the course of the criminal trial;**

⁶² As part of the project "Justice at Last", the publication "Together against human trafficking: Compact Knowledge for Practitioners: Criminal Matters, Compensation and Victim Protection" authored by Barbara Steiner, Evelyn Probst (LEFÖ-IBF) and Manfred Buchner (MEN VIA) was published in 2018. It is available in German at: http://www.lefoe.at/tl_files/lefoe/Kompaktwissen_Strafrecht_Menschenhandel_April2019.pdf

⁶³ [https://hudoc.echr.coe.int/eng#{"itemid":\["001-152630"\]}](https://hudoc.echr.coe.int/eng#{)

- **making full use of the legislation on the freezing and forfeiture of assets, as well as international co-operation, to secure compensation to victims of THB, and ensure that recoverable property which is seized in criminal proceedings is returned as soon as possible to the victim;**
- **introducing a procedure through which victims are entitled to obtain a decision on compensation from the offender as part of the criminal trial and requiring courts to state, where applicable, why compensation is not considered;**
- **including the topic of compensation in the training programmes for lawyers, prosecutors and judges and encouraging them to use all the possibilities the law offers to uphold compensation claims by victims of THB;**
- **facilitating access to state compensation by setting up as a matter of priority a victim compensation fund which uses confiscated assets of perpetrators of human trafficking to fund compensation and reparation, and simplifying the procedure and eligibility criteria for claiming compensation.**

112. **Further, GRETA considers that the Bulgarian authorities should take further steps to enable access to compensation for victims of trafficking by making compensation awarded in criminal proceedings payable by the State in advance, and the State taking the responsibility to recover the amount from the offender.**

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

113. 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.

114. 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.

115. 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.

116. In Bulgaria, the penalties envisaged for the basic offence of trafficking in human beings in Article 159a of the CC are imprisonment of two to eight years and a fine ranging from BGN 3 000 to 12 000. The penalty for trafficking of children is imprisonment from three to 10 years and a fine ranging from BGN 10 000 to 20 000. The same penalty is envisaged when abusive means have been applied (coercion, deception, kidnapping, abuse of power, abuse of a state of dependency, abuse of an official position...). When a pregnant woman has been trafficked with the aim of selling her child, the punishment is imprisonment from three to 15 years and a fine ranging from BGN 20 000 to 50 000. Pursuant to Article 159d of the CC, trafficking committed by an organised criminal group is punishable by imprisonment of five to 15 years and a fine ranging from BGN 20 000 to 100 000, and the court may order the partial or full confiscation of the perpetrator's property.

117. Further, Article 227 of the CC criminalises the employment of five or more foreign nationals residing irregularly in Bulgaria; the penalties are imprisonment of up to four years and a fine ranging from BGN 2 000 to 20 000). Aggravating circumstances apply when the foreign national is a child, and when the conditions in which the person is employed differ considerably from the conditions in which legally employed persons work and violate human dignity (up to five years of imprisonment). This provision could be applied to the employment of irregular migrants, with the knowledge that the person is a victim of trafficking. However, there have been no convictions under Article 227 of the CC.

118. The administrative responsibility of legal persons is provided for under Article 83a of the Law on Administrative Violations and Sanctions, pursuant to which a legal person which has enriched or may enrich itself from a crime committed by an individual controlling, managing or representing that legal person is punishable by a pecuniary penalty. Under Bulgarian criminal law, criminal liability is personal and only natural persons can be criminally liable. The Bulgarian authorities have indicated that therefore convictions of THB against legal entities are not possible.

119. According to data provided by the Supreme Cassation Prosecutor's Office, the number of newly instituted pre-trial proceedings in THB cases was 85 in 2015, 104 in 2016, 86 in 2017, 60 in 2018, and 87 in 2019.⁶⁴ Prosecutors filed charges in 51 cases concerning THB in 2015 (involving 99 defendants), 45 in 2016 (involving 80 defendants), 65 in 2017 (involving 88 defendants), 53 in 2018 (involving 68 defendants) and 41 in 2019 (involving 73 defendants). The number of persons convicted with effective sentences was 49 in 2015, 36 in 2016, 62 in 2017, 58 in 2018 and 61 in 2019. Since 2014 no data has been collected by the Supreme Cassation Prosecutor's Office as regards the length of punishments imposed by final convictions.⁶⁵

120. The Supreme Court of Cassation, which is the third court of appeal and the highest judicial authority for criminal proceedings, civil proceedings and commercial disputes in Bulgaria, has considered a number of THB cases, the vast majority of which concerned trafficking for the purpose of sexual exploitation. In 2019, the Supreme Court of Cassation considered five THB cases. In one of the cases, which involved recruiting a pregnant woman for the purpose of selling her new-born baby in 2014, the Supreme Court of Cassation decided to lower the penalty imposed on the defendant from three years and six months, to three years' imprisonment and to suspend the punishment for five years.⁶⁶ According to Supreme Court of Cassation judges met by GRETA, the highest penalties imposed for THB in recent years were 13 year's imprisonment and a fine of BGN 100 000⁶⁷ (approximately € 50 000) and eight years' imprisonment and a fine of BGN 40 000.⁶⁸ However, in the majority of the final court decisions provided to GRETA, the imprisonment penalties were not longer than three years. GRETA is concerned that the

⁶⁴ The number of pre-trial proceedings continuing from previous years was 294 in 2015, 312 in 2016, 325 in 2017, 295 in 2018 and 288 in 2019.

⁶⁵ Such data used to be collected pursuant to the Instruction for the information activity of the Prosecutor General, which was repealed in 2014.

⁶⁶ Supreme Court of Cassation Decision No. 160 of 19 November 2019. In another cases of THB of pregnant women, the Supreme Court of Cassation confirmed the penalties imposed by the Appeal Court of respectively, two years and six months, and three years' imprisonment (Supreme Court of Cassation Decision No. 110 of 5 June 2018 on case No. 335/2018).

⁶⁷ Supreme Court of Cassation Decision No. 426 of 10 December 2015, related to criminal case No. 1278/2015.

⁶⁸ Supreme Court of Cassation Decision No. 244 of 13 February 2019.

majority of prison sentences for THB are on the lower part of the sentencing scale.

121. GRETA was informed that because the lower threshold of the penalty for THB is two years, judges can give suspended sentences (Article 66 of the CC)⁶⁹ and that this happens frequently. The number of suspended sentences in cases of THB was as follows: in 2015, 31 out of 48 convicted persons; in 2016, 23 out of 36 convicted persons; in 2017, 41 out of 62 convicted persons; and in 2018, 43 out of 58 convicted persons. According to lawyers representing trafficking victims, an increase in the lower threshold of the penalty for THB would remove the possibility of a suspended sentence. In case of a suspended sentence, an effective guarantee is the imposition of a probation measure;⁷⁰ however, this is at the discretion of the judge, where the suspended prison sentence is not less than six months (Article 67, paragraph 3, of the CC). Systematic imposition of probation measures to perpetrators of THB, such as compulsory vocational training or labour, can be to the benefit of victims as they can collect any compensation awarded from the perpetrator's salary.

122. Chapter 29 of the CCP "Settlement of the case by plea agreement" sets out in detail the procedure for finalising criminal proceedings with a plea (Article 381 et seq. of the CPC), which is also applicable to THB cases. Plea bargaining is used in a considerable number of THB cases, the procedure is rapid and the sentences are usually lenient. The settlement of the case under the plea agreement does not preclude compensation for the damage sustained by the victim.

123. The statistical information provided by the Bulgarian authorities does not provide a breakdown of cases according to the type of exploitation, but GRETA was informed that there have been very few court decisions concerning THB for the purpose of labour exploitation. Reportedly, there was only one conviction in 2017, concerning animal husbandry in the Sofia region (see paragraph 200). Further, in one case considered by the Regional Court in Dupnitsa, there was evidence of labour exploitation in addition to the charges of sexual exploitation, but no charges were brought of labour exploitation. The concept of "labour exploitation" is not defined in Bulgarian law and case-law, and it is reportedly difficult to prosecute cases of trafficking for the purpose of labour exploitation (see paragraph 201).

124. According to Bulgarian media reports published in September 2019 and February 2020,⁷¹ the Bulgarian police detected criminal groups involved in recruiting persons for the purpose of organ removal, who were trafficked to Turkey where the transplantations took place. The "donors" were reportedly paid between €5000 and €7000 for a kidney. The Bulgarian authorities have indicated that there is an ongoing investigation in one case of THB for the purpose of organ removal, which was opened in 2019; the pre-trial proceedings are underway at the Investigative Department of the Prosecutor's Office.

⁶⁹ Where the court establishes that the conditions provided for by Article 66 of the CC are cumulatively fulfilled (i.e. the sentence is up to three years' imprisonment, the defendant has not been previously convicted, and the court does not consider it necessary for the convicted person to serve the sentence in order for the purposes of the penalty to be achieved and, above all, the convicted person to reform), it shall suspend the enforcement of the prison sentence.

⁷⁰ The probation measures defined in Article 42a of the CC are: "1. Compulsory registration at the current address; 2. Mandatory regular appointments with a probation officer; 3. Restrictions on free movement; 4. Admission to vocational training courses, public intervention programmes; 5. Corrective labour; 6. Community service."

⁷¹ <https://dnes.dir.bg/krimi/balgariya-razbi-mrezha-za-trafik-na-organi>; <https://novini.bg/sviat/balkani/581729>

125. Civil society organisations have referred to a number of suspected cases of THB which were dropped at the pre-trial stage. According to prosecutors met during the visit, when trafficking victims do not co-operate in the investigation, the cases are dropped. In a large part of the cases, victims are considered to have participated voluntarily in the exploitation because they received some payment for their work/services and therefore did not consider themselves as victims. In Plovdiv Regional Court, there was only one THB case in 2019 (in which the victim was a witness) and the scarcity of case-law was explained by the lack of evidence. In a number of cases, the victims are women and girls from the Roma community who have been trafficked for the purpose of sexual exploitation, sometimes by family members, and who refuse to testify against the perpetrators. During the previously mentioned project involving the monitoring of 30 court cases in six towns (see paragraph 64), it was observed that prosecutors usually refer to such women as “prostitutes” and not as victims. GRETA is concerned by the persistence of entrenched negative attitudes and prejudices vis-à-vis victims of trafficking.

126. As explained in GRETA’s first and second reports, the basic offence of THB, as laid down in Article 159a, paragraph 1, of the CC, is a combination of action and exploitative purpose, while the means are considered as aggravating circumstances under Article 159a, paragraph 2, of the CC. Therefore, to prove the *corpus delicti*, it is sufficient to demonstrate that one of the actions took place with the purpose of exploitation, without having to prove the use of means.⁷² The Bulgarian authorities have stated that this facilitates the prosecution of traffickers by lowering the evidential requirements; however, GRETA notes that the information in paragraph 125 suggests that this may also have the effect of making the prosecution dependant on the victims’ complaint or testimony.

127. In Blagoevgrad, GRETA was informed of a case in which the victim constituted herself as a private prosecutor and criminal proceedings were instituted not only against the trafficker, but also against police staff. The main accusation was against a private person for THB, and a police officer was charged with aiding and abetting the trafficker under Article 129, paragraph 2, of the CC and Article 144, paragraph 3, of the CC.⁷³ The Supreme Court of Cassation informed GRETA that upon appeal, the Blagoevgrad Regional Court overturned the conviction of one defendant (an intelligence officer at the Blagoevgrad Department for Combating Organised Crime), by appellate verdict No. 5171 of 28 November 2019. Another defendant – a police inspector at the First District Police Office of Blagoevgrad – was partially acquitted upon appeal. The prosecutor objected the appellate verdicts before the Supreme Court of Cassation. By ruling No. 124 of 24 July 2020, the Supreme Court of Cassation rejected the cassation review proceedings and the case was referred back to the Blagoevgrad Regional Court in order for it to fulfil instructions given by the Supreme Court of Cassation (concerning procedural matters). After these instructions have been fulfilled, the case should be sent back to the Supreme Court of Cassation. According to information provided by the Ministry of the Interior, the police officer has been dismissed by the Ministry on disciplinary grounds.

128. In another case against an organised criminal group running a brothel in Sofia and recruiting women from the village of Tuzha (Stara Zagora region) to work in it, charges were brought against the Mayor of the village, as the leader of a criminal group.⁷⁴ A compensation claim for moral damages was lodged on behalf of one of the victims. According to the Commission for Combating Corruption and Forfeiture of Illegally Acquired Property, no court judgment ordering the forfeiture of illegally acquired property has been delivered against the mayor of the village, who continues to fulfil this role.

⁷² See Interpretative Decision No. 2 of the Supreme Court of Cassation, 16 July 2009.

⁷³ Sentence of the District Court of Blagoevgrad No. 5183 of 31.05.2018; http://blagoevgradrc.judiciary-bg.org/Courts/RC/Blagoevgrad/web_access_rc.nsf/ActionVew/B00E3D26ACB126DFC225829F00310D6D

⁷⁴ Decision of the Specialised Criminal Court (composition 18) of 24.10.2018 in criminal case No. 3420/2018.

"Tuzha" case

- **Trial court:** Specialised Criminal Court
- **Prosecution file number:** 326/2017
- **File number of the main court case:** 4353/2018
- **Time and duration of the pre-trial proceedings:** 26.10.2017 to 26.11.2018 (1 year and 1 month)
- **Victims:** originally there were 10 presumed victims of THB, but only one filed a compensation claim; the victims were citizens of Bulgaria, recruited in the village of Tuzha and exploited in Sofia.
- **Defendants:** Nine defendants (two female, seven male), one of the defendants was effectively serving as Mayor of the village of Tuzha. All defendants were citizens of Bulgaria.
- **Charges:**
 - o Article 321, paragraph 1, of the CC (leading an organised criminal group – the Mayor)
 - o Article 321, paragraph 2, of the CC (participating in an organised criminal group)
 - o Article 159d of the CC (trafficking in human beings)
- **Type of exploitation:** Trafficking in human beings for the purpose of sexual exploitation
 - o Most of the victims had been approached and recruited in Tuzha, either personally or through social media, their travel to Sofia was organised by the defendants, they were accommodated in apartments rented by the defendants. The victims were usually exploited for several months before new victims were brought in.
 - o The victims had agreed to provide sexual services on the basis of splitting the money earned 50:50 with the defendants, but often were allowed to keep less due to debts.
 - o The conditions under which the victims worked were exploitative (e.g. no days off, regardless of sickness or menstruation, availability 24 hours per day, constant monitoring, seven days per week, no right to reject customers or sexual practices).
- **Sentences:** Eight of the defendants, including the Mayor, confessed to the crimes and were sentenced to either two or three years' imprisonment, suspended. The only defendant who was tried was sentenced to four years' effective imprisonment (verdict of the Specialised Criminal Court, composition 12, dated 14 May 2019 in criminal case No. 4353/2018). None of them was sentenced to a fine or confiscation. The Prosecution notified the Commission for Combating Corruption and Forfeiture of Illegally Acquired Property about the criminal proceedings.
- **Execution of the sentences:** In October 2018 and before the delivery of the final court decision confirming his guilt, the Mayor of Tuzha was issued a clear criminal record certificate. The validity of this certificate is six months, accordingly, he continued serving his post for another six months following his sentencing.
- **Legal assistance:** One victim was granted social, legal and financial support for the proceedings, provided by NGOs, including social and legal assistance by "Health Without Borders" and financial assistance for court fees by A21-Campaign Bulgaria.
- **Compensation:** One victim initiated civil proceedings against the defendants, claiming compensation for moral and material damages (civil case No. 64718/2019 of the Sofia District Court, composition 176). On 25 February 2020 the court returned the claim for material damages as inadmissible because it "contradicts the law", since "the provision of Article 329, paragraph 1 of CC criminalises" sex work. The proceedings are pending. The victim claims BGN 14,000 for moral damages and BGN 11,000 for material damages.
- **Good practices:**
 - o An NGO specialised in providing health services to sex workers and campaigning for prevention of HIV won a project which included the provision of legal aid. In the course of the implementation of this project, the victim met a qualified lawyer, who built a relationship of trust and developed continuity. This made it possible for the victim to understand her role in the trial, to be involved until its end and to be motivated to initiate separate court proceedings claiming compensation before a civil court.
 - o The investigation was processed expeditiously.

129. Continuing issues of concern are the duration of criminal proceedings, both in the pre-trial and the trial phase, and the number of interrogations of victims. According to judges met during the visit, final judicial decisions are given for offences which took place some eight years previously. This is explained by the fact that the perpetrators are often members of organised criminal groups operating transnationally, which slows down the procedure. An illustration is the case of *S.Z. v. Bulgaria*,⁷⁵ which lasted in total 15 years, during which the victim was repeatedly interrogated. This put an extremely heavy burden on the victim as related by the lawyer who brought the case to the ECtHR: "The victim would receive summons for each hearing and we would prepare for it. Preparation meant reading the previous statements given by her in front of the police officers, recalling the events, re-visiting the village where the crime took place because in the meantime she had left this village for good, discussing the conduct in the court room, the position of the witness with respect to the defendants, entering inside the court building, all of which was very painful for her. And then the hearing did not take place and the case was adjourned for some procedural issues, for example that the defence lawyers could not come. This happened four times in a row before the victim could actually testify in court. Since every subsequent hearing was scheduled three months after the other, it took one year of real torture for the victim". The Court found a violation of Article 3 (prohibition of inhuman or degrading treatment) noting that "the excessive length of the proceedings had undeniably had negative repercussions on the applicant, who had clearly been in a very vulnerable psychological condition following the assault. She had been left in a state of uncertainty regarding the possibility of securing the trial and punishment of her assailants, had had to return to the court repeatedly and been obliged to relive the events during the many examinations by the court".

130. The Prosecutor's Office and the National Investigation Service follow a methodology (guidance) for investigating THB offences, which is available on their respective intranets. This methodology was last revised in 2015; it provides examples of questions to be put to victims and expressly mentions that in the course of the investigation the amount of the criminal proceeds needs to be established. GRETA was informed of cases of transnational THB (in Germany and Austria) in which it was established that money had been transferred via the Western Union to family members in Bulgaria, the banking secrecy was lifted, and documents were provided by the Western Union proving the transfers.

131. New police officers are trained at the Academy of the Ministry of the Interior, and the subject of THB is included in the curriculum. Specialised modules on THB are provided to senior police officers. Further, with support from the UK Embassy in Sofia, training on financial investigations was provided to police officers of the Main Department for Combating Organised Crime, and they were provided with a kit for proactive investigations.

132. Training of the judiciary is provided at the National Institute of Justice as well as under different projects, including with international partners (e.g. UK Embassy, US Embassy). The obligatory training of junior judges, prosecutors and investigators includes human trafficking. Serving judges are not obliged to follow training. Various interlocutors noted that the general knowledge of judges of THB and their sensitivity to the position of trafficking victims is still low.

133. The Association of Prosecutors, in collaboration with the NCCTHB, international partners and NGOs, organise several training sessions on THB annually, which involve prosecutors, judges and investigators. The issue of victim compensation is reportedly addressed during this training. By way of example, in 2016, 35 prosecutors, five judges and five investigators were trained under a project funded by the German Foundation Hans Seidel. In January 2020, the British Embassy organised a training of 35 prosecutors, five investigators from the National Investigative Service and 5 judges.

⁷⁵ *S.Z. v. Bulgaria*, Appl. no. 29263/12, 3 March 2015.
<https://hudoc.echr.coe.int/eng#%7B%22docname%22:%5B%22CASE%20OF%20S.Z.%20v.%20BULGARIA%22%22%7D,%22documentcollectionid%22:%5B%22GRANDCHAMBER%22,%22CHAMBER%22%7D,%22itemid%22:%5B%22001-152850%22%7D%7D>

134. GRETA is concerned that a significant number of the penalties upon conviction for THB were suspended. Moreover, many criminal proceedings end when a settlement is made between the prosecution and the perpetrator. Too much emphasis is put on the victim's testimony during criminal investigations. If proceedings are built solely upon the victim's testimony, this puts an exorbitant amount of pressure upon the victim, who is often vulnerable and possibly traumatised. Failure to convict traffickers and the absence of effective sentences engenders a culture of impunity and undermines efforts to support victims to testify. The knowledge and sensitivity of judges, prosecutors and investigators about the seriousness of THB, the severe impact of exploitation on the victims and the need to respect their human rights should be improved. The concept of "abuse of a position of vulnerability", which is part of the international definition of THB, should be properly understood and applied in practice.

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

- **ensuring that human trafficking offences are proactively and promptly investigated, regardless of whether a complaint about the reported crime has been submitted or not, making use of special investigation techniques in order to gather material, documental, financial and digital evidence and not having to rely exclusively on testimony by victims or witnesses;**
- **requiring consideration of allocation of specialist financial investigators to every THB case;**
- **sensitising prosecutors and judges to the rights of victims of THB, and encouraging the development of specialisation amongst prosecutors and judges to deal with THB cases;**
- **strengthening efforts to investigate, prosecute and convict traffickers of labour exploitation;**
- **ensuring that THB prosecutions lead to effective, proportionate and dissuasive sanctions for those convicted. If an alternative charge is preferred in THB cases, this should be recorded and monitored by the Prosecutor's Office. The plea-bargaining procedure should be 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 the agreement is not in any way detrimental to the rights of the victims, including their access to compensation;**
- **ensuring that the length of court proceedings in cases of trafficking of human beings is reasonable, in line with the case-law of the European Court of Human Rights (related to Article 6, paragraph 1 of the ECHR) and the standards set by the European Commission for the Efficiency of Justice (CEPEJ).⁷⁶**

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

8. Non-punishment provision (Article 26)

136. 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.⁷⁷ 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.

137. In its second report on Bulgaria, GRETA welcomed the adoption in 2013 of Article 16a of the CC, which reads as follows: "An act shall not be considered culpably committed if performed by a person who is a victim of human trafficking and who was forced to perform the act in direct relation to being such a victim." Article 16a of the CC should be read in conjunction with Article 143 of the CC, which classifies coercion as a crime and Article 20 of the CC on complicity. The conclusion is that victims of trafficking in human beings are not punished for participating in illegal activities that they have been forced to do in such capacity. Criminal liability will be borne by the person who has coerced them to commit the crime.

138. As noted in GRETA's second report, while prostitution is not criminalised in Bulgaria, Article 329, paragraph 1, of the CC (entitled "earning income in an immoral way")⁷⁸ is used to prosecute persons engaged in prostitution. For victims of trafficking for the purpose of sexual exploitation, this practice poses a threat of being punished. The draft new CC (which has been awaiting approval since 2013) reportedly does not include this provision.

139. The Law on Child Protection envisages as a protective measure the placement of children, including child victims of trafficking, in crisis centres for children. The placement has to be requested by the Social Assistance Directorate and the Prosecutor's Office, and authorised by a court. GRETA notes that crisis centres for children are closed-type establishments, i.e. the entrance to the centre is kept locked, there are bars on the windows, and if a child leaves the centre on his/her own account, the police is informed and searches for the child. In its judgment of 29 November 2011 in the case of *A. and others v. Bulgaria*,⁷⁹ the European Court of Human Rights found that placement in a crisis centre for children (for a period of six months) is equivalent to deprivation of liberty as defined in Article 5, paragraph 1, of the ECHR. There are other protection measures envisaged by law, such as placement in a foster family, but they are reportedly rarely used.⁸⁰

140. While welcoming the existence of a specific provision on the non-punishment of victims of THB, GRETA considers the Bulgarian authorities should take further measures to ensure effective compliance with the principle of non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so. Such measures should include the development of guidance for police officers and prosecutors on the scope and application of the non-punishment provision,⁸¹ including with regard to the application of Article 329, paragraph 1, of the CC.

⁷⁷ See 2nd General Report on GRETA's activities, paragraph 58.

⁷⁸ Article 329, paragraph 1, CC, reads as follows: "An adult capable for work who for a long time does not engage in any socially useful work, but receives unearned incomes in an illegal or immoral way, shall be punished by imprisonment for up to two years or probation."

⁷⁹ <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-107583%22%7D>

⁸⁰ Natasha Dobрева, Marijan Wijers, Nadya Kozhuharova, *Legal procedures for the protection of victims of human trafficking: Guidance for lawyers*, Sofia, 2015, p. 71.

⁸¹ See OSCE, Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking, 2013, available at: <https://www.osce.org/secretariat/101002?download=true>

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

141. 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.

142. 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.

143. As explained in GRETA's second report on Bulgaria, three instruments address the issue of protection of the victims of human trafficking: the Law on Protection of Persons at Risk in Relation to Criminal Proceedings, the CCP and the Anti-Trafficking Law.

144. The CCP envisages two main protection measures for victims: physical protection and secret identity (anonymity). Protection is provided upon the explicit request of the victim or his/her lawyer. If these measures are not sufficient, the Law on Protection of Persons at Risk in Relation to Criminal Proceedings, providing for a special witness protection programme which can include a change of residence and change of identity, can be applied.

145. Pursuant to Article 139, paragraphs 7 and 8, of the CCP, witnesses can give testimony by a videoconference or telephone. Further, Article 141 of the CCP, entitled "Questioning of a witness with hidden identity", provides for the use of videoconference and telephone while changing the voice and image of the witness.

146. In 2017, the CCP was amended to introduce the requirements of EU Directive 2012/29 establishing minimum standards on the rights of, support for, and protection of, victims of crime. There is a possibility to request an expert opinion on the need for specific protection of participants in the criminal proceedings. "Specific protection needs" within the meaning of the CCP are in place when additional means of protection against secondary victimisation and re-victimisation, intimidation and revenge, emotional or mental suffering, including the preservation of dignity of victims during interrogation, are required. Persons with special protection needs must be immediately notified if the accused violates the custodial measure of home arrest or imprisonment, or if that measure is postponed, revoked or replaced by a non-custodial measure. During the questioning of a witness with specific protection needs, measures to avoid contact with the defendant must be taken, including by videoconference or telephone (Article 139, paragraph 10, of the CCP). These provisions are applied upon specific request by the victim and the court has to justify the use of audio-visual means so that the rights of the defendant are not violated. Further, the repeated questioning of a witness with specific protection needs is allowed only when his/her testimony cannot be read out under the conditions of Article 281 of the CCP or the new questioning is

crucial for revealing the truth. The questioning takes place while avoiding contact with the defendant, including in specially equipped premises.

147. There are two ways to avoid cross-examination ("direct confrontation") of victims and defendants: questioning in a "blue room" (see paragraph 151) and keeping the identity of the victim secret. In the latter case, if the prosecutor gives permission, all information concerning the victim (personal data) has to be removed from the case file, and the victim is assigned an identification number.

148. Pursuant to Article 223 of the CCP, in pre-trial proceedings, when there is a danger that the witness might not appear in court and it is necessary to secure his/her testimony, the judge can question the victim in the presence of the defendant and his lawyer (who can put questions to the victim). This makes it possible for the victim to be freed from the obligation to appear in court and to request that the testimony given to the judge at the pre-trial stage be read out in court, pursuant to Article 281 of the CCP.

149. During investigations the victim can be accompanied by a social worker. When a victim participates in the proceedings as a civil claimant or private prosecutor, his/her lawyer can be present in court in place of the victim.

150. Under Article 263, paragraph 2, of the CCP, it is possible to exclude the public from the court room when this is in the interest of public decency (morality) and in order to keep secret the identity of witnesses. This measure is applied by the court on its initiative without the need for request by the victim/witness or their lawyer. It is reportedly often applied in cases of THB for the purpose of sexual exploitation.

151. Specially equipped facilities for interviewing children involved in criminal proceedings, known as "blue rooms", have been set up in a number of cities in Bulgaria where child victims of trafficking can be questioned in a child-friendly manner. During the third evaluation visit, prosecutors informed GRETA that the "blue rooms" are used quite frequently at the pre-trial stage, both for child and for adult victims, to avoid contact with the trafficker. There is reportedly a move towards opening more "blue rooms" in court buildings.

152. GRETA was informed by investigators and prosecutors that the most commonly used protection measures are police measures, such as inspection visits to the addresses of the victims, physical protection by police officers, or keeping the victims' identity secret. A risk analysis and needs assessment is reportedly carried out, following which the most appropriate measures are taken with the written consent of the victim. GRETA was provided with one example of a case of THB in which the competent prosecutor requested the application of protection measures under the Law on Protection of Persons at Risk in Relation to Criminal Proceedings in respect of the victim, her daughter and her nephew, and their inclusion in the special witness protection programme (change of residence, provision of social, medical, psychological, legal and financial assistance, and temporary creation of new basic data).

153. For details concerning the protection of children in court proceedings, see the separate section below (paragraphs 174-180).

154. GRETA welcomes the more frequent use of the "blue rooms" to interview children and other vulnerable victims of THB. GRETA considers that the Bulgarian authorities should make full use of the available measures to protect victims and witnesses of THB and to prevent intimidation during the investigation and during and after the court proceedings. The "blue rooms" set up around the country should be used systematically to interview child and other vulnerable victims of THB, and to use the testimony given in such rooms in court, thus avoiding repeated questioning of victims.

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

155. 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.

156. The Main Directorate for Combating Organised Crime of the Ministry of the Interior has the competence for combating trafficking in human beings in all its forms. A specialised unit has been established, with 16 police officers, and there are also designated officers at the regional directorates for combating organised crime who work as a priority on THB cases. In addition to investigations, the tasks of the specialised unit include prevention, international co-operation, training, participation on the NRM and the permanent expert working group of the NCCTHB.

157. A specialised money laundering unit has been set up at the Main Directorate for Combating Organised Crime, which is involved in tracking cash flows and identifying property acquired as a result of criminal activity, including trafficking in human beings. Within its powers, the Directorate conducts financial investigations against money-laundering by organised criminal groups. In this regard, the specialised unit actively participates in the established Joint Investigation Teams dealing with trafficking in human beings.

158. The National Investigation Service assigns cases of THB (subject to the principle of random distribution) only to investigators in Specialised Division 2 - Criminal, who have extensive practical experience in this field.

159. The Specialised Court for Organised Crime was set up in 2012 to try organised crime cases involving three or more perpetrators, including THB cases. Further, the Specialised Prosecutor's Office deals with organised crime cases.

160. **GRETA welcomes the existence of police investigators specialised in trafficking in human beings, and considers that the Bulgarian authorities should promote specialisation and training of prosecutors and judges to deal with THB cases (see also paragraph 135).**

11. International co-operation (Article 32)

161. 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 instruments⁸² on mutual legal assistance and extradition, reciprocal arrangements between Parties to such instruments and relevant provisions of domestic law concerning international co-operation.

⁸² 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.

162. The Main Directorate for Combating Organised Crime co-operates actively with partners in foreign countries in the fight against trafficking in human beings, using established police co-operation channels such as Europol, Interpol, SELEC and police liaison officers. Bulgaria has participated in many Joint Investigation Teams (JITs) in cases of THB, which are considered an efficient model of co-operation in investigating transnational organised crime. The Main Directorate for Combating Organised Crime has been involved in 17 JITs regarding human trafficking (six in 2018). At the time of GRETA's visit in December 2019, there were three active JITs (two involving sexual and one labour exploitation). All JITs involved a parallel money-laundering investigation.

163. The Bulgarian authorities could not provide information on the number of mutual legal assistance requests and European Investigation Orders made in THB cases. However, they provided a number of examples of international co-operation in the investigation of THB cases. In one case, 23 Bulgarian victims of trafficking for the purpose of exploitation of begging were identified in France. Through co-operation with the French authorities and NGOs, the victims were assisted and returned to Bulgaria, and the perpetrators were apprehended in France. In another case of THB for the purpose of sexual exploitation in Germany, following a proactive investigation, the Bulgarian authorities passed on information to Germany where a special operation was organised, victims were identified and placed in shelters, and the perpetrators were apprehended. In a third case concerning THB for the purpose of sexual exploitation in London, the victims were transsexuals who had been recruited with promises of a good payment, but were confined in private homes and obliged to work. A JIT was created, the victims were placed in shelters, and the perpetrators were apprehended and prosecuted in the UK. A freezing order of the perpetrator's assets was issued by the Prosecutor's Office.

164. Within the framework of international co-operation, a staff member of the Main Directorate for Combating Organised Crime participated as a national expert in the European Multidisciplinary Platform against Crime Threats - EMPACT under the Priority Area "Trafficking in Human Beings". Further, Bulgarian law enforcement agencies participate regularly in Europol's Joint Action Days.

165. The Labour Inspectorate (the full title is General Labour Inspectorate Executive Agency) has provided examples of co-operation with other countries. In 2018, joint initiatives were carried out with France in the framework of the agreement for co-operation between Bulgaria and France in the fight against undeclared work and compliance with social legislation in cases of transnational movement of workers and services. As a result of these activities, it was noted that there is a need to raise employees' awareness of their rights, as well as a better understanding of procedures, sanctions and handling of documents with a view to fostering direct exchange based on trust. As a "liaison office" under Article 4 of Directive 96/71 /EC and "Competent Authority" under Directive 2014/97/EC, the Labour Inspectorate exchanges information with other EU Member States via the Internal Market Information System (IMI). In 2018, through this system the Labour Inspectorate processed a total of 207 requests for information (inquiries), of which 25 were made by the Bulgarian Labour Inspectorate and 182 by labour inspectorates of other EU Member States. In the main part, the inquiries relate to the verification of circumstances concerning the lawful secondment of workers from Bulgarian companies, clarification of circumstances with regard to actions of employers who try to circumvent the requirements of the labour legislation, attempts at labour exploitation, social dumping and fraudulent posting of workers. Inquiries received through IMIS led to inspections of 105 seconding or posting companies in the framework of the provision of services. Through the IMI system, in 2018 the Labour Inspectorate received three requests for serving documents, one request for informing a service provider in Bulgaria about a sanction/fine, and four requests for the collections of fines from Italy, Austria and the Netherlands, amounting in total to BGN 1 222 496 (approximately €626 000).

166. The NCCTHB has participated in a number of joint projects and initiatives in combating and preventing human trafficking with partners from the Czech Republic, France, the Netherlands, Switzerland and the United Kingdom. Reference has already been made in previous sections of this report to the Bulgarian-Swiss Programme of Co-operation for the Prevention of THB and the Identification, Protection, Support, Return and Reintegration of Victims (2015-2018). Further, in 2016-2018, Animus Association Foundation, IOM Bulgaria and the NCCTHB, together with partners from three other countries, implemented the project "SAFE! Safe and adequate return, fair treatment and early identification of victims of trafficking who are third-country nationals", funded by the EU.⁸³

167. Other Bulgarian institutions frequently participate in international projects. For example, the Centre for the Study of Democracy and the Ministry of the Interior are currently involved in the EU-funded project FLOW - Flows of illicit funds and victims of human trafficking: uncovering the complexities" (2018-2020), together with Finland (HEUNI), Estonia and Latvia. Further, the Confederation of Independent *Trade Unions* of Bulgaria (KNSB) participates in a number of international projects and has concluded agreements related to protecting the rights of posted workers (e.g. with the German Trade Union Confederation DGB).

168. GRETA welcomes the Bulgarian authorities' participation in multilateral and bilateral international co-operation, and invites them to continue their efforts in this respect, in particular with regard to financial investigations and enforcement of compensation orders. The positive use and benefits of utilising Eurojust should be included in training to police officers, prosecutors and judges.

12. Cross-cutting issues

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

169. As noted in 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.⁸⁴

170. Women encounter obstacles with respect to access to justice within and outside the legal system. Some of these obstacles are of a legal or institutional nature, while others have socio-economic and cultural grounds. The legal and institutional barriers include discriminatory or insensitive legal frameworks including legal provisions that are explicitly discriminatory; gender blind provisions that do not take into account women's social position; and gaps in legislation concerning issues that disproportionately affect women. 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 child care.⁸⁵ 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".⁸⁶

⁸³ [Safe and Adequate Return, Fair Treatment and Early Identification of Victims of Trafficking from Third Countries outside the EU | National Commission for Combating Trafficking in Human Beings \(government.bg\)](https://www.government.bg/en/press-releases/2018/09/18/14124)

⁸⁴ CEDAW General recommendation No. 33 on women's access to justice, paragraph 8, CEDAW/C/GC/33 of 3 August 2015: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/33&Lang=en

⁸⁵ 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>

⁸⁶ Available at: <https://rm.coe.int/factsheet-womens-access-to-justice/16808ff44e>

171. The Bulgarian authorities have referred to work carried out under the Norwegian Financial Mechanism (NFM) 2014-2021 programme, which relates to preventing and combating domestic violence and gender-based violence. One of the projects, entitled "Improving access to justice for persons below the poverty line with special focus on women, children and the Roma community", is implemented by the National Bureau for Legal Assistance, in partnership with the Norwegian Judicial Administration. It has a budget of €750 000 and includes activities aimed at providing access to legal assistance through the development of co-operation mechanisms at local level and the creation of mobile legal assistance units.

172. Representatives of the Main Directorate for Combating Organised Crime met during the third evaluation visit indicated that one-third of police officers are female, and gave examples of cases in which women working in nightclubs who were detected as possible victims of THB were informed of their rights by female police officers.

173. According to the Bulgarian authorities, there are no special rules requiring that the interviewing of asylum seekers is conducted by a person of the same sex as the asylum seeker. However, according to the NRM, professionals who come into contact with victims of THB should act with sensitivity to their needs, sex and state. This is continuously stressed in the course of training.

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

174. Pursuant to Article 140 of the CCP, witnesses who are under 14 years of age are questioned in the presence of an education professional or a psychologist and, when necessary, in the presence of a parent or guardian. Witnesses who are 14-18 years old are questioned in this manner if the competent body considers this necessary. The questioning of witnesses under 18 years of age can take place in specially equipped premises or by videoconference with a view to avoiding contact with the accused. As noted previously, Article 139, paragraph 10, of the CCP was added in 2017 to regulate the questioning of witnesses with specific protection needs in a manner avoiding contact with the accused. However, this provision does not apply automatically to child witnesses, depending instead on the decision of the competent prosecutor or court. Child witnesses may be questioned repeatedly in the course of criminal proceedings, and testimony given at the pre-trial stage has to be confirmed before the court. The number of interviews with child victims is limited in the trial stage, provided that the conditions of Article 280, paragraph 6, of the CCP are fulfilled (i.e. repeated questioning is allowed only when the testimony cannot be read out or a new questioning is particularly important for revealing the truth).

175. When examining cases in which the witness is a child, whether there are specific needs for protection or not, there are other child-specific provisions in the CCP, including conducting the interview behind closed doors (Article 263, paragraph 3, of the CCP) and reading out the witness testimony at the trial if the defendant and his/her lawyer were present at the interrogation of the witness (Article 281, paragraph 1, item 6, of the CCP). Pursuant to Article 101, paragraph 1, of the CCP, when the interests of a child victim and his/her parent, guardian or trustee are in conflict, the competent authority shall appoint a special representative (lawyer) to represent the child.

176. Further, Chapter Two of the Law on Child Protection sets out some of the rights of children with regard to their protection. In administrative and criminal proceedings which concern children's rights or interests, children must be heard if they have reached 10 years of age unless this would harm their interests, and when the child has not reached 10 years of age, they are heard according to the degree of their development (Article 15, paragraphs 1 and 2, of the Law on Child Protection). Before the child is heard, the relevant authority shall provide the necessary information to help him/her form an opinion and inform him/her of the possible consequences, as well as of any decision of the competent authority (Article 15, paragraph 3 of the Law on Child Protection). Children must be heard in a suitable setting appropriate to their age, and in the presence of a social worker from the Social Assistance Directorate or other appropriate specialist, as well as a parent, guardian, trustee, another person taking care of the child or other relative, unless this is not in accordance with the interests of the child (Article 15, paragraphs 4 and 5, of the Law on Child Protection). In every case involving a child, the Social Assistance Directorate is

notified and sends a representative who expresses an opinion or provides a report. The amendments to the Law on Child Protection, in force as of 1 July 2020, introduce new provisions relating to the support and protection of children who are victims of violence.

177. Since 2015, three Child Advocacy Centres working with child victims of violence and their families have been set up in Bulgaria (in Montana, Sofia and Shumen). They are licensed by the Agency for Social Protection and funded by UNICEF Bulgaria. The services offered by them include child-friendly interviewing, crisis intervention by psychologists, as well as legal assistance.

178. As noted in paragraph 151, increasing use is being made of the specially equipped facilities for interviewing children involved in criminal proceedings, known as "blue rooms", which exist in a number of locations. However, according to the 2019 report on the visit to Bulgaria by the UN Special Rapporteur on the sale and sexual exploitation of children, the "blue rooms" are "often seen as the only prerequisite for the application of child-friendly justice, without meeting other requirements, such as interviewing by a specialised professional following an evidence-based protocol".⁸⁷ The report indicates that an ordinance was reportedly issued by the Office of the Prosecutor General which requires a victim to prove three episodes of physical, psychological or sexual violence for a criminal case to be opened. According to the report, investigations lack a child-sensitive approach and specialised police officers, prosecutors and judges, and the adjudication process does not provide sufficient guarantees for success (see also paragraph 255).

179. **GRETA considers that the Bulgarian authorities should take steps to ensure child-sensitive procedures 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.⁸⁸ This should include measures to:**

- **systematically prevent contacts between child victims and defendants and avoid repeated interviews of children to prevent traumatising and revictimisation;**
- **ensure that there is a sufficient number of "blue rooms" across the country, which are used consistently, and that children (i.e. all persons up to the age of 18) are interviewed by adequately trained investigators, prosecutors and judges, in the presence of trained child psychologists.**

c. role of businesses

180. The need to engage the private sector and make it more accountable has been acknowledged by the NCCTHB and partnerships have been developed with some businesses to support services and provide employment to victims. The NCCTHB Secretariat tries to involve representatives of the private sector in prevention and victim support programmes. A good example is the established partnership with the Manpower Group and Manpower Bulgaria, which promote corporate social responsibility policies for tackling labour exploitation and were the first to sign the Athens Ethical Principles in 2006 with a 'zero tolerance' policy for human trafficking. Other examples of engagement of the private sector in prevention activities include Postbank, mobile operators and Metromedia (Sofia metro). Further, companies that support shelters for trafficking victims and service providers include IKEA, restaurants and hotels. Nevertheless, various interlocutors noted that the business community in Bulgaria still lacks knowledge about THB and is reluctant to engage.

⁸⁷ <https://www.ohchr.org/EN/Issues/Children/Pages/CountryVisits.aspx>

⁸⁸ [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).

181. In September 2019, the British Embassy in Sofia organised jointly with the NCCTHB a conference entitled "The Public-Private Partnership in the fight against Trafficking in Human Beings: How government and business tackle trafficking in human beings in supply chains". It had a particular focus on the textiles and hospitality sectors, and involved representatives of businesses, trade unions and the Bulgarian Chamber of Commerce and Industry. The event presented different mechanisms that could be put in place, including codes of conduct preventing labour exploitation. The Bulgarian Global Compact Network currently comprises 39 partners.⁸⁹

182. The Confederation of Trade Unions of Bulgaria (KNSB) referred to a project which took place some three years previously, involving around 100 multinational companies whose supply chains include production facilities in Bulgaria, on improving labour law compliance. The project, entitled "Decent Work for Contractors and Subcontractors of Multinational Companies" aims at improving working conditions in small and medium-sized enterprises (SMEs) which are part of supply chains of multinational companies through refining the application of labour, insurance and environmental standards. The project covers 109 multinational companies, 482 SMEs in their supply chains and 2 788 persons employed by them.⁹⁰

183. Under Article 54 of the 2016 Public Procurement Act, there is a mandatory exclusion from a public procurement procedure of persons who have been convicted of certain crimes, including THB. The Act also contains provisions aimed at ensuring compliance with social and labour law, including collective agreements and international conventions prohibiting forced labour. There are no plans to put in place legislation concerning monitoring of supply chains. During the visit by GRETA, there were no details available of the policy Bulgaria is planning to introduce to respond to the EU Conflict Minerals Regulation 2017/821 (pursuant to which, from 1 January 2021, EU importers of tin, tantalum, tungsten and gold will have to carry out due diligence on their supply chain). The Ministry of the Economy has been designated as the competent authority and the Customs Agency has been assigned to provide customs information in connection with the application of the regulation.

184. GRETA considers that the Bulgarian authorities should strengthen engagement with the private sector, in line with the UN Guiding Principles on Business and Human Rights⁹¹ and Council of Europe Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business,⁹² with a view to raising awareness of the important role and responsibility of businesses in supporting the rehabilitation and recovery of victims, and to provide access to effective remedies.

185. Further, GRETA considers that the Bulgarian authorities should adopt legislation integrating the prevention of THB and labour exploitation in public procurement policies and promoting transparency in supply chains to enable scrutiny of companies' performance to prevent THB and labour exploitation.

⁸⁹ <https://www.unglobalcompact.org/engage-locally/europe/bulgaria>

⁹⁰ For more information, see <http://dostoentrud.org/>

⁹¹ http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

⁹² [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.

d. measures to prevent and detect corruption

186. 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.

187. Over the last years, Bulgaria has made efforts in the fight against corruption. A National Strategy for Combating Corruption (2015-2020) was adopted in April 2015. The Commission for Countering Corruption and Forfeiture of Unlawfully Acquired Assets (CCCFUAA) was set up in 2018 pursuant to the Law of the same name. One of its functions is to counter corruption involving senior public officials, as defined in Article 6, paragraph 1, of the Law (the number of persons covered exceeds 11 000, including judges, prosecutors and investigators). At present, there have been no cases of corruption involving senior public officials in which the court has ordered the seizure of illegally acquired property. The Commission also carries out preventive work, scrutinises draft legislation, collects and analyses data on indications of corruption, carries out checks of property declarations and conflict of interest, and starts proceedings for forfeiture of illegally acquired property.

188. The Bulgarian authorities have indicated that in 2016, as a result of the work of officers of the Internal Security Directorate of the Ministry of the Interior, pre-trial proceedings were instituted against two employees of the Ministry of the Interior - one from the General Directorate for Combating Organised Crime, and the other from the Blagoevgrad Regional Police Directorate, for extortion of persons dealing with prostitution, pimping, and trafficking for prostitution purposes. In the period 2015-2018, the Internal Security Directorate received 26 alerts containing data on trafficking in persons, of which 15 were left for follow-up by the Directorate. One signal led to the opening of pre-trial proceedings by the Prosecutor's Office in Blagoevgrad (see paragraph 127).

189. Other Council of Europe legal instruments, in particular those designed to combat corruption, money laundering and cybercrime, are also relevant to combating human trafficking. 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 the recommendations made by GRECO in its fourth report on Bulgaria (2015), which focuses on corruption prevention in respect of members of parliament, judges and prosecutors.⁹³ In this report, GRECO noted that Bulgaria had overall a reasonably good legislative framework, and many institutions and tools were in place to deter corruption in respect of the three professional groups under review. GRECO recommended, *inter alia*, that judicial independence be further strengthened, the integrity checks carried out in respect of candidates for the posts of judges and prosecutors be strengthened, that guidance and counselling on judicial ethics be made available to all prosecutors, that judges' and prosecutors' private interests be subject to substantive and regular checks, and that efficient co-operation is established between the authorities supervising judges, and prosecutors' compliance with the rules on conflicts of interest and on asset disclosure be amended, with due regard being had to the independence of judges.

190. **GRETA considers that the Bulgarian authorities should include measures against corruption in a THB context in the next national anti-corruption strategy.**

⁹³ <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806c983f>

V. Follow-up topics specific to Bulgaria

1. Data collection

191. In its second evaluation report, GRETA urged the Bulgarian authorities to finalise the development of a comprehensive and coherent statistical system on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of THB cases.

192. As noted in GRETA's second report, as a result of the EU-funded project entitled "Towards a pan-European monitoring system of trafficking in human beings (MoSy)", led by Portugal and involving Bulgaria and several other EU Member States, the data collection system developed under the project was expected to be launched in Bulgaria by the end of 2015. The new data collection system was introduced by the NCCTHB in 2016. Using standardised forms, it collects alerts ("signals") about presumed victims of trafficking detected by NGOs, international organisations, citizens and other sources (see paragraph 12). These figures are disaggregated by gender, age, form of exploitation, type of trafficking (transnational or internal). There are also statistics on the number of victims who have been identified informally and formally (i.e. as part of pre-trial proceedings), as well as the number of persons who were eventually not considered to be victims of THB, but of other offences (such as domestic violence or migrant smuggling). The introduction of this data collection system is a positive development as it enables the collection of data from civil society and other actors.

193. As noted in paragraph 12, the figures collected by the NCCTHB partially overlap with the figures of the Supreme Cassation Prosecutor's Office on victims identified as part of pre-trial proceedings. As regards the latter statistics, they are cumulative: both newly identified victims and victims identified in previous years as part of ongoing pre-trial proceedings are counted. As a result, it is not possible to state how many victims of THB were identified in each calendar year.

194. **GRETA considers that the Bulgarian authorities should refine the data collection system on victims of trafficking in order to ensure that there is not double counting, and that the data collection process is based on a systematic methodology with comparable indicators. Further, the collection of data by the NCCTHB should be expanded to cover the number of victims who were granted recovery and reflection periods, residence permits, international protection, compensation and the penalties imposed on traffickers.**

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

195. In the period following the second evaluation report, increased attention has been paid to preventing trafficking for the purpose of labour exploitation, through legislative and regulatory changes, awareness raising, training and labour inspections.

196. Despite economic growth in recent years (prior to COVID-19), Bulgaria has one of the highest levels of poverty and income inequality in the EU. The official unemployment rate dropped from 12.27% in 2013 to 4.34% in 2019, but it is believed that the actual unemployment figure is higher as many unemployed people do not register with an unemployment centre and are not counted in the official statistics. People living in poorer regions and rural areas, young people and people from Roma communities continue to face difficulties in obtaining work. Remuneration for employment, including the minimum wage, are amongst the lowest in the EU.⁹⁴ As a result, there has been considerable labour

⁹⁴ Suzanne Hoff (La Strada International), *Rights at Work: Tackling labour exploitation in Poland, Bulgaria and Romania*, Amsterdam, March 2019.

emigration, in particular after Bulgaria's accession to the EU in 2007, to countries including Spain, Greece, Germany, UK, Italy, France, the Netherlands, Belgium and Austria.⁹⁵

197. Recruitment and employment agencies state that it is hard to find national or migrant workers for employment in various labour sectors because salaries are lower compared to other EU countries. Despite calls to ease access to the labour market for migrant workers, there is still a relatively low number of migrants.⁹⁶ In 2016, the Labour Migration and Labour Mobility Act entered into force, entitling foreign nationals holding work permits to equal access to work, benefits, remuneration and social security. Bulgaria has concluded agreements on labour migration with some countries, including the Republic of Moldova and Armenia, and there are reportedly plans for agreements with other countries. Asylum seekers have access to the labour market when the procedure for determining their status takes longer than three months from the moment of submission of the asylum claim; no labour market test is required and access is not limited to particular sectors.

198. Labour exploitation is mostly found in situations of temporary or seasonal work, agency work and other forms of outsourced work, as well as in non-regulated sectors such as domestic work and the sex industry. The following sectors have been identified as being at high risk of labour exploitation in Bulgaria: construction, agriculture, overland transport, textiles, hospitality and tourism. According to research by Clean Clothes Campaign and Fair Wear Foundation, around 100 000 people work in the garment industry in registered employment and an estimated 50 000 work under semi-formal or informal conditions with no labour contracts.⁹⁷ The research refers to problems with legal compliance, including non-payment of back wages, no fixed working hours, excessive overtime, lack of social insurance and double book-keeping. Further, many foreign workers are recruited for work in the tourism sector, and it is reported that some do not have contracts and work 12-14 hours a day, without any days off.⁹⁸ There have also been reports of Chinese workers exploited in building highways in Bulgaria.⁹⁹

199. In general, it is difficult for workers to complain about bad working conditions due to the risks this entails. Around 20% of employees are trade union members. Weak levels of labour organisation, especially in sectors vulnerable to exploitation, make identification of exploitation and redress very difficult.¹⁰⁰ Trade unions prepare periodic reports on labour rights, and according to the latest report of the Confederation of Trade Unions of Bulgaria (KNSB), in 2017, the non-payment of salaries amounted to BGN 28 million.

200. The figures reported in paragraph 12 indicate that there has been an increase in the number of identified cases of trafficking for the purpose of labour exploitation, in particular among men. Most of the reported cases of THB for the purpose of labour exploitation concerned Bulgarian citizens exploited abroad in countries including France, Italy, Greece, Spain, the Czech Republic and the Netherlands. However, as noted in paragraph 123, there have been very few court decisions concerning THB for the purpose of labour exploitation. There was one case of Bulgarian citizens exploited in a cattle farm in the Sofia region, in which the police identified two victims, provided them with shelter and opened an investigation; the case was reportedly referred to court in 2017.¹⁰¹

⁹⁵ Hristina Mitreva, Svetla Vassileva, Valentina Vassilyonova, *Undeclared Work in Agriculture: Problems, Challenges and Solutions*, Sofia, 2018.

⁹⁶ A total of 11 889 non-European migrants were registered in 2017 according to the National Statistical Institute.

⁹⁷ As quoted in Suzanne Hoff (La Strada International), *Rights at Work: Tackling labour exploitation in Poland, Bulgaria and Romania*, Amsterdam, March 2019, pp. 70-71.

⁹⁸ Ibidem.

⁹⁹ Ibid., p. 81.

¹⁰⁰ Ibid., pp 63-64, p.71.

¹⁰¹ Ibid., p. 81.

201. In Bulgaria, there are no criminal offences of forced labour or labour exploitation. Forced labour is only criminalised in the context of human trafficking (Article 159a of the CC). Even though the Bulgarian definition of the basic offence of THB does not include the element of means, in case there is no proof of use of force or physical violence and the worker consented to the work, cases of severe exploitation are not investigated as human trafficking but as labour law violations.¹⁰² Interlocutors met during the visit noted that it is very hard to prove transnational trafficking for labour exploitation because Bulgarian citizens leave the country voluntarily.

202. Bulgaria has not ratified the 2014 Protocol to ILO Convention No. 29 on Forced Labour. Trade unions lobby for the ratification of ILO Convention No. 154 on Promoting Collective Bargaining and ILO Convention No. 190 on the Elimination of Violence and Harassment in the World of Work.

203. As part of the previously mentioned Swiss-Bulgarian Co-operation Programme, an awareness campaign on trafficking for the purpose of labour exploitation was organised. It targeted people seeking work abroad (usually young people, employed in low-skilled jobs which they found online). The campaign was assessed annually and the messages were adapted. A social experiment was performed for the purpose, involving the publication of a fake advertisement on Facebook; some 150 people applied almost immediately, which showed that even educated people cannot distinguish between fake and real job offers. The NGO Pulse surveyed 600 students, as part of an EU-funded project on psycho-dynamic methods to recognise risk factors, and found that they lacked understanding of the risks of THB. NGOs informed GRETA that they report sites with fake job offers to the police, and some of these sites have been removed. The Cybercrime Unit of the Police has a hotline on which such information can be reported. Adverts placed on social networks (e.g. Facebook, Instagram) can be removed if reported to the network.

204. A separate campaign was devoted to the risks of being involved in a labour exploitation situation in the Czech Republic, which has been one of the key destinations of THB for labour exploitation for Bulgarian nationals.¹⁰³ Further, as part of a joint project with the Embassy of the Netherlands in Sofia, in 2016 a working meeting was held with the secretaries of the local anti-trafficking commissions and representatives of Roma organisations, at which it was agreed to hold information campaigns at the local level about the potential risks of labour exploitation. The local anti-trafficking commissions (e.g. in Plovdiv) also organise awareness-raising campaigns, together with the Employment Agency, usually in the spring before seasonal work starts.

205. The Confederation of Trade Unions of Bulgaria (KNSB) organises annual media campaigns as well as information campaigns in high schools ("My First Job") on labour rights. KNSB has produced leaflets with information on the rights of workers in different countries (e.g. Austria, Cyprus, Germany), which are being distributed through the Employment Agency and the Labour Inspectorate.

206. The two trade union confederations (KNSB and Podkrepa) have concluded agreements with the Labour Inspectorate, and inform it of alerts they receive about labour law violations. Trade unions also participate in joint inspections and information campaigns targeting emigrant workers, together with the Labour Inspectorate and the police. KNSB informed GRETA about agreements concluded with trade unions in other countries (TUC in the UK, GSEE in Greece, UGT in Spain, DGB in Germany, SEK in Cyprus, FGTB in Belgium). As part of the agreement with Germany, Bulgarian workers can have consultations with Bulgarian-speaking staff in nine German cities. Further, free-of-charge consultations on labour issues are available for Bulgarians working in Austria. There are plans to develop this aspect in Cyprus, Italy and Belgium. Together with trade unions in Germany and Italy, visits are carried out to agricultural sites and places of accommodation of migrant workers in order to provide them with information. KNSB has also established contacts with counterparts in countries of origin of migrant workers in Bulgaria (Ukraine, Republic of Moldova, Georgia) and is planning to sign agreements with counterparts in Georgia. However, trade unions are not yet formally part of the NRM.

¹⁰² Ibid., p. 74.

¹⁰³ See paragraph 81 of GRETA's second report on Bulgaria.

207. The Federation of Independent Trade Unions in Agriculture has also been engaged in preventive work for the last 15 years, through awareness raising, research, lobbying for more socially responsible agricultural policies and promoting the right of unionisation and collective bargaining. It has published an analysis of undeclared work in agriculture,¹⁰⁴ which contains information on the problems faced by Bulgarian migrant workers and posted workers, based on field research in Italy (Puglia) and Spain (Seville). According to this report, over 1.2 million Bulgarians work outside Bulgaria; 30% of them are seasonal workers in agriculture (including 300 000 in Germany, 300 000 in UK, 100 000 in Italy, 350 000 in Spain, 120 000 in Greece, 40 000 in France).¹⁰⁵ Many of them live and work in precarious conditions, without work contracts, have little awareness of their rights and are dependent on work intermediaries. Trade union representatives try to assist migrant workers by providing them with information on their rights and where to seek assistance (leaflets are available in 11 languages), in co-operation with IOM, NGOs, labour inspectors and trade unions in other countries (e.g. Italy).

208. The work of the Labour Inspectorate¹⁰⁶ has been detailed in GRETA's second report.¹⁰⁷ There are 28 regional directorates employing around 400 inspectors. The mandate of the Labour Inspectorate covers health and safety at work, labour relations, unpaid wages, control over the operation of temporary employment companies and employment intermediaries, as well as over the operation of companies which send workers abroad. Labour inspectors carry out scheduled, complaint-based and follow-up inspections and can inspect any place where work is performed, including domestic households when there is a complaint or an alert, and can impose administrative sanctions. The Labour Inspectorate can impose fines on employers under the Labour Code, the Law on Encouraging Employment and the Law on Labour Migration and Mobility (the highest threshold for a fine being BGN 20 000). Labour inspectors have to inform the police and the migration authorities when a third-country national worker in an irregular situation is detected. If the worker has no work permit, both the worker and employer are subject to a fine. The Labour Inspectorate also monitors work announcements in the media and on the Internet and co-operates closely with the Employment Agency (see paragraph 212). It operates a hotline (0700 17 670) and provides information on its website about, *inter alia*, labour rights, the conditions of being employed in foreign countries, licensed companies providing temporary work abroad and in Bulgaria and employment intermediaries, and companies which have been penalised for employing foreign workers in violation of the legislation.

209. The most frequent violations found by labour inspectors relate to lack of labour contracts, undeclared work, poor working conditions, non-payment for overtime, and non-payment of salaries. The Labour Inspectorate has also noted violations related to the employment of foreigners and posted workers. In 2019, the Labour Inspectorate found 12 irregular migrants who were employed in Bulgaria, 113 foreign nationals residing legally who were illegally employed, and 10 foreigners who worked without proper contracts.

210. In case of a complaint by Bulgarian workers abroad, the Labour Inspectorate checks the temporary employment company in Bulgaria and makes a request to the foreign country's labour inspectors to check the working conditions. The Labour Inspectorate has agreements with the inspectorates of other countries (e.g. Belgium and France). Under an agreement with the French labour inspectorate, joint inspections started in the summer of 2019. Under the ongoing project *Eurodétachement*, joint plans for actions have been set up with the labour inspectorates of France, Belgium, Germany and the Netherlands. In 2019, the Labour Inspectorate carried out 167 inspections of temporary work agencies and found 69 infringements of the labour legislation. The violations related to non-payment of due remuneration, non-payment of the minimum wages in the host country, and non-respect of labour conditions and work hours. Problems arise with so-called "shell companies" which are registered by persons not residing in Bulgaria in order to post workers abroad and are subsequently sold, so the original owners cannot be found at the addresses of registration. A number of temporary employment agencies have been found to

¹⁰⁴ Hristina Mitreva, Svetla Vassileva, Valentina Vassilyonova, *Undeclared Work in Agriculture: Problems, Challenges and Solutions*, Sofia, 2018.

¹⁰⁵ *Ibid.*, pp 16-17.

¹⁰⁶ The full title is "General Labour Inspectorate Executive Agency".

¹⁰⁷ See paragraph 83 of GRETA's second report on Bulgaria.

be in violation of the Law on Encouraging Employment, which provides grounds for cancelling their licenses. There has been a reduction in the number of companies offering temporary employment, in particular in agriculture abroad, which is reportedly part of a European trend.

211. The Labour Inspectorate is part of the NRM. In 2018, the Labour Inspectorate provided training to inspectors in all 28 regional directorates (up to two inspectors per directorate, i.e. 6% of all labour inspectors) on the following topics: "Measures and tools in case of violations amounting to labour exploitation. Identifying the concepts 'labour violation', 'labour exploitation' and 'trafficking for the purpose of labour exploitation'" and "Cross-border cases of labour exploitation: identifying victims of labour exploitation and interacting with competent authorities in cases of trafficking for the purpose of forced labour."

212. The Employment Agency of the Ministry of Labour and Social Policy licenses temporary employment companies and employment intermediaries and provides information through its website on available jobs, work conditions and workers' rights abroad.¹⁰⁸ One of its tasks is to issue work permits to third-country nationals. To prevent labour exploitation of these workers, the Agency checks the quality of the work offered when issuing these permits. It also provides information and support through 107 Job Centres across the country. The Employment Agency and the Job Centres collaborate with the NCCTHB and local commissions (e.g. common training). Despite its prevention and monitoring work, the Employment Agency reported in 2017 not to have yet detected any cases of human trafficking for labour exploitation.¹⁰⁹

213. While welcoming the steps taken since the second evaluation to prevent and combat trafficking for the purpose of labour exploitation, GRETA considers that the Bulgarian authorities should:

- **train labour inspectors throughout the country, as well as law enforcement officers, prosecutors and judges, on combating THB for the purpose of labour exploitation and the rights of victims;**
- **ensure that the Labour Inspectorate has adequate resources to carry out inspections and outreach work with a view to preventing and detecting cases of THB for the purpose of labour exploitation, including in remote locations;**
- **strengthen co-operation between labour inspectors, law enforcement officers, tax authorities, trade unions and other civil society actors, with a view to collecting evidence necessary for successfully investigating and prosecuting cases of THB for the purpose of labour exploitation;**
- **develop guidance for relevant professionals to enable the detection and investigation of trafficking cases for the purpose of labour exploitation;**
- **review the existing legal provisions with a view to extending the scope of forced labour to include working conditions contrary to human dignity, in line with the ILO indicators of forced labour, and ensure their prosecution under criminal law;**
- **review the legislation and regulations on temporary work agencies to strengthen prevention of THB and labour exploitation;**

¹⁰⁸ <http://eures.bg/>

¹⁰⁹ Suzanne Hoff (La Strada International), *Rights at Work: Tackling labour exploitation in Poland, Bulgaria and Romania*, Amsterdam, March 2019, p.70.

- **ensure that programmes for attracting migrant workers to Bulgaria include monitoring mechanisms to prevent labour exploitation and inform them of their rights;**
- **separate immigration enforcement functions from labour inspectorate roles, and ensure that labour inspectors prioritise the detection of persons working in irregular situations who are vulnerable to THB;**
- **develop safe reporting and complaint mechanisms of cases of labour exploitation;**
- **introduce mechanisms for monitoring the compliance of businesses with labour standards and human rights throughout their supply chains;**
- **include Trade Unions in the NRM.**

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

214. Bulgaria remains a major source country of persons trafficked abroad and internally, the majority of whom are women and girls, although the number of men and boys has been increasing. The Bulgarian authorities have reported a series of legislative, social, economic and other measures which have the potential to address the root causes of THB, including gender inequality, poverty, unemployment, lack of education and access to health care.

215. Bulgaria has undertaken an education reform involving the introduction of inclusive education and the adoption of a strategy for improving and promoting literacy. The national strategy for the prevention of school drop-out has contributed to the retention of children (in 2019, 4 600 children returned to school), as well as the enrolment of children who had never been to school (in 2019, 2 224 children). Other positive steps include the adoption of the Law on Gender Equality in 2016, the setting up of a National Council on Equality between Women and Men, as well as the Commission for Protection against Discrimination, the adoption of the National Strategy for the Promotion of Equality between Women and Men (2016-2020), and progress made in decreasing the gender pay gap (which currently stands at around 13.6%). The Law on Social Assistance defines vulnerable groups and provides for two types of benefits, one-off and monthly.

216. The National Strategy for Roma Integration (2012–2020) and the Roma Integration Programme (2012–2020) were drafted in consultation with Roma communities, and contain activities directed towards informing and educating both sexes on overall health, health insurance, immunisation, HIV, AIDS, and sexual and reproductive health, with a focus on early pregnancy. The National Network of Health Mediators comprises some 140 Roma mediators in about 70 municipalities, who serve as a bridge between vulnerable minority communities and health and social services. In 2016-17, in the framework of an initiative of the NCCTHB to map communities vulnerable to trafficking in human beings in Bulgaria with a view to more targeted prevention, a field study was conducted in Roma neighbourhoods in Peshtera, Sliven, Stara Zagora and Varna. The results were presented at a meeting of local commissions for combating THB held in 2018. Various risk practices were identified, such as involvement of the family in trafficking and dependence of psychoactive substances, and targeted prevention activities were implemented by the local commissions. Further, the issue of early, forced and child marriages in Roma communities was addressed through awareness-raising sessions in the Montana Region.

217. During the third evaluation visit, GRETA was informed of initiatives to inform school children about the risks of trafficking, including risks related to the Internet and social media. Various preventive activities are organised by the 10 local anti-trafficking commissions, including the setting up of a network of volunteers conducting sessions with children in schools. In Plovdiv, GRETA met representatives of the Bulgarian Red Cross, NGOs working in Roma neighbourhoods and Roma mediators, who referred to problems of school drop-out (usually after first grade) and early pregnancies (at 12-14 years) in the Roma community. Two health projects, on tuberculosis and AIDS, were implemented in Roma populated districts, and as part of these, NGOs and mediators reached out to persons subjected to forced prostitution or forced begging. After the expiry of the projects, no further funding has been provided by the State and concerns were raised about the lack of funding for projects in Roma communities.

218. Trafficking in human beings is a gendered phenomenon and a form of violence against women. GRETA refers to the findings of the UN Special Rapporteur on violence against women, its causes and consequences, from its visit to Bulgaria in October 2019, according to whom Bulgaria has made important steps towards ending discrimination and violence against women, including amendments to the CC (which concern domestic violence, rape and forced marriage). However, the Special Rapporteur noted that in the aftermath of the 2018 Constitutional Court's decision on the incompatibility of the Istanbul Convention with the Constitution, backlashes against women's rights and women's organisations had increased. The campaign against the ratification of the Istanbul Convention led to the creation of an "anti-gender movement" that resulted in attacks on women and on all those providing services to victims of violence. The Special Rapporteur expressed concerns about women who face intersecting forms of discrimination, such as Roma women and girls, who are exposed to a high school drop-out rate, early marriages and early pregnancies.¹¹⁰ GRETA also refers to the recent consideration of the 8th Periodic report submitted by Bulgaria to the UN Committee on the Elimination of Discrimination against Women (CEDAW), at which the Ombudsman of Bulgaria expressed concern about the "existing deeply entrenched stereotypes and prejudices on the role of Roman women and girls in family and society". CEDAW experts also noted that NGOs were under systematic attack and hate speech, especially those that worked on domestic violence and gender issues, and several NGOs had had their budgets cut after they initiated a campaign for the ratification of the Istanbul Convention.¹¹¹

219. GRETA considers that the Bulgarian authorities should continue investing in social, economic and other measures for groups vulnerable to THB, including outreach work in Roma communities. Further efforts should be made to promote gender equality, combat violence against women and child/early/forced marriages, as well as support specific policies for the empowerment of women and girls as a means of combating the root causes of THB.

4. Identification of victims of trafficking

220. In its second evaluation report, GRETA urged the Bulgarian authorities to ensure that the NRM was effectively implemented in practice, including by backing it up with adequate funding and periodically training all relevant professionals, to increase efforts to proactively identify victims of trafficking for the purpose of labour exploitation, and to pay increased attention to detecting victims of trafficking amongst foreign workers, asylum seekers and persons placed in immigration detention centres.

¹¹⁰ <https://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=25173&LangID=E>
¹¹¹ <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25579&LangID=E>

221. In the period 2015-16, the NCCTHB carried out a revision and updating of the existing National Mechanism for Referral and Support to Victims of Trafficking (NRM), which had first been developed in 2008-2010 under a project supported by the Netherlands. In July 2016, the Council of Ministers approved the NRM as an official and mandatory document (with the status of secondary legislation) setting out the obligations of different stakeholders and regulating the co-ordination of the various stages of dealing with cases of THB (victim identification, risk assessment, urgent needs, referral, crisis intervention, recovery and reflection period, social inclusion, safe return, participation in criminal proceedings, compensation). The NRM is a framework under which the institutions represented in the NCCTHB fulfil their obligations under the Anti-trafficking Law.¹¹² Amongst the changes made to the NRM in 2016 are the introduction of an analysis of the international definition of human trafficking and its difference from smuggling of migrants, as well as a definition of the recovery and reflection period and its purpose. Detailed explanations were added on the formal and informal identification of victims, as well as the conduct of pre-trial proceedings. The list of stakeholders involved in the NRM (with their contact details) was expanded, in particular the National Legal Aid Bureau and the national legal aid helpline were added. Throughout the NRM, there are specific sections concerning child victims and foreign victims. The appendices include lists of indicators for the identification of victims of THB, and criteria and standards for providing social services to victims.

222. In order to develop knowledge about the NRM and improve its implementation in practice, the NCCTHB conducts annual training for stakeholders, both at expert and managerial level. NRM training is also part of the annual programmes of the local commissions.

223. No dedicated funding is available for implementing the NRM and each stakeholder is expected to use its own budget for the activities related to it. The budget of the NCCTHB (see paragraph 17) is used to support the co-ordination of the NRM implementation, for which the NCCTHB is responsible.

224. As part of the previously mentioned Swiss-Bulgarian Co-operation Programme, an evaluation of the implementation of the NRM was carried out by the International Centre for Migration Policy Development (ICMPD) in its capacity as an independent and impartial external organisation. The conclusions and recommendations stress the need for a state budget attached to the NRM, developing knowledge among different stakeholders of the NRM, including at local level, through ongoing training, and updating the institutional framework with new actors. The report also highlights the need for aligning the NRM with different legislative acts (including the Law on Social Protection as regards standards for services; the Anti-Trafficking Law, the CC, the Law on Foreigners and the Law on Asylum and Refugees in connection with the legal status of foreign victims identified in Bulgaria who apply for special protection or refugee status).¹¹³

225. Pursuant to the NRM, informal identification (first-level identification) is performed by staff of various institutions and organisation who have the first contact with victims, including through helplines and outreach work. Informal identification gives the right to immediate access to the services envisaged by the NRM. The professionals who have the first contact with presumed victims have to inform them of their options and rights (in particular, the irrelevance of consent to being exploited, the non-punishment principle, and the recovery and reflection period) and refer them to the bodies performing formal identification, subject to the victims' consent.

¹¹² https://antitraffic.government.bg/bg/help#national_mechanism

¹¹³ ICMPD, *Assessment of the Implementation of the National Mechanism for Referral and Support of Trafficked Persons in Bulgaria*, January 2018.

226. Under the NRM, formal identification is performed by the bodies responsible for pre-trial proceedings (i.e. police, prosecution) and its purpose is to start an investigation. It is based on a first, informal talk with the presumed victim, observations on his/her behaviour and appearance, information from the organisation or citizen who referred the victim, an analysis of the circumstances in which the victim was found, self-identification of the victim, as well as other possible elements. The NRM stresses that officials performing formal investigation must not interrogate the presumed victim (in the sense of collecting evidence about the offence), but have a talk based on questions linked to the indicators of THB. The appendix to the NRM has detailed lists of indicators, divided into two groups: criminal actions against the victim, and effects of the trafficking on the behaviour and psychological state of the victim.

227. Very few foreign victims of trafficking have been identified. The NCCTHB Secretariat has received two notifications about presumed victims of THB among third-country nationals (a woman from Sierra Leone and a woman from Burkina Faso). One of them was a victim of domestic servitude in a foreign family. She was placed in a specialised shelter and pre-trial proceedings were opened, but were subsequently closed, and the woman used the voluntary assisted return programme operated by IOM to return to her country. The other one was employed in a diplomatic household from which she ran away. Following referral by the NGO "Legal Aid and Support for Migrants and Refugees", she was accommodated first in an asylum reception centre and later in an NGO-run crisis centre; she claimed asylum, which was reportedly not granted. No pre-trial proceedings were instituted in this case. GRETA was also informed by the State Agency for Refugees of another case, involving a woman from Guinea, who had been trafficked to Turkey; she was pregnant when she arrived in Bulgaria and was accommodated first in an asylum centre and later in an NGO crisis centre. In this case, there was no formal identification as no pre-trial proceedings were instituted. The woman in question was eventually granted asylum on the grounds of membership of a particular social group.

228. Since GRETA's second evaluation, the Bulgarian authorities have undertaken a number of measures with a view to promoting the identification of foreign victims of THB. In 2016, the NCCTHB organised an international forum on THB in mixed migration flows, which took place in Sofia. The annual National Programmes on Combating THB include activities for the development of information and prevention materials, information sessions with migrants and asylum seekers, and training of staff at immigration detention centres and centres for asylum seekers.

229. The State Agency for Refugees (SAR) is responsible for registering and examining applications for international protection¹¹⁴ and administers three open registration and reception centres (the one in Sofia consists of three units), one transit centre, as well as one closed facility (a block of the immigration detention centre in Busmantsi). The Law on Foreigners is applicable to all foreigners who have not made an application for international protection or whose claims have been finally refused. The Migration Directorate of the Ministry of the Interior is in charge of administering immigration detention facilities for foreigners, called "centres for temporary placement of foreigners", of which there are two: in Sofia (Busmantsi district) and Lyubimets, near the border with Turkey and Greece. These facilities accommodate irregular migrants intercepted at the border or inside the country, as well as failed asylum seekers. GRETA was informed that persons who apply for asylum at the borders are rarely sent directly to the SAR reception centres, except unaccompanied children and some applicants who have family members accommodated in the reception centres. In 2018, 1 886 asylum seekers were kept in immigration detention. According to information provided by the SAR, it is rare that foreigners apply for international protection at the border, but when this happens, the person is registered and accommodated in one of the divisions of the SAR.

¹¹⁴ According to UNHCR, in 2018, a total of 2 536 applications for international protection were registered by the SAR, of which 481 were unaccompanied and separated children. In the first 10 months of 2019, 1 965 applications for international protection were registered, of them 504 were unaccompanied and separated children. In 2018, 860 decisions on terminating the asylum procedure were issued and in the first 10 months of 2019, 811.

230. In 2016, a short video was produced on the risks of irregular migration and human trafficking, translated into a range of languages. The video is shown at the centres for the temporary placement of foreigners. Brochures developed by IOM on human trafficking and voluntary return, available in a range of languages, have been distributed in the units of the SAR. In 2017, an information campaign was carried out in asylum seekers' accommodation centres in Sofia.

231. Training has been provided to staff of the Migration Directorate of the Ministry of the Interior and the SAR (under the Swiss-Bulgarian Co-operation Programme, with the involvement of IOM). The aim of the training is to increase staff capacity for identification, risk assessment and referral to specialised services of victims of THB. GRETA was informed that in 2019, 24 SAR staff members underwent training. However, the SAR does not have an established THB training module for its staff. According to information provided by the SAR, its employees are trained on the identification and referral of vulnerable persons, which includes victims of THB. In addition, SAR staff follow training modules of the European Asylum Curriculum developed by the European Asylum Support Office (EASO). By the end of 2019, 35 thematic training sessions were held with the participation of 275 SAR staff members (88% of all staff) and 17 representatives of local authorities. Further, the NCCTHB organised three training events in 2018 on THB in mixed migration flows. Training on the identification of victims of THB among asylum seekers has been organised with the involvement of the Council of Refugee Women in Bulgaria and the NGO Lumos, with support from the German Foundation Hans Seidel. On 4 April 2019, a workshop focusing on first-level identification and referral of victims of THB was held jointly by Caritas Sofia and the Council of Refugee Women in Bulgaria, including presentations by UNHCR; the target groups included social workers, staff working with asylum seekers, interpreters, cultural mediators, psychologists and legal counsellors.

232. In 2018 UNHCR produced videos with information about the asylum procedure in Bulgaria in eight different languages to facilitate access to it. In addition, the Bulgarian Helsinki Committee, through funding by UNHCR, provides legal assistance at centres for the temporary placement of foreigners.

233. The SAR is part of the NRM and during the visit GRETA was informed that its staff use practical tools for assessing vulnerability (developed by EASO). However, according to civil society representatives, the SAR has no consistent methodology or tools for identifying victims of THB among asylum seekers. The initial interviews with asylum seekers do not include questions specifically targeting possible situations of human trafficking. According to information provided by the SAR, the tools for identifying persons with special needs developed by EASO are applied, as well as the Standard Operating Procedures for preventing and responding to sexual and gender-based violence, which include a questionnaire for early identification of people seeking international protection who have been traumatised. There is a mandatory medical examination which helps identify vulnerable persons. During the registration, the social worker from the respective SAR Reception and Registration Centre makes an assessment to identify any degree of vulnerability. Social workers complete an "Identification and needs assessment form", an "Individual support plan" and a "Social counselling form", which were updated in 2019. GRETA was informed that there are 23 interpreters working for the SAR, but they are based at the centres, and there are no state-provided interpretation services to facilitate the submission of asylum applications at the border. According to the Law on Asylum and Refugees, "persons from a vulnerable group" include children, unaccompanied children, disabled people, elderly people, pregnant women, single parents with children, victims of trafficking in human beings, people with severe health problems, people with mental disorders and persons who have suffered torture, rape or other serious forms of mental, physical or sexual violence. Despite amendments to the Law on Asylum and Refugees introduced in 2015, stipulating that during the initial medical examination it shall be assessed whether an applicant is vulnerable and has special needs, according to the assessment of the implementation of the NRM, the chances of identifying victims of trafficking during routine medical check-ups are not very high.¹¹⁵

¹¹⁵ ICMPCD, *Assessment of the Implementation of the National Mechanism for Referral and Support of Trafficked Persons in Bulgaria*, January 2018.

234. Moreover, the Law on Foreigners does not explicitly envisage an assessment of an applicant's vulnerability prior to issuing a detention order, thereby permitting the detention of applicants with special needs, including victims of trafficking.¹¹⁶ There are no well-established mechanisms for the identification of vulnerable persons accommodated in immigration detention. Whilst there is separate accommodation provided for families, single women and unaccompanied children, other persons with specific needs are held together with other detainees. Concerns have been expressed that applicants with specific needs, in particular survivors of trafficking, are not consistently identified in a timely manner.

235. UNHCR is aware of cases in which persons who may wish to apply for international protection were not informed about their right to do so and agreed to return voluntarily without being in a position to make a free and informed choice. Most of the persons interviewed by UNHCR at centres for temporary placement of foreigners reportedly stated that they were not properly informed about their right to seek asylum in Bulgaria. UNHCR has expressed concerns that there might have been unidentified victims of trafficking amongst those returned to their countries of origin.

236. Since 2014, Bulgaria has increased the control of its borders, as well as the capacity to discourage irregular movements both at entry and exit. In this context, refusals of entry and expulsions without an individual assessment of protection needs ("pushbacks") have become widespread along the border of Bulgaria and Turkey.¹¹⁷ In 2019, the Bulgarian Helsinki Committee identified some 2 400 cases of pushbacks.

237. GRETA welcomes the updating and formalisation of the NRM, as well as the assessment of its implementation. The NRM provides a framework for multi-agency co-operation and GRETA was provided with examples where the police, the NCCTHB, local anti-trafficking commissions, the SAR, NGOs and other stakeholders have worked together in order to identify and support victims of trafficking. GRETA also welcomes the training provided to staff of the Migration Directorate of the Ministry of the Interior and the SAR. However, GRETA notes that there are continuing gaps in the identification of foreign victims of THB in Bulgaria. Irregular migrants and asylum seekers are particularly vulnerable to trafficking. As a consequence, collective expulsions negatively affect the detection of victims of THB amongst them and raise grave concerns as regards Bulgaria's compliance with certain obligations of the Convention, including the positive obligations to identify victims of trafficking and to refer them to assistance, and to conduct a pre-removal risk assessment to ensure compliance with the obligation of non-refoulement.

238. **GRETA urges the Bulgarian authorities to further improve the identification of victims of THB, including by:**

- **making a budgetary allocation of the implementation of the NRM;**
- **providing further systematic training to officials of the SAR, migration officials, border police staff, as well as social workers, medical and other staff working at facilities for asylum seekers and detained migrants, focusing on the identification of victims of trafficking and the procedures to be followed, including by providing operational indicators to enable staff to proactively identify victims of trafficking and refer them to specialised structures which can support them prior to their formal identification;**
- **enabling specialised NGOs with experience in identifying and assisting victims of trafficking to have regular access to facilities for asylum seekers and detained migrants;**
- **systematically informing all asylum seekers, in a language they can understand, about their rights in the framework of the asylum procedure, and the legal rights and the services available to victims of trafficking;**

¹¹⁶ Safeguards exist only in relation to unaccompanied children whose detention should be a matter of last resort and subject to a best interest assessment.

¹¹⁷ PACE, Pushback policies and practice in Council of Europe member States
<http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-en.asp?FileID=27728&lang=en>

- **ensuring that pre-removal risk assessments prior to all forced removals from Bulgaria fully assess the risks of trafficking or re-trafficking on return, in compliance with the obligation of *non-refoulement*. In this context, reference is made to GRETA's Guidance note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection.¹¹⁸**

239. **Further, with a view to further improving the identification of victims of THB, GRETA considers that the Bulgarian authorities should periodically assess the implementation of the NRM and adjust it in the light of the results.**

5. Assistance to victims

240. In its second evaluation report, GRETA urged the Bulgarian authorities to re-open the two specialised shelters for victims of THB as a matter of priority, to provide a sufficient number of places around the country for all victims of trafficking who need safe accommodation, including male victims, and to guarantee access to health care to all victims of THB.

241. In the period following the second evaluation by GRETA, the Bulgarian authorities have re-opened the two specialised shelters for victims of THB, run by NGOs in Burgas and Varna, and have further developed the specialised services for such victims. Under the Swiss-Bulgarian Co-operation Programme, three specialised services were opened in 2018 in Sofia: a shelter and centre for temporary accommodation of adult victims of THB, and a crisis centre for child victims of THB (with a total of 20 places). The services provided in Burgas and Varna were also expanded and currently consist of two shelters for temporary accommodation, two counselling centres and one shelter for subsequent reintegration. The services can accommodate both female and male victims of trafficking in human beings (formally and informally identified) regardless of their nationality, ethnicity and religion. At the end of 2018, the total capacity of the services was 34 persons (24 adults and 10 children). In 2017, the number of victims in the shelters was 22 (including three women accommodated with their children). In 2018, the number of victims of THB provided with specialised services was 29 (20 women, 2 men and 7 children). The expenditures of the NCCTHB for direct support of the victims (including psychological, health, social assistance and daily needs) amounted to BGN 233 970 (€120 000) in 2018. This amount does not include the maintenance and running costs of the establishments providing services.

242. At the end of 2018, the Swiss-Bulgarian Co-operation Programme which funded the services for victims of trafficking in Sofia was concluded. In order to ensure the sustainability of services, the Ministry of Defence provided flats from property from its own estate and in December 2019, funds for the running of the shelter and crisis centre in Sofia was reportedly secured and an NGO was contracted to run them following a tender. A tender for the running of the adult shelter was supposed to take place in 2020. According to the NCCTHB, the reopening of the crisis centre for children was made possible thanks to the co-operation of Sofia Municipality. In January 2020, an agreement for provision of state-delegated services was signed between Sofia Municipality, the NCCTHB and the NGO PULSE Foundation. Under the agreement, the NCCTHB refurbished the flat made available by the Ministry of Defence. As regards the shelter for adults, in the absence of government funding, the NCCTHB was awarded a grant from the Internal Security Fund, co-funded by the EU, and with the Ministry of the Interior as the responsible authority. The flat has been refurbished and prepared to accommodate up to 10 persons, but a contractor to operate the shelter has not yet been selected. The service is expected to restart at the end of 2020 and the project will run until July 2022.

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

243. In addition the NGO Animus Association Foundation runs a crisis centre for victims of domestic violence and human trafficking, in Sofia, with a capacity of eight places (including any children the women might have). This is the only facility for victims of domestic violence in Sofia, and it usually works at full capacity.¹¹⁹ The crisis centre is funded by Sofia Municipality. Victims usually stay for up to a month, but longer stays (up to six months) are possible with funding from the Directorate of Social Assistance. Ten victims of THB were accommodated in 2019. The facility also functions as a transit centre before victims are transferred to the specialised shelters in Burgas and Varna. For example, male victims of THB for labour exploitation returning from the UK were assisted by it.

244. Victims of THB can also be accommodated in crisis centres set up under the Law on Social Protection which cater for victims of different forms of violence and abuse. The new Law on Social Services, in force since 1 July 2020, has introduced changes in the organisation and provision of social services. As of mid-2020, there are 19 crisis centres for children, with a capacity of 196 places; six crisis centres for adults, with a capacity of 64 places; 21 centres for children in street situations, with a capacity of 409 places; 53 centres for social rehabilitation and integration of children, with a capacity of 1 827 places; 112 centres for social rehabilitation and integration of adults, with a capacity of 3 387 places; one centre for social rehabilitation and integration of children and young persons, with a capacity of 25 places; 13 temporary accommodation centres, with a capacity of 667 places; 13 mother-and-baby units and 143 public support centres.

245. As regards access to health care for victims of THB, if the victim was not insured with the Health Fund, all the contributions for the previous five years need to be payed, even if the person was abroad during this time. Together with NGOs, the NCCTHB works to restore the health insurance of victims, which is often interrupted because they had not paid their social security contributions. Health insurance covers only a minimum of services (for example, in terms of dental care, one filling per year), while many victims have serious physical injuries (e.g. facial disfigurement) and psychiatric problems. NGOs and the NCCTHB have to resort to donations and personal connections with hospitals in order to secure specialised medical interventions (including dental care). These efforts are key to the further social inclusion of victims.

246. NGOs have highlighted the lack of attention to victims' social inclusion, the scarcity of funding, and the absence of long-term programmes to support exit from prostitution. The daily upkeep cost is BGN 10 (around 5 euros) per person in the shelter. Concerns were expressed during the visit about the new draft Law on Social Services, which reportedly would limit the provision of social services by NGOs. The overall climate in which NGOs operate in Bulgaria has deteriorated, and there have been a series of attacks on NGOs running helplines. According to the Bulgarian authorities, the new law does not restrict the provision of social services by private providers, who can be natural or legal persons duly licensed by the new Agency for the Quality of Social Services.

247. GRETA welcomes the increase in the specialised services for victims of THB. However, the availability of State funding for the assistance of victims of trafficking remains low. The provision of health care to victims of trafficking, who often lack health insurance, remains problematic and a systematic solution must be found at the central level rather than relying on local initiatives.

248. **GRETA urges the Bulgarian authorities to take additional steps to ensure that all assistance measures provided for in the Convention and by Bulgarian law are guaranteed in practice, in particular by:**

- **providing adequate financing to ensure the range and quality of the services delivered by NGOs and a sufficient number of places for all victims who need safe accommodation;**
- **guaranteeing access to health care to all victims of THB.**

¹¹⁹ According to information provided by the authorities, one of the three crisis centres for children on the territory of Sofia can also accommodate adults.

6. Measures to prevent and combat child trafficking, identification of, and assistance to, child victims of trafficking

249. In its second evaluation report, GRETA considered that the Bulgarian authorities should continue and strengthen their efforts in the area of prevention of child trafficking, using the results of research on new trends, in particular by sensitising and training child protection professionals across the country, raising awareness of children through education, and paying special attention to Roma communities and migrant children. Further, GRETA urged the Bulgarian authorities to make efforts to improve the identification of, and assistance to, child victims of trafficking, in particular by: ensuring that relevant actors take a proactive approach and increase their outreach work to identify child victims by paying particular attention to children in care institutions, Roma children and unaccompanied foreign children; providing adequate support and services which are adapted to the needs of child victims of trafficking; reviewing the application of the guardianship system for child victims of trafficking and paying increased attention to children who are trafficked by their parents or other family members; and taking steps to address the problem of unaccompanied children disappearing, by providing suitable safe accommodation and adequately trained supervisors or foster parents.

250. The NCCTHB periodically conducts training of social workers, including from the Child Protection Departments of the Agency for Social Assistance, on the identification of child victims of trafficking among children at risk. Health mediators are also being trained as part of the NCCTHB's partnership with the National Network of Health Mediators. At the Annual Volunteer Academy of the NCCTHB, one of the priorities is the inclusion of children from the Roma community. Many of the local anti-trafficking commissions focus their preventive activities on Roma children. At national level, in 2018, the NCCTHB organised a campaign against trafficking for labour exploitation with a focus on Roma children, in partnership with the Amalipe Foundation and the British Embassy.

251. The NGO Bulgarian Safer Internet Centre is involved in prevention (including the running of a hotline), training of students, teachers and parents, and monitoring of cases of online child sexual abuse. Social networks are increasingly used to recruit children and young people for sexual exploitation (sometimes under the pretext of looking for models). The NGO received some 6 000 alerts in 2018 concerning child sexual abuse material, and 9 000 alerts in 2019. As part of an EU-funded project (Surf and Sound), the Centre for the Study of Democracy participated in the production of a report on the role of the Internet in trafficking of human beings and smuggling of migrants.¹²⁰ There has been a rise in cybercrimes against children, mainly related to child sexual abuse material, but none of the identified cases was prosecuted as THB.¹²¹ The Bulgarian authorities did not provide information on the prosecution of cases of online child sexual exploitation as THB offences because the statistical information on THB cases does not provide such a disaggregation. They underlined that it is the Cybercrime Department of the Ministry of the Interior which is competent to conduct investigations and that the production and distribution of child sexual abuse material invokes criminal liability under Articles 155a, 155b and 159 of the CC.

¹²⁰ Centre for the Study of Democracy, *Improvement and Sharing of Knowledge on the Role of Internet in the Processes of Trafficking in Human Beings and Smuggling of Migrants*, Sofia, 2017.

¹²¹ In October 2011, 20 men were arrested for participating in a child pornography ring, and in February 2012, 9 men were arrested for distributing child pornography and more than 1 000 gigabytes of material was seized. See paragraph 55 of the 2019 Report on Bulgaria of the UN Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material.

252. The procedures for identification of child victims of THB are described in the revised and updated NRM. Children are included as a group with special needs in the NRM and specific measures and steps are described. The State Agency for Child Protection has a co-ordinating role in the implementation of national measures against trafficking in children, in accordance with the Law on Child Protection, and is part of the NRM. There is also a separate Co-ordination Mechanism for Referral and Care of Unaccompanied Children and Victims of Trafficking Returning from Abroad, which was adopted in 2005, and provides a system for interinstitutional co-operation facilitating work on cases reported from the country and abroad. In 2017, the State Agency for Child Protection worked on 18 cases of Bulgarian children trafficked abroad, in 2018, 23, and in 2019, 17. In 2019, the Social Assistance Agency, which monitors child victims of trafficking returning from abroad for a period of one year, supervised between 13 and 15 children per quarter. Within the framework of child protection departments, multidisciplinary teams are created on a case-by-case basis. Repatriated children are placed by court order in crisis centres for up to six months. As an option for crisis accommodation, children can be accommodated in homes for temporary placement of children, run by the Ministry of the Interior, where they can stay for up to 15 days upon the prosecutor's authorisation. A "Methodological guide for providing the social service crisis centre" has been developed and there is a clear distinction between services for child victims of violence and child victims of trafficking. The number of crisis centres for children increased to 19 in February 2019, with a total capacity of 196 places in mid-2020. Their funding is provided by the state budget and the centres are run by different organisations as a state-delegated activity.

253. In some cases, the exploitation of children occurs with the knowledge, consent, action or inaction of their families, which is why the child's return to the family or placement with relatives is not in their best interests. In such cases, alternative forms of social services (foster families, resident-type services ..) are sought, and the parents are brought to justice, when possible. Cases of child victims of trafficking are monitored by Child Protection Departments for a period of one year (in 2018, 10 to 12 children were monitored in each quarter). If necessary, the monitoring period may be extended depending on the specificity of the case. The Agency for Social Assistance prepares an assessment of the child's needs and an action plan along with social workers. The plan may include measures to support parents to reduce the risk of re-trafficking. When drafting the plan, the competent officials should hear the child if they are over 10 years of age. The Chairperson of State Agency for Child Protection may submit a proposal to the Minister of the Interior to impose the measure under Article 76a of the Law on Bulgarian Personal Documents (withdrawal of passport). In cases where there is a lack of adequate supportive family environment, insufficient family capacity or conditions do not ensure compliance with the principle of the best interests of the child, special measures are taken to protect children.

254. During the visit, GRETA was informed of the case of a 16-year old Roma girl who was returned from the UK after she had been flown into Heathrow Airport, after being stopped by the UK authorities following an attempt to traffic her for the purpose of an arranged marriage. The girl had a declaration from her parents that she could travel abroad accompanied by a woman who was supposedly her aunt. She was not recognised as a victim of THB in Bulgaria and was returned to her mother who had apparently arranged the marriage. The case was not investigated. The Bulgarian authorities have referred to the provisions of Article 178, paragraphs 1 and 2, of the CC, according to which a parent or relative who received payment in return for authorising the marriage of his/her daughter or another female relative shall be punished with imprisonment of up to one year and a fine of BGN 100 to BGN 300 (equivalent to approximately €50 to 150), stressing that the elements of this offence are different in nature to the offence of THB. In this context, GRETA notes that the elements of the offence of THB as regards children can be fulfilled when a child is transported or transferred for the purpose of an arranged marriage, even if actual exploitation has not yet taken place. Further, in order to fulfil the definition of trafficking in children based on Article 4(c.) of the Convention, the exchange of money is not required.

255. GRETA refers to the 2019 report of the UN Special Rapporteur on the sale and sexual exploitation of children, according to which "child protection in Bulgaria had been largely driven by fragments reforms and a poorly co-ordinated child protection system", with "... insufficient funding, inadequate staffing and training, lack of oversight of performance and poorly collected and poorly centralized data".¹²² The report notes the lack of child-friendly procedures, leading to revictimisation, weak capacity to detect and report cases, and inadequate protection of children in residential care. The Bulgarian authorities have stated that some of the problems identified by the UN Special Rapporteur have been addressed, including through legislative changes, namely the new Social Services Law, the introduction of mandatory training of employees of child protection and social services, compulsory mentors for new staff, standards for the remuneration and workload of staff, and more efficient use of state financial resources used to fund social services.

256. In the summer of 2017, the first specialised crisis centre for child victims of THB was opened in Sofia, with funding from the Bulgarian-Swiss Co-operation Programme. It is run by NGOs as service providers following public tender. In 2018, a total of seven children were cared for. After the completion of the Bulgarian-Swiss Co-operation Programme in 2019, by order of the Director of Social Assistance, a competition was launched for a service provider to run the crisis centre as a "state-delegated activity" under an agreement with the Sofia Municipality and the NCCTHB. During the third visit to Bulgaria, GRETA visited the flat allocated to the crisis centre, which had been recently refurbished and provided very good material conditions. It was empty, awaiting the start of a new contract with the NGO which had won the tender for running the crisis centre. The Bulgarian authorities have provided updated information of the crisis centre, which had received 10 children by 15 September 2020, including one victim of THB for the purpose of begging and prostitution, and six at the risk of being trafficked (due to high-risk exposure to drug dealers and pimps).

257. The SAR has taken measures to create an appropriate environment for the protection of children seeking international protection from physical, psychological and sexual abuse. The first Safety Zone for unaccompanied asylum-seeking children was set up in Sofia (in "Voenna Rampa" district) in May 2019 and a second "safe zone" was being prepared in another district of Sofia ("Ovcha Kupel"). GRETA visited the Safety Zone in "Voenna Rampa" district, which had a capacity to accommodate up to 100 children (in 25 rooms). It is located in a former school, refurbished by IOM under projects supported by the EU (Asylum, Migration and Integration Fund Emergency measures). IOM has developed a methodology for the provision of social support to children in the Safety Zone, with input from UNICEF, which was approved by the SAR. At the time of the visit, 11 children were present in the Safety Zone (mostly from Afghanistan, Pakistan and Iran). Ten social workers recruited by IOM provide 24-hour, seven days per week care, including registration, case management and organisation of group activities. IOM's mobile protection teams and social mediator also provide daily support in the Safety Zone, including social, psychological and legal consultations. Interpreters from Pashto and Dari/Farsi provide support to staff, and additionally, some of the social workers speak Farsi, Arabic and Kurdish. Children must be provided with access to education within three months of lodging an asylum claim. However, there is a high turnover of children accommodated at the Safety Zone as for them Bulgaria is a transit country, with the exception of those awaiting a decision on their Dublin family reunification. GRETA was permitted unrestricted access to the entire area of the Safety Zone, including the medical facilities, and could speak to residents who were positive about their experience, but indicated that they had been waiting for months for decisions under Dublin arrangements. There was also a doctor in situ at the Safety Zone who stated that he had sufficient medical supplies for general needs.

258. GRETA was informed that a total of 316 children had been registered at the Safety Zone since the beginning of 2019 (until December). Children are allowed to leave the Safety Zone, but must return by 8 p.m. In case an unaccompanied child goes missing, the police is immediately informed. Around 80% of the children leave soon after their placement and do not return. In 2019, the police returned five children. According to SAR staff, 20 children disappeared after an age assessment test was proposed. As regards relocation, 33 children were sent to other EU countries.

¹²²

<https://www.ohchr.org/EN/Issues/Children/Pages/CountryVisits.aspx>

259. While the Law on Foreigners exempts unaccompanied children from immigration, gaps in the identification of such children upon first contact by the Border or National Police upon apprehension following irregular entry at the border or in-land, may prevent them from benefiting from this safeguard in practice. These gaps due to, among other reasons, lack of adequate interpretation and presence of social workers, may result in unaccompanied children being incorrectly registered as accompanied ("attached") or adult and placed in immigration detention. In the first six months of 2019, the Bulgarian Helsinki Committee identified 62 cases of children incorrectly registered as adults or accompanied and placed in immigration detention.

260. Following legislative amendments to address the lack of representation of migrant children who do not apply for international protection or whose claims are finally rejected, social workers from relevant municipal Child Protection Departments are to be assigned as their representatives. However, most social workers have limited experience of working with migrant, asylum-seeking and refugee children. Further, the municipalities do not have the administrative and financial capacity to properly fulfil this responsibility. The role of representatives in the asylum procedure is in most cases purely formal. Recently, representatives have started securing legal aid through a project implemented by the National Bureau for Legal Aid, but due to its limited duration the sustainability of this arrangement is uncertain.

261. Identification and referral are further impeded due to the absence of age assessment procedure with adequate safeguards. Age assessment is limited to a medical assessment (wrist X-ray) and is not established in a multi-disciplinary nor in a child- or gender-sensitive manner, taking into consideration the physical and psychological development of the child. In this context, GRETA refers to the Council of Europe Parliamentary Assembly Resolution 2195 (2017) "Child-friendly age assessment for unaccompanied migrant children", which calls on Council of Europe member States, *inter alia*, to use only as a last resort dental or wrist x-ray examinations and all other invasive medical procedures for the purpose of determining the age of unaccompanied or separated migrant children, to ensure that all medical examinations are sensitive to the child's gender, culture and vulnerabilities and that the interpretation of results takes into account the child's national and social background as well as previous experiences; to prohibit, in all situations, the use of physical sexual maturity examinations for the purpose of determining the age of unaccompanied and separated migrant children, and whenever possible, to ensure that the procedure of age assessment is carried out by professionals acquainted with the children's ethnic, cultural and developmental characteristics.¹²³ **GRETA considers that the Bulgarian authorities should revise the age assessment procedure in the light of this Resolution.**

262. Recent amendments to the Law on Foreigners introduced in 2019 aimed at granting continuous residence permit to unaccompanied children who do not apply for international protection or whose claims are refused until they reach 18. While this is a welcome development, UNHCR has expressed concerns that the absence of alternative care arrangements within the national child protection system would limit the effectiveness of this provision to ensure that all unaccompanied children, including victims of trafficking in human beings, have access to adequate reception and care.

263. According to UNHCR, there are no procedures in place to ensure that all decisions affecting children are in line with the best interests of the child, from the moment of their arrival in Bulgaria until a durable solution is found. Since 2017, the SAR has been using tools for assessing the best interests of the child and a Risk Assessment Guide for Children Seeking International Protection has been prepared. According to information provided by the SAR, the risk is assessed on a four-level scale (high, medium, low, no risk). When evaluating the risk level, the following aspects are taken into account: physical injury, violence, sexual abuse, emotional abuse, neglect, labour exploitation, psychosocial stress, disability or chronic disease, domestic violence, pregnancy, and recruitment by armed or paramilitary forces.

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<http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=24273>

264. GRETA welcomes the opening of the specialised crisis centre for child victims of THB in Sofia, as well as the Safety Zone for unaccompanied asylum-seeking children, which has the potential to protect such children from falling victim to human traffickers. However, GRETA is concerned by the continuing prevalence of child trafficking in Bulgaria and the growing trend of online child sexual exploitation. **GRETA considers that the Bulgarian authorities should strengthen their efforts to prevent and combat child trafficking, identify child victims, and provide them with adequate assistance, and in particular:**

- **provide further training and tools to stakeholders (police, prosecutors, asylum and migration authorities, service providers, NGOs, child protection authorities, social workers) on the identification of child victims of THB for different forms of exploitation;**
- **ensure that child victims of THB benefit from specialised accommodation and services across the country;**
- **ensure that proper risk assessment is conducted before returning children to their parents, taking into account the best interests of the child;**
- **provide long-term monitoring of the social inclusion of child victims of trafficking;**
- **establish a procedure to assess the best interests of unaccompanied children and review the application of the system for representation of unaccompanied asylum-seeking children;**
- **ensure that unaccompanied children accommodated at detention centres are promptly identified and immediately referred to the national child protection services to receive the necessary reception and care;**
- **explore the possible links between online sexual exploitation of children and human trafficking.**

7. Recovery and reflection period

265. In its second evaluation report, GRETA urged the Bulgarian authorities to review the legislation in order to ensure that the recovery and reflection period is specifically defined in law as provided for in Article 13 of the Convention and that all possible victims of trafficking are offered a recovery and reflection period, as well as all the measures of assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.

266. The recovery and reflection period for trafficking victims is still not established in law in Bulgaria, but is defined in the NRM, which since 2016 has had the status of secondary legislation. The revision of the NRM included a specific measure (2.2.) entitled "support during the recovery and reflection period". According to this, this period is granted to persons presumed to be victims of THB regardless of their readiness to co-operate as witnesses, and independently of the opening of criminal proceedings. The length of this period is 30 days, with reference to Article 26, paragraph 1, of the Anti-Trafficking Law, which states that "the authorities involved in the conduct of pre-trial proceedings shall promptly inform victims of THB upon their identification about the possibility to receive special protection if within one month they declare their consent to collaborate with the investigation".

267. The NRM specifies the functions of the recovery and reflection period: to provide immediate assistance and shelter to victims in order to help them recover, and, in parallel, to enable the victim to take an informed decision about whether he/she wants to co-operate in the investigation. It is stated in the NRM that foreign victims whose presence in Bulgaria is irregular may have been placed in a centre for temporary accommodation of foreigners (deportation centre), but as soon as they are identified as victims, they have the right to a recovery and reflection period and to be moved to a specialised shelter for victims of THB. During the recovery and reflection period, victims are entitled to safe accommodation, crisis intervention, psychological consultation, social support and legal advice.

268. The NRM specifies that the recovery and reflection period is envisaged only for adult victims, whereas child victims are provided protection in accordance with the Law on Child Protection. GRETA notes that this appears to contradict Article 26 of the Anti-Trafficking Law, paragraph 2 of which provides that the period specified in paragraph 1 of this article can be extended to two months in the case of child victims of trafficking.

269. Pursuant to the NRM, all foreign victims who are not EU citizens have the right to a recovery and reflection period. The granting of this period to asylum seekers depends on the individual situation, interests and safety of the victim. Victims of THB who are irregular migrants and have been placed in centres for temporary placement of adults (deportation centres) must be immediately moved to specialised shelters, and cannot be expelled from the country during the recovery and reflection period. If they decide to co-operate with the investigation, they can be granted a special protection status for the duration of the criminal proceedings (Article 25 of the Anti-Trafficking Law), which involves the issuing of a residence permit pursuant to Article 24, paragraph 1, item 17, of the Law on Foreigners.

270. The NRM indicates that information on the recovery and reflection period, its purposes and the support to which victims are entitled must be provided to victims as soon as possible after they have been identified, by competent officials who have identified the victim, the bodies conducting pre-trial proceedings, staff working in accommodation centres and service providers to whom the victim has been referred.

271. The Bulgarian authorities have not provided information on the number of victims granted a recovery and reflection period. As noted in paragraph 14, there have been only five presumed foreign victims of THB.

272. GRETA welcomes the fact that the recovery and reflection period and the procedure for granting it have been spelled out in the NRM, making it clear that it is not conditional on the victim's co-operation, and specifying the support to which victims are entitled during this period. However, GRETA notes with concern that the recovery and reflection period does not apply to all foreign victims (EU citizens are excluded, asylum seekers are not systematically covered). Further, the recovery and reflection period does not apply to children.

273. GRETA urges the Bulgarian authorities to enshrine in law the recovery and reflection period, and to ensure that it is systematically offered to all presumed foreign victims of human trafficking, including EU and EEA citizens, regardless of whether a temporary residence permit and access to assistance can be secured on other grounds.

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

Topics related to the third evaluation round of the Convention

Right to information

- GRETA considers that the Bulgarian authorities should strengthen the systematic provision of information to informally and formally identified victims of trafficking 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 should be trained and instructed on how to properly explain to victims of THB their rights, taking into account their cognitive skills and psychological state, and apply the NRM to systematically refer them to specialised services which enable victims to exercise their rights. Similarly, staff working at asylum reception centres and detention centres should continue to be trained and instructed on how to provide information, in a proactive manner, to persons and groups at risk of being trafficked (paragraph 51);
- GRETA also considers that the Bulgarian authorities should take additional steps to ensure the availability and sensitisation to the issue of human trafficking of interpreters (paragraph 52).

Legal assistance and free legal aid

- GRETA urges the Bulgarian authorities to take further steps to facilitate and guarantee access to justice for victims of THB, in particular by ensuring that:
 - a lawyer is appointed as soon as there are reasonable grounds for believing that a person is a victim of human trafficking, before the person concerned has to decide whether or not he/she wants to co-operate with the authorities and/or make an official statement;
 - adequate funding is made available for the provision of legal assistance, legal representation and interpretation/translation to victims of THB placed in shelters;
 - Bar Associations encourage training and specialisation of lawyers to provide legal aid to trafficking victims, and ensure that trafficking victims are systematically appointed a specialised lawyer;
 - access to free legal aid for victims of THB is unconditional and does not depend on proof of lack of financial means to pay for a lawyer (paragraph 69).

Psychological assistance

- GRETA considers that the Bulgarian 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 75).

Access to work, vocational training and education

- GRETA considers that the Bulgarian 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 different 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 80).

Compensation

- GRETA urges the Bulgarian authorities to make additional efforts to guarantee effective access to compensation for victims of THB, in particular by:
 - ensuring that the collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation of the victim or loss sustained by the victim, is part of the criminal investigations with a view to supporting compensation claims in court;
 - ensuring that the Prosecutor's Office applies in practice Article 51 of the CCP by claiming compensation on behalf of child victims in the course of the criminal trial;
 - making full use of the legislation on the freezing and forfeiture of assets, as well as international co-operation, to secure compensation to victims of THB, and ensure that recoverable property which is seized in criminal proceedings is returned as soon as possible to the victim;
 - introducing a procedure through which victims are entitled to obtain a decision on compensation from the offender as part of the criminal trial and requiring courts to state, where applicable, why compensation is not considered;
 - including the topic of compensation in the training programmes for lawyers, prosecutors and judges and encouraging them to use all the possibilities the law offers to uphold compensation claims by victims of THB;
 - facilitating access to state compensation by setting up as a matter of priority a victim compensation fund which uses confiscated assets of perpetrators of human trafficking to fund compensation and reparation, and simplifying the procedure and eligibility criteria for claiming compensation (paragraph 111);
- Further, GRETA considers that the Bulgarian authorities should take further steps to enable access to compensation for victims of trafficking by making compensation awarded in criminal proceedings payable by the State in advance, and the State taking the responsibility to recover the amount from the offender (paragraph 112).

Investigations, prosecutions, sanctions and measures

- GRETA urges the Bulgarian authorities to take measures to strengthen the criminal justice response to THB, including by:
 - ensuring that human trafficking offences are proactively and promptly investigated, regardless of whether a complaint about the reported crime has been submitted or not, making use of special investigation techniques in order to gather material, documental, financial and digital evidence and not having to rely exclusively on testimony by victims or witnesses;
 - requiring consideration of allocation of specialist financial investigators to every THB case;
 - sensitising prosecutors and judges to the rights of victims of THB, and encouraging the development of specialisation amongst prosecutors and judges to deal with THB cases;
 - strengthening efforts to investigate, prosecute and convict traffickers of labour exploitation;
 - ensuring that THB prosecutions lead to effective, proportionate and dissuasive sanctions for those convicted. If an alternative charge is preferred in THB cases, this should be recorded and monitored by the Prosecutor's Office. The plea-bargaining procedure should be 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 the agreement is not in any way detrimental to the rights of the victims, including their access to compensation;

- ensuring that the length of court proceedings in cases of trafficking of human beings is reasonable, in line with the case-law of the European Court of Human Rights (related to Article 6, paragraph 1 of the ECHR) and the standards set by the European Commission for the Efficiency of Justice (CEPEJ) (paragraph 135).

Non-punishment provision

- While welcoming the existence of a specific provision on the non-punishment of victims of THB, GRETA considers the Bulgarian authorities should take further measures to ensure effective compliance with the principle of non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so. Such measures should include the development of guidance for police officers and prosecutors on the scope and application of the non-punishment provision, including with regard to the application of Article 329, paragraph 1, of the CC (paragraph 140).

Protection of victims and witnesses

- GRETA welcomes the more frequent use of the "blue rooms" to interview children and other vulnerable victims of THB. GRETA considers that the Bulgarian authorities should make full use of the available measures to protect victims and witnesses of THB and to prevent intimidation during the investigation and during and after the court proceedings. The "blue rooms" set up around the country should be used systematically to interview child and other vulnerable victims of THB, and to use the testimony given in such rooms in court, thus avoiding repeated questioning of victims (paragraph 154).

Specialised authorities and co-ordinating bodies

- GRETA welcomes the existence of police investigators specialised in trafficking in human beings, and considers that the Bulgarian authorities should promote specialisation and training of prosecutors and judges to deal with THB cases (paragraph 160).

International co-operation

- GRETA welcomes the Bulgarian authorities' participation in multilateral and bilateral international co-operation, and invites them to continue their efforts in this respect, in particular with regard to financial investigations and enforcement of compensation orders. The positive use and benefits of utilising Eurojust should be included in training to police officers, prosecutors and judges (paragraph 168).

Child-sensitive procedures for obtaining access to justice and remedies

- GRETA considers that the Bulgarian authorities should take steps to ensure child-sensitive procedures 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:
 - systematically prevent contacts between child victims and defendants and avoid repeated interviews of children to prevent traumatising and revictimisation;
 - ensure that there is a sufficient number of "blue rooms" across the country, which are used consistently, and that children (i.e. all persons up to the age of 18) are interviewed by adequately trained investigators, prosecutors and judges, in the presence of trained child psychologists (paragraph 179).

Role of businesses

- GRETA considers that the Bulgarian authorities should strengthen engagement with the private sector, in line with the UN Guiding Principles on Business and Human Rights and Council of Europe Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business, with a view to raising awareness of the important role and responsibility of businesses in supporting the rehabilitation and recovery of victims, and to provide access to effective remedies (paragraph 184);
- Further, GRETA considers that the Bulgarian authorities should adopt legislation integrating the prevention of THB and labour exploitation in public procurement policies and promoting transparency in supply chains to enable scrutiny of companies' performance to prevent THB and labour exploitation (paragraph 185).

Measures to prevent and detect corruption

- GRETA considers that the Bulgarian authorities should include measures against corruption in a THB context in the next national anti-corruption strategy (paragraph 190).

Follow-up topics specific to Bulgaria

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

- GRETA once again urges the Bulgarian authorities to allocate appropriate funding from the State budget to action against THB (paragraph 17);
- GRETA reiterates its recommendation from the second evaluation report that the Bulgarian authorities should examine the possibility of establishing an independent National Rapporteur or designating another already existing mechanism as an independent organisational entity with a view to ensuring effective monitoring of the anti-trafficking activities of state institutions and making recommendations to persons and institutions concerned (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report) (paragraph 21);
- In the absence of an independent National Rapporteur, GRETA considers that the Bulgarian authorities should commission an external, independent evaluation of the implementation of the National Action Strategy and Programmes (paragraph 23).

Data collection

- GRETA considers that the Bulgarian authorities should refine the data collection system on victims of trafficking in order to ensure that there is not double counting, and that the data collection process is based on a systematic methodology with comparable indicators. Further, the collection of data by the NCCTHB should be expanded to cover the number of victims who were granted recovery and reflection periods, residence permits, international protection, compensation and the penalties imposed on traffickers (paragraph 194).

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

- While welcoming the steps taken since the second evaluation to prevent and combat trafficking for the purpose of labour exploitation, GRETA considers that the Bulgarian authorities should:
 - train labour inspectors throughout the country, as well as law enforcement officers, prosecutors and judges, on combating THB for the purpose of labour exploitation and the rights of victims;
 - ensure that the Labour Inspectorate has adequate resources to carry out inspections and outreach work with a view to preventing and detecting cases of THB for the purpose of labour exploitation, including in remote locations;
 - strengthen co-operation between labour inspectors, law enforcement officers, tax authorities, trade unions and other civil society actors, with a view to collecting evidence necessary for successfully investigating and prosecuting cases of THB for the purpose of labour exploitation;
 - develop guidance for relevant professionals to enable the detection and investigation of trafficking cases for the purpose of labour exploitation;
 - review the existing legal provisions with a view to extending the scope of forced labour to include working conditions contrary to human dignity, in line with the ILO indicators of forced labour, and ensure their prosecution under criminal law;
 - review the legislation and regulations on temporary work agencies to strengthen prevention of THB and labour exploitation;
 - ensure that programmes for attracting migrant workers to Bulgaria include monitoring mechanisms to prevent labour exploitation and inform them of their rights;
 - separate immigration enforcement functions from labour inspectorate roles, and ensure that labour inspectors prioritise the detection of persons working in irregular situations who are vulnerable to THB;
 - develop safe reporting and complaint mechanisms of cases of labour exploitation;
 - introduce mechanisms for monitoring the compliance of businesses with labour standards and human rights throughout their supply chains;
 - include Trade Unions in the NRM (paragraph 213).

Social, economic and other initiatives for groups vulnerable to THB

- GRETA considers that the Bulgarian authorities should continue investing in social, economic and other measures for groups vulnerable to THB, including outreach work in Roma communities. Further efforts should be made to promote gender equality, combat violence against women and child/early/forced marriages, as well as support specific policies for the empowerment of women and girls as a means of combating the root causes of THB (paragraph 219).

Identification of victims of trafficking

- GRETA urges the Bulgarian authorities to further improve the identification of victims of THB, including by:
 - making a budgetary allocation of the implementation of the NRM;
 - providing further systematic training to officials of the SAR, migration officials, border police staff, as well as social workers, medical and other staff working at facilities for asylum seekers and detained migrants, focusing on the identification of victims of trafficking and the procedures to be followed, including by providing operational indicators to enable staff to proactively identify victims of trafficking and refer them to specialised structures which can support them prior to their formal identification;
 - enabling specialised NGOs with experience in identifying and assisting victims of trafficking to have regular access to facilities for asylum seekers and detained migrants;
 - systematically informing all asylum seekers, in a language they can understand, about their rights in the framework of the asylum procedure, and the legal rights and the services available to victims of trafficking;
 - ensuring that pre-removal risk assessments prior to all forced removals from Bulgaria fully assess the risks of trafficking or re-trafficking on return, in compliance with the obligation of non-refoulement. In this context, reference is made to GRETA's Guidance note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection (paragraph 238);
- Further, with a view to further improving the identification of victims of THB, GRETA considers that the Bulgarian authorities should periodically assess the implementation of the NRM and adjust it in the light of the results (paragraph 239).

Assistance to victims

- GRETA urges the Bulgarian authorities to take additional steps to ensure that all assistance measures provided for in the Convention and by Bulgarian law are guaranteed in practice, in particular by:
 - providing adequate financing to ensure the range and quality of the services delivered by NGOs and a sufficient number of places for all victims who need safe accommodation;
 - guaranteeing access to health care to all victims of THB (paragraph 248).

Measures to prevent and combat child trafficking, identification of, and assistance to, child victims of trafficking

- GRETA considers that the Bulgarian authorities should revise the age assessment procedure in the light of Council of Europe Parliamentary Assembly Resolution 2195 (2017) "Child-friendly age assessment for unaccompanied migrant children" (paragraph 261).

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- GRETA considers that the Bulgarian authorities should strengthen their efforts to prevent and combat child trafficking, identify child victims, and provide them with adequate assistance, and in particular:
- provide further training and tools to stakeholders (police, prosecutors, asylum and migration authorities, service providers, NGOs, child protection authorities, social workers) on the identification of child victims of THB for different forms of exploitation;
 - ensure that child victims of THB benefit from specialised accommodation and services across the country;
 - ensure that proper risk assessment is conducted before returning children to their parents, taking into account the best interests of the child;
 - provide long-term monitoring of the social inclusion of child victims of trafficking;
 - establish a procedure to assess the best interests of unaccompanied children and review the application of the system for representation of unaccompanied asylum-seeking children;
 - ensure that unaccompanied children accommodated at detention centres are promptly identified and immediately referred to the national child protection services to receive the necessary reception and care;
 - explore the possible links between online sexual exploitation of children and human trafficking (paragraph 264).

Recovery and reflection period

- GRETA urges the Bulgarian authorities to enshrine in law the recovery and reflection period, and to ensure that it is systematically offered to all presumed foreign victims of human trafficking, including EU and EEA citizens, regardless of whether a temporary residence permit and access to assistance can be secured on other grounds (paragraph 273).

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

Public bodies

- Mr Nikolay Prodanov, Deputy Minister of Justice and Deputy Chair of the National Commission for Combating Trafficking in Human Beings
- Secretariat of the National Commission for Combating Trafficking in Human Beings
- Ministry of the Interior
 - General Directorate for Combating Organised Crime, Anti-Trafficking Unit
 - General Directorate for Combating Organised Crime, Cybercrime Unit
 - General Directorate Police
 - General Directorate Border Police
 - Directorate of Migration
- Ministry of Justice
- Ministry of Foreign Affairs
- Ministry of Labour and Social Policy
- Ministry of Health
- State Agency for Child Protection
- State Agency for Refugees
- General Labour Inspectorate Executive Agency
- Agency for Social Assistance
- National Employment Agency
- National Investigation Service
- National Council for Assistance and Compensation to Victims of Crime
- Commission for Combating Corruption and Forfeiture of Illegally Acquired Property
- Supreme Court of Cassation
- Prosecutor's Office
- National Assembly (Parliament)
- Office of the Ombudsman of the Republic of Bulgaria
- Local Commission for Combating Trafficking in Human Beings, Blagoevgrad
- Local Commission for Combating Trafficking in Human Beings, Plovdiv
- Social Services Directorate, Sofia Municipality

Intergovernmental organisations

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

NGOs and other civil society organisations

- Animus Association Foundation
- A21
- Bulgarian Helsinki Committee
- Bulgarian Lawyers for Human Rights Foundation
- Bulgarian Online Safety Centre
- Bulgarian Red Cross
- Caritas Sofia
- Centre for Legal Aid "Voice in Bulgaria"
- Centre for the Study of Democracy
- Confederation of Independent *Trade Unions* of Bulgaria (KNSB)
- Council of Refugee Women in Bulgaria Association
- Demetra Foundation
- ECPAT Bulgaria
- Equal Rights Alliance
- Gender Alternatives Foundation
- Nadja Centre Foundation
- National Association for Development and Assistance
- PULSE Foundation

Government's comments

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

GRETA engaged in a dialogue with the Bulgarian 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 Bulgarian authorities on 1 December 2020 and invited them to submit any final comments. The comments of the authorities, submitted on 5 February 2021, are reproduced hereafter.



FINAL COMMENTS
ON THE FINDINGS AND RECOMMENDATIONS IN THE FINAL REPORT ON BULGARIA
OF THE GROUP OF EXPERTS TO THE CONVENTION OF THE COUNCIL OF EUROPE
ON ACTION AGAINST TRAFFICKING OF HUMAN BEINGS (GRETA)

Paragraph 41

Regarding the findings on the participation of the victim in the criminal proceedings and the protection provided to him/her, it should be noted that the special protection, namely “permit for residence” under Art. 26, para 1 of the Combating Trafficking in Human Beings Act, is coordinated with the provisions of the Convention – Art. 12, para. 1, letter B “b”.¹

Regarding the participation of the victim in the proceedings, it would always be mandatory, when it would result in collecting of indisputable evidence about the committed offence, as well as about the capacity of the individual as a victim of this offence. It should not be overlooked, that proving the guilt of the perpetrator in turn contributes not only to his/her punishment, but also helps for:

- the possibility for a victim, in case it is constituted in the proceedings as a harmed party, to receive compensation for the material and non-material harms inflicted to him/her, by sentencing the perpetrator with a court act. (item 32 Convention);
- the property (if such is found), illegally obtained due to the offence, to be taken away from the perpetrator and to be provided to the state to support the victims of such crimes;
- other such offences to be prevented;
- satisfaction of the victim with the punishment of the perpetrator to be achieved, as well as to help for the general prevention in society.

Considering, that the constitutionally regulated obligations of the prosecution are to lead the investigation, bring to justice those who have committed crimes and uphold the prosecution in criminal cases of a general nature, as well as the fact that in the established national model of this type of crime the victims are exploited mostly abroad (in which cases it is harder to collect evidence using the other possible ways, including special investigative means), we express the opinion that recommendations for eliminating the participation of the victim with testimony in the criminal proceedings will be in breach of the requirements of the Criminal Procedure Code for complete and all-encompassing investigation of the case and will result in breaching the principles of good administration of justice, and it could also reduce the effectiveness of institutions in counteracting the respective crime. Another consideration – the Convention does not include a requirement in this respect.

In view of the above we support the basic position that the victim should be interrogated subject to careful assessment of the importance of his/her testimony and the number of interrogations should be the minimum required and should be carried out in a sparing way. The current position also relates to **paragraph 125**², where it is stated

¹ **Article 14** – Residence permit 1. Each Party shall issue a renewable residence permit to victims, in one or other of the two following situations or in both: a) the competent authority considers that their stay is necessary owing to their personal situation; b) **the competent authority considers that their stay is necessary for the purpose of their co-operation with the competent authorities in investigation or criminal proceedings.**

² According to prosecutors met during the visit, when trafficking victims do not co-operate in the investigation, the cases are dropped.

that cases have been cancelled due to non-cooperation of the victim; **paragraph 126**³, which includes a discussion on the danger that the investigations depend on the cooperation of the victim and **paragraph 134**⁴, which includes criticism that there is too much reliance on the testimony of the victim.

Paragraph 44

Regarding informing the victim of his/her rights by the investigators, we are of the opinion that the finding regarding the language of the documents referred to in this item is incomplete, and for that reason we suggest that the evaluators supplement it with the following information:

“The indicated documents have been published in the departmental information site of the Prosecutor’s Office of the Republic of Bulgaria in 2015 and have since been available for use by all prosecutors and investigators. *The template for the rights of the victims of crime, in accordance with Art. 6a, para. 2 of the Crime Victim Assistance and Financial Compensation Act* is also available with translation in 12 languages (including English, German, French, Arabic), and the *Protocol for informing the victim of a crime, according to Art. 6a, para. 2 of the Crime Victim Assistance and Financial Compensation Act and for serving of a Form for the rights of the victims of crime* and the *Declaration under Art. 18, para. 7 of the Crime Victim Assistance and Financial Compensation Act* are available translated into English, German and French languages.”

Paragraphs 64 and 110⁵

In the context of the experts’ findings that the victim is treated mostly as a witness, it should be noted that the decision whether he/she will exercise their rights as an injured person (namely in the case of material and non-material harm suffered due to the crime) depends only on the desire of the victim. This possibility is expressly stated in Art. 75, para. 3 of the Criminal Procedure Code, whereby after the explicit statement of the desire of the victim for participation in the pre-trial proceedings, the victim also receives the respective rights of an injured person indicated on Art. 75 of the Criminal Procedure Code, including – to receive protection, also for persons close to him/her, to be constituted as a private prosecutor and civil claimant in the court proceedings, to have a representative, etc. Each victim is informed of those rights during his/her interrogation as a witness under the case.

Insofar as this fact is not fully discussed by the evaluators, we consider it would be appropriate that the comments in this point be supplemented with the information that a form for interrogation of a victim has been published on the departmental site of the Prosecutor’s Office of the Republic of Bulgaria in 2015, to be used by all prosecutors and investigators. On that form, all legally provided options available to the injured person during the criminal proceedings are included, and the injured person gets acquainted with them, for which he/she places a signature.

Paragraph 69

Access to free legal aid and legal assistance in criminal proceedings cannot be unconditional in all cases but should be coordinated with the financial means of the victim. According to Art. 15, item 2 of the Convention, the right to legal aid and free legal assistance for victims of trafficking in human beings is provided *under the conditions provided in its internal law*, which in particular is the Crime Victim Assistance and Financial Compensation Act.

³ The Bulgarian authorities have stated that this facilitates the prosecution of traffickers by lowering the evidential requirements; however, GRETA notes that the information in paragraph 125 suggests that this may also have the effect of making the prosecution dependant on the victims’ complaint or testimony.

⁴ Too much emphasis is put on the victim’s testimony during criminal investigations. If proceedings are built solely upon the victim’s testimony, this puts an exorbitant amount of pressure upon the victim, who is often vulnerable and possibly traumatised.

⁵ 64. GRETA was informed of recent research carried out by the NGO Gender Alternative, based in Plovdiv, which monitored 30 legal proceedings in THB cases in six different towns of Bulgaria. The monitoring revealed that the victims **in these cases participated in the proceedings as witnesses, rather than injured parties**. In only one of the cases was the victim involved as a civil claimant and private prosecutor, and in only three of the cases were the victims consulted by lawyers provided by NGOs.

110. GRETA is concerned that, in practice, the effective access of victims of trafficking to compensation remains sporadic. Despite the possibility given under Bulgarian law for victims to constitute themselves as civil claimants and/or private prosecutors in the criminal proceedings, this happens relatively rarely, only when the victim is supported by an NGO which ensures that he/she is represented by a specialised lawyer. In practice, most trafficking victims are treated as witnesses and not as injured parties entitled to compensation. Victims are reluctant to claim compensation due to the length of legal proceedings and the track-record of failed compensation claims

Excluding the requirement to prove lack of income only for victims of trafficking in human beings would result in disbalance and even discrimination, insofar as in all other cases of victims of other kinds of crime, the respective authority is legally obliged to assess the financial capacity of the victims of the crime, who will be represented, before allowing a public defender in the criminal proceedings.

We state our disagreement with this recommendation and propose that it be deleted.

Paragraph 70

It should be noted that child victims of trafficking are referred to community-based social services, and taken care of by specialists in diverse fields, including psychologists.

Crisis Centres, as a resident care social service, are available to child and adolescent victims of violence, trafficking or other forms of exploitation. The Centres' activities are aimed at providing individual support, meeting users' daily needs and providing legal advice or social and psychological help where emergency intervention is required, including through crisis intervention mobile teams. *A total of 19 Crisis Centres for Children operate in the territory of Bulgaria as state-delegated social services, with a total capacity of 196 users. In September 2020 the number of children and adolescents placed at Crisis Centres was 86.*

Paragraph 89

We express an opinion that the first sentence is unclear, insofar as the compensation for nonmaterial damages is determined according to the evidence in the case, rather than on the basis of previous cases with final court acts. We propose that the finding is reworded or deleted.

Paragraph 91

We express opinion for incorrectness of the statement in the first sentence⁶. One of the requirements for an agreement between the prosecution and the defendant to be approved by the court is, that the property damages – if such have been inflicted with the crime – be reimbursed or secured. After approval of the agreement, the court ruling has the force of a sentence and does not prevent the victim from seeking compensation for non-pecuniary damage caused to him/her by using the civil procedure (in that sense are the findings of GRETA in the last sentence of item 103 and in item 122). We definitely do not agree with the finding, that a condition for concluding an agreement is that the testimony of the victim must be withdrawn. Moreover, such a withdrawal would lead to a reduction in the evidentiary capacity under the case. In that sense, we propose excluding this statement from the findings under this item.

The fact of reimbursement of the material damages with the conclusion of the agreement should be specified in the last sentence of **paragraph 122** as well.

Paragraph 111

A recommendation is stated that during the pre-trial phase, the collection of evidence regarding the harms and losses suffered by the victim should be ensured, with a view to future support of her claims in court. In this context, it should be noted that the harm suffered by an individual, who is a victim of a crime, has the nature of personal experiences and feelings, and is subject to proof by the prosecutor only in cases where it is part of the crime (for example bodily injury), which is not the case with traffic of human beings. In investigations of trafficking of human beings, the prosecutor's office collects evidence to prove the crime, including with respect to the harmed individuals - victims of the crime. For this reason, it is **not possible to impose an obligation to the prosecution and investigators to collect evidence in support of future claims for compensation**, which will be filed with the court during the trial phase of the proceedings. This principle, established in the national criminal law traditions, is expressed in the provision of Art. 73, para. 2 of the Criminal Procedure Code, according to which the request for

⁶ „On many occasions of trafficking of human beings, the defendant makes a confession and the prosecutor stops the investigation with a proposal for an agreement, whereby the victim is paid a monetary amount under the condition of withdrawing his/her testimony. As a result of this, the victim ceases to participate in the criminal proceedings and the only way for the victim to raise a claim for compensation from this point onward is by initiating a separate civil case for compensation.“

imposition of preservation measures with a view to a future civil claim should be filed with the court by the victim herself/himself. There is no reason for the state to influence the decision of the victim whether to participate in the pre-trial proceedings as such, it could only provide explanations in this regard.

We state our disagreement with this part of the recommendation and insist that it be deleted.

With regard to the application of Art. 51 of the Criminal Procedure Code and the recommendation that the prosecution should apply the same provision in its work, it should be noted by the evaluators that this provision provides for an opportunity and not an obligation of the prosecutor, which is applied in case of impossibility to protect the rights of the harmed child under the normal procedure (the child is not represented by his legal guardians, by a defense counsel – either appointed ex officio or hired – or by a special representative). In this regard the provision of Art. 247b, para. 2 of the Criminal Procedure Code should be considered, according to which the court provides notification about the disposition session and the issues to be discussed at it to the victim or to his/her heirs, to whom the right to authorize a representative is communicated. In this context, the representative may also be appointed by the court if the victim presents evidence that he/she is unable to pay attorney's fees and wishes to have such (Art. 100, para. 2 of the Criminal Procedure Code).

We state our disagreement with this recommendation and insist that it be deleted.

Paragraph 123

With respect to the findings for the lack of a concept for “labour exploitation”, it should be noted that the concept “exploitation” is present in the Combating Trafficking in Human Beings Act, where in the Additional Provisions § 1, item 2 it is defined as “illegal use of human beings for debauchery, removal of physical organ, tissue, cell or bodily fluid from the injured person, for forced labour, for begging or placing in subservient position, slavery or servitude.” Insofar as the national legislation allows for words or expressions with established legal meaning to be used with the same meaning in all normative acts and there is no obstacle for this definition to be used in criminal proceedings as well ⁷, we propose that this possibility be brought to the attention of GRETA.

Paragraph 135

According to the Bulgarian Criminal Procedure Code, **the initiation of criminal proceedings** does not depend solely on whether a complaint has been received from the victim of the crime of trafficking in human beings. In addition to a notification to the bodies of the pre-trial proceedings for a committed crime, the legal grounds for initiating an investigation according to Art. 208 of the Criminal Procedure Code are also information about a committed crime, disseminated through the mass media; personal appearance of the perpetrator before the bodies of the pre-trial proceedings with a confession for a committed crime, as well as direct finding by the bodies of the pre-trial proceedings of signs of a committed crime. The activity during the investigation of the pre-trial proceedings is not made dependent on the legal grounds, which were present for its initiation.

The remark that the prosecutor’s office is not making efforts to adequately investigate the crime of trafficking isn’t accepted; additionally the recommendation is made without taking into account the national model for this type of crime, related to the circumstance that trafficking of victims and their exploitation is usually to and in other EU countries. All modern investigative techniques, including the use of special intelligence means, as well as the forms of international cooperation, are used in cases of this crime as well.

We state our disagreement with this recommendation and insist that it be deleted or reworded as “continuing efforts” in this direction, including a deletion of the part „regardless of whether a complaint about the reported crime has been submitted or not”.

The involvement of a **specialized financial investigator** in **each case** of investigation of a crime of trafficking of human beings is an excessive measure and could result in the involvement of this specialized resource even in cases where lack of income by the investigated individual has been established at the time of detection of the crime by

⁷ Art. 37, para. 1 of Act No 883 dated 24 April 1974 for the implementation of the Law on Normative Acts.

law enforcement agencies. This, in turn, may lead to difficulties or inability to ensure such resource for other pre-trial proceedings, in which the subject of the investigation is also related to a crime leading to the acquisition of criminal property.

We express disagreement with this wording of the recommendation, and we propose the wording to specify that assigning the cases to this type of investigative bodies will be done “in case of motivated need, considering the particular case”.

Additionally regarding the same item, the prosecution has not neglected its legally prescribed obligations to prosecute perpetrators, including in relation to investigate trafficking of human beings for the purpose of labor exploitation, as long as such actions have been detected by the competent authorities. In this context, the recommendation should also include, as addressees, the relevant crime detection authorities (labor inspection authorities as well as security and public order services).

Concerning the text “*GRETA urges the Bulgarian authorities to take measures to strengthen the criminal justice response to THB, including by ...If an **alternative charge is preferred** in THB cases, this should be recorded and monitored by the Prosecutor’s Office. The plea-bargaining procedure should **be 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 the agreement is not in any way detrimental to the rights of the victims, including their access to compensation.*” – it contains ambiguity about the meaning of the wording “if alternative charge is preferred in THB cases”. Insofar as Bulgarian legislation does not contain the concept “alternative charges”, we propose that this text be deleted or, in view of the meaning intended by the evaluators, be corrected in accordance with the national legislation.

Furthermore, it should be noted, that the procedure for concluding agreements is regulated in detail in the Criminal Procedure Code and its advantages as a procedural method for resolving cases and issuing a final court act promptly have been proven over time. The national regulations do not also provide for explicit detailing in the court act for approval of the advantages of concluding an agreement.

In the stated context we express our disagreement with the recommendation regarding the use of agreements in cases of trafficking of human beings *only as an exception*, and also *for* the additional motivation of the court act and we insist that it should be deleted. It should also be noted that the Convention on Action against Trafficking in Human Beings does not require changes to the national procedural rules in this regard.

Paragraph 139

As regards the statement in that paragraph, it should be noted that according to the Methodological Guidelines for Operating Crisis Centres as a Social Service, which have the status of a recommendation, with no statutory, binding effect, a Crisis Centre is a complex of social services provided to victims of violence, trafficking or other forms of exploitation, including children, for a period of up to six months, and aimed at providing individual support, meeting users’ daily needs and providing them with legal advice or social and psychological help or access to education where emergency intervention is required, including through crisis intervention mobile teams. Regardless of the statutory time limit for using the Crisis Centre service (up to 6 months), **the recommended duration for this kind of service, considering the nature, purpose and philosophy thereof, is 3 months. Crisis Centres (CCs) as a social service are not meant for long-term residence.** They are intended to serve the purposes of identifying the problem at hand and doing what is necessary in the specific circumstances of the case in order to ensure the user’s successful social inclusion and social cohesion.

Data analysis of the dynamics in terms of the development of Crisis Centres as a social service for children over the past few years shows that **the increasing need for this kind of service is a lasting trend**. In response to the emerging needs, the number of Crisis Centres for children functioning as state-delegated social services in the territory of Bulgaria has been on the rise, to reach 19 as at 31 December 2019, compared to 14 CCs in 2012. This means that the number of CCs for children has increased by 26% in the period 2012-2019.

Children and other individuals placed at these services can also use additional community-based support social services, according to their individual needs.

Cases of child victims of trafficking and violence are actively monitored by the Child Protection Departments (CPDs) for a period of one year in order to provide children with the required support and to prevent them, as well as other children from their families, from being trafficked or re-trafficked. If necessary, the monitoring period may be extended depending on the specific circumstances of each case. Methodological Guidelines for Operating Crisis Centres as a Social Service have been developed, which clearly distinguish between services for child victims of violence and child victims of trafficking.

According to the Coordination Mechanism for Referral and Care of Unaccompanied Minors and Child Victims of Trafficking Returning from Abroad, data on monitored cases of child victims of trafficking are administered by the Social Assistance Agency (SAA). Cases of child victims of trafficking are actively monitored by the CPDs for a period of one year. The social worker handling the case may decide to extend the monitoring period depending on the specific circumstances of the case. In 2019, 15 children were repatriated.

In 2019, the following information was available at the SAA concerning child victims of trafficking monitored by the CPDs:

- Q1 2019: 14 monitored children;
- Q2 2019: 15 monitored children;
- Q3 2019: 13 monitored children;
- Q4 2019: 13 monitored children.

In 2020, the following information was available at the SAA concerning child victims of trafficking monitored by the CPDs:

- Q1 2020: 11 monitored children;
- Q2 2020: 7 monitored children;
- Q3 2020: 13 monitored children.

It should be noted that according to child protection legislation, where a child cannot be raised in his or her biological family, alternatives and resources should be sought to ensure that the child is raised within his or her extended family or a family within his or her support network, a foster or an adoptive family. The next option to be sought is placement at resident social services such as Family-Type Accommodation Centres, Transitional Homes for Children, etc. Placement at a residential service such as a Crisis Centre is a measure of last resort (where family-environment alternatives are exhausted) and of a temporary nature. The child protection measures laid down in the CPA, including access to social services as a protection measure to be applied within a family environment or to be combined with other measures as provided for by the CPA, apply to all children in the territory of Bulgaria and are implemented at the location where the child concerned resides.

Paragraph 142

According to Article 3(4) of the Child Protection Act, one of the tenets of child protection is the provision of special protection to any child at risk.

Paragraph 159

Insofar as the wording regarding the scope of jurisdiction of the Specialized Court is imprecise⁸, we propose that the same be corrected by indicating that the specialized courts, as well as the specialized prosecutor's offices have jurisdiction to review cases, where the perpetrators are organized criminal groups (for such groups three or more participants are required), including trafficking of human beings.

Paragraph 170

With respect to the findings, related to the various obstacles for women to defend their rights, we deem it necessary to include a reference, that those findings have been established globally, because the wording of this item does not make it clear.

Paragraph 174

It should be noted that a child's participation in proceedings is regulated by Article 15 of the Child Protection Act. In any administrative or judicial proceedings affecting a child's rights or interests, in all cases where the child concerned is aged 10 or more, such child shall be heard, unless such hearing would prejudice the child's interests. Where the child concerned is younger than 10 years, a decision to hear the child may be made depending on the child's stage of development. Any decision to hear such a child should be substantiated. Before the child is heard, the relevant court or administrative body should:

1. Provide the information necessary to help the child form his or her opinion;
2. Inform the child of the possible consequences of his or her wishes and opinion, and of any decision by the judicial or administrative body.

Judicial and administrative bodies shall provide an environment appropriate for hearing the child and adequate to his or her age. Any hearing of or consultation provided to a child should be done in the presence of a social worker from the relevant Social Assistance Directorate competent in the area where the child currently resides, and another appropriate specialist if necessary. The court or administrative body shall order that the hearing takes place also in the presence of the child's parent, guardian, caregiver or another person who is close to and known by the child, unless that runs counter to the child's interests. The relevant court or administrative body shall notify the Social Assistance Directorate competent in the area where the child concerned currently resides of any such court or administrative case, in accordance with the provisions of the Civil Procedure Code (where the notification is given by a court) or the Administrative Procedure Code (where the notification is given by an administrative body). The relevant Social Assistance Directorate is required to send a representative to state its opinion, or, if that is impossible, submit a report.

A Social Assistance Directorate may also represent a child in the cases provided for by law. A child has the right to legal aid and complaint in all proceedings affecting his or her rights or interests.

Paragraph 178

The findings contain an opinion by the UN Special Envoy for child protection (particularly on the matter for the sale and sexual exploitation of children) from a report from his visit to Bulgaria, prepared in 2019, which includes reference to a deed issued by the Prosecutor General⁹, requiring the victim to "prove that he/she has been subjected to physical, psychological or sexual abuse three times, in order to initiate pre-trial proceedings".

We expressly state that such order regarding the crime of trafficking of human beings has not been issued and insist that the text be reworded.

⁸ 159. The Specialised Court for Organised Crime was set up in 2012 to try cases involving more than three perpetrators, including THB cases. Further, the Specialised Prosecutor's Office deals with organised crime cases.

⁹ 2019 report on the visit to Bulgaria by the UN Special Rapporteur on the sale and sexual exploitation of children, The report indicates that an **ordinance was reportedly issued by the Office of the Prosecutor General** which requires a victim to prove **three episodes of physical, psychological or sexual violence for a criminal case to be opened**.

We assume, that the requirement for at least three instances of violence, which is discussed to in the report, most likely refer to crimes, related to domestic violence, more specifically “systematic”, which is a requirement of the law¹⁰.

It is important to note, that work on this category of cases is a priority for the prosecution and it is precisely with respect to those cases that the *Instruction for the Organization of the Prosecutor’s Office of Republic of Bulgaria on Files and Pre-trial Proceedings, Initiated after Reports for Domestic Violence Occurrences, for Murder Threats and for Breached Order for Protection Against Domestic Violence, approved with Order No RD – 02-09/30 April 2018 of the Prosecutor General* has been issued. The instruction aims to create a unified mechanism for timely response to occurrences of domestic violence, murder threat and breach of the order for protection from domestic violence; effective protection of the injured persons and unification of the prosecutorial practice in files and cases of this category.

Paragraph 213

Regarding the text and recommendation “*GRETA considers that the Bulgarian authorities should review the existing legal provisions with a view to extending the scope of forced labour to include working conditions contrary to human dignity, in line with the ILO indicators of forced labour, and ensure their prosecution under criminal law*”- for review and amendment to the legal provisions and for expanding the scope of labour exploitation, we consider that this recommendation needs additional clarifications and it should be stated expressly that prosecution will be in the context of trafficking of human beings.

Otherwise, if the recommendation should be construed as criminalization of the standalone crime of forced labour, we object to its adoption, because it falls outside of the scope of the Council of Europe Convention on Action against Trafficking in Human Beings.

Paragraph 219

It is with the purpose of improving interinstitutional cooperation, coordination of work and support for child victims of violence and other forms of abuse that amendments to the Child Protection Act (CPA/33Дет.) have been adopted, in effect since 1 July 2020. The CPA (33Дет.) is now the statutory instrument which regulates (in Article 36d thereof) the Coordination Mechanism for cases of violence which has been in place since 2010 and provides the legal foundation for the protection of child victims of violence or exploitation. The current provisions regulate the required interinstitutional interaction and the setting up of a multidisciplinary team to develop an action plan to protect the child concerned or prevent the risk of violence, as the case may be. Such action plans are to involve health, social and educational services aimed at violence prevention or at the recovery of the child concerned.

As regards **paragraph 224**, it is not clear which law the suggestion to legally regulate the National Mechanism for Referral and Support to Victims of Trafficking refers to. There is no “Law on Social Protection” within the body of Bulgarian law. In our view, if such a mechanism is to exist in a regulated form, it would be more appropriate to lay it down in the Law on Combating Trafficking in Human Beings.¹¹

Paragraph 238

According the view of Bulgarian authorities, efforts ought to focus on identifying the actual victims of trafficking among asylum seekers (the Convention requires *reasonable grounds* to believe that a person has been victim of trafficking in human beings), and it is *only after the persons concerned are identified as victims of trafficking* that they shall be made acquainted with their rights in their capacity as victims of this crime.

¹⁰ Art. 93, item 31 Penal Code (New – State Gazette, issue 16 from 2019) The crime is committed “in the conditions of domestic violence”, if it is preceded by systemic exercise of physical, sexual or psychological influence, placing under economic dependance, forced limitation of personal life, personal freedom and personal rights and is exercised against ascendant, descendant, spouse or ex-spouse, person with whom he / she has a child, a person with whom he / she is or has been in de facto cohabitation, or a person with whom he / she lives or has lived in the same household.

¹¹ The NRM is approved as a Decision of the Council of Ministers of the Republic of Bulgaria in 2016

Additionally, the wording under Item 238 and more specifically “*GRETA urges the Bulgarian authorities to further improve the identification of victims of THB, including by ensuring that **pre-removal risk assessments prior to all forced removals from Bulgaria fully assess the risks of trafficking or re-trafficking on return, in compliance with the obligation of nonrefoulement. In this context, reference is made to GRETA’s Guidance note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection***” does not make it clear which categories of individuals are covered by “all forced removals” in order to assess the legal grounds for conducting this kind of assessment. In this regard we would like to note that the Criminal Code (in its Articles 3 to 6) explicitly delineates the jurisdiction of the Republic of Bulgaria with regard to committed crimes, which covers: crimes committed in the territory of the Republic of Bulgaria, as well as crimes committed abroad by Bulgarian nationals; national jurisdiction also applies to crimes committed abroad by foreign nationals where that is provided for by an international arrangement to which our country is a party. In the context of asylum seekers in Bulgaria and illegal migration, considering the conditions delineating the scope of application of the Criminal Code, the Prosecutor’s Office of the Republic of Bulgaria would not be competent to investigate trafficking crimes committed abroad against such individuals or use special investigative techniques to prove the requisite goal included in the defined elements of the crime.

Concerning the text that “*GRETA urges the Bulgarian authorities to further improve the identification of victims of THB, including by enabling specialised NGOs with experience in identifying and assisting victims of trafficking to have **regular access to facilities for asylum seekers and detained migrants***”, we would only like to point out that the Convention requires the State Party to provide such assess *as appropriate*.¹²

Paragraph 243

We would like to once again note that the statement that only one centre for victims of domestic violence exists in Sofia must be the result of some misunderstanding. There are a number of crisis centres (CCs) in the city of Sofia, some of which operate as state-delegated social services, while others are funded by other (non-state) sources. It is important to note that the report in general makes no clear distinction between social services designed to support victims of violence, trafficking or other forms of abuse (regulated by and operating in accordance with the rules provided for by the social legislation in the field of social services) and the shelters and centres for protection and support of trafficked persons (regulated by the Law on Combating Trafficking in Human Beings). According to the Social Services Act, an Ordinance on the Planning of Social Services is to be developed shortly, and social services designed for victims of violence, trafficking or other forms of exploitation will be included in the mapping on the basis of objective criteria, taking account of population numbers and demographic profiles.

Paragraph 244

Please note that the Social Services Act regulates residential care social services such as Crisis Centres. The following updated information concerning community-based social services for children available as at November 2020 needs to be taken note of:

- 19 Crisis Centres for children, with a capacity of 196 places, of which 85 are currently used;
- 21 Centres Working with Street Children, with a capacity of 409 places, of which 382 are currently used;
- 53 Centres for Social Rehabilitation and Integration for Children, with a capacity of 1,827 places, of which 1,909 are currently used;
- 1 Centre for Social Rehabilitation and Integration for Children and Youths, with a capacity of 25 places, of which 25 are currently used;
- 13 Mother and Baby Units, with a capacity of 81 places, of which 29 are currently used;
- 143 Community Support Centres, with a capacity of 5,815 places, of which 6,669 are currently used.

¹² Article 10 – Identification of the victims. 2. Each Party shall adopt such legislative or other measures as may be necessary to identify victims **as appropriate** in collaboration with other Parties and relevant support organisations.

Paragraph 252

We considers it appropriate to add the number of child victims of trafficking in the first nine months of 2020. From the beginning of January 2020 to September, experts from the State Agency for Child Protection coordinated the implementation of emergency protection measures for **13** children, Bulgarian citizens who were victims of human trafficking for sexual and labour exploitation and abandoned by their parents. The countries in which the cases were registered and taken urgent protection measures to ensure the safety and security of the children are the following EU member states: Austria - 4 children, Great Britain - 2 children, Sweden - 2 children, the Netherlands - 2 children, Israel -1 child, Romania -1 child and France -1 child.

Paragraph 253

SACP considers it appropriate to add the number of measures under Article 76a of the Bulgarian Personal Documents Act for the period January - September 2020.

For the first nine months of 2020, the Chairman of the State Agency for Child Protection has made **13** statements with proposals of the Minister of Interior for imposition of measures under Art. 76a of the Bulgarian Personal Documents Act, to **10** of the children for a period of up to two years from the issuance of the order and to **3** children until reaching the age of majority. The imposition of a measure not to leave the Bulgarian state on children for a period of up to two years or until reaching the age of majority, serves as a protective measure to prevent re-trafficking of children for sexual and labour exploitation, their use for begging or neglect, as well as involvement in adverse activities.

Paragraph 260

Regarding the statement in that paragraph, it should be noted that safeguarding the rights and interests of unaccompanied foreign and refugee children is one of the priority areas of the SAA's work. Over the past few years, a number of amendments to the national migration, asylum and refugee legislation have been adopted to ensure the right of unaccompanied foreign and refugee children to case assessment, measures under the Child Protection Act and referral to community-based, support social services for children.

A guiding principle and key understanding in working with unaccompanied foreign and refugee children is that they are children at risk. To accommodate and support foreign and refugee children, the national legislation provides for using the nationwide network of social services for children at risk. Being children at risk, unaccompanied minors are subject to protection measures as laid down in the Child Protection Act. Upon a case of **an unaccompanied foreign or refugee child** being reported, the relevant Social Assistance Directorate shall register, inquire into and assess the child's case in accordance with the provisions of the child protection regulations in effect.

Article 44(9) of the Law on Foreigners in the Republic of Bulgaria (LFRB/ЗЧРБ) explicitly prohibits the application of coercive administrative measures in respect of unaccompanied foreign minors. Forced placement may not be applied to unaccompanied minors. The authority issuing the order imposing a coercive administrative measure shall transfer the person concerned to an officer of the relevant Social Assistance Directorate, and such Directorate shall take protection measures under the Child Protection Act. It is not allowed to place unaccompanied foreign minors at the Special Homes for Temporary Accommodation of Foreigners (SHTAF/СДБНЧ) under the Migration Directorate of the Ministry of the Interior.

In this regard, a new chapter was included in the Rules of Implementation of the Law on Foreigners in the Republic of Bulgaria (LFRB): Chapter Two B, "Proceedings in respect of Unaccompanied Foreign Children (New – SG No. 57/2018, effective as of 10.7.2018). Article 63k (New – SG No. 57/2018, effective as of 10.7.2018) lays down rules concerning the legal and factual actions to be taken by the competent police authorities and the relevant Social Assistance Directorate in case that an unaccompanied foreign child is identified.

A case management file is opened by the relevant Social Assistance Directorate, and a social worker is appointed to provide support to the unaccompanied child and to help safeguard his or her rights and interests during his or her stay at the centres of the State Agency for Refugees. In accordance with the safeguard provision of Article 15 of the Child Protection Act, a social worker is involved in the SAR's administrative proceedings on international protection which affect unaccompanied children. A social worker also participates in court hearings and proceedings affecting the

rights and interests of unaccompanied foreign (including refugee) children. When an unaccompanied foreign child is to be placed at a social service for children, an assessment is made concerning the location of the service and the resources of the city, town or village concerned. The assessment covers the social, educational and health infrastructure in the area, as well as the availability of social service providers and non-governmental and international organisations that could provide specialised support to children, expertise and interpreting.

As regards adult victims of trafficking willing to use social services, the provisions of the Social Services Act (SSA) apply. Council of Ministers Decree No 306/9.11.2020 enacted the Rules of Implementation of the Social Services Act (RISSA). Article 9 of the RISSA regulates the use of social services by victims of trafficking, as follows:

Where a request to use social services is submitted to a Social Assistance Directorate (SAD) by an individual in a crisis situation, a victim of domestic violence or a victim of trafficking, such individual shall immediately be referred to appropriate social services funded by the state budget. Where such individual is accompanied by a child and is such child's parent or guardian, the service shall also be made available to the child.

Where the victim of domestic violence or trafficking requesting the SAD to use a social service is a pregnant woman or the mother of a child under the age of 3, she shall immediately be referred to an appropriate social service funded by the state budget, together with the child. Where the mother is accompanied by another child of hers who is aged 3 or more, the social service shall also be made available to that child. In case of an immediate threat to the life of individuals and their children, the relevant SAD or the provider of the social service chosen by the individual concerned shall report this to the bodies of the Ministry of the Interior competent in the location of the service.