



EVALUATION REPORT

DENMARK

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 evaluation round of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, Denmark has adopted a new national anti-trafficking plan for the period 2019-2021. The Danish Centre against Trafficking in Human Beings (CMM) has established a national referral system, consisting of five regional groups which refer cases to a national group. The referral system involves officials from the police, the Prosecution Authority, the Immigration Service, and the Tax Agency, as well as representatives of civil society.

Denmark is primarily a country of destination for victims of trafficking. The total number of victims identified in the period 2016-2019 was 380, including 28 children. The most frequent form of exploitation remains sexual exploitation, followed by labour exploitation and forced criminality. More than half of all victims were Nigerian and only one victim was Danish. The large majority of victims were women, but in 2018, when the majority of victims were subjected to labour exploitation, there were more male victims.

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 authorities have developed several brochures and a website – available in different languages – to inform victims of human trafficking about their rights. Further, detailed instructions and guidance on how to deal with victims of human trafficking have been issued by the Director of Public Prosecutions for the attention of various professionals who may come into contact with victims. Nevertheless, GRETA considers that the Danish authorities should make the information provided more accessible, including through improving the quality of interpretation provided during questioning by police or judges.

In criminal proceedings, victims of human trafficking are entitled to a free-of-charge support lawyer upon their request. Support lawyers are usually appointed from a pool of lawyers maintained by each court. Free legal aid is also available in civil proceedings, but under strict conditions. GRETA considers that the Danish authorities should take further steps to ensure that access to legal aid and the appointment of a lawyer are guaranteed as soon as there are reasonable grounds for believing that a person is a victim of human trafficking, including in the case of asylum seekers and persons placed in detention prior to deportation, before the persons concerned have to decide whether or not they want to co-operate with the authorities and/or make an official statement.

Only a small number of victims of human trafficking have received compensation from the perpetrators and there have been only three claims for state compensation in human trafficking cases since 2016, all of which concerned moral damages. GRETA urges the Danish authorities to guarantee effective access to compensation for victims of trafficking, including by simplifying the procedures for applying for compensation, lowering the threshold for granting moral damages, and making full use of the legislation on freezing and forfeiture of assets to secure compensation to victims of human trafficking.

In the period 2016-2019, there have been nine court decisions, relating to four different cases, resulting in the conviction of 23 persons for human trafficking offences. GRETA notes with concern that the number of convictions for human trafficking remains low, in particular for trafficking for the purpose of labour exploitation, despite the number of victims of this form of trafficking having increased. GRETA is also concerned that some of the sentences imposed for human trafficking offences appear to be disproportionately low, which undermines efforts to combat human trafficking and guarantee victims' access to justice. GRETA urges the Danish authorities to allocate necessary human and financial resources to ensure that cases of human trafficking are proactively investigated, prosecuted and lead to effective, proportionate and dissuasive sanctions, and to ensure that the criminal liability of legal entities can be acted upon in practice.

There is still no specific legal provision in Danish law concerning the possibility of not imposing penalties on victims of trafficking for their involvement in unlawful activities, to the extent that they have been compelled to do so. The guidance on handling of cases of human trafficking, first issued by the Director of Public Prosecutions in 2012, apparently did not prevent the prosecution of a number of victims of trafficking for offences they were compelled to commit. GRETA urges the Danish authorities to ensure compliance with Article 26 of the Convention through further developing the existing guidance and promoting its application.

GRETA notes that while efforts have been made to encourage victims of human trafficking to testify against traffickers, there have been few measures taken to actually protect victims and/or witnesses of trafficking against retaliation by traffickers during court proceedings and upon return of the victims to their countries of origin. GRETA considers that the authorities should take additional steps to ensure that victims and witnesses of human trafficking are provided with effective and appropriate protection from potential retaliation or intimidation.

GRETA welcomes the existence of specialised staff for combating human trafficking within the police (26 full-time police officers), but considers that the Danish authorities should take additional steps to ensure that all relevant professional groups are regularly and systematically trained on trafficking issues.

GRETA further welcomes the existence of five children's houses in Denmark, which are equipped with special facilities for interviewing child victims and witnesses of abuse, enabling the adoption of a child-sensitive approach and procedures for obtaining access to justice and remedies. GRETA considers that the authorities should make full use of these specialised facilities in cases of human trafficking.

The report also examines progress made on the implementation of previous GRETA recommendations on selected topics. GRETA welcomes the work of the Tax Agency's inspectors and the involvement of trade unions in detecting and preventing trafficking for the purpose of labour exploitation. Nevertheless, GRETA considers that the Danish authorities should pursue a more proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by encouraging co-ordinated multi-agency labour inspections in workplaces.

Despite welcome initiatives, such as a hotline which helps detect victims of trafficking, GRETA considers that the efforts made to identify victims of trafficking in Denmark are still insufficient, in particular among third-country nationals who might be staying irregularly in Denmark as a direct consequence of having been trafficked. In this regard GRETA urges the Danish authorities to provide training to relevant professionals, further strengthen co-operation with specialised NGOs, and improve the identification of victims of human trafficking in the asylum procedure.

GRETA welcomes the increased efforts to identify child victims and the constructive co-operation between officials and the Danish Red Cross. Nevertheless, GRETA urges the Danish authorities to make further efforts to improve the identification of child victims of trafficking, especially amongst unaccompanied asylum-seeking children, and to take steps to address effectively the problem of disappearance of unaccompanied children from reception facilities, by providing suitable safe accommodation and sufficient numbers of adequately trained supervisors.

GRETA once again urges the authorities to review the legal provisions in order to ensure that victims of trafficking are provided with a recovery and reflection period, rather than a time-limit to prepare their departure from the country as irregular migrants. Furthermore, GRETA urges the authorities to review the application of the system for granting residence permits to victims of trafficking with a view to ensuring that the victim-centred approach which underpins the Convention is fully applied and in order to prevent re-trafficking.

While welcoming the existence of voluntary return arrangements for victims of trafficking, GRETA is concerned by inadequate risk assessments prior to return of victims to certain countries and urges the Danish authorities to ensure that repatriation assistance arrangements encompass protection against reprisals and re-trafficking.

I. Introduction

1. The Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) entered into force for Denmark on 1 February 2008. GRETA’s first evaluation report¹ on Denmark was published on 20 December 2011, and the second evaluation report² on 10 June 2016.
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 Danish authorities, requesting them to inform the Committee of measures taken to comply with the recommendation within a one-year period. The report submitted by the Danish authorities was considered at the 21st meeting of the Committee of the Parties (13 October 2017), and was made public.³ Subsequently, on 23 February 2018, the Danish authorities submitted additional information as a follow-up to their report sent in reply to the Committee of the Parties’ recommendation.
3. On 15 February 2019, GRETA launched the third round of evaluation of the Convention in respect of Denmark by sending the questionnaire for this round to the Danish authorities. The deadline for submitting the reply to the questionnaire was 1 June 2019. Following a request by the Danish authorities for an extension of the deadline until 1 September 2019, the authorities’ reply was received on 31 October 2019.
4. In preparation of the present report, GRETA used the reply to the third-round questionnaire by the Danish authorities, the above-mentioned report and additional information submitted by them in reply to the Committee of the Parties’ recommendation, and information received from civil society. An evaluation visit to Denmark took place from 2 to 6 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:
 - Mr Ola Laurell, member of GRETA;
 - Ms Julia Planitzer, member of GRETA;
 - Mr Mats Lindberg, Administrator in the Secretariat of the Convention.
5. During the visit, the GRETA delegation met representatives of relevant ministries and other public agencies, including the Ministry of Justice, the Ministry of Immigration and Integration, the Ministry of Social Affairs and the Interior, the Ministry of Employment, the Ministry of Taxation, the Danish Centre against Human Trafficking (THE CMM), the Department of Gender Equality, the Danish Immigration Service (DIS), the Working Environment Authority, the Danish Assets Recovery Office, the Criminal Injuries Compensation Board, and the Danish Tax Agency. Meetings were also held with representatives of the National Police, the Office of the Director of Public Prosecutions and a district court judge. Further, GRETA’s delegation held a meeting with two Members of the Danish Parliament. Discussions were also held with representatives of the Danish Institute of Human Rights.
6. In addition, the GRETA delegation held meetings with representatives of non-governmental organisations (NGOs), lawyers, victims of human trafficking and researchers. A meeting was also held with officials from the International Organization for Migration (IOM).
7. In the course of the visit, the GRETA delegation visited a shelter for female victims of trafficking, run by the NGO Reden International, the Children’s Centre in Copenhagen, the asylum reception centre in Sandholm, run by the Danish Red Cross, and the immigration detention centre in Ellebæk.
8. The list of the national authorities, NGOs and others with whom the delegation held consultations is set out in Appendix 2 to this report. GRETA is grateful for the information provided by them.

¹ <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680631bd4>

² <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806662af>

³ <https://rm.coe.int/cp-2017-17-rr2-dnk-en/1680726c07>

9. GRETA wishes to place on record the co-operation provided by the Danish authorities and in particular by Ms Sofia Regina Lausten Manili, Head of Section, International Police Division of the Ministry of Justice, who acted as GRETA contact person at the time of the visit.

10. 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 Danish authorities for comments. The authorities' comments were received on 6 November 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 Denmark

11. Denmark remains primarily a country of destination for victims of trafficking in human beings (THB). The number of victims identified by the authorities was 121 (114 female, 7 male) in 2016, 98 (86 female, 8 male, 4 transgender) in 2017, 97 (35 female, 61 male, 1 transgender) in 2018, and 64 in 2019 (41 women, 22 men and 1 transgender).⁴ Among the victims, there were nine children in 2016, three in 2017, 10 in 2018, and six in 2019, which indicates an increase compared to the previous reporting period. While in 2016-2017, as well as in 2019, the majority of the identified victims were subjected to sexual exploitation (112 in 2016, 86 in 2017, 38 in 2019), in 2018 the majority of victims were subjected to labour exploitation (46 victims, most of whom were identified in the so-called "Truck drivers case", see paragraph 163). Linked to this is the fact that in 2018 there were for the first time more male than female victims identified. There were four victims of forced criminality in 2016, five in 2017, eight in 2018, and five in 2019. The rest of the identified victims were trafficked for other exploitative purposes (forced or sham marriage, domestic servitude, cannabis production, production of pornographic materials). The large majority of victims were Nigerian (99 in 2016, 63 in 2017, 20 in 2018, 16 in 2019), followed by victims from the Philippines (26 in 2018) and Thailand (in 2016, 12 in 2017, 5 in 2018, 14 in 2019). Six of the victims identified in 2018 were Moroccan boys (aged 15-17), trafficked for the purpose of forced criminality. There was only one Danish victim of THB identified in the reporting period. Most victims were identified by the Danish Immigration Service (DIS), followed by the Danish Centre against Trafficking in Human Beings (CMM).

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

12. The Danish Centre against Trafficking in Human Beings (CMM) remains the main agency specialised in combating THB and, in particular, supporting victims. The CMM has 17 staff members (including eight social workers, four consultants, two health-care professionals and one full time lawyer). Under the National Action Plan to combat Human Trafficking, the CMM has established a national referral system. The system consists of five regional groups which refer cases to a national group. The national referral system aims at ensuring co-ordination and co-operation between all the relevant actors across sectors at local, regional and national level and that procedures are aligned. It also aims to ensure that stakeholders at local and regional level are informed and involved in counter trafficking measures, and that local knowledge, trends and cases are efficiently communicated at national level. The referral system involves officials from the police, the Prosecution Authority, the Immigration Service, and the Tax Agency (part of the Ministry of Taxation),⁵ as well as representatives of civil society. The CMM is also responsible for convening a co-operation group consisting of the Police Immigration Centre, the National Investigation Centre of the National Police (NEC) and the Danish Immigration Service (DIS). This co-ordination group is convened on an ad hoc basis if changes or challenges occur, but the CMM meets different stakeholders individually on a regular basis. The CMM reports to the Department of Gender Equality, which belongs to the Ministry of Environment and Food, formed after the June 2019 general elections in Denmark.⁶

⁴ In the period covered by GRETA's second report, the number of identified victims was 60 in 2011, 66 in 2012, 76 in 2013, 71 in 2014 and 93 in 2015.

⁵ See <https://www.sktst.dk/english/#> and paragraph 85 of the second GRETA report.

⁶ The authorities explained to GRETA that the Department of Gender Equality, and linked to it the CMM, is placed with the Minister with the greatest interest in the matters at hand in any given Government, and this explains why the Department has been moved multiple times from one Ministry to another, following general elections. The Minister responsible for equal opportunities is one of the two ministers of the Ministry of Environment and Food.

13. The Inter-Ministerial Working Group on Human Trafficking, established in 2002, continues to coordinate the implementation of the national action plans.⁷ It usually meets once to twice per year. During the visit, GRETA was informed that the most recent meeting had been held at the beginning of 2019, and the next one was scheduled for the end of January 2020. The last meeting was held on 3 June 2020 and focused on the ongoing analysis of the social initiatives under the National Action Plan against THB.

14. GRETA was informed about the envisaged launch of a new Inter-Ministerial Working Group, to be led by the Ministry of Employment. This new working group will focus on measures against social dumping and the protection of vulnerable migrant workers, which is relevant to combating THB. **GRETA would like to be kept informed of the launch and activities of this new working group.**

15. The present National Action Plan against THB, covering 2019-2021, is divided into four action areas: prevention and outreach work; identification, assistance and support of victims of trafficking; investigation and prosecution of traffickers; and co-ordination and knowledge sharing, both domestically and internationally. Civil society representatives drew GRETA's attention to the fact that the new National Action Plan is very similar to previous ones, without taking into account changing circumstances. Specialised NGOs were reportedly consulted in the process of preparing the new National Action Plan, but they were not shown the final draft before it was published.

16. The budget for implementing the National Action Plan is 63 million DKK (21 million DKK per year, corresponding to about 2.8 million Euros).⁸ Most of the budget is used to finance the activities of the CMM, but some of it is allocated to the NGOs Hope Now, Amiami and Reden International for performing outreach work and providing support services for victims of THB, including shelter and legal assistance.

17. The implementation of the national action plans is evaluated by external consultancy companies. Thus the previous National Action Plan, covering 2015 - 2018, was externally evaluated. Specialised NGOs have criticised the process of preparing the evaluations, which reportedly does not sufficiently take into account their views. GRETA notes that specialised NGOs can play a valuable role in the evaluation of national action plans, given their direct experience of identifying and assisting victims of THB. Further, GRETA notes that whereas the 2015-2018 National Action Plan had a chapter on civil society involvement (5.2), the current Plan does not have a specific chapter on civil society involvement but briefly describes the involvement of NGOs in other chapters.

18. In its second report on Denmark, GRETA considered that the Danish authorities should examine the possibility of establishing an independent National Rapporteur or designating another mechanism as an independent organisational entity with a view to ensuring effective monitoring of the anti-trafficking activities of state institutions and making recommendations to persons and institutions concerned. Denmark has not yet established a national rapporteur, and the CMM continues to act as an equivalent mechanism, sharing the task with the NEC. GRETA continues to be of the view that a body which is directly subordinated to a ministry is not in a position to critically monitor the anti-THB actions of the Government and other public institutions. At its meeting with the CMM, the GRETA delegation was told that the CMM sees its role not as a body providing constructive criticism, but rather as being responsible for sharing relevant data and knowledge among partners. **Reiterating its recommendation from the second evaluation report, GRETA considers that the Danish authorities should examine the possibility of establishing an independent National Rapporteur or designating another, independent, mechanism capable of monitoring the anti-trafficking activities of state institutions and making recommendations to persons and institutions concerned, as provided for in Article 29, paragraph 4, of the Convention.**

⁷ It consists of representatives of the Department for Gender Equality; the Working Environment Authority; the Ministry of Employment; the Ministry of Social Affairs and the Interior; the Ministry of Justice; the Ministry of Health; the Ministry of Taxation; the Ministry of Foreign Affairs; the Ministry of Immigration and Integration; the Director of Public Prosecutions; the National Police; the Agency for International Recruitment and Integration; the Tax Agency; the Immigration Service and the CMM.

⁸ The budget of the previous National Action Plan covering four years (2015-2018) was 88.6 million DKK (on average about 22 million DKK yearly, corresponding to about 3 million Euros annually).

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

1. Introduction

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

20. The right to effective remedies is a reflection of the human-rights based approach underpinning the Convention. Regardless of whether a State is implicated in the trafficking or directly responsible for the harm, the positive obligations arising from international human rights law require States to facilitate and guarantee effective access to remedies if they have failed to take reasonable steps to prevent human trafficking, protect potential or actual victims of trafficking, and effectively investigate trafficking offences.⁹

21. According to the Basic Principles on the Right to an Effective Remedy for Victims of Trafficking in Persons,¹⁰ the right to an effective remedy is considered to include restitution,¹¹ compensation,¹² rehabilitation,¹³ satisfaction¹⁴ and guarantees of non-repetition.¹⁵ All victims of trafficking require access to appropriate and effective remedies, starting with access to justice. The provision of effective remedies serves multiple purposes. The remedy of compensation, for instance, for any injury, loss or harm sustained, can provide critical support in victims' recovery and empowerment, help their social inclusion and prevent re-victimisation. The remedy of rehabilitation can similarly help in the victims' recovery and social inclusion. Of relevance in this respect is also the 1985 United Nations Declaration of Basic Principles 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.¹⁶

⁹ *Rantsev v. Cyprus and Russia*, no. 25965/04, judgment of 7 January 2010; *L.E. v. Greece*, application No. 71545/12, judgment of 21 January 2016; *Chowdury and Others v. Greece*, application No. 21884/15, judgement 30 March 2017; *S.M. v. Croatia*, application No. 60561/14, Grand Chamber judgment 25 June 2020.

¹⁰ UN General Assembly, Basic principles on the right to an effective remedy for victims of trafficking in persons, Annex to the Report by the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, 28 July 2014, A/69/33797.

¹¹ 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 identify and travel documents and other personal belongings.

¹² 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.

¹³ 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.

¹⁴ Satisfaction includes effective measures aimed at the cessation of continuing violations; verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety, privacy and other interests of the victims of their families; an official declaration or a judicial decision restoring the dignity, reputation and rights of the victim; public apologies; judicial and administrative sanction against the perpetrators.

¹⁵ 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.

¹⁶ United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Adopted by General Assembly resolution 40/34 of 29 November 1985, available at: https://www.unicef-irc.org/portfolios/documents/472_un-declaration-crime.htm

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

23. 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.¹⁷

24. 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.¹⁸ In this context, reference should be made to the international projects COMP.ACT - European Action on Compensation for Trafficked Persons¹⁹ and Justice at Last - European Action for Compensation of Victims of Crime,²⁰ which aim to enhance access to compensation for trafficked persons.

25. 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.²¹ The role of businesses includes steps to ensure that their supply chains are free of trafficked labour, as well as the adoption and implementation of measures to facilitate access to remedies for victims for any harm that occurs. Further, businesses have the potential to help trafficked persons regain economic autonomy.²² 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.

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

2. Right to information (Articles 12 and 15)

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

¹⁷ 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

¹⁸ OSCE Compensation for Trafficked and Exploited Persons in the OSCE Region, 2008, pp. 48-53.

¹⁹ <http://www.compactproject.org/>

²⁰ <http://lastradainternational.org/about-lsi/projects/justice-at-last>

²¹ United Nations Guiding Principles on Business and Human Rights, implementing the UN 'Protect, Respect and Remedy' Framework, Doc. A/HRC/17/31 (2011).

²² UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 8-9.

28. 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.²³

29. 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.²⁴

30. As noted in GRETA's second report on Denmark,²⁵ section 741 (a, b, c and e) of the Administration of Justice Act regulates the provision of information by the police to victims of crime, including children, about their legal position, the expected and actual progression of their case and their rights, including the right to a support lawyer (*bistandsadvokat*) and to claim compensation. This information must be given prior to the first formal police interview with the victim, and must be repeated during any subsequent police interviews. Point 2.5.2 of the guidelines issued by the Director of Public Prosecutions on how to deal with THB cases²⁶ instructs police officers to inform victims of THB about their right to a support lawyer. The guidelines also instruct prosecutors to keep injured parties informed of the progress of their case and the legal options available to them.

31. In spring 2019, the Police and the Director of Public Prosecutions produced jointly a brochure for victims of crime, with information on how to report a crime to the police, the conduct of police interviews and the giving of testimony in court. The brochure, which is also available on the Internet,²⁷ contains advice on how to obtain legal assistance and claim compensation. While welcoming the issuing of the brochure, civil society representatives underlined that its content needs to be verbally explained to victims in order for them to properly understand it.

32. Detailed instructions and guidance on how to deal with victims of THB have been issued by the Director of Public Prosecutions. One such guideline is aimed at various actors who work with victims of THB, such as the CMM staff and specialised NGOs, as well as professionals who may come into contact with victims of THB.²⁸ These actors inform possible victims about the various forms of support available to them. Presumed victims of THB are appointed a contact person at the CMM, whose responsibility it is to inform the victim of the support services available. As a supplement to the oral information, a leaflet with information in six different languages has been developed.

²³ See Explanatory Report on the Convention, paragraphs 160-162.

²⁴ See GRETA's 8th General Report, paragraph 169, available at <https://rm.coe.int/8th-168094b073>

²⁵ Paragraphs 126 and 127.

²⁶ See paragraph 29 of the second GRETA report on Denmark.

²⁷ <https://anklagemyndigheden.dk/da/vidner-ofre-og-sigtede> (extensive information in Danish and a summarised version in English).

²⁸ Available at https://anklagemyndigheden.dk/sites/default/files/inline-files/Rigsadvokaten_pjece_menneskehandel.pdf (in Danish).

33. At their first contact with the police, victims of THB are to be informed of the support measures available during the recovery and reflection period, which in the Danish context, as confirmed by representatives of the DIS, remains an extended deadline for victims staying irregularly in Denmark to leave the country.²⁹ All formally identified victims of THB are granted an unconditional reflection period of 30 days. If the victim co-operates with the authorities on his/her prepared return to the country of origin or another country, the reflection period is extended to a maximum of 120 days.

34. Further, a victim of human trafficking can be assigned a contact person within the police, if the police considers that the person in question might have to testify in court, to provide guidance and information on the rights of victims and the legal process.

35. In 2018, a website³⁰ for victims of THB was set up, providing information in seven languages, including a video clip, about the procedures for giving testimony, receiving legal assistance, being provided with protection, both inside and outside a court, claiming compensation, and the non-punishment principle.

36. The Public Administration Act does not explicitly regulate the duties of public authorities in relation to persons who do not speak Danish or in relation to relevant documentation in foreign languages. Nonetheless, according to the Danish authorities, police officers use interpreters during interviews, unless the presumed victim speaks Danish, in which case it is stated in the report that there are no language barriers. To the extent possible, court proceedings involving persons who are not fluent in Danish must be conducted with the assistance of a professional interpreter. Furthermore, when a criminal case is brought before the court, the Prosecution Service asks the court to make sure that relevant translators for non-Danish speaking defendants and witnesses are present at the court proceedings.

37. The CMM is responsible for providing interpreters for its interviews with presumed victims of THB. Further, the DIS provides translation and interpretation services to all asylum seekers throughout the asylum procedure.

38. The quality of the interpreters used by the Police and other authorities has been severely criticised by several interlocutors, including prosecutors, and a review of the existing interpretation arrangements is underway. Interlocutors criticised the quality of the interpretation and translation provided by the company engaged by the State. GRETA was informed of a hearing being interrupted because the judge in the case was under the impression that the interpreter did not understand the parties. The difficulties with ensuring quality interpretation stem at least partly from the fact that there is no certification system for interpreters in Denmark, making it difficult to assess the quality of interpretation offered in tender procedures. As a result, the price of the services offered becomes a decisive factor in the tender procedure. The Danish authorities have indicated that a decision has been taken to set up a committee to consider a certification scheme and education programmes for interpreters.

39. Moreover, even when foreign victims speak English, their dialects (e.g. Pidgin English spoken by Nigerian victims) are often not properly understood by the police. A victim of THB interviewed by GRETA indicated that this leads to misunderstandings and upsets victims when they see themselves quoted wrongly in police reports. Whenever allowed, anti-trafficking NGOs who are more used to listening to Nigerian Pidgin English assist with interpretation in police interviews or hearings.

40. GRETA notes the efforts made by the Danish authorities to inform victims of their rights, including through the publication of brochures in different languages and the setting up of a website. Nevertheless, GRETA notes that victims may not always be able to fully comprehend the information given for reasons of complexity, illiteracy or shortcomings in the interpretation.

²⁹ See paragraph 153 of the first and paragraph 111 of the second GRETA report on Denmark.
³⁰ <http://tell-your-story.info/en/give-testimony>

41. **GRETA considers that the Danish authorities should make further efforts to make the information provided to presumed victims of THB more accessible. All victims of trafficking who are not fluent in Danish should have the right to be assisted by a qualified interpreter during police interview or hearings in court.**

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

42. 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-law³¹ also recognises, in certain circumstances, the right to free legal assistance in a civil matter on the basis of Article 6(1) of the ECHR. Thus, even in the absence of legislation granting free legal assistance in civil matters, it is for the courts to assess whether, in the interest of justice, an applicant who is without financial means should be granted legal assistance if unable to afford a lawyer.

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

44. Pursuant to section 741 (c) of the Administration of Justice Act, a court shall assign a support lawyer (*bistandsadvokat*) to a victim of THB during criminal proceedings should the victim request. The support lawyer's tasks include explaining the procedures, informing victims about access to psychological and social support and the right to claim compensation, representing them in court, handling the compensation claim and providing assistance if the victim applies for asylum or a residence permit. The support lawyers are entitled to participate in police interviews involving victims and can ask follow-up questions to the victims. They have access to the victims' statements as well as other documents regarding the victims. The lawyers are assigned free-of-charge. If the victim is suspected of having committed a criminal offence, a defence lawyer (*forsvarsadvokat*) should be assigned instead.³³

45. According to section 741 (a) 3 of the Administration of Justice Act, the court can refuse to assign a support lawyer to a victim of THB if legal assistance is considered manifestly unnecessary. The criteria for refusing support lawyers are very narrow and only encompass cases of a very minor nature. According to the authorities, it is therefore difficult to envisage a situation, where a victim of THB would be denied a support lawyer. The Director of Public Prosecutions has no knowledge of cases where a victim of THB has been denied the appointment of a support lawyer on the grounds that legal assistance was considered manifestly unnecessary.

46. Support lawyers are usually appointed from a pool of lawyers maintained by each court. Formally, it is the Ministry of Justice which gives approval for adding a lawyer to the pool, but in practice the Ministry would follow recommendations of judges. The presiding judge decides on the remuneration of the support lawyer in each case, based on existing guidelines for different types of cases. In addition, most police districts have a list of lawyers who can provide legal assistance and legal aid to victims of THB, but all appointments of support lawyers have to be confirmed by the responsible court. A support lawyer can claim the hours of free legal assistance provided to a victim from the public legal aid budget, but the fees covered by this budget are not attractive for an experienced lawyer, and there is no compensation for the time of travel to the client, which may be significant. If the victim wishes to have a specialised lawyer, the

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

³² See the 8th General report on GRETA's activities.

³³ Guidelines of February 2015 by the Director of Public Prosecutions, page 11.

travel costs involved will in theory be covered by the public legal aid budget, but in practice lawyers cannot reach by public transport places such as the Ellebæk immigration detention centre, and the costs of taking a private car are not reimbursed. This has led to some specialised lawyers refusing to take on THB cases involving longer travel times, resulting in duty lawyers from courts' lawyer pools, who possess little expertise in THB cases, being appointed instead, with the resulting disadvantage for the victim.

47. If presumed victims of THB are detected at the Ellebæk immigration detention centre, the district court in Hillerød is responsible for appointing a support lawyer. In practice, it may be difficult for detained migrants to request the appointment of a particular lawyer. Hearings of irregular migrants are conducted by video link. While NGOs are generally allowed to visit the Ellebæk centre by appointment, the NGO Hope Now International is the only NGO regularly visiting and providing possible victims of THB with specialised legal assistance.

48. The CMM has a list of law firms from which victims can choose lawyers, some of which have experience in representing presumed victims of THB. Any lawyer proposed by the CMM will have to be confirmed by the relevant court in order to get his/her fees paid by the State.

49. The granting of free legal aid in civil cases is regulated by Chapter 31 of the Administration of Justice Act and administered by the Legal Aid Division of the Department of Civil Affairs, which operates under the Ministry of Justice. As noted in paragraph 130 of the second GRETA report on Denmark, any person with limited income can obtain one hour of free legal aid for pursuing civil claims. The criterion of limited income may be disregarded if the case is in the public interest or of significance for the applicant's social or occupational situation. However, the one hour of free legal aid is remunerated at no more than 900 DKK (about 120 Euros) per hour. It is therefore not appropriate for civil proceedings related to THB cases because these tend to be complicated and require legal aid during an extended time period.

50. **GRETA considers that the Danish authorities should take further steps to ensure trafficking victims' access to legal assistance and free legal aid, in particular by:**

- **appointing a lawyer as soon as there are reasonable grounds for believing that a person is a victim of human trafficking, including in the case of asylum seekers and persons placed in detention prior to deportation, before the persons concerned have to decide whether or not they want to co-operate with the authorities and/or make an official statement;**
- **providing training to lawyers appointed to provide legal support and/or legal aid to victims of THB;**
- **facilitating access by presumed victims of THB to lawyers specialised in THB cases;**
- **reviewing the system of remuneration of support lawyers, in view of making it possible to reimburse reasonable travel costs, as well as compensating for travel time, in order to facilitate the access of victims in remote locations to specialised and experienced support lawyers.**

4. Psychological assistance (Article 12)

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

52. Because psychological assistance requires a more long-term approach to be effective, while the Danish authorities' policy is rather to ensure an early return of victims of THB, not much effort is made to offer victims of THB psychological assistance.

53. The CMM is responsible for support and assistance to victims of human trafficking with legal status in Denmark (where the CMM has granted the status of victim). To this end, the CMM has a formal agreement with private psychologists and psychiatrists. Support and assistance to victims of human trafficking with legal status in Denmark is financed by funding from the National Action Plan to combat human trafficking. If long-term psychological assistance is needed, the CMM will incorporate this in the plan for reintegration following the voluntary return. According to the authorities, in few cases the prepared return was postponed as the victim needed psychological assistance and it was assessed as necessary for a sustainable return. In some cases, the CMM can also provide for psychological assistance for victims with an irregular status to whom the Danish Immigration System (DIS) has granted the status of victim, for example when the waiting time in the asylum system does not correspond to the need or duration of the reflection period. In these cases the CMM will co-ordinate with the DIS and the assistance will be funded by the National Action Plan to combat human trafficking. Victims who are under the responsibility of the DIS have access to health care services, including relevant psychological assistance, provided by the accommodation centre in which the victim is accommodated.³⁴ Victims who are accommodated outside the asylum centre system, e.g. in a shelter, are provided with psychological assistance by that shelter and the cost of psychological assistance is defrayed by the DIS.

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

54. Article 12, paragraph 4, of the Convention requires State Parties to enable victims of trafficking who are lawfully present in the country to have access to the labour market, vocational training and education. An important element of the recovery and successful social inclusion of trafficked persons is their economic empowerment, which can be achieved through job placement, microbusinesses and social enterprises.³⁵ GRETA has stressed the need to develop public-private partnerships with a view to creating appropriate work opportunities for victims of trafficking.³⁶

55. Practically all victims of THB identified in Denmark are foreign citizens, frequently with irregular migration status, and without the right to work in Denmark. GRETA's delegation got the impression that assisting victims of THB in finding employment, even when they have the right to work as EU citizens, is not a priority. All efforts to help victims of THB in their economic empowerment are aimed at helping them engage in activities generating income after their return to their country of origin. For such activities some financial support is available, as administered by IOM (see paragraphs 208 and following). GRETA was informed that the CMM collaborates with the NGO Newlives both regarding identified victims of human trafficking and women using the drop-in centre for potential female victims of human trafficking in Copenhagen. Newlives focuses on career coaching of female victims of THB. As part of these efforts, Newlives assists women to update their CVs, conduct career coaching and find employment.

56. GRETA notes that access by victims of THB to work, vocational training and education in Denmark is practically non-existent due to the focus on returning victims of THB to their countries of origin upon the expiry of the recovery and reflection period (see paragraph 206). **GRETA regrets the near impossibility for victims of THB to obtain residence and work permits in Denmark in practice and refers to the recommendations in paragraph 207 in this regard.**

³⁴ According to CPT's report on Denmark concerning the visit in April 2019 (CPT/Inf (2019) 35), at the Ellebæk immigration detention centre, a psychologist visited for four hours per week which apparently allowed him only to offer detained migrants the opportunity to talk, rather than performing diagnostic tests or therapies. The CPT expressed concerns about possible mental health issues remaining undetected and/or not being addressed adequately.

³⁵ Rebecca Surtees, NEXUS Institute, *Re/integration of trafficked persons: supporting economic empowerment*, Issue paper No. 4, King Baudouin Foundation (2012).

³⁶ See 8th General report on GRETA's activities.

6. Compensation (Article 15)

57. 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.

58. 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.

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

60. As noted in the second GRETA report on Denmark,³⁷ victims of THB are entitled to claim compensation from the traffickers either in connection with the criminal proceedings, in line with section 685 of the Administration of Justice Act, or in a civil court procedure, after the criminal law proceedings have ended. Such claims may concern compensation for material or moral damage, as well as unpaid wages. Civil claims resulting from a criminal act may also be made by the prosecutor, on behalf of the injured party, during the criminal court proceedings.³⁸ The amount of compensation awarded is determined by the court.³⁹ To claim compensation in criminal proceedings the victim does not need to be present in court, whereas s/he needs to be present or be represented by a lawyer in civil proceedings. In addition to the information on rights provided to victims by the police, victims are notified in writing of their right to have their compensation claim processed in connection with the criminal proceedings when the indictment is brought. The support lawyer assists in calculating the claim and setting forth the actual claim in court.

³⁷ See paragraph 128 of the second GRETA report on Denmark.

³⁸ Pursuant to section 991(2) of the Administration of Justice Act.

³⁹ According to section 993 of the Administration of Justice Act.

61. Compensation is calculated in accordance with the general rules of Danish law including the Liability for Damages Act. Compensation for personal injury as well as property damage can be covered if the general compensation terms are met. As far as personal injury is concerned, the victim can get compensation for lost earnings, health expenses, pain and suffering,⁴⁰ permanent injury and loss of earning capacity. A medical expert would normally advise the court responsible for the case about the extent of injuries suffered by the victim. Compensation for permanent injury requires that the degree of impairment is at least 5%. The amount of compensation for permanent injury depends upon the extent of damages. If the degree of impairment is 100%, the amount of compensation is usually around 120,000 Euros (up to 144,000 Euros in case of loss of eyesight or hearing).⁴¹ Loss of earning capacity is covered if the loss is at least 15%. The compensation is fixed on the basis of the victim's income in the year preceding the injury, multiplied by the loss of earning capacity in per cent times 10. However, the maximum compensation is about 1,260,000 Euros. If the victim had turned 30 at the time of the injury, the compensation is reduced by 1% for each year that the victim was older than 29 at the time of the injury. The Danish authorities have specified that the age of 29 as the point from which the compensation for loss of earning capacity starts decreasing was introduced in an amendment to the Danish Liability Act in 2002. Before the amendment, the age of 56 was the point from which the compensation for loss of earning capacity started decreasing.

62. A party who has been ordered to pay compensation has 14 days to pay it from the delivery of the judgment. If no payment has occurred, the claimant may apply to the bailiff's court for enforcement of the judgment. The court can levy execution on assets and forcibly sell them. The proceeds of the sale serve to fulfil the judgment.

63. According to the Danish authorities, the collection of evidence about the harm the victim has suffered, as well as the financial gain from the exploitation of the victim, is part of the police investigation. Property can be seized to secure victims' claims for compensation.⁴² According to the CC, proceeds of a criminal act may be confiscated in full or in part where the act is of such nature that it may generate substantial proceeds and the act is punishable by imprisonment for a minimum of six years or is a violation of the legislation on controlled substances.⁴³ Further, according to section 77 of the CC, confiscated property may be used to cover claims for compensation in relation to the offence, which gave rise to confiscation. The Prosecution Service may make a claim for confiscation regardless of whether a claim for damages exists. Confiscated property is generally transferred to the State unless it is used in satisfaction of a claim for damages stemming from the crime. Where the defendant has paid compensation to the victim following the judgment the amount subject to confiscation will be reduced correspondingly. GRETA was informed by representatives of the Asset Recovery Office that confiscated assets should as a matter of priority be used to compensate the injured party (see also paragraph 93). The Asset Recovery Office would try to sell seized assets so that the cash value can be used for compensation. If there are no compensation claims from injured parties, the funds resulting from the sale of confiscated assets will go into the state budget. However, according to the Director of Public Prosecutions, there have not been any cases where confiscated assets in THB cases have been used to compensate victims. The Asset Recovery Office at the State Prosecutor for Serious Economic and International Crime (SEIC) is not in possession of any statistical information on this matter. However, SEIC has not been involved in asset recovery in other THB cases apart from the "Hornet Nest" cases. Financial investigation in other THB cases has been conducted by the local police districts.

⁴⁰ In 2019 the amount was DKK 205 per days of sickness, until a maximum of 78,500 DKK (about 10,500 Euros) in total.
⁴¹ 2019 scales.

⁴² Chapter 74 of the Administration of Justice Act.

⁴³ Sections 75 (1) and 76 (a) of the CC.

64. If a victim has requested a support lawyer, the latter can assist the victim in claiming compensation in criminal proceedings, but not in civil proceedings. Free legal aid in civil proceedings can be obtained under certain conditions regarding the claimant's economic situation and the subject matter. As noted in paragraph 49, legal aid for pursuing civil claims is very limited and is therefore not considered appropriate for civil proceedings related to THB cases because they tend to be lengthy and complex. According to the authorities, claims for compensation from the perpetrators are often processed in civil proceedings.

65. In the "Hornet Nest" cases (see paragraphs 83-85), some of the victims reportedly received compensation from the perpetrators. Further compensation may become accessible if the process of selling confiscated proceeds of crime or assets of the perpetrators in Romania is successful. The authorities are not aware of any compensation claims made by victims of THB in civil procedures. Further, in a case concerning a married couple from China identified as victims of human trafficking for the purpose of forced labour in a restaurant in 2012, the perpetrator was sentenced in 2016 to pay compensation for unpaid wages to the couple. In addition, according to the Director of Public Prosecutions, in the case regarding the trafficking of a Thai woman referred to in paragraph 86, two victims received 50,000 DKK, and one victim received 56,000 DKK, in compensation from the two convicted persons.⁴⁴

66. A victim can also submit a civil compensation claim after s/he has left Denmark. The CMM can offer assistance when a victim of THB who has returned to his/her country of origin wishes to apply for compensation, including recovery and transfer of unpaid wages. However, according to section 321 of the Administration of Justice Act, a defendant may require the claimant to provide security for the cost of the civil proceedings if the claimant is domiciled outside the European Economic Area, unless Denmark has entered into an agreement to the contrary with the State in which the claimant is domiciled. According to the Danish authorities, it is not known whether any such security has ever been demanded of a claimant who was a victim of THB. In addition to the above-mentioned case of the Chinese couple, in the case described in paragraph 86, the CMM assisted a Thai woman and her child in claiming compensation after their return to Thailand. In this case the compensation was decided in court and was paid by the Danish State. Subsequently, the CMM assisted the lawyer in claiming further compensation based on a PSD diagnosis, and the woman received compensation by the Labour Market Insurance (see paragraph 75).

67. In the "Truck drivers" case (see paragraph 164), the Prosecution Service at South Jutland Police has brought indictments against four persons and one legal entity in September 2020 for aggravated usury under section 286 cfr. Section 282 of the CC and for violation of the Aliens Act. According to South Jutland Police, no compensation claims from the victims has been made yet.

68. As noted in GRETA's second report,⁴⁵ the State may award compensation and damages for personal injury inflicted as a result of violations of the CC or the Act on Restraining, Exclusion Orders and Expulsion. The eligibility criteria are laid down in the Act on State Compensation to Victims of Crime. A prerequisite for a state compensation claim is that a crime has been committed, but eligibility is not linked to whether the perpetrator is found guilty or not. It can be awarded if there is no known perpetrator or no court order, or if the perpetrator did not pay, as well as when the perpetrator is less than 15 years old or not considered sane and thus cannot be considered responsible for his or her actions. The right of victims of THB to claim state compensation is not linked to immigration status. A compensation claim can be submitted after the victim has left Denmark. A victim cannot receive state compensation if the offender provides compensation or if the injury of the victim is covered by insurance.

69. Applications for state compensation are handled by the Criminal Injuries Compensation Board, which is composed of a chairman (a high court judge), one member nominated by the Council of the Danish Bar and Law Society, and another member nominated by the Ministry of Social Affairs and the Interior.

⁴⁴ <https://vidensbasen.anklagemyndigheden.dk/h/6dfa19d8-18cc-47d6-b4c4-3bd07bc15ec0/VB/73fd52d3-67dd-4f41-b646-294949290221?showExact=true>.

⁴⁵ See paragraph 132 of the second GRETA report on Denmark.

70. State compensation must as a rule be claimed within two years after the offence was committed. If a judgment was given in the case, the time limit is calculated from the day the judgment became final. However, the Compensation Board may accept applications even after the two-year deadline if it can be clearly proven that the victim did not know about the possibility of seeking state compensation. If the Police have been investigating the matter without the case being brought to trial, the time limit is calculated from the day the Police decided to discontinue the investigation.⁴⁶ Another condition for state compensation is that the crime has been reported to the Police within 72 hours. However, this condition is usually not applied when it is considered that the victim was not in a position to report the crime on time for physical or other reasons.

71. It is possible for a victim of THB to receive compensation from the State for time wrongfully spent in prison, due to failure to be identified as a victim of THB and to apply the non-punishment provision.

72. In practice, most third-country victims of THB are not able to pursue a state compensation claim because they are obliged to return to their countries of origin. GRETA was informed that the Inter-Ministerial Working Group on Human Trafficking and the new working group (see paragraph 14) are supposed to examine whether the current possibilities for victims to receive compensation are sufficient.

73. State compensation is calculated in accordance with the general rules of Danish law, including the Liability for Damages Act. The amount of state compensation for violation of personal integrity depends on the nature of the crime as well as the victim's age. In cases in which a perpetrator has been ordered to pay compensation to a victim, but the victim does not, for one reason or the other, actually receive the compensation, the Criminal Injuries Compensation Board may pay the corresponding sum to the victim, but it will try to get the equivalent back from the perpetrator later on, though it is rarely successful in these attempts.

74. It is not a requirement that the applicant has a lawyer for the state compensation proceedings. The Criminal Injuries Compensation Board may decide that costs paid by the victim in connection with the case be reimbursed in full or in part. The Board may also decide that the State covers reasonable expenses for legal assistance and other expenses linked to the compensation case. If the applicant does not have a lawyer, the Compensation Board is obliged to advise the applicant in the case. State compensation is not subject to taxation if it is awarded as a lump sum rather than a continuous benefit.

75. There have been only three claims for state compensation in THB cases since 2016, all of which concerned moral damages. In the first case (2017), the applicant was a victim of THB exploited for the purpose of sexual exploitation. She claimed 60,000 DKK and was awarded 18,000 DKK (about 2400 Euros) by the Criminal Injuries Compensation Board. At the time of GRETA's visit, the application was still under consideration regarding permanent injuries. In the second case, the Compensation Board awarded 50,000 DKK (about 6,700 Euros) to a victim of THB for the purpose of forced prostitution, as well as 50,000 DKK to her son who had been subjected to ill-treatment (see paragraph 86). In the third case, a Romanian victim of THB claimed compensation for having been exploited for the purpose of identity theft and criminal activities in the form of fraud (the so-called "Hornet Nest" cases), but the Compensation Board rejected the claim taking into account the conditions in which the victim had been accommodated (namely, the accommodation was not considered poor enough and the victim had received enough food). In this context, GRETA was informed that the degree of suffering must reach a certain threshold for moral damages to be rewarded. According to additional information provided by the Danish authorities, the training programme of prosecutors covers issues related to contacts with victims/witnesses of crimes, their rights and the rules on compensation claims from victims. The Danish Court Administration, which is responsible for the training of judges, offers on average about 250 training courses every year, as well as international training with partners such as the Academy of European Law, the European Judicial Training Network and the Nordic countries cooperation network on training of judges. At the moment there are no specific courses solely on THB and on victim compensation. However, a database has been created for sharing knowledge among judges, which includes case-law on THB and compensation for victims.

⁴⁶ According to section 13 of the Act on State Compensation to Victims of Crime.

76. **GRETA is concerned by the low number of victims of THB who have received compensation, be it from the perpetrators or the State. In GRETA's view, the complexity of the compensation system with its eligibility criteria, including as regards legal assistance for launching compensation claims, risks preventing even well-founded claims from being submitted and successful. GRETA urges the Danish authorities to make additional efforts to guarantee effective access to compensation for victims of THB, in particular by:**

- **simplifying, to the extent possible, the procedures for applying for compensation in court; prosecutors and judges should use all the possibilities the law offers them to uphold compensation claims, and courts should state, where applicable, why compensation is not considered;**
- **facilitating access to state compensation by reviewing the eligibility criteria and threshold for granting moral damages in order to ensure their applicability to all forms of THB;**
- **granting residence permits to victims of THB for the duration of the legal proceedings, including compensation proceedings, with a view to facilitating access to compensation and redress;**
- **making full use of the legislation on the freezing and forfeiture of assets to secure compensation to victims of THB.**
- **providing training to prosecutors and judges on the issue of compensation;**
- **exempting victims of THB resident outside the European Economic Area from the possible demand of providing security for the costs of the court procedures related to their compensation claims.**

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

77. 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 aims 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.

78. 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.

79. 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.

80. Section 262(a) of the Danish CC, which criminalises THB, has not been amended since GRETA's second report. The maximum penalty for THB is 10 years' imprisonment. There is no minimum penalty. There are no aggravating circumstances listed in section 262(a), but the Danish authorities argue that section 81 of the CC provides for aggravating circumstances applicable to any crime and, in addition, the *travaux préparatoires* related to section 262(a) provide that the sexual exploitation of a child under 15 years of age is to be considered as an aggravating circumstance.⁴⁷ The abuse of a victim's vulnerable position is frequently taken into account by Danish courts adjudicating THB cases.⁴⁸

81. From 2016 until 19 October 2020, the police filed 64 reports in cases involving THB (six in 2016, nine in 2017, 20 in 2018,⁴⁹ 15 in 2019 and 14 in 2020). There was one prosecution in a THB case in 2016, nine in 2017, none in 2018, none in 2019, and three in 2020.⁵⁰ The number of prosecutions in THB cases is defined by the number of defendants per offence.

82. There have been nine court decisions in THB cases in the period 2016-2019. These decisions relate to four different cases, because the "Hornet Nest" case was split up into three interlinked cases.⁵¹ The other court decisions concerned two cases of THB for the purpose of forced prostitution and one case of THB for the purpose of the cultivation of cannabis ("skunk"). A total of 14 persons were convicted of THB in 2016, eight in 2017, one in 2018, while in 2019 there were no convictions. In some instances, the same perpetrator was convicted in more than one case in the same year, which is why the total number of convictions was 23 in 2016, 17 in 2017, and one in 2018. Most of the convictions concerned the "Hornet Nest" cases (20 out of 23 convicted persons). The sentences ranged from two to eight years' imprisonment. None of the prison sentences were suspended. There have been no convictions in 2019 and one acquittal in 2020.

83. The "Hornet Nest" case, already mentioned in GRETA's second report on Denmark,⁵² concerned 300 persons recruited in Romania who were transported to Denmark, placed in isolated houses in the countryside and registered in the Danish personal identification system. Subsequently, the perpetrators claimed unemployment and maternity benefits on behalf of the victims, took out loans from credit companies, and committed tax and VAT fraud, as well as other crimes. In the autumn of 2015, a total of 22 defendants were prosecuted for, among other crimes, trafficking in human beings, gross fraud and data fraud, committed by utilising a total of 116 persons' identities for illegal profits of between 3.6 million and 10.4 million DKK (about 482,000 and 1.4 million Euros respectively). A total of 20 persons were convicted of THB in the case. The sentences ranged from two years to seven years and 11 months' imprisonment. Most of the defendants were Romanian and were expelled from Denmark. Most defendants were additionally convicted of gross fraud, gross data fraud and gross tax fraud. Proceedings are still ongoing in Romania with the aim of confiscating property of perpetrators involved in this case.

⁴⁷ See paragraph 188 of GRETA's second report on Denmark.

⁴⁸ See paragraph 150 of GRETA's second report on Denmark.

⁴⁹ Figures for 2018 cannot be directly compared to those of the other years because while the other annual figures refer to suspected cases of THB reported by the police, with some or all of the cases involving a number of victims, the police in Jylland in 2018 registered each victim as a separate case though they were all victims in the same case.

⁵⁰ The National Police emphasizes that the figures come from the police case management system (POLSAS) and there is a degree of uncertainty as the numbers are based on dynamic data, which means that the numbers are not final. Thus, changes may occur depending on the time of extraction of the information in the statement, as e.g. post-registrations may occur.

⁵¹ Case AM2017.05.29H in the Supreme Court, cases AM2017.06.30Ø and AM2018.01.19Ø in the Østre Landsrets High Court and cases AM2017.06.30Ø, AM2018.01.19Ø and AM2017.11.10B in the Lyngby (two cases) and Glostrup district courts.

⁵² See paragraph 176 of GRETA's second report on Denmark.

84. In the first of the three interlinked "Hornet Nest" cases, referred to as Cell 3 of the overall group of perpetrators, the final judgment was issued by the Supreme Court, which convicted three persons of THB. The district court and the high court had already established that the identity theft committed and used to commit fraud was to be considered THB for the purpose of forced criminality. The issue which led the Supreme Court to deal with the case was whether it is a requirement of section 262a of the CC that the exploited person has participated in the execution of the offences or must have been aware of the offences committed in his name, for the crime to qualify as THB. The Supreme Court ruled that such participation or knowledge of the offence on the part of the victims is not necessary for the offence to constitute THB, thus the mere use of the victims' identities is sufficient. Compared to the other decisions in THB cases, the prison sentences in the "Hornet Nest" trials were quite long. One of the main reasons for this is that the courts argued that the perpetrators abused the high degree of mutual trust prevailing in Danish society, including in its administration, and that damaging that trust had a significant negative societal impact which had to be punished.

85. In the first of the two cases of THB for the purpose of sexual exploitation adjudicated in the reporting period, two women were recruited in Bulgaria and transported to Denmark, where they were coerced to engage in prostitution in Copenhagen. One of the victims was also made to enter into a fake marriage with a Turkish man, against a promise of payment she never received, so that the latter could obtain EU citizenship. The district court took into account the vulnerable position of the victims and sentenced the five perpetrators to prison sentences ranging from one year and nine months to two years. The sentence was appealed to a high court, but the latter confirmed the sentence.⁵³

86. In the second case of THB for sexual exploitation, two women were convicted of trafficking of a Thai woman for the purpose of sexual exploitation. The two defendants were found guilty of having carried out business with prostitution of the injured, as they organised and managed the prostitution, which took place partly from an address in a Danish village, and partly as services of an escort company. They also organised periodic prostitution in Sweden. The Østre Landsret High Court assumed that prostitution in the beginning was voluntary, but gradually came to involve the use of coercion, violence and threats of violence against the victim, as well as ill-treatment of her son, who at the time was eight years old.⁵⁴ The perpetrators also took advantage of the victim's belief that she owed them 200,000 DKK (about 26,800 Euros). One of the defendants was sentenced to three years' imprisonment and the other to two years' imprisonment.⁵⁵

87. Finally, in the fourth case in the reporting period, in November 2017 the District Court of Svendborg sentenced one defendant to four years and six months' imprisonment for THB for the purpose of labour exploitation in the form of drug cultivation, using threats, coercion and deprivation of liberty as means. However, the Østre Landsret High Court overturned the THB part of the sentence, declaring that there was not sufficient proof of threats, illegal coercion and deprivation of liberty (see paragraph 83).⁵⁶

⁵³ Østre landsret AM 2016.10.13Ø.

⁵⁴ The perpetrators were also convicted of ill-treatment of the son of the victim (under sections 244 and 245 of the CC), who was forced to perform sexual acts with a dog, which were recorded on video. as well as of threats against witnesses (section 123 of CC).

⁵⁵ Judgement of the Østre landsret High Court AM.2017.12.05Ø.

⁵⁶ Østre landsret High Court 2018.08.16Ø.

88. The National Police is responsible for the investigation of THB offences. It monitors the 12 district police commands' work and provides them with training, including on combating THB (see paragraph 122). According to members of the National Police met by GRETA, there are ongoing discussions between the National Police, district police commands and prosecutors on making THB investigations more effective. In 2014, the Head of Copenhagen's specialised anti-THB police unit resigned, and the remaining members of the unit were transferred to the Teglholmen Police District of Copenhagen, where they joined the homicide department. GRETA was informed by NGOs that they remain in contact with the three police officers who previously worked in the specialised anti-trafficking unit and are known for their experience in handling THB cases. GRETA was also informed that the level of experience in dealing with THB varies between regions, as does the degree of co-operation between the police and other authorities in handling such cases. There are no police investigators outside Copenhagen specialised in the investigation of THB. Further, GRETA was informed that there is no specific training on THB. There are no prosecutors or judges specialised in THB (even though in each police district there are prosecutors specialised in organised crime). GRETA notes that THB cases are often complicated, and unless they are investigated and prosecuted by specialised police officers and prosecutors, convictions are less likely.

89. All investigative techniques permitted by law can be used to investigate THB, including those linked to financial investigations, that is, accessing bank account information, information from tax authorities, and intelligence from financial intelligence units, but also house searches, use of informants and wiretapping. However, GRETA was informed that the funding allocated to investigating THB had decreased, and that investigating other crimes (for instance terrorism, violent crimes against individuals⁵⁷ (*personfarlig kriminalitet*), crimes linked to weapons, sexual offences and crimes committed by gangs) is prioritised. Since investigations into such cases often require resource-intensive special investigation techniques, there has been a disinvestment in the area of combating THB, resulting in a low number of THB cases investigated, and, where they are investigated and prosecuted, an over-reliance on victims' testimonies. The police regularly carry out raids in brothels, massage parlours and construction sites where they may encounter victims of THB. However, these raids do not seem to be proactive but rather reactive, following reports of suspected irregularities, and are not well prepared by the use of special investigation techniques, which is why the raids usually do not yield sufficient evidence of THB.

90. Following a parliamentary question about the degree of priority accorded to THB in the work of the police and the Prosecution Service, on 5 July 2019 the Minister of Justice explained that annual target-and-results plans with specific targets are determined by the Ministry of Justice and the Director of Public Prosecutions. Efforts against trafficking in human beings have not been an independent target for the Prosecution Service in the years 2014-2019, and no resources have been allocated in the Prosecutor's Office for action against human trafficking in particular.

91. The National Cybercrime Centre investigates crimes committed through the use of the Internet.⁵⁸ Its staff monitor the Internet for sexual exploitation offences, including "romance scams" (aimed at extracting money from victims). The Centre has not reported any suspected THB cases, but it has detected at least one case of sexual abuse through live streaming, in which the defendant was convicted of child sexual abuse.

92. The Money Laundering Secretariat (MLS) is the Danish Financial Intelligence Unit (FIU) tasked with receiving, analysing and disseminating reports and information connected to money laundering and terrorist financing. According to the authorities, when analysing suspicious transactions, the MLS specifically searches for reports related to THB, and informs the police accordingly. Reversely, the police districts turn to the FIU for support if they suspect a case of THB. In such cases, the FIU will provide the police districts with relevant information and support.

⁵⁷ Such as murder and rape.

⁵⁸ See paragraph 168 of the second GRETA report on Denmark.

93. The Danish Asset Recovery Office is based within the Office of the State Prosecutor for Serious Economic and International Crime. Its task is to trace, seize and eventually confiscate the proceeds of crime. The Asset Recovery Office acts upon requests from the police or from partners abroad, or acts on its own initiative. It has access to bank account information and tax files, and has other powers, including the ordering of house searches and the use of informants and/or wiretapping. There are three prosecutors and five police officers working in the Asset Recovery Office, as well as a unit with accountants. The staff assists with financial investigations of illicitly generated profits, including in THB cases.

94. According to the Danish authorities, seizures or confiscations to the following values were conducted in THB cases in the reporting period (amounts converted into EUR are approximate): 348,200 Euros in 2016, 33,500 Euros in 2017 and 87,000 EUR in 2018. In addition various objects, including a car, were seized.

95. Cases initially investigated as THB are often reclassified into other offences. One difficulty in prosecuting traffickers is the reliance on victims' testimony and the fact that victims have little incentive to testify, as they are expected to leave Denmark at the expiry of the recovery and reflection period. Access to a temporary residence permit is very limited. In particular, women from African countries often lack incentives for accepting the support the authorities can offer, and prefer to re-engage in prostitution in order to earn money to pay off debts to traffickers or send it to their families. Such victims often face risks of re-trafficking or threats to their lives if returned to their countries of origin, and they know that neither the Danish authorities nor the authorities in their home countries can protect them against retaliation by traffickers should they testify (see also paragraph 116). Civil society representatives met by GRETA noted with concern that the Danish Government had commissioned a consultancy company to study how testifying works in THB cases and to present ideas about how to encourage victims to testify, whereas in reality, the limited time that victims of THB are allowed to remain in Denmark prevents them from participating in criminal proceedings (see paragraph 206).

96. Plea bargaining is not foreseen by Danish legislation.

97. According to section 724 of the Administration of Justice Act, the victim shall be notified of a decision not to open an investigation, to discontinue an investigation and of any Prosecution Service decision not to bring formal charges in a case. The victim can file a complaint regarding such a decision by the police to the State Prosecutor, whose decision on the complaint cannot be appealed.⁵⁹ Decisions made by a State Prosecutor acting as a first prosecution instance in a THB case can be appealed to the Director of the Prosecution Service, whose decision about such an appeal cannot be appealed further.⁶⁰ That said, any decisions by Danish public authorities, including as regards suspected cases of THB, can be appealed to the Danish Parliamentary Ombudsman, as long as all other appeal mechanisms have first been exhausted. The Ombudsman can recommend that a case be re-examined.

98. There have been no convictions of legal entities in THB cases in the reporting period. As noted previously, many of the presumed victims of THB identified in the reporting period were truck drivers employed by a Danish transport company (see paragraph 164). In the "Truck drivers" case, in September 2020 the Prosecution Service at South Jutland Police brought indictments against four persons and one legal entity for violations of section 286, cfr. section 282 of the CC (aggravated usury) and violations of the Aliens Act.

99. GRETA notes that the number of convictions for human trafficking remains low, in particular for trafficking for the purpose of labour exploitation, despite the number of victims of THB for the purpose of such exploitation having increased. GRETA is also concerned that some of the sentences for THB do not appear to be proportionate, in particular in the case referred to in paragraph 86. GRETA stresses that failure to convict traffickers and the absence of effective, proportionate and dissuasive sanctions undermines efforts to combat THB and guarantee victims' access to justice.

⁵⁹ Section 101 (2) of the Administration of Justice Act.

⁶⁰ Section 99 (3) of the Administration of Justice Act.

100. **GRETA urges the Danish authorities to allocate necessary human and financial resources to ensure that cases of THB are proactively investigated, prosecuted and lead to effective, proportionate and dissuasive sanctions, including by:**

- **prioritising the use of special investigation techniques and financial investigations in THB investigations, which will make prosecution less dependent on the testimony of victims of THB;**
- **providing adequate resources to the police and the Prosecution Service, and setting specific targets concerning THB in the annual target plan of the Prosecution Service.**

101. **Further, GRETA considers that the Danish authorities should take the necessary measures to ensure that the criminal liability of legal entities can be acted upon in practice and involvement of commercial enterprises more effectively prosecuted.**

8. Non-punishment provision (Article 26)

102. 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.⁶¹ 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.

103. No legislative developments have taken place in Denmark in respect of the non-punishment provision since the second evaluation round. As noted in that report, there is no specific legal provision on this issue, but GRETA welcomed the issuing of binding guidelines by the Director of Public Prosecutors on the handling of cases of human trafficking, which specify how the non-punishment provision should be applied in relation to victims of THB.⁶²

104. According to the guidelines, an indictment shall be waived pursuant to section 722 (2) of the Administration of Justice Act if the suspect is a victim of THB, provided that the alleged offence relates to THB and cannot be characterised as a serious crime. For example, indictments can be waived in cases of forgery or use of false documents with regard to passports, identity papers or similar violations of the Aliens Act. Indictments can also be waived if a person was trafficked and forced to commit criminal acts. A victim of trafficking prosecuted for a serious offence may have their penalty reduced on the grounds of trafficking pursuant to section 82(6) (mitigating circumstances) and/or section 83 (reduced sentences) of the CC. Further, it is stated in the guidelines that victims of trafficking as a point of departure shall not be deprived of their liberty and that it should always be considered whether accommodating a trafficking victim in a crisis centre or similar place would not be sufficient for securing the presence of the person.

⁶¹ See 2nd General Report on GRETA's activities, paragraph 58.

⁶² See paragraph 158 of the second GRETA report on Denmark.

105. However, GRETA received information indicating that the guidelines had not prevented the prosecution of a number of victims of trafficking and the imposition of sanctions for offences they were compelled to commit. By way of example, GRETA was informed of several cases in which teenage Moroccan boys were involved in burglaries. In some of these cases, the CMM's opinion that the boys concerned were victims of THB was taken into account, but in other cases the court reportedly concluded that there was no direct link between the fact that they were trafficked and their offences, and the non-punishment provision was not applied. Prosecutors would usually take into account the CMM's assessment that a person is a victim of human trafficking, even though this assessment is not binding. According to information provided by the Danish authorities, in these cases the CMM appointed a contact person, ensuring that the young men were provided with support during their imprisonment. In this context, GRETA refers to the concluding observations of the United Nations Committee of the Rights of the Child in its 5th Periodic Report on Denmark, which urged Denmark to ensure that child victims are not, under any circumstances, treated as offenders, such as for migration offences, and provide them with free legal aid and the support of child psychologists and social workers.⁶³

106. GRETA was also informed by civil society interlocutors that in the context of victims being compelled to cultivate or sell drugs, the police do not consider the possibility that a drugs dealer might be a victim of THB.

107. According to a lawyer specialised in representing victims of THB, a major obstacle is created by actual trafficking victims' defence lawyers' lack of knowledge of THB.⁶⁴ Failure to appoint specialised lawyers (see paragraph 46) at an early stage of the procedure results in victims of THB not being identified as such until much later, when they are prosecuted. GRETA was informed that, even when information that such persons were compelled to commit unlawful acts as a result of being trafficked comes to light during trial, no efforts are made by the police or prosecution to look for evidence that they were trafficked. As a result, such presumed victims of THB are often deported, with an associated entry ban.

108. Specialised lawyers try to appeal administrative decisions on the deportation of presumed victims of THB who have been convicted of petty crimes. As an example, GRETA was informed of a case in which a specialised lawyer appealed the decision to deport to Ghana a person who had been sentenced to a prison term for possession of forged identity documents. The lawyer presented evidence that the person concerned was a victim of THB, and the prison sentence was replaced by a warning. However, the person had already served a prison sentence before being deported, which is why the court granted him compensation for the time wrongfully served in prison. There are reportedly a number of other cases in which presumed victims of THB are treated as offenders and deported.

⁶³ Concluding observations of the CRC 5th Periodic Report on Denmark, available at: http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsgIK9tmnWXdxuU%2FedXEEMqJrk8y_rwetruHAHICuvk7IIb6C66JpZees7wvtcoJhIEgwEf7VfhCW5afo%2B60Ay5phC4Cg9ZPD46%2F3NL1yVPqT3

⁶⁴ This concerns actual victims of THB who have not been identified as such and who have therefore been charged with violating, for example, immigration laws. Defence lawyers not knowledgeable about THB do not realise that their clients are victims and therefore do not try to get their clients identified as victims of THB and thus acquitted.

109. **GRETA urges the Danish authorities to ensure compliance with Article 26 of the Convention through further developing the existing guidance and promoting its application. As concrete measures to improve compliance with the non-punishment principle, taking into account the existing guidance:**

- **efforts should be made by the police and prosecutors to identify victims of THB earlier in the process, and in any event before such victims have already been convicted of offences they were compelled to commit;**
- **prosecutors should be encouraged to be proactive in establishing whether an accused person is a potential victim of trafficking, and to consider that, having been trafficked, the culpability of the victim may be diminished, or even removed entirely;**
- **all negative consequences faced by victims of THB, such as any form of detention, entry bans or delays in seeking legal residence in Denmark, should be lifted for presumed victims of THB, including in cases where their victimhood has only been recognised after they were deported;**
- **steps should be taken to ensure that the non-punishment provision is capable of being applied to all offences that victims of THB were compelled to commit.⁶⁵**

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

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

111. Further, Article 30 of the Convention requires Parties to adapt their judicial procedure so as to protect victims' privacy and ensure their safety, including special protection measures for child victims. While the measures provided for in Article 28 have to do with 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.

112. Victims of THB have the procedural position of a witness. Section 29 (a-e) of the Administration of Justice Act foresees the conduct of court hearings behind closed doors in cases involving sexual offences, in particular when committed against children under 15 years of age.

⁶⁵ 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>

113. According to section 856 of the Administration of Justice Act, the presiding judge may decide that the defendant should not be present in the court room during the witness' testimony if the defendant's presence will inhibit the witness in giving testimony. The court may also decide that the name, occupation and address of a witness, including the victim, must not be disclosed to the defendant. Such decisions may be taken by the court prior to a hearing upon a request from the prosecution service, the defence lawyer or a victim/witness. The prosecutors stated that the use of video links for testifying is possible, but not common. In a few instances, IOM in co-operation with the respective Danish embassy has facilitated video interviews of victims of THB after their return to their countries of origin (e.g. in the "Hornet Nest" cases). Prosecutors met by GRETA explained that the defendant is usually sent out of the hearing room, rather than letting the witness testify by video link, as this would allow the judge to maintain eye contact with the witness. However, according to specialised NGOs, direct confrontation between adult victims/witnesses and defendants takes place in practice during trials in THB cases. GRETA stresses the importance of ensuring procedures which avoid direct contact between victims/witnesses and defendants in practice. According to information provided by the authorities, the Director of Public Prosecutions is not aware of any cases where a request from a victim of THB for the defendant to leave the courtroom during the witness testimony has not been accommodated by the court. The Director of Prosecutions has further specified that if the judge decides that the defendant must leave the courtroom during a testimony, the defendant has the right to be informed about the content of the testimony in accordance with section 856 (10) of the Administration of Justice Act. If the testimony gives rise to further questions, the defendant's lawyer has the right to cross-examine the witness before the witness is dismissed.

114. There is a possibility for support persons, such as members of anti-trafficking NGOs and the CMM, to be present during court hearings with victims of THB, but they are not allowed to sit next to the victim. If a hearing takes place behind closed doors, the judge will decide on a case-by-case basis whether to allow the presence of NGO support persons.

115. The Danish Police Intelligence Service can, in situations of exceptional threats, include a witness in the witness protection programme.⁶⁶ In each case, the relevant police district makes a concrete assessment of the protection measures required, and if there is a need for assistance, the Danish Police Intelligence Service is contacted in order to assess whether there is a basis for using the witness protection programme and whether the person in question is suitable to be included in such a programme. The witness protection programme is not solely intended for witnesses in criminal cases, but also for persons who are for other reasons exposed to serious threats. In the most serious cases, the witness protection programme can entail a complete change of identity, including a new name, address and in some cases also a new appearance. The protected person might also be assisted to start a new life in another country. In order to complete a change of identity, it is required that the witness complies with a set of terms, including being willing to give up contacts with family and friends and to give up employment or education. Thus, before a person can be part of a witness protection programme, a number of assessments are carried out to ensure that the witness protection programme can function successfully. There have been no cases in which victims of THB were included in the witness protection programme.

116. GRETA notes that while efforts have been made to encourage victims of THB to testify against traffickers (see paragraph 95), there have been few measures taken to actually protect victims and/or witnesses of THB against retaliation by traffickers, especially during court proceedings and upon return of the victims to their countries of origin (see paragraph 216), and therefore the protection of victims and witnesses of THB is insufficient.

117. In order to prevent re-victimisation, GRETA urges the Danish authorities to ensure that the practice of cross-examination (direct confrontation) of victims and defendants in THB cases is avoided, to the extent possible, making use of audio-visual equipment and other appropriate methods.

⁶⁶ See paragraph 213 of GRETA's first report in Denmark and paragraph 180 of the second report on Denmark.

118. **Further, GRETA considers that the Danish authorities should take additional steps to:**
- **ensure that victims and witnesses of human trafficking are provided with effective and appropriate protection from potential retaliation or intimidation and with adequate support during hearings;**
 - **examine the reasons why no victims of THB have ever entered the Danish witness protection programme.**

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

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

120. The current National Action Plan for Combating THB foresees training of relevant professionals as one of the main activities. The CMM is primarily responsible for providing training to various professionals on how to recognise THB indicators and refer victims to relevant agencies. Under the action plan, the CMM is involved in the training of new police recruits at the Police Academy, as well as embassy staff and health professionals.

121. Twice a year, the Ministry of Foreign Affairs invites the CMM to attend the training sessions of diplomatic and consular staff posted abroad. The training provided by the CMM covers cases of human trafficking, information on trafficking in Denmark, different forms of exploitation, indicators of trafficking, and procedures for the identification and referral to assistance of victims.

122. All 12 police districts in Denmark have appointed THB co-ordinators. The Danish authorities estimate that 26 full-time police officers are involved in work against THB. According to some interlocutors met during GRETA's visit, the specialised anti-THB unit previously existing as part of the Copenhagen Police had been dismantled. The Danish authorities subsequently indicated that rather than the unit (which apparently deals with trafficking in women) having been dismantled, its officers had been transferred to the Tegholmen Police District of Copenhagen, where they became part of the department dealing with crimes against the person.

123. The Danish Police Academy has in its curriculum for new recruits three and a half hours of training on THB during their third semester. This training involves a series of theoretical and practical exercises, the aim of which is to explain what THB is and how the police identify it, using indicators. The National Police has a service, the National Centre of Investigation (NCI), which is tasked with gathering knowledge about THB, co-ordinating police efforts against it, and providing training to district police officers. The NCI has also provided training on THB to staff of the Danish Tax Agency, the Danish Working Environment Authority, the United Federation of Danish Workers (3F) and the Danish Red Cross.

124. Border police officers (both first and second line) are trained in both THB and smuggling of migrants. The training is provided by the Danish National Police, the focus being on indicators of THB, investigation practice and legislation. Furthermore, the CMM participates with the NEC twice a year in training for second-line border police officers (concerning different forms of exploitation, indicators, procedures of identification and support to victims). The duration of the training sessions is four hours.

125. The Director of Public Prosecutions provides mandatory training for new prosecutors, as well as further in-service training. The training does not envisage regular sessions on THB. As noted previously, there are no prosecutors specialised in THB, but there are prosecutors specialised in organised and transnational crime. The Director of Public Prosecution has developed an online library on its intranet, with information on THB, compensation, guidance and information for victims, as well as foreign witnesses.

126. There are no judges specialised in THB. The position of the Danish Association of Judges remains that Denmark is too small a country to have a specialisation of judges. As noted in paragraph 75, there is no training specifically on THB offered to judges, but the Danish Court Administration occasionally offers international training on THB through partners. A judge met by GRETA referred to having followed on two occasions seminars on THB (one lasting a day and the other three hours).

127. The Danish Bar Association does not provide training to lawyers on THB.

128. GRETA considers that the Danish authorities should take additional steps to ensure that all relevant professionals are trained regularly and systematically on preventing and combating THB, identifying victims and referring them to assistance. The training should be integrated in the regular training curricula of different professional groups, including law enforcement officials, prosecutors, judges, staff at immigration detention centres, labour inspectors, social workers, child welfare staff, health-care staff, as well as diplomatic and consular staff. The Danish authorities should in particular promote the development of specialisation in THB cases among police officers, prosecutors and judges and provide comprehensive and continuous training on THB for specialisation.

11. International co-operation (Article 32)

129. 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 instruments⁶⁷ on mutual legal assistance and extradition, reciprocal arrangements between Parties to such instruments and relevant provisions of domestic law concerning international co-operation.

130. In July 2019, the Director of Public Prosecutions published new guidelines regarding mutual legal assistance.⁶⁸

131. Denmark is not party to the co-operation under the European Investigation Order because of its "opt-out" from certain areas of the European Union's co-operation in justice and home affairs.⁶⁹

⁶⁷ 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.

⁶⁸ Available at: <https://vidensbasen.anklagemyndigheden.dk/h/6dfa19d8-18cc-47d6-b4c4-3bd07bc15ec0/VB/8c6be790-8581-4ceb-882f-36f0541c0a24?showExact=true> (in Danish).

⁶⁹ See paragraph 12 of the first GRETA report on Denmark.

132. The Danish National Police has carried out joint investigations with other countries, such as in the "Hornet Nest" cases (see paragraphs 83-85). As regards joint investigation teams (JITs) related to THB, GRETA was informed that one was set up in 2018 with Germany, concerning sham marriages, and another one, concerning Nigerian organised crime networks, initially focused on drug trafficking, but which may eventually also concern THB.

133. Denmark is an active member of the European multidisciplinary platform against criminal threats (EMPACT). In 2019, two operations in the area of prostitution and one in the area of forced labour were planned in co-operation with Europol in Denmark. In 2019 Denmark participated in Joint Action Days targeting several crime areas, including THB. In 2019 the Joint Action Days included operations in both April and September. The Joint Action Days planned for October 2020 have been postponed to 2021.

134. Within the Nordic Council of Ministers, the Danish National Centre of Investigation led the preparation of a report on co-operation against THB between the Nordic countries. The report, published in 2016, is entitled "Exchange of Information in Cases of Trafficking in Human Beings". Denmark hosted a meeting in May 2017 at which the report was presented, resulting in proposals on how to improve co-operation among the Nordic countries in combating THB.

135. As part of co-operation within the Council of Baltic Sea States (CBSS), Denmark participates in a project focusing on THB for the purpose of forced labour, entitled "Competence building, Assistance provision and Prosecution of labour Exploitation cases in the Baltic Sea Region" (CAPE). As part of this project, studies are carried out into different forms of THB for the purpose of labour exploitation and the reasons for the low number of prosecutions of THB for forced labour. The reports are expected to be finished by the spring of 2021.

136. The CMM has developed co-operation with organisations in countries to which victims of THB are returned, including Italy, Nigeria, Romania and Spain.

137. GRETA welcomes the Danish authorities' participation in multilateral and bilateral international co-operation, and considers that they should strengthen their efforts in this regard, including by means of JITs, and further develop the protection of victims of THB in the context of returning them to their countries of origin.

12. Cross-cutting issues

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

138. 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.⁷⁰

⁷⁰ CEDAW General recommendation No. 33 on women's access to justice, paragraph 8, CEDAW/C/GC/33 of 3 August 2015. <https://digitallibrary.un.org/record/807253>.

139. 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.⁷¹ 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".⁷²

140. The provisions in the Danish CC concerning human trafficking are gender-neutral. In the context of support to victims of THB, gender-specific considerations are taken into account, according to the Danish authorities, for example in the context of interviews with victims. The different needs of men and women are taken into account when accommodation is arranged.

141. GRETA notes that the National Action Plan against THB includes references to gender-specific considerations, which can contribute to a heightened awareness of the importance of gender-sensitive proceedings.

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

142. If children are involved in a criminal justice process as victims or witnesses, it may be decided that their testimony shall be video recorded. Video recordings of testimonies taken of children are as a general rule used for children under the age of 13. It may also be decided to use video recordings in respect of children below the age of 15, if the testimony concerns a sexual offence or a homicide. In the legislative framework and the guidelines of the Director of Public Prosecutions, there is guidance for prosecutors and the police as regards the use of video testimony.

143. All unaccompanied asylum-seeking children and irregular migrant children are appointed a personal representative. There is always a representative (guardian) present during an interview with a child. If the child is placed in an asylum centre operated by the Danish Red Cross, a personal representative from the Red Cross will be appointed to the child. An interview with a child can go ahead even if the legal guardian of the child to be interviewed refuses the participation of the child in the interview, but in that case a judge needs to be present at the interview. In practice, only some 2 % of guardians refuse.

144. GRETA visited the children's house located in Copenhagen (*Børnehus Hovedstaden*), at which some 400 interviews with children are conducted annually. The children's house in Copenhagen is located in a central residential area of Copenhagen and it features special interviewing rooms for children designed to maximise children's comfort by equipping them with toys and furniture suitable for children. An appropriately equipped room for forensic medical examinations of children has recently been prepared. The basic concept of the children's houses (*børnehus*) is to centralise in one location interviews with child victims or witnesses of crimes, including various forms of child abuse, in order to avoid subjecting the child to repeated interviews at different locations, including the court room.

⁷¹ 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>

⁷² Available at: <https://rm.coe.int/factsheet-womens-access-to-justice/16808ff44e>

145. There are five children's houses in Denmark, equipped with special facilities for interviewing child victims and witnesses of abuse or other crimes. At such an interview, the representatives of the following professions are required: prosecutor, the defendant's defence lawyer, the support lawyer of the child victim or witness, representative of the social services and two police officers. There is a total of about 2500 such interviews conducted per year in the children's houses in Denmark. The Social Services Law allows the exchange of information about children between the above professionals.

146. **GRETA welcomes the existence of children's houses across Denmark, enabling the adoption of a child-sensitive approach and procedures for obtaining access to justice and remedies. GRETA considers that the Danish authorities should make full use of these specialised facilities in cases of THB. In this context, GRETA also refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.**⁷³

c. role of businesses

147. As noted in GRETA's second report on Denmark, the CMM has developed a tool called "Managing the Risk of Hidden Forced Labour – A Guide for Companies and Employers", which consists of a set of guidelines for companies and employers at risk of becoming involved with forced labour.⁷⁴ The guidelines describe the risks of THB for the purpose of labour exploitation and how best to avoid being associated with such cases. They include checklists of measures companies can take to reduce the risk of forced labour in the supply chain. The latest version of these guidelines was launched on 30 September 2019 at a training session for companies and employers, organised by the CMM in collaboration with the Danish Ethical Trading Initiative.

148. With funding from the Nordic Council of Ministers, between 2016 and 2019 the CMM ran a joint project on countering trafficking for the purpose of forced labour in the Nordic countries. As part of the project, the CMM updated the above-mentioned guidelines. Further, as part of a project on combating human trafficking committed online, the CMM is working with private sector partners such as MobilePay, Microsoft and PwC.

149. The Danish Mediation and Complaints-Handling Institution for Responsible Business Conduct is the OECD National Contact Point (NCP) in Denmark as concerns the adherence to the OECD Guidelines for multinational enterprises on responsible business conduct.⁷⁵ This institution, established in 2012, is an independent non-judicial body that enables companies, organisations and public authorities to resolve or mediate in disputes regarding infringements of, *inter alia*, human and labour rights. Anyone can submit a complaint to the NCP about cases that involve non-compliance with the OECD Guidelines. The NCP offers mediation which may result in an agreement on remedies to the injured party. Theoretically, victims of THB could claim compensation for personal injury or property damage from businesses implicated in THB by filing a civil lawsuit against the business concerned, but there have been no such cases.

150. As noted previously, many of the presumed victims of THB identified in the reporting period were truck drivers employed by a Danish transport company. While waiting for the results of the police investigation into the case, GRETA notes that the case shows the importance of trade unions' involvement in the fight against THB. It also manifests the necessity for the authorities to increase efforts to fight trafficking conducted by legal persons inside Denmark. As the example of the truck drivers shows, efforts against THB in a corporate setting inside Denmark must not be left to the companies themselves, and THB involving companies does not necessarily only concern distant supply chains.

⁷³ [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).

⁷⁴ See paragraph 52 of the second GRETA report on Denmark.

⁷⁵ <http://mneguidelines.oecd.org/mneguidelines/>

151. **GRETA considers that the Danish authorities should further strengthen engagement with the private sector, in line with the UN Guiding Principles on Business and Human Rights⁷⁶ and Council of Europe Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business,⁷⁷ 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.**

152. **GRETA also considers that the Danish 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.**

d. measures to prevent and detect corruption

153. Trafficking in human beings may be engaged in by organised criminal groups, which frequently use corruption to circumvent the law, and money laundering to conceal their profits, but it can occur in other contexts. Consequently, other Council of Europe legal instruments are also relevant to combating human trafficking, in particular those designed to combat corruption, money laundering and cybercrime. The Council of Europe body with the main role to play in the fight against corruption is the Group of States against Corruption (GRECO). Its country reports are relevant in addressing structural shortcomings in preventing corruption, including potentially in a THB context.

154. In its fifth round report on Denmark (2019), GRECO noted the high degree of trust the police enjoys in Danish society and various reforms implemented over the last 10 years, with the establishment in 2012 of the Independent Police Complaints Authority. Notwithstanding these positive features, GRECO noted that there were a few areas where further improvements should be made, in particular the training made available to police officers on integrity requirements relevant for the police should also be made mandatory for managers. GRECO furthermore called for the development of a system for authorisation of secondary activities by police officers, with an effective follow-up to be given to such authorisations, and - as it is currently not clear what type of employment is taken up by police officers after they leave the police or what the scale of potential conflicts of interest therein is - GRECO recommended to have a study on this issue carried out and subsequently, if needed, to have further rules adopted.⁷⁸

155. The Director of Public Prosecutions reports having no knowledge of cases of corruption or related misconduct of public officials in THB cases. Nevertheless, reference should be made to a case involving a wealthy Danish businessman who reportedly promised a young woman working at his farm in Kenya education and work in Denmark. He bought her a flight ticket and arranged for a tourist visa, and after her arrival in Denmark, he reportedly exploited her both sexually and for work purposes. After an initial investigation, the case was closed, without the Kenyan woman being interviewed. The two police officers investigating the case had, according to their own testimony, become friends with the businessman and accepted free stays at his lodge hotel in Kenya. Because of this, the two police officers were charged with corruption, but acquitted by the Helsingør District Court, which did not consider that they should have seen any link between the free stay at the hotel and the ongoing investigation.⁷⁹ The case was appealed to the Eastern High Court, which found the two police officers guilty of corruption and sentenced them to a suspended prison sentence of 20 days. The case was subsequently appealed to the Supreme Court, which increased the suspended prison sentence to 40 days.⁸⁰ According to the North Zealand Police, the charge against the businessman was dropped on 9 December 2014 pursuant to section 721 (1) of the

⁷⁶ http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

⁷⁷ [Recommendation CM/Rec\(2016\)3](https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/168097203a) 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.

⁷⁸ <https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/168097203a>

⁷⁹ According to section 144 of the CC, anyone who in the performance of Danish, foreign or international public service or profession unlawfully receives, demands or allows themselves to be recipient of a gift or other benefit is to be punished by a fine or imprisonment for up to six years. The case number in the district court was 1-844/2017.

⁸⁰ Case number AM2019.03.20H.

Administration of Justice Act. In August 2017, the basis for the prosecution was re-evaluated by the North Zealand Police and a witness was re-examined. However, the North Zealand Police did not find grounds for resuming the criminal case against the businessman. According to the Director of Public Prosecutions, no connection has been established between the conviction for bribery of the two policemen and the investigation into THB.

156. GRETA stresses the importance of ensuring that investigations into possible THB cases are not discredited by police misconduct. **GRETA invites the Danish authorities to investigate and sanction any violations, in a THB context, of section 144 of the CC, which prohibits the acceptance by public officials of gifts or benefits in the performance of their duties.**

V. Follow-up topics specific to Denmark

1. Measures to discourage demand

157. In its second report on Denmark, GRETA considered that Denmark should continue its efforts to discourage the demand for services of trafficked persons for all forms of exploitation, in partnership with civil society and the private sector.

158. GRETA was informed that there has been a decrease in street prostitution, as sexual services have moved to massage parlours, flats and hotels, facilitated by the Internet. Specialised anti-trafficking NGOs, such as Amiami and Hope Now, continue outreach work in the streets, as well as, in the case of Amiami, through its health clinic. Victims of THB for the purpose of sexual exploitation may be detected as a result of police raids on massage parlours and brothels.⁸¹ The district police carry out checks in collaboration with the Danish Tax Agency. In collaboration with Reden International, the CMM continues outreach through the drop-in centre and health clinic in "the red-light district" of Copenhagen. The CMM's mobile health unit continues outreach activities targeted at massage parlours as well as efforts to establish contact with women working in more hidden forms of prostitution (e.g. escorts and private flats). Further, in 2020, the CMM launched a project focusing on combating human trafficking online. The project aims to map existing knowledge and explore the challenges and opportunities of combating human trafficking online through dialogue with experts in human trafficking, technology and online/digital crime. One of the main purposes of the project is to expand cross-sectoral partnerships.

159. The Tax Agency which is subordinated to the Ministry of Taxation, has a team of three inspectors specialised in THB.⁸² As part of a project running since 2011, they have been carrying out some 50 workplace inspections per year, usually jointly with the police. This team decides which places to inspect, based on research and information about suspicions of forced labour or THB. The inspectors carry out individual interviews in confidential settings. Even though tax agency inspectors are not allowed to enter private households, they can invite domestic staff to attend interviews outside the households where they work.

160. If suspicions of THB arise during an inspection, Tax Agency inspectors inform the police in order for it to carry out an investigation; they also inform the CMM. In 2018, Tax Agency inspectors detected 50 presumed victims of THB. It was stated that it would be very helpful to have a police unit specialised in investigating THB cases, as they would know exactly whom to turn to within the police (also see paragraph 162 and following).

⁸¹ Brothels are not illegal in Denmark, on the condition that those operating them do not make a profit. Persons engaged in prostitution have to pay taxes on their income and the tax authorities have published a leaflet to provide guidance in this regard: <https://skat.dk/getfile.aspx?id=140000>

⁸² At the time of the second evaluation round, there were eight specialised inspectors.

161. **GRETA considers that the Danish authorities should continue making efforts to discourage demand for the services of trafficked persons, by adopting legislative, administrative, educational, social and cultural measures to discourage demand that fosters all forms of exploitation that leads to trafficking, in partnership with civil society, trade unions and the private sector. The authorities should further strengthen and support initiatives to enhance companies' human rights due diligence and improve CSR reporting, as these measures are important to discourage the demand for services of trafficked persons.**

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

162. In its second report on Denmark, GRETA considered the Danish authorities should intensify their efforts to prevent THB for the purpose of labour exploitation, including by further sensitising relevant officials about THB for the purpose of labour exploitation and the rights of victims, and by working more closely with the private sector, in line with the Guiding Principles on Business and Human Rights.

163. There have not been any structural changes as regards the authorities' efforts to prevent THB for the purpose of labour exploitation, although the Tax Agency's team of specialised investigators has been reduced (from eight to three members). GRETA was nevertheless impressed by the Tax Agency team's efforts to detect⁸³ cases of THB for the purpose of forced labour. The Trade Union Federation 3F has also intensified its efforts against THB.

164. Following a police raid in Padborg (southern Denmark), the police discovered 22 Filipino and four Sri Lankan truck drivers, living in very poor conditions. The raid was organised following the publication of an article on 29 October 2018 in the trade union magazine *Fagbladet 3F*. The truck drivers, all men, had been placed in a camp in Padborg by a Danish transport company, which had employed them to drive trucks in Germany, Poland and other EU countries. On 7 November 2018, the CMM concluded that the truck drivers were victims of THB. Some of the truck drivers accepted the offer of an assisted voluntary return to their country of origin where they entered an individualized reintegration programme including small business start-up based on their wishes and previous work experiences. CMM has received promising reports on the progress of these initiatives. At the time of writing, the police were still investigating the case as one of THB.⁸⁴ The truck drivers were retroactively paid salaries corresponding to the minimum pay in Germany and obtained new work permits in Poland, allowing them to continue working in the EU.

165. The Trade Union 3F has drawn attention to possible labour exploitation in Chinese restaurants which employ cooks and other staff from China. The staff were promised an annual salary of at least 436 000 DKK (about 58 000 Euros), which is required for a third-country national to be granted a work-related residence permit in Denmark under a scheme known as the Pay Limit Scheme. However, it would appear that they are forced by the restaurant owners and/or middlemen to relinquish all or part of their salaries. The Minister of Integration has asked the Agency for International Recruitment and Integration (SIRI) to look into these reports. The Director of the CMM has been quoted as saying⁸⁵ that the presumed Chinese victims were reluctant to speak about their situation to the CMM. It would appear that no related police investigation has been opened. The Danish authorities have indicated that police districts generally focus on the restaurant industry when planning actions in relation to forced labour and social dumping. The Danish Tax Agency and the Danish Working Environment Authority also participate in these actions and come up with proposals for companies in the restaurant industry that should be visited. The National Police and the National Investigation Centre also ensure that they work closely with relevant partners in regularly planned meeting forums, where focus areas and *modus operandi* are discussed. These authorities include the Danish Tax Agency, the Danish Working Environment Authority, SIRI, CMM and sometimes also the Danish Veterinary and Food Administration.

⁸³ The Danish Tax Agency has no investigative powers and should it detect suspected cases of THB, it must refer them to the Police.

⁸⁴ The Municipality of Aabenraa in January filed a complaint to the police about the Danish transport company having violated the construction law by illegally accommodating the truck drivers in the camp.

⁸⁵ The article is available at: <https://fagbladet3f.dk/artikel/kinesere-vil-ikke-snakke-med-os>

166. There were about 250 labour inspectors employed by the Working Environment Authority in Denmark at the time of GRETA's third visit, and some 80 more were due to be recruited in 2020 because of the current political priority to fight social dumping, which is also manifested by the decision to establish the working group in support of vulnerable migrants (see paragraph 14). The inspectorate is divided into four groups, along the following sector lines: construction; industry; agriculture; Governmental (such as day care, hospitals); and all other sectors, including transport. The main focus of the labour inspectorate is on health and safety issues in workplaces. There has not been much training on THB for labour inspectors; nor do they have investigative powers regarding THB, but have to report any suspected cases to the police (also see paragraph 165). Each year the labour inspectorate conducts a total of eight days of joint inspections with the police and tax authorities on the national level, in addition to which there are some 40 joint inspections at a regional level. From May 2017 until 30 June 2019, the Labour Inspectorate reported 87 cases of illegal work in the Copenhagen area to the police, but it is not known whether any of them involved THB. Labour inspectors use smartphone translation applications for communicating with foreign workers when no common language is found. The labour inspectors do not target areas with a higher risk of THB, such as establishments in the red-light district of Copenhagen.

167. In April 2019 a majority in the Danish Parliament agreed to strengthen efforts to improve the working environment on the labour market. Part of the agreement focused on intensifying the Danish Working Environment Authority's outreach efforts with regard to foreign companies. Control visits to worksites should identify indications of trafficking for labour exploitation and other violations. The Danish Working Environment Authority and the CMM are in the process of coordinating various joint activities. These include social workers from the CMM participating in workplace control visits with labour inspectors.

168. GRETA welcomes the fact that Denmark in 2017 ratified the 2014 Protocol to ILO Convention No. 29 Concerning Forced or Compulsory Labour.

169. While welcoming the work of the Danish Tax Agency's inspectors and the involvement of the Trade Union 3F in detecting and preventing THB for the purpose of labour exploitation, **GRETA considers that the Danish authorities should pursue a more proactive approach to the identification of victims of THB for the purpose of labour exploitation by:**

- **encouraging regular and co-ordinated multi-agency labour inspections and enhanced co-operation between relevant agencies, in order to strengthen the identification of victims of THB in workplaces, as well as the investigation of THB offences;**
- **encouraging safe reporting procedures for foreign workers and creating incentives to come forward;**
- **further developing co-operation with trade unions in the prevention of THB for the purpose of labour exploitation.**

3. Identification of victims of trafficking

170. In its second report, GRETA urged the Danish authorities to review the identification procedure for victims of trafficking, including by extending the time-frame for the identification of victims of trafficking with an irregular migration status, improving the identification of victims of trafficking in detention centres, and pursuing a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation.

171. The procedures for identification of victims of THB remains as described in GRETA's first and second reports on Denmark.⁸⁶ Despite the proclaimed intension of the Danish authorities to review the 72-hour timeframe for the identification of victims of THB with an irregular migration status, together with other procedures for identifying victims of THB among irregular migrants, no changes have occurred.⁸⁷ Thus, there are two procedures in place for granting the status of victim of THB, depending on whether the person concerned is regularly or irregularly present on the country's territory. In the first case, the CMM grants the status of victim of THB on the basis of an interview conducted by social workers focusing on the indicators of THB. In the second case, the Danish Immigration Service (DIS) is responsible for the identification of victims of trafficking. While the formal identification decision in relation to persons irregularly present in Denmark is the prerogative of the DIS, the DIS' decision is made taking into account information from the CMM and other relevant actors.

172. The CMM operates a hotline which helps detect victims of trafficking. In 2016, the hotline received 406 calls, in 2017, 335 and in 2018, 278. No information was available on the number of victims of THB identified as a result of these calls.

173. In 2016, the CMM identified four victims of THB, in 2017, three, and in 2018, 42. By early December 2019, the CMM had carried out 198 identification interviews with possible victims of THB, but only some of these resulted in the identification of a presumed victim of THB. The National Action Plan has entrusted the conduct of outreach work and identification interviews in southern Denmark to the NGO Amiami. As noted in paragraph 11, only one Danish national was identified as a victim of THB in the reporting period. Further, the NGO Hope Now performs outreach work and contributes to identification of victims of THB in asylum reception centres and immigration deportation centres.

174. A relatively large share of the presumed victims of THB are found amongst irregular migrants detected in the streets. The Aliens Control Group of the police is controlling immigrants' immigration status, and if they detect possible victims of THB, they transfer them to the CMM for interview. The CMM submits a report with their conclusions to the police, which would forward it to the DIS, together with its own report. The DIS takes the final decision about whether to grant irregular migrants the status of victims of THB.⁸⁸ Irregular migrants identified as victims of THB and granted a recovery and reflection period are to be released from detention and accommodated by the DIS in asylum centres, shelters or safe houses.

175. The number of victims of THB identified in 2018 increased significantly due to cases involving truck drivers (see paragraph 161). In 2019, the DIS identified 46 of the 64 victims, and the CMM identified 18 victims. None of the 64 victims in 2019 were formally identified by the court or SIRI.

176. The DIS has a specialised unit which performs an initial screening for possible victims of THB during asylum interviews, in accordance with a THB interview guide drawn up for DIS staff. The THB Unit in the Asylum Division consists of case workers who conduct asylum interviews. It is responsible for the formal identification of asylum seekers as victims of THB and receives information from all case workers in the Asylum Division conducting interviews with asylum seekers in case they observe indicators of THB. The THB Unit guides the case worker on potential questions or topics to cover during the asylum interview to ensure that a formal evaluation can be made as to whether the asylum seeker is a victim of THB or to ensure the consent of the asylum seeker to be referred to the CMM. The CMM will subsequently conduct one or more interviews with the asylum seeker and send an initial evaluation of whether the asylum seeker is a victim of THB to the DIS, which makes a formal evaluation. If deemed necessary, the case workers of the THB Unit may conduct further interviews with asylum seekers presumed to be victims of THB.

⁸⁶ See paragraph 76 of GRETA's second report on Denmark.

⁸⁷ See paragraphs 78-80 of the second GRETA report on Denmark. As regards victims of THB with irregular migration status, the identification should be made within the first 72 hours of an alien being held in detention, which, according to the authorities, helps to minimise the time spent in detention. Confirming this rule, it is written in the National Action Plan 2019-2021 that "foreign nationals detained by the Police usually undergo identification within 72 hours. Therefore, it is important that people with knowledge about THB conduct the initial interviews and the final assessments of whether the person is a victim of THB".

⁸⁸ For further details, see paragraphs 78-80 of the second GRETA report on Denmark.

177. One victim of THB staying at a shelter operated by an NGO told GRETA that she was applying for asylum, even though nobody has so far been granted asylum solely on the grounds of being a victim of THB. She explained that her asylum interview had felt like an interrogation, as she perceived the interviewer as harsh and abrupt, something which does not encourage victims to share sensitive information about their victimisation. Some presumed victims have revealed their THB experiences only at the appeal stage, that is in front of the Refugee Appeal Board, or, in cases deemed manifestly unfounded, in front of the Danish Refugee Council. If a victim of THB is identified among asylum seekers, s/he will be appointed a contact person at the CMM.

178. According to the Danish authorities, health staff and officers at the Ellebæk immigration detention centre frequently come across indicators of THB among migrants placed at the centre and would contact the NGO Hope Now or the CMM in case of a reasonable suspicion. However, when GRETA visited the Ellebæk detention centre, it was informed that staff had not received any training regarding THB and no written instructions about how to act in case of THB suspicions. According to interlocutors at the centre, there are frequently indicators of THB among irregular migrants placed at the centre, and in such cases the persons concerned are advised to speak to their lawyers about it. There are no particular reporting or complaint mechanisms in place for victims of trafficking who are detained in institutions run by the Danish Prison and Probation Service. The Danish authorities have indicated that the Ellebæk Detention Centre is preparing a procedure for how staff should behave in case of a suspicion of human trafficking, which was expected to become available in mid-November 2020.

179. Staff at the Ellebæk centre explained to GRETA that irregularly present third-country nationals, found working without permits at building sites, would be placed in the Ellebæk centre and usually deported within a week or two. The average duration of stay at the centre is 28 days, but the duration in individual cases ranges from a few days to several months. For the maximum 136 detainees (including 18 places for women), there are 60 staff members at the centre, including prison officers and administrators, as well as one medical doctor, three nurses and one teacher. Psychiatrists can be called in when needed.

180. At the Sandholm asylum reception centre visited by GRETA, there are presently 400 beds for adults and 78 for unaccompanied children, though in 2015 the centre accommodated over 1000 asylum seekers by putting in more beds. There are 14 staff members in the section for adults, and 23 in the section for children. More can be called in if need be. Most of the staff are social workers by training. All staff have been trained on THB, including about THB indicators, but those working with children have received the most training. The training is continuous, and lasts several days. If the staff detects signs of THB, the CMM will be contacted. If a child is involved, a guardian will be appointed immediately, whereas if it is unclear whether the asylum seeker is an adult or a child, a guardian would otherwise be appointed only after an age assessment.⁸⁹

181. One difficulty is that the police reportedly often attach a lot of importance to whether a victim is still in a trafficking situation ("currently trafficked", to use the term of the National Action Plan for 2019-2021). By way of example, GRETA was informed of a case in which the boyfriend of a presumed victim of THB had paid her "debts" to the traffickers, which is why the police considered that she was no longer a victim of THB and did not grant her the corresponding rights. Another situation in which a person would not be considered as "currently trafficked" is when they have twice left the shelter for victims of THB where they have been accommodated and return to work in prostitution. GRETA stresses that so-called "historic" victims of THB, who have been exploited at some point in the past, should be identified as victims of THB and provided with necessary assistance when the assistance needed has arisen out of the passed victimisation, even if exploitation is not occurring at that very moment.⁹⁰

⁸⁹ For the methods used for age assessments, see paragraph 106 of GRETA's second report on Denmark.

⁹⁰ Reference can be made to a UK high court in ruling that the protection provisions of the Convention should apply to victims of THB exploited in the past, and that such persons should have assistance to assistance appropriate to their current needs (R Atemewan vs Secretary of State for the Home Department (2014) 1 W.L.R 1959.

182. Despite welcome initiatives, such as the hotline operated by the CMM, GRETA considers that the efforts made to identify victims of THB in Denmark are insufficient. In particular, there is a lack of capacity of asylum case workers to identify victims of THB among asylum seekers, and staff of the Ellebæk immigration detention centre have received no training in identifying victims of THB. Furthermore, clear operating procedures which give guidance on how to act and whom to inform in case of THB suspicions are missing. In this context, GRETA welcomes the information received that trainings and procedures are planned before the end of 2020. Finally, GRETA is concerned that the concept "currently trafficked" may exclude actual trafficking victims from being identified and protected.

183. GRETA once again urges the Danish authorities to step up their efforts to identify victims of trafficking for all forms of exploitation, in particular among third country nationals, who might be staying irregularly in Denmark as a direct consequence of having been trafficked. Apart from providing training to relevant professionals on identifying victims of THB (see recommendations in paragraph 128), the Danish authorities should:

- **further strengthen co-operation with NGOs which may come into direct contact with victims of trafficking, in identifying victims of trafficking;**
- **introduce measures to identify victims of trafficking in immigration detention centres;**
- **improve the identification of victims of THB in the asylum procedure, including by increasing efforts to creating an atmosphere of trust in asylum interviews, which would make it easier for victims to speak of their trafficking experiences;**
- **increase efforts to identify possible victims of THB among Danish nationals;**
- **abandon the concept of "currently trafficked", and ensure that all victims of trafficking are identified as such and have access to the measures included in Articles 12, 13, 14, 15, 16, 26 and 28 of the Convention.**

184. **GRETA also considers that the project allowing the Danish Tax Agency to visit workplaces in search of possible victims of THB (see paragraph 159) should be extended beyond 2021.**

4. Assistance measures

185. In its second report, GRETA considered that the Danish authorities should increase their efforts to ensure that all victims of THB were provided with adequate assistance, and in particular provide a permanent solution for offering safe and suitable accommodation for male victims of THB.

186. There is still no specialised shelter for male victims of THB in Denmark. When such victims are identified, the CMM would make arrangements for their accommodation at the Salvation Army shelter (*Hørhuset*)⁹¹ or at a shelter for men in Fredericia. The authorities have stressed that as most male victims have been victims of labour exploitation, they usually prefer to return to their home countries as soon as possible. GRETA notes that many of the victims of THB granted a recovery and reflection period were men (see paragraph 203), which suggests that they remained in Denmark for at least 30 days and presumably needed accommodation.

⁹¹ See paragraph 96 of the second GRETA report on Denmark.

187. According to the Danish authorities, 377 adult victims of THB (of whom 257 women, 115 men and five transgender) received assistance in the period 2015-2018. In 2019, 58 victims (37 women, 20 men and one transgender) received assistance under the National Action Plan to Combat Human Trafficking. In 2020, 51 victims (37 women and 14 men) received assistance under the National Action Plan to Combat Human Trafficking. As explained in GRETA's second report, the CMM is responsible for co-ordinating the provision of assistance to victims of trafficking. Agreements and contracts have been concluded with civil society actors providing support and assistance, with funding from the National Action Plan budget.

188. The NGO Reden International (previously called Nest International) operates two shelters for female victims of THB, one of which was visited by GRETA. The shelter can accommodate up to seven victims. It employs three full-time staff, as well as part-time staff working in the evenings and at weekends. There is staff presence ensured from 9 am to 9 pm, and during the night it is possible to call upon staff working for an organisation supporting victims of domestic violence, which occupies other floors of the building. Apart from this, Reden International has a shelter in Aalborg which can accommodate two victims. Reden International receives 4,400,000 DKK (about 591,000 Euros) per year from the National Action Plan budget, as well as private funding.

189. The CMM refers victims to the Reden International shelter, but the latter can refuse to accept anyone whose presence may give rise to concerns for the safety of other residents. Most of the victims staying at the shelters have been from Nigeria, but there have also been women from Uganda, Kenya, Albania, Bosnia and Herzegovina, the Russian Federation and Thailand. Most of the victims left Denmark at the expiry of the recovery and reflection period, while some stayed for the duration of the temporary residence permit granted for the purpose of co-operating with the criminal proceedings. There is a structured daily programme for the victims staying at the shelter, and consultations with doctors and psychiatrists can be arranged. The programme includes weekly fitness exercises and swimming.

190. The assistance provided to identified victims is short-term, given the Danish policy of trying to ensure a rapid return of victims of THB to their countries of origin. GRETA notes that, as reflected in the recommendation in paragraph 183, many victims of THB are not identified as such, and are therefore left without assistance.

191. GRETA considers that the Danish authorities should further develop and strengthen the assistance measures offered to victims of THB, in particular by allowing such measures to remain in place long enough to have a positive impact. GRETA further considers that the authorities should, as a matter of priority, provide a permanent solution for offering safe and suitable accommodation for male victims of THB.

5. Identification and assistance of child victims of trafficking

192. In its second report on Denmark, GRETA urged the Danish authorities to improve the identification of child victims of trafficking, including amongst unaccompanied children, in particular by establishing a clear procedure (referral mechanism) concerning the identification of such child victims, as well as to take steps to address effectively the problem of disappearance of unaccompanied children from reception facilities, by providing suitable safe accommodation and sufficient numbers of adequately trained supervisors.

193. According to the Danish authorities, the national referral system (NRM) implemented by the CMM targets all victims of THB, including children, and the CMM is in the process of further improving the NRM.

194. In recent years the CMM has preliminarily identified, pending any formal identification by the DIS, an increasing number of Moroccan boys and young men as victims of THB. According to the Danish authorities, the CMM and other authorities have for some time been alerted to THB risks among this group of children, and have tried to enter into contact with them. However, this has been difficult as the children are reluctant to communicate with the authorities and tend to go missing.

195. From 2017-2020 State funds have been allocated to a project carried out by the Danish Red Cross which runs most of the asylum centres in Denmark, including centres exclusively for children and youth. The aim of the project is to identify victims of THB among unaccompanied asylum-seeking children. Such children would in the first place be assisted within the asylum system.

196. Unaccompanied children are accommodated in specialised centres providing a safe environment and staffed with trained personnel. The children are supervised by staff at all times. Nonetheless, a representative of the Danish Red Cross estimated that since 2015, some 800 to 1,000 Moroccan boys had disappeared from the Sandholm reception centre (the vast majority of Moroccan boys placed at the centre). The Danish Red Cross staff report all such cases to the municipal child protection authorities and the police, but there does not appear to be any follow-up. GRETA was informed that there is presently a small task force in the North Jutland Police assigned to find out what happens to children who leave accommodation centres.

197. All unaccompanied children are provided with a personal representative (legal guardian), whose role would involve informing the child about any decisions concerning them, including identification as a victim of THB and the ensuing rights. The Danish Red Cross recommends persons, some of whom are volunteers and some child-care professionals, to serve as legal guardians for unaccompanied children. If there is a suspicion that a child might be a victim of THB, the DIS would usually appoint a professional guardian. Formally, it is the Agency of Family Law which appoints guardians.

198. Disappearances of child asylum seekers on a large scale remains a major challenge. The UN Committee of the Rights of the Child, in its concluding observations on the 5th Periodic Report on Denmark,⁹² noted with concern that between 2014 and 2016, an increasing number of unaccompanied children went missing from asylum centres, and may thus have become victims of trafficking. As noted in this report, unaccompanied children may, under certain circumstances, be placed in detention while awaiting deportation and, as of age 17, they are not placed in the specialised children's asylum centres but in centres for adults. Unaccompanied siblings are accommodated according to their age and may thus be separated.

199. The DIS has a policy of placing children younger than 15 in a child institution in Jutland, but the children reportedly do not want to go there, possibly because it is far from the capital, and tend to disappear before or after their transfer to the institution. According to observations by the Danish Red Cross staff, children are sometimes picked up outside the centre by cars. In one such case, a child told Red Cross staff that his parents had agreed that a driver would pick him up.

200. In general, child victims of THB who are not asylum seekers would in the first place be assisted by municipal child protection authorities and be placed in municipal accommodation. Children can be placed in residential care institutions without their own or their parents' consent. The appeal body for such decisions to place children in public residential care is the Danish National Social Appeals Board.

⁹² Concluding observations of the CRC 5th Periodic Report on Denmark, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsgIK9tmnWXdxaU%2FedXEEMqJrk8yrtwtruHAHICuvk7Iib6C66JpZees7wvtcoJhIegwEf7VfhCW5afo%2B60Ay5phC4Cg9ZPD46%2F3NL1yVPqT3>

201. GRETA welcomes the CMM's increased efforts to identify child victims of THB amongst asylum seekers and the constructive co-operation the latter enjoys with the Red Cross to promote such identification. **Nonetheless, GRETA once again urges the Danish authorities to make further efforts to improve the identification of child victims of trafficking, especially amongst unaccompanied asylum-seeking children, and to take steps to address effectively the problem of disappearance of unaccompanied children from reception facilities, by providing suitable safe accommodation and sufficient numbers of adequately trained supervisors. Further, the exchange of information between the police and local authorities regarding such missing children should be improved, as should related alert systems and the conduct of police investigations to find missing children.**

6. Recovery and reflection period and residence permits

202. In its first report, GRETA urged the Danish authorities to review the legislation in order to ensure that victims of trafficking are provided with an adequate recovery and reflection period, in line with Article 13 of the Convention, rather than a time-limit to prepare their departure from the country as illegal aliens. Following amendments to the Aliens Act in 2013, the maximum duration of the period was extended from the previous 100 days to 120 days. During this period, victims of trafficking are offered various assistance measures, the aim being to prepare their return. The legal situation and practice in this respect has not changed since the second GRETA evaluation.

203. In the period 2016-2018, 43 victims of THB were granted a recovery and reflection period of 30 to 120 days. This data is not complete, because the DIS does not keep records on such periods granted; therefore the available figures refer only to recovery and reflection periods granted by the CMM. Out of the 43 victims, 37 were men (including 27 truck drivers; see paragraph 161) and six women. There were no children.

204. As explained in GRETA's second report, Danish legislation provides for a temporary residence permit for victims of THB whose presence in Denmark is required for the purposes of the investigation or prosecution (section 9c(5) of the Aliens Act). The legislation in this respect has not changed.

205. Since 2015, six new temporary residence permits have been granted, based on section 9c(5) of the Aliens Act, four of which were to victims of THB. It remains very rare for victims of trafficking to be granted a residence permit in Denmark on other grounds. Since 2016, one victim of THB (from Bangladesh) was granted a one-year residence permit on grounds of family reunification, whereas two others were granted asylum (from Ethiopia and Somalia respectively). However, it is not known whether the fact that the persons were victims of THB influenced the decisions to grant them asylum. A long-serving staff member of the DIS met by GRETA could not recall any cases of persons granted asylum on the grounds of being a victim of THB, though there have been instances of presumed victims of THB having been granted asylum on other grounds. A lawyer met by GRETA indicated that none of the appeals lodged to the Refugee Appeal Board on behalf of presumed victims of THB had been successful.

206. GRETA notes that in the current circumstances, in which it is nearly impossible for a victim of THB to get a residence permit in Denmark, there is little incentive for victims to come forth to accept assistance and co-operate with criminal proceedings. Since the vast majority of victims are returned to their countries of origin, victims who fear such a return (e.g. because of retaliation from traffickers) would be reluctant to come forth.

207. **Reiterating the recommendations made in its first and second evaluation reports on Denmark, GRETA urges the Danish authorities to review the legislation in order to ensure that all persons for whom there are reasonable grounds to believe that they are victims of trafficking, including those to whom the Dublin II Regulation is applicable, are provided with a recovery and reflection period, in line with Article 13 of the Convention, rather than a time-limit to prepare their departure from the country as irregular migrants. The recovery and reflection period should be granted to victims of trafficking unconditionally, regardless of whether they have co-operated with the authorities in the past or do so in the present.**

208. **Reiterating the recommendation made in its second evaluation report, GRETA urges the Danish authorities to review the application of the system for granting residence permits to victims of trafficking with a view to ensuring that the victim-centred approach which underpins the Convention is fully applied and in order to prevent re-trafficking. The Danish authorities should give full consideration to the UNHCR's guidelines on the application of the Refugees Convention to trafficked people⁹³ and their possible entitlement to asylum when deciding upon applications for asylum of persons who are at risk of being re-trafficked or otherwise persecuted should they be obliged to return to their State of origin or residence. 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.⁹⁴**

7. Repatriation and return of victims

209. In its second report on Denmark, GRETA considered that the Danish authorities should continue to develop co-operation with countries of origin of victims in order to ensure comprehensive risk and security assessment (Article 16(7) of the Convention) and safe return of the victims, as well as their effective reintegration on return.

210. Victims of THB are offered support for assisted voluntary return and reintegration. Until recently, the programme of return was managed by IOM, but as of April 2020, reintegration support to returning victims of THB is delivered through partners either under the European Return and Reintegration Network (ERRIN) programme or under the contract with the Danish Refugee Council for delivery through the European Reintegration Support Organisations (ERSO) network, depending on the country of origin to which the victim of THB is returning. IOM will maintain responsibility for concluding all open cases of voluntary returns of victims of THB who left Denmark before 1 April 2020 and who are still in their integration period in their country of origin. The main difference in conditions of return relates to the modality of delivery. In order to streamline reintegration support and offer the same high level of quality support and counselling to all voluntary returnees, the various amounts previously offered to victims of THB for specific purposes have been unified in one cash amount (USD 1,550 for adult returnees or USD 3,100 for adult returnees with dependents under the age of 18, paid in monthly instalments over a six-month period) and one in-kind amount (USD 6,000 per adult, 1,350 per child) to be utilised according to need. The amounts are equivalent to the amounts available under the IOM contracts and can be applied toward a reintegration plan developed by the returnee with the support of the CMM and the receiving ERRIN or ERSO partner. The reintegration plan addresses livelihood, housing, social and health related needs as identified by the returning victim of THB with the support of the reintegration partner. The reintegration support, counselling and monitoring is implemented over a 12-month period. The reintegration partner reports back to the Ministry of Immigration and Integration, who in turn reports back to the CMM and the MFVM.

⁹³ UNHCR, Guidelines on International Protection: The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked, HCR/GIP/06/07, 7 April 2006.

⁹⁴ <https://rm.coe.int/guidance-note-on-the-entitlement-of-victims-of-trafficking-and-persons/16809ebf44>

211. In preparing voluntary returns, the IOM office in Denmark was co-operating with the DIS, as well as organisations in the country of return. The support services offered to each victim related to reception, housing and income-generating activities in the country of return. IOM monitored the reintegration for six months in the country of reintegration, and reported back to the DIS.

212. Under the contract with IOM, persons returning to their countries of origin could receive the following forms of financial support: cash support for single victims of up to a total of USD 1,550 over the six month re-integration period; cash support for parents of children who are under 18 years old, paid in instalments to a total maximum value of USD 3,100; housing support of up to USD 1,200, upon presentation of relevant evidence; reintegration and/or support for income generation of up to USD 4,500 for the purpose of education/training or starting a business; USD 1,350 as reintegration support for children, such as for funding schooling; support for medical treatment of up to USD 300, upon presentation of relevant evidence. IOM statistics show returned victims in 2017-2019 most often chose to use the support for income-generating activities to open a grocery store (6), offer transport services (5), open a restaurant (3) or engage in farming (3). In the previous years, farming and transportation, together with investment in training, were the most common choices.

213. The IOM was responsible for conducting a risk assessment prior to, during and after the return of a victim of THB. The risk assessment was based on information from the CMM and an interview with the victim. Depending on the circumstances in each country and each case, the local staff at the IOM office in the country of return assessed risks according to their best knowledge of local circumstances. Where there was strong co-operation between the IOM and a relevant local or national law enforcement authority in the victim's country of origin, the process of risk assessment was conducted in close consultation with that body.

214. In the period 2016-2018, 35 presumed victims of THB (including one child) accepted voluntary return. The countries of return included Romania, Italy and Spain.⁹⁵ In 2019, by the time of GRETA's visit in December, 29 presumed victims of THB underwent a voluntary return (13 from Romania, 10 from Thailand, and one each from Nigeria, Kenya, Russia, Poland, Albania and Bosnia and Herzegovina). In 2020, 10 victims of THB accepted and underwent voluntary return (six from Thailand, and one each from Romania, India, Serbia and Brazil).

215. In the opinion of civil society representatives met by GRETA, the Danish Police are co-operating well with the Romanian Police, which results in better protection of victims returned to Romania. As a positive example of follow-up to return of victims of THB, reference should be made a visit by the CMM to Romania, to follow-up on the return of victims of THB in the "Hornet Nest" cases. The visit was organised in co-operation with the Romanian NGO ADPARE.

216. However, co-operation with another significant country of return, namely Nigeria, remains problematic. The authorities in certain African countries, including Nigeria and Kenya, are not able to protect returned victims from traffickers, in particular in cases in which the victims' own families have been involved in the trafficking, and in which debts had not been paid off.

217. GRETA heard first-hand accounts of victims of trafficking victims being subjected to severe physical abuse by traffickers after they were returned to certain African countries. GRETA also heard first-hand accounts of children of victims of THB exploited in Denmark having been kidnapped in African countries to increase the pressure on the parent victims to succumb to the demands of the traffickers. Further, GRETA was informed of a case in which traffickers forced a victim of THB who had accepted a voluntary return by IOM to an African country to cash the cheque she got from the IOM, taking away all the money. It would appear that such incidents are not isolated.

⁹⁵ These countries are eligible countries of return because Denmark has opted out of some EU co-operation areas related to security and defence, citizenship, police and justice. In 2015, there were 38 Romanian male victims of THB from the "Hornet Nest" cases who accepted voluntary return.

218. Victims of THB who fall under the Dublin Regulations are not offered assisted voluntary return and the DIS conducts an assessment in accordance with Article 17 of the Dublin Regulation. However, there are reports of victims who have been re-trafficked multiple times from Italy or Spain to Denmark. GRETA notes that conducting risk assessments according to Article 16 of the Convention is also essential in cases of victims of trafficking falling under the Dublin Regulation.

219. The National Police is responsible for carrying out expulsions as well as risk assessments in case of involuntary returns. The deadline for appealing an expulsion decision is eight weeks. According to the DIS, not many appeals are made. The Appeal Board would usually take about six months to decide on an appeal. However, sometimes Dublin returns are carried out even while appeals are being processed.

220. GRETA welcomes the existence of voluntary return arrangements, as well as the follow-up assessment of the situation of victims of THB returned to Romania. However, GRETA is concerned about what appears to have been incorrect or at least insufficient risk assessments regarding the return of victims, in particular to certain African countries. GRETA notes that rapid returns or deportations of victims of THB makes it more difficult for them to defend their interests in court procedures in Denmark, be that concerning their identification as victims of THB or pursuing compensation claims.

221. **GRETA urges the Danish authorities to:**

- **ensure that there are in place repatriation assistance arrangements suitable for all victims of trafficking, with due regard for the rights, safety and dignity of the person concerned and the state of judicial proceedings; this encompasses protection against reprisals and/or against re-trafficking;**
- **prior to deciding on the return of victims, ensure the systematic carrying out of comprehensive assessments of the risk of them being re-victimised and re-trafficked, including victims falling under the Dublin procedure and children, taking into account the best interests of the child; there should be possibilities to stay in Denmark if there are no guarantees that the return would comply with the principle of *non-refoulement*;**
- **further strengthen co-operation with the countries to which victims of THB return, with a view to improving their protection, reintegration and rehabilitation.**

8. Co-operation with civil society

222. In its second report GRETA considered that civil society should be adequately consulted during the evaluation of previous National Action Plans and the drawing up of new plans.

223. There are no NGO members of the Inter-ministerial Working Group to Combat Human Trafficking, but NGOs are included in the regional reference groups set up and co-ordinated by the CMM.⁹⁶ NGOs are consulted when new National Action Plans against THB are drawn up, but in the view of NGOs, their opinions are not sufficiently taken into account, and the drafts plans are not shared with them. Further, the NGOs specialised in assisting victims of THB are only indirectly consulted when the impact of action plans is evaluated by consultancy firms contracted by the Government (see paragraph 17).

⁹⁶ See paragraph 17 of the second GRETA report on Denmark.

224. The CMM is mandated to co-ordinate NGOs' work against THB and in support of victims, but in the view of some civil society representatives, it does not fulfil this task very well. On the other hand, GRETA notes that the National Action Plan has entrusted the conduct of identification interviews to the specialised anti-THB NGO Amiami, suggesting a trustful working relationship (see paragraph 173). The NGO Amiami takes part in some of the police raids on places in which it is suspected that presumed victims of THB may be found. Amiami and the police co-operate with the NGO Reden International, which operates two shelters to which victims discovered in raids may be referred.

225. GRETA considers that the Danish authorities should, in line with Article 35 of the Convention, further develop co-operation with specialised NGOs by adequately involving them in the planning, implementation and evaluation of National Action Plans against THB.

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

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

Topics related to the third evaluation round of the Convention

Right to information

- GRETA considers that the Danish authorities should make further efforts to make the information provided to presumed victims of THB more accessible. All victims of trafficking who are not fluent in Danish should have the right to be assisted by a qualified interpreter during police interview or hearings in court(paragraph 41).

Legal assistance and free legal aid

- GRETA considers that the Danish authorities should take further steps to ensure trafficking victims' access to legal assistance and free legal aid, in particular by:
 - appointing a lawyer as soon as there are reasonable grounds for believing that a person is a victim of human trafficking, including in the case of asylum seekers and persons placed in detention prior to deportation, before the persons concerned have to decide whether or not they want to co-operate with the authorities and/or make an official statement;
 - providing training to lawyers appointed to provide legal support and/or legal aid to victims of THB;
 - facilitating access by presumed victims of THB to lawyers specialised in THB cases;
 - reviewing the system of remuneration of support lawyers, in view of making it possible to reimburse reasonable travel costs, as well as compensating for travel time, in order to facilitate the access of victims in remote locations to specialised and experienced support lawyers (paragraph 50).

Compensation

- GRETA urges the Danish authorities to make additional efforts to guarantee effective access to compensation for victims of THB, in particular by:
 - simplifying, to the extent possible, the procedures for applying for compensation in court; prosecutors and judges should use all the possibilities the law offers them to uphold compensation claims, and courts should state, where applicable, why compensation is not considered;
 - facilitating access to State compensation by reviewing the eligibility criteria and threshold for granting moral damages in order to ensure their applicability to all forms of THB;
 - granting residence permits to victims of THB for the duration of the legal proceedings, including compensation proceedings, with a view to facilitating access to compensation and redress;

- making full use of the legislation on the freezing and forfeiture of assets to secure compensation to victims of THB;
- providing training to prosecutors and judges on the issue of compensation;
- exempting victims of THB resident outside the European Economic Area from the possible demand of providing security for the costs of the court procedures related to their compensation claims (paragraph 76).

Investigations, prosecutions, sanctions and measures

- GRETA urges the Danish authorities to allocate necessary human and financial resources to ensure that cases of THB are proactively investigated, prosecuted and lead to effective, proportionate and dissuasive sanctions, including by:
 - prioritising the use of special investigation techniques and financial investigations in THB investigations, which will make prosecution less dependent on the testimony of victims of THB;
 - providing adequate resources to the police and the Prosecution Service, and setting specific targets concerning THB in the annual target plan of the Prosecution Service (paragraph 100).
- Further, GRETA considers that the Danish authorities should take the necessary measures to ensure that the criminal liability of legal entities can be acted upon in practice and involvement of commercial enterprises more effectively prosecuted (paragraph 101).

Non-punishment provision

- GRETA urges the Danish authorities to ensure compliance with Article 26 of the Convention through further developing the existing guidance and promoting its application. As concrete measures to improve compliance with the non-punishment principle, taking into account the existing guidance:
 - efforts should be made by the police and prosecutors to identify victims of THB earlier in the process, and in any event before such victims have already been convicted of offences they were compelled to commit;
 - prosecutors should be encouraged to be proactive in establishing whether an accused person is a potential victim of trafficking, and to consider that, having been trafficked, the culpability of the victim may be diminished, or even removed entirely;
 - all negative consequences faced by victims of THB, such as any form of detention, entry bans or delays in seeking legal residence in Denmark, should be lifted for presumed victims of THB, including in cases where their victimhood has only been recognised after they were deported;
 - steps should be taken to ensure that the non-punishment provision is capable of being applied to all offences that victims of THB were compelled to commit (paragraph 108).

Protection of victims and witnesses

- In order to prevent re-victimisation, GRETA urges the Danish authorities to ensure that the practice of cross-examination (direct confrontation) of victims and defendants in THB cases is avoided, to the extent possible, making use of audio-visual equipment and other appropriate methods (paragraph 117).
- Further, GRETA considers that the Danish authorities should take additional steps to:
 - ensure that victims and witnesses of human trafficking are provided with effective and appropriate protection from potential retaliation or intimidation and with adequate support during hearings;
 - examine the reasons why no victims of THB have ever entered the Danish witness protection programme (paragraph 118).

Specialised authorities and co-ordinating bodies

- GRETA considers that the Danish authorities should take additional steps to ensure that all relevant professionals are trained regularly and systematically on preventing and combating THB, identifying victims and referring them to assistance. The training should be integrated in the regular training curricula of different professional groups, including law enforcement officials, prosecutors, judges, staff at immigration detention centres, labour inspectors, social workers, child welfare staff, health-care staff, as well as diplomatic and consular staff. The Danish authorities should in particular promote the development of specialisation in THB cases among police officers, prosecutors and judges and provide comprehensive and continuous training on THB for specialisation (paragraph 128).

International co-operation

- GRETA welcomes the Danish authorities' participation in multilateral and bilateral international co-operation, and considers that they should strengthen their efforts in this regard, including by means of JITs, and further develop the protection of victims of THB in the context of returning them to their countries of origin (paragraph 137).

Child-sensitive procedures for obtaining access to justice and remedies

- GRETA welcomes the existence of children's houses across Denmark, enabling the adoption of a child-sensitive approach and procedures for obtaining access to justice and remedies. GRETA considers that the Danish authorities should make full use of these specialised facilities in cases of THB. In this context, GRETA also refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (paragraph 146).

Role of businesses

- GRETA considers that the Danish authorities should further 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 151).

- GRETA also considers that the Danish 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 152).

Measures to prevent and detect corruption

- GRETA invites the Danish authorities to investigate and sanction any violations, in a THB context, of section 144 of the CC, which prohibits the acceptance by public officials of gifts or benefits in the performance of their duties (paragraph 156).

Follow-up topics specific to Denmark

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

- Reiterating its recommendation from the second evaluation report, GRETA considers that the Danish authorities should examine the possibility of establishing an independent National Rapporteur or designating another, independent, mechanism capable of monitoring the anti-trafficking activities of state institutions and making recommendations to persons and institutions concerned, as provided for in Article 29, paragraph 4, of the Convention (paragraph 18).

Measures to discourage demand

- GRETA considers that the Danish authorities should continue making efforts to discourage demand for the services of trafficked persons, by adopting legislative, administrative, educational, social and cultural measures to discourage demand that fosters all forms of exploitation that leads to trafficking, in partnership with civil society, trade unions and the private sector. The Danish authorities should further strengthen and support initiatives to enhance human rights due diligence for companies, as well as to improve CSR reporting, as these measures are important to discourage the demand for services of trafficked persons (paragraph 161).

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

- GRETA considers that the Danish authorities should pursue a more proactive approach to the identification of victims of THB for the purpose of labour exploitation by:
 - encouraging regular and co-ordinated multi-agency labour inspections and enhanced co-operation between relevant agencies, in order to strengthen the identification of victims of THB in workplaces, as well as the investigation of THB offences;
 - encouraging safe reporting procedures for foreign workers and creating incentives to come forward;
 - further developing co-operation with trade unions in the prevention of THB for the purpose of labour exploitation (paragraph 169).

Identification of victims of trafficking

- GRETA once again urges the Danish authorities to step up their efforts to identify victims of trafficking for all forms of exploitation, in particular among third country nationals, who might be staying irregularly in Denmark as a direct consequence of having been trafficked. Apart from providing training to relevant professionals on identifying victims of THB (see recommendations in paragraph 128), the Danish authorities should:
 - further strengthen co-operation with NGOs which may come into direct contact with victims of trafficking, in identifying victims of trafficking;
 - introduce measures to identify victims of trafficking in immigration detention centres;
 - improve the identification of victims of THB in the asylum procedure, including by increasing efforts to creating an atmosphere of trust in asylum interviews, which would make it easier for victims to speak of their trafficking experiences;
 - increase efforts to identify possible victims of THB among Danish nationals;
 - abandon the concept of “currently trafficked”, and ensure that all victims of trafficking are identified as such and have access to the measures included in Articles 12, 13, 14, 15, 16, 26 and 28 of the Convention (paragraph 183).
- GRETA also considers that the project allowing the Danish Tax Agency to visit workplaces in search of possible victims of THB (see paragraph 158) should be extended beyond 2021 (paragraph 184).

Assistance measures

- GRETA considers that the Danish authorities should further develop and strengthen the assistance measures offered to victims of THB, in particular by allowing such measures to remain in place long enough to have a positive impact. GRETA further considers that the authorities should, as a matter of priority, provide a permanent solution for offering safe and suitable accommodation for male victims of THB (paragraph 191).

Identification and assistance of child victims of trafficking

- GRETA once again urges the Danish authorities to make further efforts to improve the identification of child victims of trafficking, especially amongst unaccompanied asylum-seeking children, and to take steps to address effectively the problem of disappearance of unaccompanied children from reception facilities, by providing suitable safe accommodation and sufficient numbers of adequately trained supervisors. Further, the exchange of information between the police and local authorities regarding such missing children should be improved, as should related alert systems and the conduct of police investigations to find missing children (paragraph 201).

Recovery and reflection period and residence permits

- Reiterating the recommendations made in its first and second evaluation reports on Denmark, GRETA urges the Danish authorities to review the legislation in order to ensure that all persons for whom there are reasonable grounds to believe that they are victims of trafficking, including those to whom the Dublin II Regulation is applicable, are provided with a recovery and reflection period, in line with Article 13 of the Convention, rather than a time-limit to prepare their departure from the country as irregular migrants. The recovery and reflection period should be granted to victims of trafficking unconditionally, regardless of whether they have co-operated with the authorities in the past or do so in the present (paragraph 207).

- Reiterating the recommendation made in its second evaluation report, GRETA urges the Danish authorities to review the application of the system for granting residence permits to victims of trafficking with a view to ensuring that the victim-centred approach which underpins the Convention is fully applied and in order to prevent re-trafficking. The Danish authorities should give full consideration to the UNHCR's guidelines on the application of the Refugees Convention to trafficked people and their possible entitlement to asylum when deciding upon applications for asylum of persons who are at risk of being re-trafficked or otherwise persecuted should they be obliged to return to their State of origin or residence. 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 208).

Repatriation and return of victims

- GRETA urges the Danish authorities to:
 - ensure that there are in place repatriation assistance arrangements suitable for all victims of trafficking, with due regard for the rights, safety and dignity of the person concerned and the state of judicial proceedings; this encompasses protection against reprisals and/or against re-trafficking;
 - prior to deciding on the return of victims, ensure the systematic carrying out of comprehensive assessments of the risk of them being re-victimised and re-trafficked, including victims falling under the Dublin procedure and children, taking into account the best interests of the child; there should be possibilities to stay in Denmark if there are no guarantees that the return would comply with the principle of non-refoulement;
 - further strengthen co-operation with the countries to which victims of THB return, with a view to improving their protection, reintegration and rehabilitation (paragraph 221).

Co-operation with civil society

- GRETA considers that the Danish authorities should, in line with Article 35 of the Convention, further develop co-operation with specialised NGOs by adequately involving them in the planning, implementation and evaluation of National Action Plans against THB (paragraph 225).

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

Public bodies

- Ministry of Justice
- Ministry of Immigration and Integration
- Ministry of Interior and Social Affairs
- Ministry of Employment
- Ministry of Taxation
- Danish Centre against Human Trafficking (CMM)
- Department of Gender Equality
- Department of Equal Opportunities
- Danish Immigration Service (DIS)
- Working Environment Authority
- Danish Assets Recovery Office
- Criminal Injuries Compensation Board
- Danish Tax Agency
- Danish National Police
- Office of the Director of Public Prosecutions
- Danish Parliament
- Courts of Denmark
- Danish Institute of Human Rights

Intergovernmental organisations

- International Organization for Migration (IOM)

Civil society organisations

- Amiami
- Hope Now
- Reden International
- Street Lawyers

Government's comments

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

GRETA engaged in a dialogue with the Danish 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 Danish authorities on 16 December 2020 and invited them to submit any final comments. The comments of the authorities, submitted on 26 February 2021, are reproduced hereafter.



Comments of the Danish Government on GRETA's Final Report on Denmark

1. Comments regarding the factual contents of GRETA's final report

Paragraph 95. Civil society representatives met by GRETA noted with concern that the Danish Government had commissioned a consultancy company to study how testifying works in THB cases and to present ideas about how to encourage victims to testify, whereas in reality, the limited time that victims of THB are allowed to remain in Denmark prevents them from participating in criminal proceedings (see paragraph 206).

This was not a study, but the development of information on e.g. the witness process, as well as an information effort to victims of human trafficking and relevant actors, including NGOs, on this. This was among others based on information and existing materials from the Public Prosecutor's Office and the National Police.

Paragraph 166. Labour inspectors use smartphone translation applications for communicating with foreign workers.

Inspectors contact an interpreting agency and use smartphone translation applications for communicating with foreign workers.

Paragraph 167. Control visits to worksites should identify indications of trafficking for labour exploitation and other violations.

Inspection visits to workplaces may in some cases include the identification of trafficking for labour exploitation and other violations.

Paragraph 171. The procedures for identification of victims of THB remains as described in GRETA's first and second reports on Denmark. Despite the proclaimed intension of the Danish authorities to review the 72-hour timeframe for the identification of

victims of THB with an irregular migration status, together with other procedures for identifying victims of THB among irregular migrants, no changes have occurred. Thus, there are two procedures in place for granting the status of victim of THB, depending on whether the person concerned is regularly or irregularly present on the country's territory. In the first case, the CMM grants the status of victim of THB on the basis of an interview conducted by social workers focusing on the indicators of THB. In the second case, the Danish Immigration Service (DIS) is responsible for the identification of victims of trafficking. While the formal identification decision in relation to persons irregularly present in Denmark is the prerogative of the DIS, the DIS' decision is made taking into account information from the CMM and other relevant actors.

We would like to add, that there are not two but three procedures in place for granting the status of victim of THB. We suggest to change the following (underlined):

171. The procedures for identification of victims of THB remains as described in GRETA's first and second reports on Denmark. Despite the proclaimed intension of the Danish authorities to review the 72-hour timeframe for the identification of victims of THB with an irregular migration status, together with other procedures for identifying victims of THB among irregular migrants, no changes have occurred.⁹⁰ Thus, there are ~~two~~ three procedures in place for granting the status of victim of THB, depending on whether the person concerned is regularly or irregularly present on the country's territory or whether the person has been charged with a criminal offence.

In the first case, the CMM grants the status of victim of THB on the basis of an interview conducted by social workers focusing on the indicators of THB. In the second case, the Danish Immigration Service (DIS) is responsible for the identification of victims of trafficking. While the formal identification decision in relation to persons irregularly present in Denmark is the prerogative of the DIS, the DIS' decision is made taking into account information from the CMM and other relevant actors. In the third case the court can grant the status of victim of THB if the person concerned has been charged with a criminal offence. Following the decision of the court, the DIS will grant the reflection period (delayed departure), if the person is irregularly present in Denmark.

Paragraph 178. According to the Danish authorities, health staff and officers at the Ellebæk immigration detention centre frequently come across indicators of THB among migrants placed at the centre and would contact the NGO Hope Now or the CMM in case of a reasonable suspicion. However, when GRETA visited the Ellebæk detention centre, it was informed that staff had not received any training regarding THB and no written instructions

about how to act in case of THB suspicions. According to interlocutors at the centre, there are frequently indicators of THB among irregular migrants placed at the centre, and in such cases the persons concerned are advised to speak to their lawyers about it. There are no particular reporting or complaint mechanisms in place for victims of trafficking who are detained in institutions run by the Danish Prison and Probation Service. The Danish authorities have indicated that the Ellebæk detention centre is preparing a procedure for how staff should behave in case of a suspicion of human trafficking, which was expected to become available in mid-November 2020.

The Danish Prison and Probation Service can inform GRETA that the procedure for how staff should behave in case of a suspicion of human trafficking was prepared in November 2020. The staff of the Ellebæk immigration detention centre has been informed about the new procedure, which is also available on Ellebæk's local teamsite (Intranet).

Paragraph 179. Staff at the Ellebæk centre explained to GRETA that irregularly present third-country nationals, found working without permits at building sites, would be placed in the Ellebæk centre and usually deported within a week or two. The average duration of stay at the centre is 28 days, but the duration in individual cases ranges from a few days to several months. For the maximum 136 detainees (including 18 places for women), there are 60 staff members at the centre, including prison officers and administrators, as well as one medical doctor, three nurses and one teacher. Psychiatrists can be called in when needed.

The Danish Prison and Probation Service can inform GRETA that – in addition to the staff members already mentioned in paragraph 178 – the Ellebæk immigration detention centre has employed 3 pedagogical assistants towards the end of 2019. The pedagogical assistants are responsible for everyday pedagogical activities with the detainees. Through these activities, the pedagogical assistants obtain a relationship with and information about the individual detainee.

It should be noted that the average stay at the detention centre was 33.7 days in 2019.

Paragraph 182. Despite welcome initiatives, such as the hotline operated by the CMM, GRETA considers that the efforts made to identify victims of THB in Denmark are insufficient. In particular, there is a lack of capacity of asylum case workers to identify victims of THB among asylum seekers, and staff of the Ellebæk immigration detention centre have received no training in identifying victims of THB. Furthermore, clear operating procedures which give guidance on how to act and whom to inform in case of THB suspicions are missing. In this context, GRETA welcomes the information received that trainings and procedures are planned before the end of 2020. Finally, GRETA is concerned that

the concept “currently trafficked” may exclude actual trafficking victims from being identified and protected.

The Danish Prison and Probation Service can inform GRETA that the National Board of Social Services cancelled the planned training in December 2020 due to Covid-19. According to the National Board of Social Services, the training in question was not deemed suitable for virtual training. At present it has not been possible to appoint a new date for the planned training. Furthermore, some of the relevant members of staff who were meant to receive the planned training have been sent home during the temporary close-down (due to Covid-19) of occupation and other leisure activities in the detention centre.

Paragraph 217. GRETA heard first-hand accounts of victims of trafficking victims being subjected to severe physical abuse by traffickers after they were returned to certain African countries. GRETA also heard first-hand accounts of children of victims of THB exploited in Denmark having been kidnapped in African countries to increase the pressure on the parent victims to succumb to the demands of the traffickers. Further, GRETA was informed of a case in which traffickers forced a victim of THB who had accepted a voluntary return by IOM to an African country to cash the cheque she got from the IOM, taking away all the money. It would appear that such incidents are not isolated.

CMM and the Danish Immigration Service are not aware of this information: “Further, GRETA was informed of a case in which traffickers forced a victim of THB who had accepted a voluntary return by IOM to an African country to cash the cheque she got from the IOM, taking away all the money. It would appear that such incidents are not isolated.”

2. Comments regarding GRETA’s recommendations

Paragraph 18. GRETA considers that the Danish authorities should examine the possibility of establishing an independent National Rapporteur or designating another, independent, mechanism capable of monitoring the anti-trafficking activities of state institutions and making recommendations to persons and institutions concerned.

The Government considers the current mechanism to be in compliance with the convention. The Government acknowledges the recommendation and will examine the possibility of establishing an independent National Rapporteur.

Paragraph 41. GRETA considers that the Danish authorities should make further efforts to make the information provided to presumed victims of THB more accessible.

The Government has taken note of the recommendation.

In the forthcoming update of the guidelines on police handling of human trafficking cases, the Danish National Police will emphasize the importance of guiding THB victims of their rights. In addition, the Danish National Police will develop written material on the rights of the victims of human trafficking available on the website of the Danish police www.politi.dk.

As far as interpretation is concerned, victims are assisted by interpreters. The Danish government has decided to set up a committee to make recommendations on how to ensure access to better interpretation in the public sector. The committee is to consider for example a certification scheme and education programs for foreign language interpretation. The Danish National Police awaits the recommendations of the committee.

Paragraph 50. GRETA considers that the Danish authorities should take further steps to ensure trafficking victims' access to legal assistance and free legal aid:

- **appointing a lawyer as soon as there are reasonable grounds for believing that a person is a victim of human trafficking, including in the case of asylum seekers and persons placed in detention prior to deportation, before the persons concerned have to decide whether or not they want to co-operate with the authorities and/or make an official statement.**

The Danish police guide victims of crimes about the possibility of having a legal advocate/a support lawyer assigned. In the forthcoming update of the guide on the police's handling of cases of human trafficking, it will be emphasized that guidance must be given before the first interrogation begins. The police request the court to assign a legal advocate/a support lawyer for the victim when the victim asks for one.

Paragraph 76. GRETA is concerned by the low number of victims of THB who have received compensation, be it from the perpetrators or the State. In GRETA's view, the complexity of the compensation system with its eligibility criteria, including as regards legal assistance for launching compensation claims, risks preventing even well-founded claims from being submitted and successful. GRETA urges the Danish authorities to make additional efforts to guarantee effective access to compensation for victims of THB, in particular by:

- **simplifying, to the extent possible, the procedures for applying for compensation in court; prosecutors and judges should use all the possibilities the law offers them to uphold compensation claims, and courts should state, where applicable, why compensation is not considered;**

As stated under paragraph 60, today victims are entitled to claim com-

pensation in connection with the criminal proceedings. Thus, the decision on compensation will already be made during the criminal trial, if the claims on compensation are claimed during this procedure. However, some claims cannot be pursued without inconvenience/delay to the criminal case. Therefore, some claims must be raised by making a civil claim or, if the conditions for being eligible for state compensation are met, apply for compensation from the Criminal Injuries Compensation Board.

- **facilitating access to State compensation by reviewing the eligibility criteria and threshold for granting moral damages in order to ensure their applicability to all forms of THB;**

As stated under paragraph 68, the state may award compensation and damages for personal injury inflicted as a result of violations of the CC or the Act on Restraining, Exclusion Orders and Expulsion, if the eligibility criteria laid down in the Act on State Compensation to Victims of Crime are met. The right to claim state compensation is not linked to immigration status and a compensation claim can be submitted after the victim has left Denmark. There are no limitations specifically relating to e.g. THB cases. However the general conditions in Danish law e.g. the threshold for granting moral damages must after a concrete assessment be met. The government has taken note of the recommendation regarding the eligibility criteria and threshold for granting moral damages.

- **providing training to prosecutors and judges on the issue of compensation;**

The Danish Court Administration is responsible for the training of judges in Denmark. The Court Administration offers on an average about 250 different training courses annually for the judiciary. At the moment there are no specific courses or lectures offered with a focus solely on THB. In general, the need and the demand for courses are continually considered and evaluated. Conventions are incorporated as a topic in courses and training programs where it is relevant. In addition, the Court Administration offers international training on the subject through our international partners such as ERA (Academy of European Law, EJTN (European Judicial Training Network) and SEND (cooperation between the Nordic countries regarding training of judges)

In 2010 and 2012, THB was one of the topics at our annual 3-day conference for judges. Another topic in 2010 was victims of crimes. We are not at the moment offering courses focusing solely on the possibility of obtaining compensation for victims of THB. Nor on the convention on Action against Trafficking in Human Beings. In general, Human Rights conventions including the Convention on Action against Trafficking in Human Beings will be incorporated as a topic in courses, conferences and training programs when relevant. In addi-

tion, the Court Administration offers international training on the subject through international partners. The Danish Court Administration facilitates working groups and a database for the sharing of knowledge amongst judges in Denmark. 4 working groups with different themes (civil law, criminal law ect.) are set up. Here subjects of relevance are discussed and prioritized. Individual judges will then produce for example collections of case law or papers on these specific topics. All material in the database is validated by the working groups and shared amongst all judges. In the database you can find papers published about case law of THB, and procedures in court. There are also papers on compensation for victims.

Paragraph 100. GRETA urges the Danish authorities to allocate necessary human and financial resources to ensure that cases of THB are proactively investigated, prosecuted and lead to effective, proportionate and dissuasive sanctions, including by:

- **prioritising the use of special investigation techniques and financial investigations in THB investigations, which will make prosecution less dependent on the testimony of victims of THB;**
- **providing adequate resources to the police and the Prosecution Service, and setting specific targets concerning THB in the annual target plan of the Prosecution Service.**

As a consequence of a new Danish Finance Act Agreement, a reform of the organization of the Danish police, including the establishment of a new national investigation unit, will take place in the coming years. The investigation unit will – amongst other things – assist the police districts in investigation of cases of human trafficking.

Paragraph 101. GRETA considers that the Danish authorities should take the necessary measures to ensure that the criminal liability of legal entities can be acted upon in practice and involvement of commercial enterprises more effectively prosecuted.

As for indictment, the Director of Public Prosecutions can inform GRETA that the Prosecution Service always assesses concretely who to indict, including whether there are grounds for indicting a legal entity. In the binding guidelines laid down by the Director of Public Prosecutions, in the section on criminal liability for legal entities, general guidelines to the Prosecution Service on handling cases where a criminal liability can be applied against a legal entity are set.

The application of these guidelines presupposes that there has previously been conducted an investigation which has established that the objective and subjective conditions for bringing criminal charges against a legal entity are satisfied. Please note that it is a prerequisite for criminal liability for legal entities that an offence has been committed in the course of its activities and that the offence was caused by one or more natural persons connected to the legal person or by the legal person as such, cf. section 27 (1) of the Danish Criminal Code.

Thus in cases regarding THB, the Prosecution Service shall always consider whether there are grounds for indicting the legal entity, where the investigation has disclosed that there has been committed a criminal offence that can be attributed to a legal entity.

Furthermore, the Director of Public Prosecution refers to a recent case from the District Court in Holstebro (“The Thyborøn-case”), where the Prosecution Service had indicted a fishing shipper and a company (private limited company), amongst others for THB. Both the fishing shipper and the company were acquitted for THB, but found guilty of usury and of violation of the rules in the Aliens Act on employment of an alien without the requisite work permit. The company was imposed a fine of DKK 3.000.000.

Paragraph 109. GRETA urges the Danish authorities to ensure compliance with Article 26 of the Convention through the adoption of a provision on non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, or by further developing relevant guidance. As concrete measures to improve the compliance with the non-punishment principle:

- **efforts should be made by the police and prosecutors to identify victims of THB earlier in the process, and in any event before such victims have already been convicted of offences they were compelled to commit;**
- **prosecutors should be encouraged to be proactive in establishing whether an accused person is a potential victim of trafficking, and to consider that, having been trafficked, the culpability of the victim may be diminished, or even removed entirely;**
- **all negative consequences faced by victims of THB, such as any form of detention, entry bans or delays in seeking legal residence in Denmark, should be lifted for presumed victims of THB, including in cases where their victimhood has only been recognised after they were deported;**
- **steps should be taken to ensure that the non-punishment provision is capable of being applied to all offences that victims of THB were compelled to commit.**

Police personnel are instructed to contact the Danish Centre against Human Trafficking as soon as a potential victim is identified by the police. This instruction also applies to larger coordinated actions with potential victims of TBH.

In the forthcoming update of the guidelines, the Danish National Police will emphasize the importance of clarifying as fast as possible whether a person is a victim of human trafficking, in order to ensure that the non-punishment principle is taken into account when relevant.

In addition to training provided by the Danish Police Academy, the Danish National Police provides training for border police personnel. This is crucial in order to be able to recognize indicators of human trafficking and thereby being able to identify a potential victim at the earliest stage possible.

Paragraph 117. GRETA urges the Danish authorities to ensure that the practice of cross-examination (direct confrontation) of victims and defendants in THB cases is avoided, to the extent possible, making use of audio-visual equipment and other appropriate methods.

Reference is made to GRETA's final report on Denmark paragraph 112. Here, it is described that the judge can decide that the defendant shall not be present in the courtroom during the witness' testimony. Pursuant to section 174 of the Administration of Justice Act, the judge can decide that the witness testimony shall be given using a video link. The same paragraph refers to a specific case (the "Hornet Nest" case) where a witness, who was situated abroad, testified using a video link.

Paragraph 118. GRETA considers that the Danish authorities should take additional steps to:

- **ensure that victims and witnesses of human trafficking are provided with effective and appropriate protection from potential retaliation or intimidation;**
- **examine the reasons why no victims of THB have ever entered the Danish witness protection programme.**

The Danish National Police notes that victims of THB are placed in safe houses by CMM, and that a number of safeguards can be applied, if necessary. Some of the safeguards are related to court hearings. Thus, the court can for example decide that the perpetrator is not present in court while a witness testifies (reference is made to the comment made in paragraph 116 above). In addition, in some cases, the police may transport a witness to and from the court to provide protection and make the victim feel safe.

Paragraph 128. GRETA also considers that the Danish authorities should take additional steps to ensure that all further relevant professionals are trained regularly and systematically on preventing and fighting THB, identifying victims and referring them to assistance. The training should be integrated in the regular training curricula of relevant professional groups, including law all enforcement officials, prosecutors, judges, staff at immigration detention centres, labour inspectors, social workers, child welfare staff and health-care staff, as well as diplomatic and consular staff. The Danish authorities should in particular promote the development of specialisation in THB cases among police officers, prosecutors and judges and provide comprehensive and continuous training on THB for specialisation.

The Government will continue training of professionals in the recognition of signs, signals and needs of the victims of human trafficking. The Government regularly considers how to strengthen and expand the training of professionals and frontline personnel.

The Danish National Police and CMM provide training for all police officers at the Police Academy. In addition, the Danish National Police has held meetings with all police districts in 2019 and passed on the latest knowledge within this field and briefed the police districts on indicators of human trafficking. Tax authorities and other authorities train their own staff on how to prevent and detect human trafficking.

In the area of human trafficking a very fine-meshed contact system already exists within the police, i.a. including key officers in the police districts who have extensive knowledge of the fight against human trafficking. When needed, these officers can support specific investigations. In addition, there is a well-functioning cooperation between relevant authorities.

Paragraph 137. GRETA welcomes the Danish authorities' participation in multilateral and bilateral international co-operation, and considers that they should strengthen their efforts in this regard, including by means of JITs, and further develop the protection of victims of THB in the context of returning them to their countries of origin.

The Government will consider the recommendations on strengthening international cooperation.

The Danish National Police continuously assess which international collaborations and projects in which the Danish police should participate. In addition, the Danish National Police continuously assess the possibility of using JITS as a tool in relation to international investigations, including investigations concerning THB.

Paragraph 151. GRETA considers that the Danish authorities should further 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.

The Government has taken note of the recommendation.

Paragraph 152. GRETA also considers that the Danish 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.

Section 135(1)(6) of the Danish Public Procurement Act obligates contracting authorities to exclude any candidate or tenderer from participation in a procurement procedure, when the candidate or tenderer has been convicted or fined by final judgement for human trafficking or child labour. The contracting authority also has the option to exclude candidates or tenderers from participation if they have ignored obligations in force in the fields of environmental, social or labour law under EU law, national law or collective agreements or the obligations under environmental, social or labour law deriving from the conventions stated in Annex X to Directive 2014/24/EU. A contracting authority may require that the above-mentioned obligations also apply to subcontractors.

Paragraph 156. GRETA invites the Danish authorities to investigate and sanction any violations, in a THB context, of section 144 of the CC, which prohibits the acceptance by public officials of gifts or benefits in the performance of their duties.

The police shall, after notification or on their own initiative, initiate an investigation when there is a reasonable presumption that a criminal offense pursued by the public authorities has been committed. If there is a reasonable presumption that police personnel have committed a criminal offense in the service, the Independent Police Complaints Authority initiates an investigation after notification or of its own motion.

Paragraph 161. GRETA considers that the Danish authorities should continue making efforts to discourage demand for the services of trafficked persons, by adopting legislative, administrative, educational, social and cultural measures to discourage demand that fosters all forms of exploitation that leads to trafficking, in partnership with civil society, trade unions and the private sector. The Danish authorities should further strengthen and support initiatives to enhance human rights due diligence for companies, as well as to improve CSR reporting, as these measures are important to discourage the demand for services of trafficked persons.

The Government will consider the recommendation on further strengthening efforts to discourage demand for the services of trafficked persons.

The Mediation and Complaints-Handling Institution for Responsible Business Conduct is the OECD National Contact Point (NCP) in Denmark. The institution was established by Act no. 546 of 18 June 2012 and is an independent non-judicial body that enables companies, organisations and public authorities to resolve or mediate in disputes regarding infringements of i.a. human and labour rights.

The institution is also responsible for raising awareness of what responsible business conduct entails. The NCP undertakes promotional activities, including i.a. development of Danish sector specific guidance, to raise awareness of what due diligence and responsible business conduct entails.

Anyone can submit a complaint to the NCP about cases that involve non-compliance with the OECD Guidelines. The NCP can offer mediation to help create a constructive and meaningful dialogue between the parties. If the parties agree on a solution, the institution publishes the result of the mediation and follows up a year later to see whether the parties have complied with the mediation agreement. A mediation agreement can i.a. encompass an agreement on remedy to victims and/or implementation of due diligence processes in the company in question.

Paragraph 169. GRETA considers that the Danish authorities should pursue a more proactive approach to the identification of victims of THB for the purpose of labour exploitation by:

- **encouraging regular and co-ordinated multi-agency labour inspections and enhanced co-operation between relevant agencies, in order to strengthen the identification of victims of THB in workplaces, as well as the investigation of THB offences;**
- **encouraging safe reporting procedures for foreign workers and creating incentives to come forward;**
- **further developing co-operation with trade unions in the prevention of THB for the purpose of labour exploitation.**

The Government will consider the recommendation and relevant authorities will continue to cooperate around multi-agency labour inspections to identify victims and collect evidence for investigation of THB offences.

The Danish Working Environment Authority, in collaboration with the police, the Danish Centre against Human Trafficking and the Danish Agency for International Recruitment and Integration, is mapping how a joint effort to trace human trafficking into forced labor can be strengthened in the future. Further, the Danish Working Environment Authority's supervisors are getting educated to identify victims of TBH when they supervise the workplaces.

Paragraph 183. GRETA once again urges the Danish authorities to step up their efforts to identify victims of trafficking for all forms of exploitation, in particular among third country nationals, who might be staying irregularly in Denmark as a direct consequence of having been trafficked. Apart from providing training to relevant professionals on identifying victims of THB (see recommendations in paragraphs 126 and 127), the Danish authorities should:

- **further strengthen co-operation with NGOs which may come into direct contact with victims of trafficking, in identifying victims of trafficking;**

The Government will consider the recommendation to strengthen efforts to identify victims of trafficking. The Government will among others review the current cooperation with NGOs on identification and consider relevant adjustments.

The Danish Immigration Service (DIS) has a strong and close co-operation with the Danish Centre against Human Trafficking, which in turn has a close cooperation with the NGO's. In the identification process, the Danish Centre against Human Trafficking will inform the DIS of any important information from the NGO's.

The DIS will continue to work to improve the cooperation with the Danish Centre against Human Trafficking even further and will also, on the basis of GRETA's recommendation, consider whether there should be more communication and cooperation with the NGO's together with the Danish Centre against Human Trafficking in the future.

The DIS plans to discuss this further with the Danish Centre against Human Trafficking.

- **introduce measures to identify victims of trafficking in immigration detention centres;**

Reference is made to the comments in the paragraphs 178-179 and 182.

Paragraph 184. GRETA also considers that the project allowing the Danish Tax Agency to visit workplaces in search of possible victims of THB (see paragraph 159) should be extended beyond 2021.

The Danish Tax Agency prioritizes its actions according to risk and materiality, and efforts to combat human trafficking and identification of potential victims will therefore be part of that prioritization. GRETA's recommendations will also be a part of the future considerations.

Paragraph 191. GRETA considers that the Danish authorities should further develop and strengthen the assistance measures offered to victims of THB, in particular by allowing such measures to remain in place long enough to have a positive impact. GRETA further considers that the authorities should, as a matter of priority, provide a permanent solution for offering safe and suitable accommodation for male victims of THB.

The Government will consider the recommendation. The Government

will among others review the current accommodation scheme and consider relevant adjustments.

Paragraph 201. Nonetheless, GRETA once again urges the Danish authorities to make further efforts to improve the identification of child victims of trafficking, especially amongst unaccompanied asylum-seeking children, and to take steps to address effectively the problem of disappearance of unaccompanied children from reception facilities, by providing suitable safe accommodation and sufficient numbers of adequately trained supervisors. Further, the exchange of information between the police and local authorities regarding such missing children should be improved, as should related alert systems and the conduct of police investigations to find missing children.

The caseworkers at Danish Immigration Service (DIS) who handle cases of unaccompanied minor asylum seekers participate, in addition to the regular interview course, in a five-day special child interview course. The focus of the course is interviewing children, including particularly young and vulnerable children. Among other things, the course teaches children's development, cognitive abilities, children's memory system, etc. There is a special focus on how to create a safe space where the child can tell freely. During the course, the participants also interview children of approx. 10-11 years from a Danish school class.

Paragraph 207. Reiterating the recommendations made in its first and second evaluation reports on Denmark, GRETA urges the Danish authorities to review the legislation in order to ensure that all persons for whom there are reasonable grounds to believe that they are victims of trafficking, including those to whom the Dublin II Regulation is applicable, are provided with a recovery and reflection period, in line with Article 13 of the Convention, rather than a time-limit to prepare their departure from the country as irregular migrants. The recovery and reflection period should be granted to victims of trafficking unconditionally, regardless of whether they have co-operated with the authorities in the past or do so in the present.

Article 13 of the Council of Europe Convention on Action against Trafficking in Human Beings was implemented directly in the Danish Aliens Act in 2007 by Act no. 504 of 6 June 2007, which entered into force on 1 August 2007. Thus, according to Section 33 (6) of the Danish Aliens Act, presumed victims of trafficking who do not have permission to stay in Denmark are granted a recovery and reflection period of 30 days. The reflection period is granted regardless of whether or not the victim cooperates with the authorities. Furthermore, the reflection period can be prolonged up to a total of 120 days if special reasons make it appropriate or if the foreigner accepts an offer of a prepared return and cooperates in the efforts of planning this. "Special

reasons” imply, inter alia, medical reasons or that the foreigner’s assistance is needed for a shorter period of time regarding criminal investigations or proceedings.

Victims of trafficking who are returned to another EU country under the Dublin Regulation are as a general rule not granted a reflection period. According to paragraph 27 in the Dublin III Regulation, the exchange of an applicant’s personal data, including sensitive data on his or her health, prior to a transfer, will however ensure that the competent asylum authorities are in a position to provide applicants with adequate assistance and to ensure continuity in the protection and rights afforded to them. Against this background it is the Government’s opinion that the special needs of victims of trafficking are taken into account when returned to another EU country.

Paragraph 208. Reiterating the recommendation made in its second evaluation report, GRETA urges the Danish authorities to review the application of the system for granting residence permits to victims of trafficking with a view to ensuring that the victim-centred approach which underpins the Convention is fully applied and in order to prevent re-trafficking. The Danish authorities should give full consideration to the UNHCR’s guidelines on the application of the Refugees Convention to trafficked people⁹⁶ and their possible entitlement to asylum when deciding upon applications for asylum of persons who are at risk of being re-trafficked or otherwise persecuted should they be obliged to return to their State of origin or residence. 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.

Asylum will be granted to an alien covered by the provisions of the Convention Relating to the Status of Refugees of 28 July 1951 in accordance with the Aliens Act section 7(1). Furthermore, asylum will be granted to an alien that risks the death penalty or being subjected to torture or inhuman or degrading treatment or punishment if returning to his country of origin in accordance with the Aliens Act section 7(2). The Danish Immigration Service (DIS) always assess whether an asylum seeker is covered by one of the provisions.

If an asylum seeker has been subjected to human trafficking, the Danish Immigration Service will explicitly assess whether he or she for that reason will be in risk of persecution or abuse upon return to the home country.

Furthermore, victims of trafficking can apply for and be granted a residence permit on the basis of employment if the alien has been offered employment and meets the criteria in the Aliens Act section 9 a.

Paragraph 221. GRETA urges the Danish authorities to:

- ensure that there are in place repatriation assistance arrangements suitable for all victims of trafficking, with due regard for the rights, safety and dignity of the person concerned and the state of judicial proceedings; this encompasses protection against reprisals and/or against re-trafficking;
- prior to deciding on the return of victims, ensure the systematic carrying out of comprehensive assessments of the risk of them being re-victimised and re-trafficked, including victims falling under the Dublin procedure and children, taking into account the best interests of the child; there should be possibilities to stay in Denmark if there are no guarantees that the return would comply with the principle of non-refoulement;
- further strengthen co-operation with the countries to which victims of THB return, with a view to improving their protection, reintegration and rehabilitation.

The 3rd GRETA evaluation of Denmark covers the period from last reporting (2016) until the December 2019. Hence the recommendations build upon the structures and service delivery mechanisms in place during the reporting period. However, it should be noted that as of 2020 the responsibility regarding the return of persons without legal stay as well as the repatriation of persons with residence permits in Denmark was transferred from the Ministry of Justice to the Ministry of Immigration and Integration. To manage the operational aspects of this area of responsibility, the Ministry of Immigration and Integration established The Danish Return Agency. The Danish Return Agency became operational as of 1 August 2020 and with its establishment, the Danish Return Agency has taken over a number of tasks in the area of return and readmission from the Danish National Police. The area of responsibility for identification and for return has thus been subsumed under the auspices of the Ministry of Immigration and Integration, albeit operationalized in two separate agencies. As far as return and reintegration, during 2020, that is after the reporting period, all reintegration service delivery has been streamlined as far as implementing partners and quality requirements. Thus, vulnerable returnees and repatriating persons can expect the same quality of service, while the content of the reintegration assistance is adjusted according to individual needs, taking due consideration of specific vulnerabilities. For victims of trafficking this means that levels of assistance is adjusted and the risk assessment also takes into consideration possible mitigating measures, including, where appropriate, measures entailing additional support in the context of reintegration.

Paragraph 225. GRETA considers that the Danish authorities should, in line with article 35 of the Convention, further develop co-operation with specialised NGOs by adequately involving them in the planning, implementation and evaluation of National Action Plans against THB.

The Government acknowledges the recommendation and will further

develop co-operation with specialised NGOs by involving them directly in evaluating current policies.