



GRETA

GROUP OF EXPERTS
ON ACTION AGAINST
TRAFFICKING IN HUMAN
BEINGS

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**Report concerning the implementation
of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Aruba**

FIRST/SECOND EVALUATION ROUNDS

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List of acronyms

CC	Criminal Code
CMMA	Coordination Centre on Human Trafficking and Migrant Smuggling
CPC	Criminal Procedure Code
DAO	Department of Labour and Research
DIMAS	Department of Integration and Management of Foreigners
GNC	Migrant Control Department (<i>Guarda Nos Costa</i>)
HIAS	Hebrew Immigrant Aid Society
ILO	International Labour Organisation
IA	Immigration Department
IOM	International Organization for Migration
JIUMM	Joint intelligence unit on human trafficking and migrant smuggling
KMAR	Royal Netherlands Marechaussee
OHCHR	Office of the High Commissioner for Human Rights
OM	Public Prosecution Service (<i>Openbaar Ministerie</i>)
SOP	Standard Operating Procedure for the identification, screening, protection, assistance return and reintegration of victims of THB in Aruba
TMMA	Taskforce on human trafficking and migrant smuggling
UMM	Investigative unit on human trafficking and migrant smuggling
UNHCR	United Nations High Commissioner for Refugees
UNODC	United Nations Office on Drugs and Crime

Preamble

As the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) and the monitoring mechanism to evaluate its implementation are relatively new, it is appropriate to set out their salient features at the beginning of the first report to each Party to the Convention.

The Convention was adopted by the Committee of Ministers of the Council of Europe on 3 May 2005, following a series of other initiatives by the Council of Europe in the field of combating trafficking in human beings. The Convention entered into force on 1 February 2008. It is a legally binding instrument which builds on already existing international instruments. At the same time, the Convention goes beyond the minimum standards agreed upon in other international instruments and aims at strengthening the protection afforded by them.

The main added value of the Convention is its human rights perspective and focus on victim protection. The Convention clearly defines trafficking as being first and foremost a violation of human rights and an offence to the dignity and integrity of the human being; greater protection is therefore needed for all of its victims. The Convention also has a comprehensive scope of application, encompassing all forms of trafficking (whether national or transnational, linked or not linked to organised crime) and taking in all persons who are victims of trafficking (women, men or children). The forms of exploitation covered by the Convention are, at a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.

As trafficking in human beings is a world-wide phenomenon, one of the express purposes of the Convention is to promote international cooperation in the efforts to combat trafficking. In this context, it is noteworthy that the Convention is not restricted to Council of Europe member states; non-member states and the European Union also have the possibility of becoming Parties.

To be effective, and given the nature of the phenomenon, a strategy for combating trafficking in human beings must adopt a coordinated and multidisciplinary approach, incorporating prevention, protection of victims’ rights and prosecution of traffickers. The Convention contains various provisions in each of these three areas, placing obligations on States to take appropriate measures, in partnership with civil society and in cooperation with other States.

The measures provided for by the Convention in the area of prevention include awareness-raising for persons vulnerable to trafficking; economic and social initiatives to tackle the underlying causes of trafficking; actions aimed at discouraging demand; and putting in place border control measures to prevent and detect trafficking in human beings.

The Convention also provides for a series of measures to protect and promote the rights of victims. Victims of trafficking must be identified and recognised as such in order to avoid police and public authorities treating them as “irregular migrants” or criminals. Victims should be granted physical and psychological assistance and support for their reintegration into society. Further, by virtue of the Convention, victims are entitled to a minimum of 30 days to recover and escape from the influence of the traffickers and to take a decision about their possible cooperation with the authorities. A renewable residence permit should be granted if their personal situation so requires and/or if their continued presence is needed in order to cooperate in a criminal investigation. In addition, the Convention establishes the right of victims to receive compensation and provides for measures for their repatriation and return with due regard to the rights, safety and dignity of the victims.

In the area of substantive and procedural criminal law, the Convention places on Parties a series of obligations aimed at enabling the effective prosecution of traffickers and ensuring that they are punished in a proportionate and dissuasive manner. Particular attention is paid to the issue of victim and witness protection during investigation and court proceedings. Parties should also provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities.

Another important added value of the Convention is the monitoring system set up to supervise the implementation of the obligations contained in it, which consists of two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.

GRETA is composed of 15 independent and impartial experts chosen for their recognised competence in the fields of human rights, assistance and protection of victims, and action against trafficking in human beings, or because of their professional experience in the areas covered by the Convention. The task of GRETA is to evaluate the implementation of the Convention by the Parties, following a procedure divided into rounds. At the beginning of each round, GRETA defines autonomously the provisions to be monitored and determines the most appropriate means to carry out the evaluation, being guided by the Rules of procedure for evaluating implementation of the Convention adopted at GRETA's 2nd meeting (16-19 June 2009).

In carrying out its monitoring work, GRETA has the right to avail itself of a variety of means for collecting information. As a first step, GRETA sends a questionnaire to the authorities of the Party undergoing evaluation. It may also make additional requests for information. By virtue of the Convention, Parties are obliged to cooperate with GRETA in providing the requested information. Another important source of information is civil society and, indeed, GRETA maintains contacts with non-governmental organisations which can provide relevant information. In addition, GRETA may decide to carry out a visit to the country concerned in order to collect additional information or to evaluate the practical implementation of the adopted measures. This visit allows for direct meetings with the relevant bodies (governmental and non-governmental) and is also an occasion for GRETA to visit facilities where protection and assistance are provided to victims of trafficking and other related structures. Furthermore, GRETA may decide to organise hearings with various actors in the field of action against trafficking in human beings.

GRETA's evaluation reports are thus the result of information gathered from a variety of sources. They contain an analysis of the situation in each Party regarding action taken to combat trafficking in human beings and suggestions concerning the way in which the country may strengthen the implementation of the Convention and deal with any problems identified. In its assessment, GRETA is not bound by the case law of judicial and quasi-judicial bodies acting in the same field, but may use them as a point of departure or reference. The reports are drawn up in a cooperative spirit and are intended to assist States in their efforts; they can offer support for the changes on which the national authorities have already embarked, and lend legitimacy to the direction of national policies. Because of its multidisciplinary and multinational composition, and as a consequence of its independent approach, GRETA provides a professional and impartial international voice in this process.

As regards the procedure for the preparation of reports, GRETA examines a draft report on each Party in plenary session. The report is sent to the relevant government for comments, which are taken into account by GRETA when establishing its final report. This final report is adopted by GRETA in a plenary session and transmitted to the Party concerned, which is invited to submit any final comments. At the expiry of the time-limit of one month for the Party to make comments, the report and conclusions by GRETA, together with eventual comments made by the national authorities, are made public and sent to the Committee of the Parties. In the context of the first evaluation round, this completes GRETA's task in respect of the Party concerned, but it is only the first stage in an on-going dialogue between GRETA and the authorities.

GRETA uses three different levels of recommendations in its reports: "urge", "consider" and "invite". "Urges" refers to GRETA's assessment that the national legislation or policies are not in compliance with the Convention, or when it finds that, despite the existence of legal provisions and other measures, the implementation of a key obligation of the Convention is lacking. In other situations, GRETA "considers" that it is necessary to make further improvements in order to fully comply with an obligation of the Convention. By "inviting" a country to pursue its efforts in a given area, GRETA acknowledges that the authorities are already on the right track and encourages them to continue existing action or to take additional measures.

The second pillar of the monitoring mechanism, the Committee of the Parties, is composed of the representatives in the Committee of Ministers of the Parties to the Convention and of representatives of Parties non-members of the Council of Europe. On the basis of GRETA's reports, the Committee of the Parties may adopt recommendations addressed to a Party concerning the measures to be taken to implement GRETA's conclusions.

Executive summary

The Aruban authorities have taken steps to develop the legal framework for combating trafficking in human beings (THB). Aruba's domestic legal framework has evolved in the light of its international commitments and its Criminal Code establishes THB as a criminal offence. Guidelines developed by the Prosecutor General of Aruba create binding sentencing instructions for prosecutors. Furthermore, the authorities have set up several coordinating structures and specialised entities dealing with THB and migrant smuggling. GRETA welcomes the efforts made in Aruba to train different professions on issues related to THB.

The definition of THB in Aruba's legislation does not include an explicit provision regarding the irrelevance of the consent of the victim to the intended exploitation in accordance with Article 4(b) of the Convention. GRETA considers that including such a provision in Aruba's legislation could improve the implementation of anti-trafficking provisions and victim's access to support.

In 2018, the Aruban Government adopted the Integral National Approach to Combat Human Trafficking and Migrant Smuggling (2018-2022), which acts as a National Action Plan for addressing THB and Migrant Smuggling. A new National Action Plan has been drafted and is expected to be approved in 2024. GRETA welcomes the new National Action Plan and stresses the importance of its timely adoption. GRETA considers that in addition to clarifying the division of actions and resources between human trafficking and migrant smuggling, the new National Action Plan should include specific objectives and indicators for the prevention and combatting of THB and an independent evaluation of the national action plan.

As regards to the prevention of trafficking in human beings, the Aruban authorities have conducted various activities to raise awareness about THB amongst the general population and persons at heightened risk. These include the production of films about the risk of trafficking, campaigns, public events and awareness-raising in schools. GRETA welcomes these efforts and invites the Aruban authorities to plan future actions in accordance with an assessment of the impact of previous efforts.

There is an elevated risk of THB for the purpose of labour exploitation in Aruba due an influx of migrant workers in industries such as construction, hospitality and domestic work. GRETA is concerned that given the considerable increase in the number of irregular migrants and asylum seekers in Aruba, there is limited capacity to detect vulnerable persons and potential victims of THB among irregular migrants and asylum seekers. GRETA urges the authorities to strengthen the capacity of labour inspectors and the monitoring of recruitment and temporary work agencies, and to strengthen cooperation between labour inspectors, other agencies and civil society in detecting cases of THB.

In March 2023, the National Coordinator issued a Standard Operating Procedure (SOP), which would fulfil the function of a National Referral Mechanism (NRM) and thereby provide for the identification, screening, protection, assistance, return and reintegration of victims of THB in Aruba. While the SOP has not yet been formally adopted, its content has been used as a guideline for actions to be taken in connection with the assistance to victims of trafficking. GRETA urges the authorities to ensure that, in practice, the identification of victims of THB, upon which assistance measures depend, is not linked to the prospects of the investigation and prosecution. It also calls on the authorities to pay increased attention to the identification of victims of trafficking among asylum seekers and migrants.

According to the Aruban authorities, in 2020 no victim of THB was provided with assistance, in 2021, one victim, and in 2022, four victims. GRETA notes that the SOP does not enshrine in law the responsibility of the authorities to provide basic and specialised assistance services to foreign victims of THB. Consequently, GRETA urges Aruban authorities to ensure that access to assistance for foreign victims of THB is not conditional on their cooperation with law enforcement, and that adequate resources are put in place to enable all victims of THB to benefit from assistance and support.

The 2023 SOP provides that victims are entitled to a recovery and reflection period of a maximum of 14 days, irrespective of their nationality and their willingness to cooperate with the police. The Aruban authorities indicated that after GRETA's visit, the SOP was adapted and the recovery and reflection period is now of a minimum of 30 days, with the option to extend it twice for a maximum of 90 days. The recovery and reflection period is not established in law but in the SOP, which has not been formally adopted by the government. GRETA urges the Aruban authorities to ensure that a recovery and reflection period of at least 30 days, as provided for in Article 13 of the Convention, is specifically defined in law.

Further, there is no clear statutory basis on which presumed foreign victims of trafficking can be granted a temporary residence permit. GRETA urges the Aruban authorities to provide in law for the issue of a renewable residence permit to victims on THB in cases where the competent authority considers that their stay is necessary owing to their personal situation and/or for the purpose of their cooperation in connection with an investigation or criminal proceedings.

No compensation of any kind has been paid to victims of THB by perpetrators. GRETA urges the Aruban authorities to adopt legislative or other measures to facilitate and guarantee access to compensation for victims of trafficking.

Although the SOP stipulates that victims of THB shall not be returned to a situation where they would be in danger or face harm, the SOP is vague in its description of the procedure to be followed in cases in which the person does not leave Aruba voluntarily and in cases where a victim cannot be repatriated because it would be too dangerous. GRETA considers that the Aruban authorities should develop the institutional and procedural framework for the repatriation and return of victims of THB.

Moreover, there is no specific non-punishment provision for victims of human trafficking in Aruban law, nor any available guidance for law enforcement officials, prosecutors and judges concerning the application of the non-punishment provision for victims of THB. GRETA urges the Aruban authorities to adopt a specific legal provision and/or develop guidance for law enforcement officials and prosecutors on the scope of the non-punishment provision.

GRETA is concerned by the low number of investigations and prosecutions in cases of THB and the absence of any conviction for THB. GRETA stresses that, in general, failure to convict traffickers and the absence of effective, proportionate and dissuasive sanctions, undermine efforts to combat THB and to support victims to testify. GRETA considers that the Aruban authorities should continue to take steps to ensure that THB cases are investigated proactively, prosecuted successfully, and lead to effective, proportionate and dissuasive sanctions.

Finally, GRETA welcomes Aruba's involvement in international cooperation against human trafficking and invites the authorities to continue and further develop this cooperation.

I. Introduction

1. On 22 April 2010 the Kingdom of the Netherlands deposited the instrument of ratification of the Convention for the Kingdom in Europe. In a Declaration of territorial application from the Minister of Foreign Affairs of the Kingdom of the Netherlands dated 19 December 2014, registered at the Secretariat General of the Council of Europe on 23 January 2015, the Kingdom of the Netherlands accepted the Convention for Aruba.¹ In accordance with Article 44(2) of the Convention, the Convention entered into force in respect of Aruba on 1 May 2015.

2. As established in Article 36(1) of the Convention, the Group of Experts on Action against Trafficking in Human Beings ("GRETA") monitors the implementation of the Convention by the Parties. GRETA does so in conformity with the procedure laid down in Article 38 of the Convention and the Rules on the evaluation procedure of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties.

3. Considering that the European part of the Kingdom of the Netherlands had already undergone three rounds of evaluation, GRETA decided to combine the first and second evaluation rounds of the Convention in respect of Aruba and sent a combined questionnaire for these two rounds to the authorities on 5 April 2023. Aruba submitted its reply to the questionnaire on the deadline of 15 August 2023.

4. In preparation of the present report, GRETA used the reply to the questionnaire by Aruba, other information collected by GRETA and information received from civil society. In addition, an evaluation visit to Aruba took place from 24 to 27 October 2023, carried out by the following delegation:

- Ms Antoaneta Vassileva, First Vice-President of GRETA;
- Ms Dorothea Winkler, member of GRETA,
- Mr Roemer Lemaître, Administrator in the Secretariat of the Convention.

5. During the visit, the GRETA delegation held consultations with Ms Jeannette Richardson-Baars, National Coordinator on Human Trafficking and Migrant Smuggling, as well as with officials from the Ministry of Justice and Social Affairs, the Ministry of Labour, Integration and Energy, the Ministry of Public Health and Tourism, and the Ministry of General Affairs, Innovation, Government, Infrastructure and Planning. Furthermore, meetings were held with representatives of the Aruban Police Force, the Dutch Caribbean Coastguard, the Royal Netherlands Marechaussee (KMar), and the Coordination Centre on Human Trafficking and Migrant Smuggling Aruba. GRETA also met Mr Alex Erades, Chief Prosecutor of Aruba, as well as Ms Floortje van Erp, specialised prosecutor for human trafficking and migrant smuggling. In addition, a meeting was held with the Judicial Affairs Committee of the Aruban Parliament (*Staten*).

6. The GRETA delegation held separate meetings with representatives of non-governmental organisations (NGOs).

7. Discussions were also held with representatives of the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR).

¹ According to the Charter of the Kingdom of the Netherlands, the Kingdom consists of the countries of the Netherlands, Aruba, Curaçao and Sint Maarten. Each constituent country has its own government and laws, but the Kingdom is the subject of international law with which international treaties are concluded. Foreign relations, national defence, citizenship and the safeguarding of fundamental human rights and freedoms, legal certainty and good governance are a Kingdom affair. However, each of the countries shall ensure the realisation of fundamental human rights and freedoms, legal certainty and good governance (see Articles 3(1)(b) and 43 of the Charter). Consequently, the recommendations, comments and requests for information formulated by GRETA in this report should be read and interpreted in light of these principles.

8. Further, the GRETA delegation visited the emergency shelter of the Aruban Red Cross and a shelter for victims of domestic violence, both of which can accommodate victims of human trafficking.

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

10. GRETA is grateful for the valuable assistance provided before, during and after the visit by the contact person appointed by the Aruban authorities, Ms Jeannette Richardson-Baars, National Coordinator on Human Trafficking and Migrant Smuggling.

11. The draft version of the present report was adopted by GRETA at its 50th meeting (18-22 March 2024) and was submitted to the Aruban authorities for comments. The authorities' comments were received on 5 June 2024 and were taken into account by GRETA when considering and adopting the final report at its 51st meeting (1-5 July 2024). The final report covers the situation up to 5 July 2024; 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. National framework in the field of action against trafficking in human beings in Aruba

1. Overview of the current situation in the area of trafficking in human beings in Aruba

12. Aruba is predominantly a country of destination for trafficked persons. The authorities detected 34 presumed victims of trafficking in human beings (THB) in the period 2015-2023 (one in 2015, six in 2016, one in 2017, one in 2018, two in 2019, 10 in 2020, seven in 2021, five in 2022 and one in 2023). Half of them (17) were female, seven were male and 10 victims' gender was not specified.² As regards the forms of exploitation, 15 presumed victims were trafficked for the purpose of sexual exploitation, 11 for the purpose of labour exploitation, and the form of exploitation was not recorded for the remaining eight victims. Six of the presumed victims were children (three girls detected in 2020, of whom two were presumed victims of sexual exploitation and one of labour exploitation, and three girls in 2021, all presumed victims of sexual exploitation). All but two of the presumed victims were foreign nationals (13 from Colombia, five from Venezuela, one each from the Dominican Republic, India, Finland and Germany, and for 10 victims the nationality was not specified). The two presumed victims who were Aruban citizens were trafficked internally. As regards formally identified victims of THB, 17 of the presumed victims were confirmed by the police as victims of THB. In 2017, there were seven confirmed victims (five from Venezuela and two from India; three were women trafficked for the purpose of sexual exploitation and four were men trafficked for labour exploitation). In 2018 there were three confirmed victims. Further, seven victims were confirmed between 2020 and 2023 (one in 2020, one in 2021, four in 2022, and one in 2023), all of whom were women from Colombia (five trafficked for sexual exploitation and two for labour exploitation). None of the presumed child victim cases showed sufficient indicators to continue the investigation and there were no formally identified child victims.

13. Aruba is a 180 km² island located in the southern Caribbean about 27 km off the coast of Venezuela. With a population of 110,000, Aruba is a popular tourist destination, receiving almost two million visitors in 2019 (1,2 million stayover visitors and 800,000 cruise ship visitors), mainly from the USA.³ As regards persons and groups at risk of THB, women engaged in prostitution and by escort agencies are vulnerable to THB for sexual exploitation. In addition, migrant workers in the sectors of tourism, construction and domestic work are vulnerable to THB for labour exploitation. There are thousands of foreign workers in Aruba, mainly originating from Venezuela, Colombia and the Dominican Republic. Many of them are irregular migrants, who are not officially allowed to work in Aruba and face the risk of deportation if they are discovered. While some migrants illegally crossed into Aruba aboard small boats from Venezuela, most migrants initially arrived legally as tourists or with a work permit, but then overstayed. The UNHCR estimates that there are possibly more than 17,000 undocumented migrants from Venezuela in Aruba of whom some apply for asylum in Aruba. ILO reported that many Venezuelans in Aruba have lost guarantors for work permits due to the economic crisis resulting from COVID-19, which forced the closure of businesses, which puts them in irregular situations. Lack of access to asylum and regularisation could exacerbate vulnerabilities and elevate the likelihood of exploitation and abuse among Venezuelans. In addition to food insecurity, malnutrition and the need for safe shelter, these groups are also particularly vulnerable to exploitative labour practices which risk their health and wellbeing.⁴

² Prior to 2020 the sex, age, nationality and form of exploitation of presumed victims was not regularly recorded.

³ Source: Aruba Central Bureau of Statistics.

⁴ [Comments \(ilo.org\)](https://www.ilo.org/)

2. Overview of the legal and policy framework in the field of action against trafficking in human beings

a. Legal framework

14. At the international level, in addition to the Council of Europe Convention on Action against Trafficking in Human Beings, the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children ("Palermo Protocol") apply to Aruba since 18 January 2007. Aruba also accepted the UN Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, as well as conventions elaborated under the International Labour Organization (ILO), in particular the Convention concerning Forced or Compulsory Labour (No. 29), the Convention concerning the Abolition of Forced Labour (No. 105) and the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182).

15. The European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) applies to Aruba, as well as a number of Council of Europe conventions in the criminal field which are relevant to action against trafficking in human beings.⁵ Aruba is not part of the EU and not bound by the EU's *acquis communautaire*.

16. The domestic legal framework in the field of action against trafficking in human beings has evolved in the light of Aruba's international commitments. Trafficking in human beings is criminalised under Article 2:239 of the Criminal Code (CC) of Aruba, which entered into force in 2012 and was last amended in May 2023. Other laws relevant to action against human trafficking include the National Ordinance on Admission and Expulsion and the National Ordinance on International Crimes. On 28 April 2018 the Prosecutor General of Aruba issued a Guideline on the prosecution of THB and migrant smuggling with binding sentencing instructions for prosecutors (see paragraph 180).

b. National Action Plan

17. In 2018 the Aruban Government adopted the Integral National Approach to Combat Human Trafficking and Migrant Smuggling (2018-2022), which represents a National Action Plan for addressing these phenomena. It is built up along four pillars: prevention and education, administrative enforcement, criminal enforcement and victim assistance. A new National Action Plan for 2023-2025 has been drafted but was not yet adopted at the time of GRETA's evaluation visit in October 2023. It describes the tasks of the different stakeholders in action against THB and migrant smuggling and adds a fifth pillar: local, regional and international cooperation in the fight against THB and migrant smuggling. The Aruban authorities explained that the implementation of anti-trafficking activities is not affected by the delay in the adoption of a new Action Plan because the relevant stakeholders continue to apply the one for 2018-2022. Furthermore, in their comments on the draft GRETA report, the authorities specified that some of the agencies active in combating human trafficking (and migrant smuggling) have their own plans of action and are therefore not solely dependent on the National Action Plan. Nevertheless, GRETA stresses the importance of a timely adoption of the new Action Plan. In their comments on the draft GRETA report, the authorities indicated that the new National Action Plan was in the process of being rewritten and should be approved in 2024.

⁵ In particular, the European Convention on Mutual Assistance in Criminal Matters and its Additional Protocols, the European Convention on Extradition and its Additional Protocols, and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism.

18. GRETA notes that Aruba's National Action Plans address both THB and migrant smuggling. Although the difference between the two is explained in the introductory chapter of the plans, THB and migrant smuggling are mentioned together throughout the plans, making it difficult to understand what resources go to, respectively, actions against THB and combating migrant smuggling. Representatives of NGOs stated that in the past significantly more attention had been paid to migrant smuggling than to THB (see paragraph 58). Furthermore, GRETA notes that the National Action Plans do not include specific objectives and indicators to evaluate their implementation, and there are no plans for an independent evaluation. In their comments on the draft GRETA report, the authorities affirmed that the next National Action Plan will clarify the division of actions and resources between human trafficking and migrant smuggling and include as much as possible specific objectives and indicators for activities to prevent and combat human trafficking.

19. **GRETA considers that the Aruban authorities should include in the national action plan specific objectives and indicators for activities to prevent and combat THB and commission an independent evaluation of the national action plan as a tool for assessing the impact of the activities and for planning future policies and measures to combat THB.**

3. Overview of the institutional framework for action against trafficking in human beings

a. Taskforce on Human Trafficking and Migrant Smuggling (TMMA)

20. The Taskforce on Human Trafficking and Migrant Smuggling (TMMA) is an advisory entity to the Aruban Government. It was established in 2007 and currently consists of representatives of the following state bodies:

- Ministry of Justice and Social Affairs
 - o Aruba Police Force
 - o Bureau for Victim Assistance
 - o Coordination Centre on Human Trafficking and Migrant Smuggling (CMMA)
 - o Public Prosecution Service (OM)
 - o Immigration Department
 - o Department of Social Affairs
 - o Migrant Control Department (GNC)
- Ministry of Labour, Integration and Energy
 - o Department of Integration and Management of Foreigners (DIMAS)
 - o Department of Labour and Research (DAO)
- Ministry of Public Health and Tourism
 - o Department of Public Health
- Ministry of General Affairs, Innovation, Government, Infrastructure and Planning
 - o Department of Foreign Affairs
- Coastguard Dutch Caribbean
- Royal Netherlands Marechaussee (KMAR).

21. The TMMA is chaired by the National Coordinator on Human Trafficking and Migrant Smuggling (see paragraph 22). The TMMA proposes legislation and policies to the government aimed at improving action against THB and migrant smuggling. It is also charged with drafting and implementing the National Action Plan on THB and Migrant Smuggling. The TMMA is supposed to hold monthly meetings but usually meets less frequently (a few times a year). GRETA was informed that the TMMA met three times in 2022, after which it did not meet in 2023. In 2024 the TMMA started back with (partly) new representatives of relevant stakeholders. Currently, a new ministerial degree is under review to specify the tasks and responsibilities of the TMMA. No members of civil society take part in the TMMA (see paragraph 57).

b. National Coordinator on Human Trafficking and Migrant Smuggling

22. The National Coordinator chairs the TMMA and heads the Coordination Centre on Human Trafficking and Migrant Smuggling (CMMA). The current National Coordinator is an officer of the police and until 2023 was also the head of the Aruban police academy. Since 2008 the National Coordinator represents the Aruban Government in matters concerning THB and migrant smuggling at national, regional and international level.

c. Coordination Centre on Human Trafficking and Migrant Smuggling (CMMA)

23. Since 2016 the Coordination Centre on Human Trafficking and Migrant Smuggling (CMMA)⁶ has been a point of contact for information, training and assistance in matters concerning THB and migrant smuggling. The CMMA receives initial information (notifications) on possible indicators of human trafficking via a hotline, email, phone or social media. The notification is registered at the CMMA in a notification form and sent to the Joint Intelligence Unit on Human Trafficking and Migrant Smuggling (JIUMM) for analysis and further action (see paragraph 25). The CMMA also provides training and runs awareness campaigns. Further, it is charged with the coordination of assistance to trafficking victims, in close cooperation with other state entities and NGOs. In 2022, the CMMA published an annual report.⁷

24. The CMMA has a staff of three: the National Coordinator, a project manager and a social worker. The project manager is seconded from the National Central Bureau for Counterterrorism, Security and Interpol, while the social worker is paid by IOM. All CMMA's activities are financially supported by the government of the Netherlands in the framework of two programmes aimed at implementing additional border protection measures and mitigating the risk of mass migration from Venezuela. During the evaluation visit GRETA was informed about plans to make the CMMA a separate department within the Ministry of Justice and Social Affairs in 2024. In their comments on the draft GRETA report, the authorities indicated that the ordinance to institutionalise the CMMA has been sent to the Government of Aruba's HR Department for advice and to the Minister of Justice and Social Affairs for approval.

d. Joint Intelligence Unit on Human Trafficking and Migrant Smuggling (JIUMM)

25. The Joint Intelligence Unit on Human Trafficking and Migrant Smuggling (JIUMM) within the police consists of a total of three officers from the Aruba Police Force and the Royal Dutch Marechaussee (KMAR). The KMAR assists the authorities as part of the project to strengthen the protection of Aruba's borders. The JIUMM, which includes one Spanish-speaking female officer, is responsible for the preliminary analysis of information about suspected cases of human trafficking and migrant smuggling received from the CMMA or other government entities. The unit combines 'soft' information from the public with regular police information to create a better position on the phenomenon of human trafficking. There are two ways an investigation can start. Based on information from the JIUMM, an investigative proposal is directed to the Steering Committee via the specialised public prosecutor when there are no clear victims identified, but there is information on a company or location that needs to be investigated. If the JIUMM receives information on a potential identifiable victim of trafficking, the investigation is transferred directly to the Human Trafficking and Migrant Smuggling (UMM) via the specialised public prosecutor.

e. Investigative Unit on Human Trafficking and Migrant Smuggling (UMM)

26. The Investigative Unit on Human Trafficking and Migrant Smuggling (UMM) within the police consists of a total of seven officers from the police force and KMAR. The unit includes one female officer who is also the head of the UMM, and several of the UMM officers speak Spanish. The UMM is in charge of conducting criminal investigations into cases of THB and migrant smuggling, in close coordination with the specialised prosecutor.

⁶ <https://cmmaruba.com/>

⁷ <https://cmmaruba.com/wp-content/uploads/2023/06/Annual-Report-2022-CMMA.pdf>

f. Prosecutor on Human Trafficking and Migrant Smuggling

27. Within the Public Prosecution Service of Aruba (OM) there is a specialised prosecutor on human trafficking and migrant smuggling, who oversees the criminal investigation and decides whether to send the case for trial.

g. Other departments in the Ministry of Justice and Social Affairs

28. The Bureau for Victim Assistance, consisting of two officials, is responsible for providing initial emergency assistance to crime victims, including victims of THB, and their families. It oversees the anti-trafficking hotline (+297 5923231).

29. The Department of Social Affairs is responsible for organising access to assistance services (social benefits, psychological aid) for legal residents of Aruba, including victims of THB. It further assists with arranging pro bono lawyers for Aruban residents in criminal cases (see paragraph 154).

30. The Immigration Department (IA) is in charge of passport control at Aruba's airport and seaports in accordance with the National Ordinance on Admission and Expulsion.

31. The Migrant Control Department (GNC) operates the Dakota Immigration Detention Facility in Oranjestad, the capital of Aruba. Undocumented migrants detected by the police, the immigration authorities or the coastguard are transferred to GNC custody. GNC staff conducts an intake interview with every migrant and if there is any indication of THB or migrant smuggling the information is passed to the JIUMM for investigation. The GNC is also in charge of conducting checks on the legal status of migrants employed by companies throughout Aruba.

h. Ministry of Labour, Integration and Energy

32. The Department of Integration and Management of Foreigners (DIMAS) deals with work permits, residence permits and asylum applications.

33. Within the Department of Labour and Research (DAO) there is a unit with seven inspectors responsible for supervising, including by means of labour inspections, labour law legislation.

i. Royal Netherlands Marechaussee (KMar)

34. The Royal Netherlands Marechaussee (KMar) performs not only military but also border police functions at airports and sea harbours across the Kingdom of the Netherlands. The KMar assists the authorities as part of the project to strengthen the protection of Aruba's borders. There are currently 36 KMar officers in Aruba: four officers function as military police at the military camp in Savaneta while the other 32 support the Aruban authorities with capacity and expertise in different areas, including THB. For example, in October 2023 there were four KMar officers working in the UMM. Several KMar officers also work in the IA's expertise centre "Identity fraud and documents" (Falsidesk).

j. Civil society organisations and international organisations

35. There are no NGOs specialised in the area of action against human trafficking in Aruba. The Hebrew Immigrant Aid Society⁸ provides assistance to refugees and migrants, including victims of THB. The Aruban Red Cross⁹ provides urgent assistance and runs an emergency shelter for vulnerable persons, including victims of THB. The Foundation against Domestic Violence also operates a shelter which can accommodate

⁸ [HIAS Aruba | Support For Refugees In Aruba | HIAS](#)

⁹ [Be Safe Be Red Cross Ready - Red Cross Aruba](#)

victims of THB. None of these organisations receive government funding for their activities and depend on private and international donors.

36. The United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) set up offices in Aruba in 2019 in connection with the influx of migrants from Venezuela. UNHCR provides humanitarian aid to vulnerable migrants and legal assistance to asylum seekers. IOM funds a consultant working for the CMMA, *inter alia*, on drafting Standard Operating Procedure (SOP) for the identification, screening, protection, assistance return and reintegration of victims of THB in Aruba (see paragraph 109). UNODC has worked to enhance the capacity of the Aruban Police and other relevant stakeholders in the framework of the project "Transforming Alerts into Criminal Justice Responses to Combat Trafficking in Persons within migration flows (Track4TIP)". Humanitarian assistance to migrants in Aruba is also provided by the Pan American Development Foundation.¹⁰

37. In 2020 the CMMA established the Humanitarian Organisations Platform to coordinate information sharing about assistance to victims of human trafficking and ways to reach out to potential victims more efficiently. The above-mentioned civil society organisations and international organisations are members of this platform. The platform is supposed to hold monthly meetings, but GRETA was told that it meets less often.

III. Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Aruba

4. Integration of the core concepts and definitions contained in the Convention in the internal law

a. Human rights-based approach to action against trafficking in human beings

38. Article 1(1)(b) of the Convention establishes as one of its purposes the protection of the human rights of the victims of trafficking. Further, Article 5(3) includes the obligation for Parties to promote a human rights-based approach in the development, implementation and assessment of the policies and programmes to prevent THB. The Explanatory Report on the Convention states that the main added value of the Convention is its human rights perspective and focus on victim protection. In the same vein, the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking emphasise that “the human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims”¹¹.

39. THB constitutes an offence to the dignity and fundamental freedoms of the human being and thus a grave violation of human rights. GRETA emphasises the obligations of States to respect, fulfil and protect human rights, including by ensuring compliance by non-State actors, in accordance with the duty of due diligence. A State that fails to fulfil these obligations may, for instance, be held accountable for violations of the European Convention on Human Rights and Fundamental Freedoms (the ECHR). This has been confirmed by the European Court of Human Rights in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the European Convention on Human Rights¹² (which prohibits slavery, servitude and forced or compulsory labour). The Court further concluded that Article 4 entails a positive obligation to protect victims or potential victims, as well as a procedural obligation to investigate trafficking.¹³

40. The Convention on Action against Trafficking in Human Beings requires States to set up a comprehensive framework for the prevention of THB, the protection of trafficked persons, and the effective investigation and prosecution of traffickers. Such protection includes steps to secure that all victims of trafficking are properly identified. It also involves measures to empower trafficked persons by enhancing their rights to adequate protection, assistance and redress, including recovery and rehabilitation, in a participatory and non-discriminatory framework. Further, measures to prevent THB should be taken in the field of socio-economic, labour and migration policies.

41. GRETA wishes to stress the need for States to also address THB as a form of violence against women and to take account of gender-specific types of exploitation, as well as the particular situation of child victims of trafficking, in line with the relevant international legal instruments.¹⁴

¹¹ Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

¹² *Rantsev v. Cyprus and Russia*, application No. 25965/04, judgment of 7 January 2010, paragraph 282.

¹³ See also *Siliadin v. France*, application No. 73316/01, judgment of 26 July 2005; *C.N. and V. v. France*, application No. 67724/09, judgment of 11 October 2012; *C.N. v. United Kingdom*, application No. 4239/08, judgment of 13 November 2012; *Chowdury and Others v. Greece*, application No. 21884/15, judgement of 30 March 2017.

¹⁴ Such as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the United Nations Convention on the Rights of the Child and the Optional Protocol thereto on the sale of children, child prostitution and child pornography, and the United Nations Convention on the Elimination of All Forms of Discrimination against Women.

42. Trafficking in human beings is considered a violation of human rights in Aruba. The Memorandum of Understanding of cooperation to prevent and combat trafficking in human beings and smuggling, applicable to the Kingdom of the Netherlands, states that THB is by definition a violation of human rights and that the fight against THB takes place from a human rights perspective. In addition to the Convention, Aruba has ratified several instruments that prohibit human trafficking, slavery and forced labour. The rights derived from these instruments can be invoked by individuals before national courts.

43. The human rights-based approach to action against THB entails transparency and accountability on the part of the State through the adoption of a national policy and action plans for combating trafficking in human beings, the coordination of the efforts of all relevant actors, the regular training of relevant professionals, research and data collection, and the provision of adequate funding for the implementation of all these measures. The following sections of this report examine in detail the effectiveness of the policies and measures taken by the Aruban authorities in these fields.

b. Definitions of "trafficking in human beings" and "victim of THB" in Aruban law

i. Definition of "trafficking in human beings"

44. In accordance with Article 4(a) of the Convention, trafficking in human beings includes three components: an action ("the recruitment, transportation, transfer, harbouring or receipt of persons"); the use of certain means ("threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person"); and the purpose of exploitation ("at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs"). In the case of children, pursuant to Article 4(c) of the Convention, it is irrelevant whether the means referred to above have been used.

45. Under Aruban law, THB is currently criminalised in Article 2:239 of the CC as follows:

"1. Guilty of trafficking in human beings and as such liable to a term of imprisonment not exceeding twelve years or a fifth category fine shall be any person who

a°. with the intention of exploiting another person or removing his or her organs, recruits, transports, transfers, accommodates or shelters that other person, including the exchange or transfer of control over that person, by means of duress, violence or another hostile act, or the threat of violence or other hostile act, or by means of extortion, fraud, deception or the abuse of power arising from a specific state of affairs, or by means of the abuse of a position of vulnerability, or by means of giving or receiving payments or benefits in order to obtain the consent of a person having control over that other person;

b°. recruits, transports, transfers, accommodates or shelters a person, including the exchange or transfer of control over that person, with the intention of exploiting that other person or removing his or her organs, if that person has not yet reached the age of eighteen years;

c°. recruits, takes away or abducts a person with the intention of inducing that person to make him or herself available for sexual acts with or for a third party for payment in another country;

d°. forces or induces another person by means referred to under a° to make him or herself available for work or services or to make his/her organs available, or takes any action in the circumstances referred to under a° which he knows or may reasonably be expected to know will result in that other person making him or herself available for work or services or making his or her organs available;

e°. induces another person to make him or herself available for sexual acts with or for a third party for payment or to make his or her organs available for payment, or takes any action in relation to another person which he knows or may reasonably be expected to know will result in that other person making him or herself available for these acts or making his or her organs available for payment, if that other person has not yet reached the age of eighteen years;

f°. intentionally profits from the exploitation of another person;

g°. intentionally profits from the removal of organs from another person, if he knows or may reasonably be expected to know that the organs of that person were removed under the circumstances referred to under a°;

h°. intentionally profits from the sexual acts of another person with or for a third party for payment or the removal of that person's organs for payment, if this other person has not yet reached the age of eighteen years;

i°. forces or induces another person by the means referred to a° to provide him with the proceeds of that person's sexual acts with or for a third party or of the removal of that person's organs.

2. Exploitation shall include, at the minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced or compulsory labour or services, including begging, slavery or practices comparable to slavery or servitude, servitude or the exploitation of criminal activities.

3. The following offences shall be punishable by a term of imprisonment not exceeding fifteen years or a fifth category fine:

a°. offences as defined in paragraph 1 if they are committed by two or more persons acting in concert;

b°. offences as defined in paragraph 1 if they are committed in respect of a person who is under the age of eighteen or in respect of a person whose position of vulnerability is being abused;

c°. offences as defined in paragraph 1 if they are preceded by, committed by use of or followed by violence;

4. If one of the offences defined in paragraph 1 is committed by use of serious violence, results in serious physical injury or threatens the life of another person, it shall be punishable by a term of imprisonment not exceeding eighteen years or a fifth category fine;

5. If one of the offences defined in paragraph 1 results in death, it shall be punishable by a term of life imprisonment or temporary imprisonment not exceeding thirty years or a fifth category fine;

6. A position of vulnerability includes a situation in which a person has no real or acceptable alternative but to submit to the abuse involved."

46. The three components of the definition of human trafficking in the Convention, i.e. action, means and purpose, are all included in Article 2:239 of the CC. The different actions listed under Article 2:239(1)a coincide with those of Article 4(a) of the Convention. As to the means, Article 2:239(1)a refers to duress, violence or another hostile act, threat of violence or another hostile act, extortion, fraud, deception or abuse of power, abuse of a position of vulnerability, giving or receiving payments or benefits in abuse of a position of vulnerability, and giving or receiving payments or benefits in order to obtain the consent of a person having control over another. "Abduction" is not explicitly mentioned, but GRETA was informed that "another hostile act" would cover abduction.

47. "Abuse of a position of vulnerability" is mentioned in Article 2:239(1)a of the CC as one of the means for committing THB. Paragraph 6 of Article 2:239 provides the following definition: "A position of vulnerability includes a situation in which a person has no real or acceptable alternative but to submit to the abuse involved." The Prosecutor General's Guideline on the prosecution of THB and human smuggling (see paragraph 180) provides the following non-exhaustive list of criteria for evaluating the vulnerability of a person subjected to THB: intellectual disability, lack of legal residence, trauma sustained, debt problems, lack of possibility of return to the country of origin. Prosecutors are required to consider the presence of these criteria and justify the penalty that they will propose to the judge in each case.

48. The list of forms of exploitation in Article 2:239 of the CC is open-ended and covers, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced or compulsory labour or services, including begging, slavery¹⁵ or practices comparable to slavery or servitude, servitude, the exploitation of criminal activities and the removal of organs. In addition to the forms of exploitation referred to in Article 4(a) of the Convention, begging, as a form of forced labour, and the exploitation of criminal activities were included in Article 2:239(2) when the provision was last amended in May 2023. Neither forced marriage nor illegal adoption is among the forms of exploitation explicitly listed in Article 2:239 of the CC but these could be considered as constituting THB offences if an intention to exploit the victim is proven.

49. Pursuant to Article 2:239(1)b, the use of means does not have to be established in respect of children, which is in line with the Convention. Both national and transnational trafficking fall within the remit of Article 2:239 of the CC.

50. Pursuant to Article 4(b) of the Convention, the consent of the victim is irrelevant where any of the means set forth in the definition of THB have been used. The irrelevance of the consent of the victim to the intended exploitation is not stated in Aruba's legislation. GRETA notes that according to well-established case law of the Dutch Supreme Court, which is the highest court for all four countries in the Kingdom of the Netherlands, consenting to the intended exploitation is irrelevant when deciding whether or not a person is a victim of THB.¹⁶ Nevertheless, GRETA sees benefits in stating explicitly in legislation that consent is irrelevant to determining whether the crime of human trafficking has occurred. Setting out this pivotal principle in law could facilitate its use by investigators, prosecutors and judges when dealing with cases of human trafficking and in obtaining a more consistent approach. Indeed, consent is an important factor at different stages of human trafficking cases, for instance: if victims refuse to self-identify as they consider that they consented to the exploitation; when taking a decision on whether to investigate and prosecute a case as THB where the victim apparently consented to exploitation; or when deciding on the penalty for offenders where there are assertions of consent.¹⁷ **GRETA considers that stating explicitly the irrelevance of the consent of a victim of trafficking to the intended exploitation could improve the implementation of the anti-trafficking provisions and provide victims with greater confidence in self-reporting to NGOs and public authorities.**

51. For further analysis of the definition of THB and related offences from a substantive criminal law perspective, see paragraphs 162-166.

ii. Definition of "victim of THB"

52. The Convention defines "victim of THB" as "any natural person who is subjected to THB as defined in Article 4 of the Convention". Recognition of victims of trafficking as such is essential as it gives rise to their entitlement to the broad range of protection and assistance measures set out in the Convention.

¹⁵ Slave trade is criminalised separately in Articles 2:241 to 2:244 of the CC.

¹⁶ For example, see judgment of 27 October 2009 ("Chinese Catering case"), [ECLI:NL:HR:2009:BI7097, voorheen LJV BI7097, Hoge Raad, 08/03894 \(rechtspraak.nl\)](#) (in Dutch)

¹⁷ See UNODC Issue Paper, The Role of Consent in the Trafficking in Persons Protocol, United Nations, Vienna, 2014. Available at: www.unodc.org/documents/human-trafficking/2014/UNODC_2014_Issue_Paper_Consent.pdf

53. In Aruban law, there is no specific definition of victim of THB. According to Article 206 of the Criminal Procedure Code (CPC), anyone who has suffered a financial loss or other disadvantage as a direct consequence of a criminal offence is considered to be a victim. This definition applies to victims of human trafficking as defined under Article 2:239 of the CC. Possible victims of trafficking should benefit from assistance and protection independently from the outcome of the criminal proceedings.

54. The question of the definition of victim of THB will be further discussed in the sections of this report dealing with the identification of victims and the assistance measures provided to them, along with the related proposals made by GRETA.

- c. Comprehensive approach to action against THB, coordination of all actors and actions, and international cooperation

- i. *Comprehensive approach and coordination*

55. One of the aims of the Convention is to design a comprehensive framework for the protection of, and assistance to, victims and witnesses. To be effective, any national action to combat THB must be comprehensive and multi-sectoral, and include the required multidisciplinary expertise. Article 29(2) of the Convention requires Parties to take measures to ensure the coordination of national policies and actions against THB, including through the setting-up of specific coordinating bodies. Further, the Convention refers to the need to cooperate and build strategic partnership with civil society through cooperative frameworks that can help governments fulfil their obligations under the Convention (Article 35).

56. The Aruban anti-trafficking framework covers all victims of THB subjected to different types of exploitation, both transnationally and nationally. It is based on multi-agency cooperation and action, and this integrated approach has been built around what the Aruban authorities refer to as the "barrier model". The "barrier model" is construed as a crime prevention approach. The reasoning is to regard human trafficking as a "business" that must overcome a number of barriers before traffickers earn money from the exploitation of victims, and the objective is to make each barrier harder for them to cross, thus making THB more difficult and less lucrative. The barriers which have been identified in the national action plan 2018-2022 are the following: housing, work, entry, identity and financial aspects.

57. As noted in paragraph 20, the TMMA includes all governmental stakeholders responsible for the implementation of the national action plan, including the administrative and criminal law enforcement of the above mentioned "barriers". GRETA welcomes the creation of the TMMA and its efforts to take coordinated approach against THB and in support of victims. However, GRETA notes with concern that representatives of civil society are not involved in the TMMA. In this respect, in their comments on the draft GRETA report, the authorities indicated that NGOs can report any suspicion of human trafficking to the CMMA through the recently launched Humanitarian Organisations Platform. Furthermore, GRETA notes that the Aruban authorities have depended to a large extent on foreign donors to finance anti-trafficking activities (see paragraphs 24 and 193). In their comments on the draft GRETA report, the authorities stated that the CMMA has requested a dedicated budget for the year 2025 with a view to decreasing dependency on external project financing.

58. In addition, GRETA notes that Aruba's anti-trafficking policy is frequently associated with action against smuggling of migrants, as is evident from the title of the national action plan, and the fact that several bodies are tasked with tackling both phenomena (see paragraphs 20-27). Some law enforcement officials from various agencies met by GRETA were unable to distinguish them. GRETA stresses that while these two phenomena may sometimes be linked, they are legally distinct and subject to different treaty obligations. Moreover, it is difficult to understand how much resources go to, respectively, action against THB and combating migrant smuggling. Officials met by GRETA during the visit recognised that migrant smuggling had been a priority in light of the increased irregular migration from Venezuela since 2019. In this context, GRETA is particularly concerned by the limited provision of assistance to victims of THB (see paragraphs 127-134).

59. **GRETA considers that the Aruban authorities should continue raising awareness among professionals and the general public as regards the scope of the definition of trafficking in human beings and the difference and links between human trafficking and migrant smuggling.**

60. **GRETA considers that the Aruban authorities should take further steps to ensure that national action to combat THB is comprehensive, including by:**

- **ensuring that public bodies and civil society actors engaged in anti-trafficking action are provided with the dedicated financial resources necessary to carry out the relevant activities, including those under the national action plan;**
- **ensuring the involvement of civil society organisations in action against THB, including in the work of the TMMA.**

61. GRETA notes that there is no designated national rapporteur on THB in Aruba. In GRETA's view, the key features of National Rapporteurs' mechanisms within the meaning of Article 29(4) of the Convention should be the ability to critically monitor the efforts and effectiveness of all state institutions, including national coordinators, in the anti-trafficking field and to that end maintain a constant exchange with civil society, the research community and other relevant stakeholders. A structural separation between these monitoring functions and executive functions makes possible an objective evaluation of the implementation of anti-trafficking legislation, policy and activities, identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations.

62. **GRETA considers that the Aruban authorities should reflect on appointing an independent National Rapporteur for monitoring the anti-trafficking activities of State institutions and making recommendations to persons and institutions concerned (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).**

ii. Training of relevant professionals

63. The Aruban authorities have indicated that training on THB is provided to a range of professionals who may come into contact with victims of trafficking. Providing training on THB is a key task of the CMMA. Training courses are divided into awareness training (aimed at distinguishing between THB and migrant smuggling, recognising indicators of THB and knowing where to report suspected cases), skills training (aimed at learning and practicing skills, for example interviewing techniques) and webinars (aimed at informing specific groups on THB and migrant smuggling). In 2022 CMMA provided awareness training on THB to 410 persons (161 secondary school staff, 65 hospital and airport workers, 60 social affairs officials, 50 NGO workers, 25 immigration officials, 15 coast guard, 15 journalists and 19 others) and skills training on THB to 250 persons (140 police officers, 50 immigration officials, 20 social affairs officials, 15 mental health workers, 8 Department of Labour staff and 17 others).¹⁸ Quick Reference Cards (QRCs), distributed at trafficking trainings, include a list of trafficking indicators and the CMMA's contact information.

64. The CMMA often invites international experts (IOM, UNODC) to provide more advanced training on THB issues. July 2022 the UNODC conducted a three-day training on the detection and investigation of THB, and in February 2023 the IOM conducted a two-day training on the use of a SOP for the assistance to victims of trafficking. Further, in August 2023, the UNODC conducted a one-day in-depth training on interview techniques for victims of human trafficking.

¹⁸ CMMA, [Annual Report 2022](#), pages 10 and 11.

65. Further, the specialised prosecutor on THB and migrant smuggling and the KMar officers working in the UMM have received specialised training on THB in the Netherlands.

66. However, GRETA notes that there has been limited training specifically on THB for judges, lawyers, social workers and child protection authorities. In their comments on the draft GRETA report, the authorities indicated that in 2023 the first steps were taken to plan training sessions for these groups, and that the training would take place in 2024 and 2025.

67. GRETA welcomes the efforts made in Aruba to train different professionals on issues related to human trafficking and invites the Aruban authorities to strengthen their efforts, in particular concerning the training of judges, lawyers, social workers and child protection authorities. Future training programmes, including on the use of information and communication technology (ICT) in the context of human trafficking, should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to proactively identify victims of trafficking, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.

iii. Data collection and research

68. The human rights-based approach to anti-trafficking policies advocated by the Convention requires adequate monitoring and evaluation. An essential element is the regular availability of comprehensive statistical information on both trends in human trafficking and on the performance of the main actors in the fight against trafficking. The collation of data from different state institutions and NGOs raises concerns about data protection, especially when personal data are involved. International standards have been set for the collection, storage, transfer, compilation and dissemination of data. In order to ensure full compliance with these standards, Parties are expected to apply appropriate measures and techniques of data protection. An additional requirement for human rights-based anti-trafficking policies is the conduct of research and analysis with special attention to the rights and interests of victims.

69. In Aruba the collection of statistical data is entrusted to the CMMA. Since 2020 the CMMA compiles data on the number of presumed and confirmed victims of THB, with a breakdown by sex, age, nationality and form of exploitation. It also collects data on the number of criminal investigations and the number of victims who received assistance. In 2022, the CMMA published for the first time an annual report.¹⁹

70. During the evaluation GRETA was informed that improving data collection was considered as a priority. In GRETA's view, the data collection should be broadened to include more information from state entities besides the police and the special prosecutor, as well as from NGOs, regardless of whether criminal proceedings have been initiated.

71. For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA considers that the Aruban authorities should continue to develop and maintain a comprehensive and coherent statistical system on trafficking in human beings, by compiling reliable statistical information from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information.

72. As regards research on THB, in 2013 IOM prepared a situational analysis of Aruba's response to THB.²⁰ The report welcomed the creation of the TMMA and the National Coordinator but called for a more structured approach to providing protection and assistance to victims of THB. In 2022 the CMMA funded research into the guarantor system (through which persons act as guarantors for foreigners arriving in Aruba in case they do not meet the minimum financial requirement to enter Aruba) and the risk of THB. This research has been completed and the results are being discussed with relevant stakeholders to create an implementation plan for the recommendations.²¹ Also in 2022, the OM requested the Erasmus University in Rotterdam to conduct research on the coping mechanisms of victims of THB in Aruba.

73. GRETA considers that the Aruban authorities should continue conducting and supporting research on THB issues, including on ICT-facilitated human trafficking, as an important source of information for future policy measures.

5. Measures aimed to prevent trafficking in human beings

74. According to Article 5 of the Convention, Parties must take coordinated action to prevent THB, with the involvement of relevant NGOs, other organisations and members of civil society, as appropriate. The Convention requires Parties in particular to take measures to discourage demand, strengthen border controls and ensure the integrity, security and validity of travel or identity documents (Articles 6 to 9).

a. Measures to raise awareness (Article 5)

75. The Aruban authorities have conducted different activities to raise awareness about THB amongst the general population, persons at heightened risk of THB and professionals who may encounter victims of THB.

76. In 2019 the authorities collaborated with a private foundation to produce the film "False Promises" which is based on the testimony of a survivor of trafficking for the purpose of sexual exploitation. The film was shown in cinemas and broadcast on national TV, YouTube²² and social media.

77. Further, in 2021 the CMMA launched the awareness campaign "Open your eyes".²³ The campaign informs about the difference between smuggling and trafficking, how to recognise indicators of THB and where to seek assistance. As part of the campaign the CMMA released two short films, available in English and Spanish, called "The other side of the sea"²⁴ and "The other side of the cam".²⁵ The films were released in, respectively, May 2021 and October 2023. They highlight the risk of migrants from Venezuela becoming victims of migrant smuggling and human trafficking in Aruba.

78. To mark the European Day Against Trafficking in Human Beings on 18 October 2021, the authorities organised an event entitled "Walk for Freedom" in the capital city Oranjestad involving speeches by several officials, including the Prime Minister and the Minister of Justice.²⁶ During this event, the campaign "Take Advantage Now!" (*Probecha*) was presented, highlighting the risks of human trafficking in the forms of labour exploitation (in construction and domestic services) and sexual exploitation (prostitution).

79. The CMMA has prepared information materials (in Dutch) on THB for children aged 12 to 18, which are freely available to educational institutions in Aruba. Currently a version for children aged eight to 12 is being prepared. In 2022 and 2023 CMMA staff visited several schools to raise awareness about THB.

²⁰ IOM, [A Situational Analysis of Aruba's Response to Human Trafficking](#), 2013.

²¹ For more information, see [Projects | CMM Aruba](#).

²² [PROMESA FALSO: Documentary to prevent human trafficking \(English subtitles\) - YouTube](#)

²³ [Home page | Habriwowo.com](#)

²⁴ [Otro banda di lama | "Otro banda di lama the" the movie | Habriwowo.com](#)

²⁵ [Otro banda di e cam | Habriwowo.com](#)

²⁶ [Silent walk Event | Habriwowo.com](#)

80. In August 2023 the CMMA launched a social media campaign on online safety called "Don't fall for it" (*No Cay Den Trampa*), directed at youth and their parents. The campaign raises awareness about the dangers of internet grooming for exploitation, the risks associated with sexting, and the threat of sextortion, including human trafficking for the purpose of sexual exploitation.

81. GRETA welcomes the efforts made in Aruba in the area of awareness raising as a form of prevention of THB and invites the Aruban authorities to plan future actions in the light of the assessment of the impact of previous awareness-raising measures.

b. Measures to prevent labour exploitation (Article 5)

82. As stated in paragraph 13, there is an elevated risk of THB for the purpose of labour exploitation in Aruba because there is a shortage of workers, particularly in construction, hospitality (hotels, bars and restaurants) and domestic work, leading to an influx of migrant workers.

83. Under Aruban law migrant workers require a temporary residence permit to work in Aruba.²⁷ The employer must apply to the Department of Integration and Management of Foreigners (DIMAS) for the permit before the migrant worker can travel to Aruba. In addition, the employer needs to fill out a financial guarantee form²⁸ and obtain a waiver from the Department of Labour Progress stating that the vacancy cannot be filled by a local. If the employer is a legal entity, it must be duly registered in Aruba. Work permits are exclusively linked to an employer and a change of employer requires a new application. GRETA notes that residence and work permits should practically enable migrant workers to leave an abusive employment relationship, to take up a job with another employer, and to use available complaint mechanisms without fear of losing their residence status. Furthermore, the number of migrant workers hired by temporary work agencies has increased over the years, but there is no licensing system for temporary work agencies. Upon arrival in Aruba migrant workers must register at the Civil Status and Population Register Service.

84. Special rules apply to permits for domestic workers living in the home of their employer. In accordance with the admission policy of DIMAS,²⁹ employers must declare their combined income, submit a copy of the employment contract and provide a room for the domestic worker in their home, which has air conditioning and can be locked from the inside. While reviewing the application DIMAS is supposed to check the conditions of the room but this reportedly rarely happens. In their comments on the draft GRETA report, the authorities indicated that every room is inspected by DIMAS before issuing a first permit. In case the address or the employer changes, a new inspection takes place by DIMAS before a permit can be granted.

²⁷ Simplified rules apply to Dutch citizens from other parts of the Kingdom of the Netherlands. There is another exception for some US nationals, see <https://www.aruba.com/us/one-happy-workation>

²⁸ <https://www.dimasaruba.aw/wp-content/uploads/2023/04/2023-Garantverklaring-1.pdf> (in Dutch).

²⁹ <https://www.dimasaruba.aw/wp-content/uploads/2023/03/MinAEI-2023-Final-Toelatingshandboek-2023-6-maart-2023-1.pdf> (in Dutch).

85. Aruban labour legislation includes provisions on safety and health at work, as well as on working and rest hours. In 2023 the minimum wage in Aruba was 1,893 Aruban Florin (approx. 990 Euros). Pursuant to Article 2 of the National Ordinance on Administrative Enforcement of Labour Legislation, the Department of Labour and Research (DAO) is responsible for monitoring compliance with labour legislation.³⁰The DAO has three sub-departments: labour disputes, labour inspections and labour market research. The sub-department for inspections employs seven labour inspectors, who conduct around 1,000 unannounced inspections per year. Inspections are conducted in all sectors of the economy, but labour inspectors cannot enter private households without the permission of the owner or the authorisation of a judge. Sometimes labour inspectors are accompanied by officials from the social security bank, the police or the immigration authorities. If labour inspectors find signals of THB, they contact the CMMA and/or the UMM, and if they encounter irregular migrants, they must contact GNC (see paragraph 118). DAO officials met during the visit stated that due to a lack of resources they are not involved in preventive work to raise awareness of labour exploitation among employees and employers.

86. As noted in paragraph 13, there are thousands of irregular migrant workers in Aruba. IOM³¹ and civil society organisations have expressed concern that in practice there are no possibilities for irregular migrants to regularise their stay, which increases their vulnerability, including to THB. The national action plans for 2018-2022 and 2023-2025 acknowledge the fact that the absence of an effective immigration policy increases migrants' vulnerability, including to THB. That being said, GRETA notes that the Aruban authorities have not taken policy measures to support migrant workers who are vulnerable to exploitation.

87. **GRETA urges the Aruban authorities to intensify their efforts to prevent and combat THB for the purpose of labour exploitation, taking into account GRETA's Guidance Note on combating trafficking for labour exploitation³² and the recommendation of the Committee of Ministers CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation,³³ in particular by:**

- **ensuring that the capacity of labour inspectors is increased and they are given a mandate to play a frontline role in the prevention of THB for the purpose of labour exploitation, paying particular attention to at-risk sectors, such as construction, hospitality and domestic work;**
- **reducing the risk of human trafficking and labour law violations arising from the workers' dependency on the employer by allowing migrant workers to change employers and apply for extensions of their work permits;**
- **taking effective steps to regulate recruitment and temporary work agencies;**
- **alerting the general public and, more specifically, migrant workers to the risks of THB for the purpose of labour exploitation and where to get assistance;**
- **strengthening cooperation between labour inspectors, other officials, trade unions and civil society actors, with a view to preventing abuse and detecting cases of THB for the purpose of labour exploitation.**

³⁰ <https://daoaruba.com/> (in Dutch).

³¹ IOM, *Aruba Needs Assessment on Migration Governance*, 2021.

³² <https://rm.coe.int/guidance-note-on-preventing-and-combating-trafficking-in-human-beings-/1680a1060c>.

³³ Recommendation CM/Rec(2022)21 of the Committee of Ministers to member States on preventing and combating trafficking in human beings for the purpose of labour exploitation and Explanatory Memorandum, adopted by the Committee of Ministers on 27 September 2022 at the 1444th meeting of the Ministers' Deputies.

88. **Further, GRETA considers that the Aruban authorities should:**

- **ensure that inspections take place in private households to prevent abuse of domestic workers and detect cases of THB for the purpose of labour exploitation;**
- **further improve the training of labour inspectors, including on the rights of victims of THB.**

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

89. According to the 2013 situational analysis carried out by IOM, there are certain risks of THB which concern children in Aruba, in particular as regards children working long hours in small supermarkets or restaurants and the phenomenon of "sugar daddies and mommies," i.e. persons who offer money and gifts to children in return for favours, including sex, and/or companionship.³⁴ However, during the evaluation visit several interlocutors stated that the Aruban authorities have paid little attention to these risks.

90. In addition to the awareness raising measures mentioned in paragraph 79, the Aruban authorities have referred to the 2021 Code of Protection for Children, a digital toolkit developed by UNICEF Netherlands and other Dutch NGOs to assist professionals working with children to take action when they identify unsafe conditions for children.³⁵ However, GRETA notes that this code does not mention THB. Furthermore, the website of "Bureau Sostenemi," the government's advice and reporting centre for child abuse, provides no information about THB.³⁶ GRETA notes that child protection authorities are not part of the TMMA and relevant staff have not received training on THB indicators. In their comments on the draft GRETA report, the authorities indicated that the CMMA contacts the child protection authorities on issues concerning children and THB, and there are presently discussions on the signing of a protocol between the judicial and the child protection authorities to safeguard children. Further, the child protection authorities were trained in 2023 on THB indicators during a two-day training organised by UNHCR.

91. In December 2023 the CMMA and the Foundation against Domestic Violence organised two lectures on THB and online safety for girls aged 12-15.

92. **GRETA considers that the Aruban authorities should take additional measures to prevent trafficking in children, in particular by:**

- **raising public awareness about the risks and manifestations of child trafficking;**
- **sensitising and training child professionals about THB, how to prevent it and how to report possible cases to the competent authorities;**
- **continuing to promote online safety of children and alerting relevant actors of the risks of trafficking in children committed via the Internet.**

d. Measures to discourage demand (Article 6)

93. In accordance with the Convention, measures to discourage demand for the services of victims of trafficking, especially women and children, should be understood as a positive obligation on Parties to adopt and reinforce such measures as regards THB for the purpose of any form of exploitation (see paragraph 108 of the Explanatory Report of the Convention). As stated in the Recommended Principles and Guidelines on Human Rights and Human Trafficking, strategies aimed at preventing THB shall address demand as a root cause of trafficking.³⁷

³⁴ IOM, [A Situational Analysis of Aruba's Response to Human Trafficking](#), 2013, pages 48 and 49.

³⁵ [Home \(codigodiproteccion.com\)](#) (in Papiamentu)

³⁶ [Bureau Sostenemi - Bureau Sostenemi](#) (in Papiamentu)

³⁷ Principle 4 of Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

94. Prostitution is regulated in Aruba and is permitted in licensed bars in one area of San Nicolas, Aruba's second largest city. Bar owners must apply for a license for "entertainment ladies" (*animeermeisjes*), pursuant to the 1921 National Ordinance on Contagious Diseases.³⁸ Foreign women who apply for such a license must attend an interview at a Dutch consulate prior to traveling to Aruba. The related work permits are valid for a period of three months, and the women cannot apply for a new "entertainment" permit or a different residence permit for the duration of one year. In addition to mandatory weekly medical check-ups, the Department of Public Health interviews each woman at the beginning and the end of her stay in Aruba, informing the women about the risk of exploitation, their rights and where to seek assistance. According to officials met during the visit, 23 bars in San Nicolas currently hold a license and each bar can have a maximum of four women. More than 95% of registered license-holders are Colombian with the remainder coming from the Dominican Republic, Peru and Venezuela.

95. The National Action Plans for 2018-2022 and 2023-2025 acknowledge that the 1921 National Ordinance on Contagious Diseases, which regulates registered sex work, is outdated. The revision of the current regulations on prostitution has been in discussion for some years now, without there being a decision. GRETA notes with concern that the provisions of the National Ordinance on Contagious Diseases make women engaging in prostitution dependent on bar owners and their residence permits in Aruba exclusively linked to the exercise of prostitution. **GRETA considers that the Aruban authorities should review the 1921 National Ordinance on Contagious Diseases and provide in internal law sufficient safeguards to protect foreign women from THB and exploitation.**

96. The Aruban authorities acknowledge that prostitution also occurs elsewhere on the island, as well as through escort agencies. There are no reliable statistics on the number of persons illegally engaged in prostitution, but some interlocutors, referring to the size of the tourism industry in Aruba, estimate that number to be several times higher than the number of registered sex workers. According to Department of Public Health officials met during the visit, a survey conducted in 2019 detected several cases of unregistered sex work in Oranjestad and San Nicolas, both in private houses and on the street.

97. During the evaluation GRETA visited San Nicolas and met with two social workers and a church minister who run a small community room where women in prostitution can receive information and assistance. The project receives no state funding and relies on volunteers, who have not received training on THB. In their comments on the draft GRETA report, the authorities indicated that the CMMA is in contact with these persons to expand the current community room into 'La Sala' as part of the Proyecto Perspectiva.

98. Apart from the general awareness raising measures about THB referred to in paragraphs 75-79, the Aruban authorities have not provided information about specific actions to discourage demand for the services of victims of labour trafficking.

99. The use of services from a victim of THB, with the knowledge that the person is a victim, is punishable under Aruban law, but there has never been a criminal case under this provision (see paragraph 168). The authorities have informed GRETA that this specific provision in the Aruba Penal Code is discussed during the general information sessions for the public.

100. **GRETA urges the Aruban authorities to develop legislative, administrative, educational, social, cultural or other measures to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society, trade unions and the media, including by promoting awareness among businesses, strengthening corporate social responsibility and prevention trafficking in supply chains.**

³⁸ In accordance with the National Ordinance on Contagious Diseases only women can work as "entertainment ladies". Since April 2023 women need to be at least 21.

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

101. GRETA notes that, while human trafficking for the purpose of organ removal, as defined by the Convention, and organ trafficking as defined by Articles 4 to 8 of the Council of Europe Convention against Trafficking in Human Organs³⁹, are two distinct crimes, they bear certain similarities and share similar root causes, such as shortage of organs to meet demand for transplantation and poor economic and other conditions that put persons in a vulnerable position. Therefore, measures to prevent organ trafficking can help prevent trafficking for the purpose of organ removal and the reverse is also true⁴⁰. Among the necessary preventive measures, GRETA underlines the importance of a robust and transparent domestic system for the removal and transplantation of human organs and the need for training of health-care professionals. GRETA also stresses the importance of conducting a thorough investigation of each case where there is information or suspicion of trafficking for the purpose of organ removal, paying attention to the abuse of the vulnerability of the “donor” and ensuring that “donors” are treated as victims of trafficking in human beings.

102. As stated in paragraph 48, THB for the purpose of organ removal is criminalised in Article 2:239(1)a of the CC.

103. There are no institutions in Aruba in which organs are transplanted or removed for transplants and there have been no instances of THB for the purpose of organ removal reported to have occurred in Aruba.

f. Border measures to prevent THB (Article 7)

104. The Coastguard Dutch Caribbean is in charge of patrolling Aruba’s maritime borders, while the Immigration Department is responsible for border checks at Queen Beatrix international airport, as well as at Aruba’s seaports. The Coastguard has a criminal intelligence unit which gathers information on transborder crime, including THB. Immigration officers have received training on indicators of migrant smuggling and THB, and receive assistance from specially trained KMar officers from the Netherlands. Both the Coastguard and the Immigration Department are part of the TMMA.

105. In recent years, the number of Venezuelans crossing the sea to Aruba has increased significantly.⁴¹ As noted in paragraph 13, UNHCR estimates that there are more than 17,000 refugees and migrants from Venezuela in Aruba, most of whom arrived legally as tourists or with a work permit, but then overstayed. Since 2019 the government of the Netherlands has provided financial support to the Aruban authorities to implement additional border protection measures and to mitigate the risk of mass migration from Venezuela (see paragraph 193). These funds were partially used to finance the CMMA and conduct awareness raising and research on THB.

106. Aruba does not have embassies abroad and visas are issued by Dutch embassies and consulates. As noted in paragraph 94, women applying for a license for “entertainment ladies” must attend an interview at a Dutch consulate during which consular staff checks for any indications that a person is or could become a victim of migrant smuggling and/or human trafficking.

³⁹ Opened for signature in Santiago de Compostela on 25 March 2015; entry into force on 1 March 2018.

⁴⁰ See [“Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs”, Joint Council of Europe/United Nations Study](#) (2009), in particular pages 55-56; [“Trafficking in human beings for the purpose of organ removal in the OSCE region: Analysis and Findings”, OSCE Occasional Paper No. 6](#) (2013).

⁴¹ [Venezuelan refugees find only misery on the ‘happy island’ of Aruba](#)

- g. Measures to ensure the quality, security and integrity of travel and identity documents (Article 8)

107. Aruba does not issue its own passports as this is a Kingdom affair (see footnote 1). In Aruba the Civil Status and Population Register Service is charged with issuing Dutch passports in accordance with the Dutch Passport Act and the Passport Implementation Regulation Caribbean Countries (PUCAR). There is a strict separation of duties between the employee who processes the application for a passport and the employee who issues the passport (four eyes principle). All staff of the Civil Status and Population Register Service have received training on the recognition of false/forged documents. If a false document is detected a report is filed to the OM. In 2023 the Expertise Centre Identity Fraud and Documents (Falsidesk) was established within the Immigration Department. It conducts technical research on the integrity of travel documents and provides training to border guards. Several KMar officers from the Netherlands were seconded to Falsidesk to strengthen the fight against document fraud. GRETA was informed that the Immigration Department's technical equipment at border checkpoints was being upgraded.

6. Measures to protect and promote the rights of victims of trafficking in human beings

- a. Identification of victims of trafficking in human beings (Article 10)

108. Article 10 of the Convention requires Parties to adopt measures to identify victims. In order to do so, Parties must provide their competent authorities with persons who are trained and qualified in preventing and combating THB and in identifying and helping victims, including children. Identifying a trafficking victim is a process which takes time; therefore the Convention provides for the rights of potential victims by establishing that, when the competent authorities have reasonable grounds to believe that a person has been a victim of trafficking, s/he must not be removed from the country until the identification process is completed, and must receive the assistance required by the Convention.

109. As stated in paragraph 36, in March 2023, the National Coordinator, with the technical support of IOM, issued a Standard Operating Procedure (SOP) for the identification, screening, protection, assistance, return and reintegration of victims of THB in Aruba.⁴² The CMMA stated that the SOP would be formally adopted by the government in 2024. An implementation plan for the SOP was under development at the time of GRETA's visit. In their comments on the draft GRETA report, the authorities indicated that the 2023 SOP has not yet been formally adopted, but its content has been used as a guideline for actions to be taken in connection with the assistance to victims of trafficking. In 2024 the SOP will be evaluated with the aim of preparing an adapted version in 2025. The implementation plan for the SOP will play an important role in the evaluation.

110. The SOP provides a step-by-step guide to all officials involved in the identification of victims of trafficking, thereby fulfilling the function of a National Referral Mechanism (NRM). The SOP consists of three phases: 1) victim identification and screening; 2) protection, assistance and referral, and 3) return and reintegration. The SOP has several annexes: a guidance on trauma-informed approach, a flowchart of the identification process and a list with contact details of relevant stakeholders. Although the SOP has not entered into force, GRETA was told that it mostly codifies existing practice.

⁴²

<https://cmmaruba.com/wp-content/uploads/2023/08/Standard-Operating-Procedure-Aruba-2023.pdf>

111. The SOP refers to “potential,” “presumed,” and “confirmed” victim of THB. A potential victim is a person who may be a victim of THB but does not show clear indicators of THB. A presumed victim is a person who manifests indicators of THB but has not yet been formally identified as a victim of THB. A confirmed victim of THB is a person who has been formally identified by the authorities as a victim of THB. A potential victim can be identified by the CMMA, a presumed victim by the JIUMM or the UMM, and a confirmed victim only by the UMM. The Aruban authorities stated that all presumed and confirmed victims of THB are eligible for protection and assistance services regardless of their residence status and their willingness to cooperate with the authorities in any criminal investigation or prosecution.

112. When the CMMA receives initial information about possible THB from the public, it registers this information and transfers it to the JIUMM. Officials who receive signals of THB must notify the CMMA, but can also directly transfer the information to the JIUMM. The Bureau for Victims Assistance, which operates the 24/7 anti-trafficking hotline (+297 5923231), contacts the CMMA or the JIUMM. However, NGO representatives informed GRETA that occasionally calls to the hotline were not answered until the next day. In emergencies, for example when victims are rescued by the police, the case is immediately handed to the UMM. In 2022 the CMMA received 25 notifications about possible THB. Of these, 11 cases were reported by officials, 10 cases by individual citizens, three by the private sector and one by an NGO.

113. The JIUMM analyses the initial information and screens the potential victim. The screening interview is conducted in a confidential location, free of listening devices, and, if possible, by a person of the same gender. The JIUMM registers all relevant data in the national register on THB and migrant smuggling. If there are sufficient indicators of human trafficking and feasible avenues for investigation, it identifies the person as a presumed victim of THB and proposes to a Steering Committee, consisting of senior police officers and the specialised prosecutor, to commence a criminal investigation. In emergencies, the UMM conducts the screening interview, identifies the victim and refers the case to the Steering Committee. According to the SOP, the JIUMM (or the UMM in emergency cases) is the body responsible for granting a recovery and reflection period to presumed victims of THB. The UMM conducts the criminal investigation and if enough evidence is collected, identifies the person as a confirmed victim of THB.

114. GRETA notes that law enforcement agencies are solely responsible for determining whether a person is a victim of THB. According to civil society organisations, the fact that the law enforcement authorities alone decide whether someone is a presumed or confirmed victim of THB gives the whole process a criminal-law bias and may dissuade victims who are afraid of the authorities (for example, due to being in an irregular migration station) from seeking help. GRETA considers that specialised NGOs and professionals who come into direct contact with possible victims could substantially contribute to the victim identification process and should be involved in a multi-agency effort to ensure that no victim of trafficking remains unidentified. This is envisaged by Article 10 of the Convention, according to which identification is a collaborative process between the authorities and relevant victim support organisations. In their comments on the draft GRETA report, the authorities stated that this has been realised by starting the Humanitarian Organisations Platform through which NGOs can report any suspicion of human trafficking to the CMMA (see paragraph 57).

115. Moreover, GRETA is concerned that the same police officers conducting the identification of victims of THB are also responsible for investigating irregular migration. This means that a foreign national in an irregular situation faces a real dilemma, knowing that testifying to the JIUMM about THB could result in being detained and treated as an irregular migrant, if the evidence provided is not sufficient to convince the JIUMM officer that a THB offence was committed. This raises the question whether entrusting both the victim identification and the verification of legal residence status to police officials does not involve a conflict of interest. In their comments on draft GRETA report, the authorities indicated that an irregular migrant could share information related to a possible human trafficking case with the CMMA anonymously. During the screening at the JIUMM the migration status of the potential victim is irrelevant. If the indicators are not sufficient to establish THB, the person will be allowed to leave and will never be detained as an irregular migrant.

116. GRETA also notes that, although the SOP mentions the informed consent of the victim as one of the general principles of action against THB, the section on identification does not stipulate when and how law enforcement authorities must inform potential victims of THB about their rights, including the recovery and reflection period. In addition, the SOP does not specify how the victims' informed consent to personal data registration is obtained. In this regard GRETA was informed that the national register on THB and migrant smuggling was not yet fully operational and general data protection legislation in Aruba was under review (see paragraph 142).

117. As regards the identification of victims of THB for sexual exploitation, the Department of Public Health interviews registered sex workers at the beginning and the end of their stay in Aruba, checks for indicators of THB and informs them about their rights and how to seek assistance. The Department of Public Health has never detected a case of THB amongst registered sex workers in San Nicolas.

118. Concerning the identification of victims of THB for labour exploitation, labour inspectors are trained on detecting signs of THB during labour inspections but must refer suspected cases of THB to law enforcement authorities. If labour inspectors encounter irregular migrants during inspections, they must contact the GNC. Labour inspectors and GNC officials used to conduct joint inspections, but in the first 10 months of 2023 the GNC did not have the capacity to carry out checks on migrant workers due to an increase in irregular migration from Venezuela. Labour inspectors met during the visit referred to a recent potential case of THB detected by labour inspectors, which involved three Colombians (one man and two women) who worked as on-site photographers in hotels but were allegedly not paid by the employment agency that brought them to Aruba and were not allowed to contact anyone.

119. As regards the detection of victims of THB among irregular migrants and asylum seekers, the Aruban authorities stated that immigration officials and DIMAS staff received training on THB indicators (see paragraph 63). Irregular migrants discovered inside Aruba by the police or other agencies, at a border crossing or at sea, are transferred to the GNC and detained at the Dakota Immigration Detention Facility in Oranjestad. GNC staff interview irregular migrants, unless they are suspected of having committed criminal offences (e.g. if they captained a boat transporting irregular migrants, or if weapons or drugs were found on the boat), in which case they are handed over to the police. The authorities have informed GRETA that several potential cases were referred to the JIUMM by the GNC in 2022 and 2023.

120. Irregular migrants who seek asylum in Aruba, are not detained, unless they have been already deported or denied asylum previously. Asylum seekers are given an appointment with DIMAS, which is competent to review asylum applications. The yearly number of asylum claims in Aruba rose from a dozen applications before 2018 to more than 2,000 in recent years, resulting in long delays in the asylum process. During the waiting period asylum seekers are generally not allowed to work, receive no assistance from the authorities and usually rely on support from aid organisations or friends. Many asylum seekers are Venezuelan. The percentage of successful asylum applications is just around 1%. DIMAS officials met during the visit stated that in the past five years they had three or four cases of asylum seekers who were potential victims of THB. One of the cases is described in paragraph 138.

121. According to the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which visited the Dakota Immigration Detention Facility in May 2022, detainees were not informed about their rights and official documents (e.g. detention order) were only issued in Dutch. The CPT also noted problems with access to legal assistance and health care.⁴³ Different interlocutors met by GRETA during the visit corroborate the CPT report. The Aruban Red Cross and UNHCR provide humanitarian aid to detainees in Dakota, while UNHCR provides legal assistance to asylum seekers. Concerning the provision of information about their rights, GRETA heard conflicting views from Aruban officials. The GNC claimed that it does not have to inform irregular migrants about their rights, including the right to asylum, because this is supposedly done by the officials who discovered the migrants in the first place.

⁴³ <https://rm.coe.int/1680abb4b5>, pages 69 to 72.

122. GRETA is concerned that given the considerable increase in the number of irregular migrants and asylum seekers in Aruba, there is limited capacity to detect vulnerable persons and potential victims of THB among irregular migrants and asylum seekers.

123. **GRETA urges the Aruban authorities to take steps to ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures contained in the Convention, in particular by:**

- **ensuring that, in practice, the identification of victims of THB, upon which assistance measures depend, is not linked to the prospects of the investigation and prosecution;**
- **strengthening multi-agency involvement in the identification of victims of trafficking by formally recognising the role of NGOs in the decision-making process leading to identification;**
- **ensuring that there is a separation between immigration enforcement functions and labour inspectorate roles, and that when labour inspectors identify migrant workers who are presumed victims of human trafficking, the persons concerned have access to protection and are not detained or removed from the country subject to victim identification procedures being completed;**
- **paying increased attention to the identification of victims of trafficking among asylum seekers and migrants, including by recruiting or otherwise engaging a sufficient number of trained staff, including interpreters and cultural mediators, to more effectively interact with migrants and asylum seekers.** In this respect, reference is made to the UNHCR's guidelines on the application of the Refugees Convention to trafficked persons and those at risk of being trafficked⁴⁴, and to GRETA's Guidance note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection.⁴⁵

124. **Furthermore, GRETA considers that the Aruban authorities should continue and strengthen their efforts to proactively identify victims of trafficking, rather than relying on self-identification, by reinforcing the capacity and training of all professionals who might come into contact with victims.**

b. Assistance to victims (Article 12)

125. The Convention requires Parties to take measures to assist victims in their physical, psychological and social recovery, taking account of the victim's safety and protection needs, in cooperation with NGOs and other organisations engaged in assistance to victims. This assistance must be provided on a consensual and informed basis, taking account of the special needs of persons in a vulnerable position, as well as children, and it must not be made conditional on the victim's willingness to act as a witness (Article 12). The need to take account of victims' needs is also referred to in the Convention's provisions concerning temporary residence permits (Article 14) and the rights of child victims of trafficking (Article 12(7)). The Convention also establishes that the assistance to victims of THB must include appropriate and secure accommodation.

⁴⁴ 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](#), HCR/GIP/06/07, 7 April 2006.

⁴⁵ <https://rm.coe.int/guidance-note-on-the-entitlement-of-victims-of-trafficking-and-persons/16809ebf44>

126. As noted in paragraphs 28 and 29, assistance to all victims of crime, including THB, is provided by two departments in the Ministry of Justice and Social Affairs. The Bureau for Victims Assistance is responsible for providing initial emergency assistance to crime victims, including victims of THB, and their families. In addition, the Department of Social Affairs can arrange various assistance services (social benefits, psychological aid) to legal residents of Aruba, including victims of THB if they are legal residents.

127. The 2023 SOP for the identification of victims of THB stipulates that the CMMA manages the coordination of assistance services to trafficking victims. Assistance covers basic needs, shelter, medical assistance, psychosocial services and legal assistance. According to the Aruban authorities, all presumed and confirmed victims of THB are entitled to the same assistance measures, regardless of their migration status or country of origin. Nevertheless, the SOP differentiates between national and foreign victims of THB. Assistance to national victims is provided and financed by service providers in their municipalities or under the national health insurance programme. For foreign victims, the CMMA coordinates assistance services in cooperation with the Bureau for Victims Assistance and civil society organisations.

128. Assistance services to victims of THB are usually provided by NGOs, which can get reimbursed by the authorities, but only in case the victims are Aruban. However, as stated in paragraph 12, almost all presumed victims of THB in Aruba are foreigners. In practice, assistance services are provided on a case-by-case basis, and often not at all. As a result, foreign victims of THB prefer to return to their home countries. Law enforcement officials stated that criminal investigations into THB have stalled because the victims had left Aruba due to the absence of available assistance, especially accommodation (see paragraph 183).

129. There are several options to accommodate adult victims of THB: the Aruban Red Cross emergency shelter (for male and female victims; for a maximum of three days), the Foundation against Domestic Violence's shelter for victims of domestic violence (for female victims and their children) and the Social Shelter Foundation for male victims of crime. Although the renovation of this last shelter was completed in 2023, it never opened because the prices for building materials increased substantially and the funding was just enough to complete the refurbishment of the original building. The CMMA is currently seeking approval from the Minister of Justice and Social Affairs and the Prime Minister to enter into a rental agreement with the NGO that owns the building so that the CMMA can use the facilities as a specialised shelter for THB, with a maximum capacity of 16 beds.

130. During the evaluation GRETA visited the shelters of the Aruban Red Cross and the Foundation against Domestic Violence. The shelter of the Red Cross is open 24/7 and has a maximum capacity of 100 beds but is often empty. The Foundation's shelter consists of two buildings: one freshly renovated building with 14 rooms and a large communal room, and a smaller building with four rooms. The Foundation's programme manager, psychologist and social worker recently resigned and qualified replacements were difficult to find. At the time of the evaluation no victims of THB were accommodated in these two shelters.

131. According to the 2023 SOP, the initial period of stay in the shelter is two weeks, corresponding to the recovery and reflection period (see paragraph 145), after which a stay of a maximum of six months is possible depending on the length of the criminal investigation.⁴⁶

132. According to the Aruban authorities, in 2020 no victim of THB was provided with assistance, in 2021, one victim, and in 2022, four victims. All victims were Colombian women, four of those were victims of THB for the purpose of sexual exploitation and one was a victim of THB for the purpose of labour exploitation.

⁴⁶ <https://cmmaruba.com/wp-content/uploads/2023/08/Standard-Operating-Procedure-Aruba-2023.pdf>, page 26.

133. The CMMA acknowledged difficulties in providing and financing assistance services to foreign victims of THB but expected the situation to improve following the adoption of the SOP. However, GRETA notes that the SOP does not enshrine in law the responsibility of the authorities to provide basic and specialised assistance services to foreign victims of THB. Moreover, Bureau for Victims Assistance officials stated that they are supposed to organise interpretation/translation and provide legal consultations for trafficking victims but have no budget for these activities. Plans to hire a legal advisor have been delayed due to lack of funding. In their comments on the draft GRETA report, the authorities indicated that the CMMA will receive assistance from the Department of Foreign Affairs in 2024 to draft a law that will enshrine the provision of assistance to foreign victims of THB.

134. **GRETA urges the Aruban authorities to ensure that:**

- **access to assistance for foreign victims of THB is not made conditional on their cooperation in the investigation or prosecution but is based on their individual needs;**
- **adequate financial and human resources are made available in Aruba to enable all victims of THB to benefit from the assistance measures provided for under Article 12 of the Convention.**

c. Identification and assistance of child victims of trafficking (Articles 10 and 12)

135. The SOP contains a dedicated section with indicators for child trafficking and provides guidelines on the identification and assistance to child victims of THB. According to the SOP, the UMM officers shall closely cooperate with the police's Youth and Vices Department (JZP) when interviewing potential child victims of THB. Parents or legal guardians need to provide consent before the interview, unless a parent or guardian is suspected of involvement in THB, in which case the child will be appointed a legal guardian. The SOP stipulates that when working with child victims of THB, the best interests of the child shall always remain paramount, and the safety and the needs of child victims will take priority over the needs of the investigation. In their comments on draft GRETA report, the authorities indicated that the child protection authorities received training from UNHCR.

136. As stated in paragraph 12, in the period 2015-2023 there were six presumed child victims of THB, none of whom was confirmed to be a victim of THB.

137. As regards the detection of child victims of THB among irregular migrants and asylum seekers, including unaccompanied children, the Aruban authorities reiterated that relevant officials' training on THB included aspects of child trafficking.

138. During the visit GRETA was informed of the case of a 14-year-old girl from Colombia, who had travelled to Aruba with her mother and who, while still in Colombia, had legally concluded an online marriage with a man who had been staying irregularly in Aruba for the previous two years. After the mother returned to Colombia, the girl and her husband applied for asylum. The DIMAS denied their asylum applications in 2023 but asked the CMMA to look at it from a trafficking and/or smuggling perspective. The authorities have informed GRETA that after consulting with several experts in the field, the CMMA advised the DIMAS to file an official complaint with the police.

139. GRETA was also told that in 2023 one unaccompanied child was discovered among irregular migrants detained in the Dakota Immigration Detention Facility, but by the time the GNC learned about the child's age, a deportation date had already been set and therefore the child protection authorities were not informed. This raises concerns about the adequate screening of migrants, which could lead to failure to detect victims of THB (see paragraph 122).

140. There are several options to accommodate child victims of THB: "Casa Cuna" (for children below six), "Imeldahof" (for children below 12) and the "Orthopedagogisch Centrum" (for children below 18). However, none of the presumed child victims of THB were accommodated there. As noted in paragraph 90, the CMMA is working on a protocol with the child protection services for child victims of trafficking.

141. **GRETA urges the Aruban authorities to take steps to improve the identification and assistance of child victims of trafficking, in particular by:**

- **strengthening the procedure for identifying children, based on cooperation between relevant institutions, which takes account of the situation and specific needs of child victims of trafficking, with input from child protection specialists and a focus on the best interests of the child as the prime consideration;**
- **ensuring that relevant actors (police, child protection authorities, education professionals, social workers and NGOs) take a proactive approach and have appropriate training and guidance to identify child victims of trafficking for all forms of exploitation, including forced begging, forced criminality and forced marriage;**
- **ensuring that a proper risk assessment, including vulnerability to THB, is conducted during the asylum procedure and before returning migrant children to their home country, taking into account the best interests of the child.**

d. Protection of private life (Article 11)

142. Personal data relating to victims of THB is protected in line with the National Ordinance on the protection of privacy and the storage and distribution of personal data. According to the Aruban authorities, this Ordinance, which was adopted in 2011, is outdated and Aruba together with the other countries of the Kingdom of the Netherlands in the Caribbean is currently drafting a new mutual data protection act.

143. As stated in paragraphs 112 and 113, the CMMA and the JIUMM register all information on cases of THB in the national register on THB and migrant smuggling (*themaregister*). The authorities stated that the register, which is not yet fully operational, will comply with all principles of data protection in accordance with the new law currently under preparation. According to the Aruban authorities no information regarding names or personal details of victims of THB can be provided to non-authorised officials or the media.

e. Recovery and reflection period (Article 13)

144. As victims of trafficking are extremely vulnerable after the trauma they have experienced, Article 13 of the Convention introduces the obligation for Parties to provide in their internal law for a recovery and reflection period of at least 30 days. The recovery and reflection period, in itself, is not conditional on cooperation with the investigative or prosecution authorities and should not be confused with the issue of a residence permit under Article 14(1) of the Convention. Pursuant to the Convention, the recovery and reflection period should be granted when there are reasonable grounds to believe that the person concerned is a victim of trafficking, i.e. before the identification procedure has been completed. During this period, Parties must authorise the person concerned to stay on their territory, and expulsion orders cannot be enforced.

145. The 2023 SOP for the identification, screening, protection, assistance, return and reintegration of victims of THB states that, after being identified as a victim of THB, victims are entitled to a recovery and reflection period of a maximum of 14 days, irrespective of their nationality and their willingness to cooperate with the police. In their comments on the draft GRETA report, the authorities indicated that after GRETA's visit the SOP was adapted and the recovery and reflection period is now of a minimum of 30 days, with the option to extend it twice for a maximum of 90 days. The SOP further stipulates that

foreign victims can receive a document declaring that they cannot be detained or deported for the same period. This “stay of deportation” is granted by the Ministry of Justice and Social Affairs.

146. In their comments on the draft GRETA report, the authorities indicated that a “stay of deportation” (SOD) has been granted to four presumed victims of trafficking. It can be issued for the same duration as the recovery and reflection period. Since it has not been included in the National Ordinance, the “stay of deportation” is a request to authorities to cooperate with the investigation and not arrest or deport the person. The SOD is signed by the National Coordinator.

147. GRETA notes that the recovery and reflection period for trafficking victims is not established in law but in the SOP, which has not even been formally adopted by the government. In their comments on the draft GRETA report, the authorities indicated that the Department of Foreign Affairs is assisting the CMMA in preparing a draft to include the recovery and reflection period in the National Ordinance on Admission and Expulsion. According to the Convention, the recovery and reflection period should be granted when there are reasonable grounds to believe that the person concerned is a victim of trafficking, i.e. before the identification procedure has been completed. Moreover, in itself, it should not be conditional on the victim’s cooperation with the investigative or prosecution authorities.

148. Noting that domestic law must be brought into compliance with international obligations, GRETA urges the Aruban authorities to ensure that a recovery and reflection period of at least 30 days, as provided for in Article 13 of the Convention, is specifically defined in law, and that all persons for whom there are reasonable grounds to believe that they are victims of trafficking, especially those at threat of expulsion from the country, are systematically informed of the possibility to use a recovery and reflection period and are effectively granted such a period.

f. Residence permits (Article 14)

149. Article 14(1) of the Convention provides for two bases upon which to issue renewable residence permits to victims of trafficking: on the basis of their personal situation and/or their cooperation with the competent authorities in the investigation or criminal proceedings.

150. According to the government’s reply to GRETA’s questionnaire, foreign victims and witnesses of THB may apply for a temporary residence permit as soon as they decide to report the crime and to cooperate in the criminal investigation. However, the SOP states that foreign victims can apply as soon as they are identified as a presumed or confirmed victim of THB. The temporary residence permit is valid for as long as there is an ongoing criminal investigation, or the victim is receiving assistance services that require his/her continued physical presence in Aruba. The victim can also be granted permission to work for the duration of the temporary residence permit.

151. GRETA notes that there is no clear statutory basis on which presumed foreign victims of trafficking can be granted a temporary residence permit. The authorities have informed GRETA that the CMMA recently applied to the DIMAS for the issuance of temporary residence permits to two victims, on the basis of Article 20 of the Ordinance on Admission and Expulsion.

152. GRETA urges the Aruban authorities to provide in law for the issue of a renewable residence permit to victims on THB in cases where the competent authority considers that their stay is necessary owing to their personal situation and/or for the purpose of their cooperation in connection with an investigation or criminal proceedings, in accordance with Article 14 of the Convention.

g. Compensation and legal redress (Article 15)

153. Article 15 of the Convention establishes the obligation for Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. Parties must also provide for the right of victims of trafficking to compensation from the perpetrators, as well as adopt legislative or other measures to guarantee compensation for victims from the State. A human rights-based approach to action against THB entails the effective prosecution of traffickers, putting the emphasis on the right to effective remedy for the victim. Further, Article 15(1) of the Convention establishes that victims of trafficking must have access to information on relevant judicial and administrative proceedings in a language which they can understand.

154. Legal assistance to victims of THB is coordinated by the CMMA in cooperation with the Bureau for Victims Assistance and NGOs. For victims who do not speak one of the locally used languages (Papiamentu/Dutch/English/Spanish), an interpreter can be requested. However, as stated in paragraph 133, the Bureau has very limited resources. In addition, victims of THB can apply to the Department of Social Affairs for free legal aid provided they legally reside in Aruba and their income is below the minimum wage. Free legal aid is also available for labour disputes. However, according to NGO representatives, access to legal assistance and free legal aid is severely limited. There are no specialised lawyers on THB in Aruba and international organisations and NGOs only provide legal assistance in certain cases. For example, UNHCR can provide legal assistance to trafficking victims in the asylum process. Prosecutors met during the visit mentioned the lack of access to legal assistance and free legal aid for victims of THB as one of the important reasons for the low number of successful prosecutions into THB.

155. Victims of THB may seek compensation for any damage (physical, emotional, psychological or financial) incurred during and after the exploitation, based on the rule that any person who has suffered direct injury as a result of a punishable offence can join the criminal proceedings as an injured party. Alternatively, victims can pursue their compensation claim before a civil court. The SOP does not specify when and by whom presumed victims of THB are informed of their right to seek compensation. No compensation of any kind has been paid to victims of THB by perpetrators. Further, there is no state compensation mechanism for victims of any crimes in Aruba.

156. **GRETA urges the Aruban authorities to adopt legislative or other measures to facilitate and guarantee access to compensation for victims of trafficking, and in particular to:**

- **ensure that victims of trafficking are systematically informed, at an early stage, in a language that they can understand, of the right to seek compensation from the perpetrator and the procedures to be followed;**
- **enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid and by including the issue of victim compensation in training programmes for relevant stakeholders;**
- **set up a state compensation scheme accessible to victims of THB.**

h. Repatriation and return of victims (Article 16)

157. Article 16 of the Convention requires Parties to establish repatriation programmes which aim at avoiding re-victimisation and involve relevant national or international institutions and NGOs, as well as to make efforts to favour the reintegration of victims into the society of the State of return. Parties must also make available to victims of trafficking, contact information or structures that can assist them in the country of return, such as law enforcement offices, NGOs, legal professionals and social welfare agencies. The return of victims of trafficking must preferably be voluntary and needs to be carried out with due regard for the rights, safety and dignity of the person and for the status of any legal proceedings related to the fact that the person is a victim of THB. Furthermore, a victim may not be returned where such action would be in contravention of the State's obligation of international protection, recognised in Article 40(4) of the Convention.

158. The SOP contains a section on the repatriation and return of victims of trafficking that describes the different authorities competent for organising returns, in collaboration with the authorities of the country of origin and the procedures for those returns. The CMMA continues to coordinate the assistance to victims of trafficking in case of their return. Through the Department of Foreign Affairs, the authorities of a victim's country of origin may be contacted to request assistance in arranging safe travel and accommodation in the country of origin. The CMMA may also cooperate with the other government entities, the IOM and NGOs.

159. Although the SOP stipulates that victims of THB shall not be returned to a situation where they would be in danger or face harm, the SOP is rather vague in its description of the procedure to be followed in cases in which the person does not leave Aruba voluntarily. The SOP states that the status of the country and family tracing needs to be determined and in case of the return of a child victim of THB, a higher level of due diligence should be applied to ensure that returning is in the best interests of the child. Apart from this, there is no specific procedure and forced returns are conducted by the competent authorities in accordance with the National Ordinance on Admission and Expulsion and other regulations. The SOP is equally vague in its description of the procedure in case a victim cannot be repatriated because it would be too dangerous.

160. No information was provided by the Aruban authorities on the number of trafficking victims leaving Aruba either voluntarily or forcibly. NGO representatives informed GRETA that one Colombian victim of THB left Aruba for Panama because she was too afraid to return to Colombia. In their comments on the draft GRETA report, the authorities indicated that this person was never referred to or formally identified as a victim of trafficking by the authorities.

161. **GRETA considers that the Aruban authorities should develop the institutional and procedural framework for the repatriation and return of victims of THB with a view to:**

- **ensuring that the return of victims of trafficking is conducted with due regard for their rights, safety and dignity of the victim, is preferably voluntary and complies with the obligation of *non-refoulement*. This includes informing victims about existing support programmes, and protecting them from re-victimisation and re-trafficking;**
- **ensuring that the best interests of the child are effectively respected, protected and fulfilled, *inter alia*, through an assessment of risks and safety carried out, prior to any removal measure, by specialised bodies in cooperation with the competent contacts in the country of origin, especially for unaccompanied children;**
- **developing cooperation with countries of origin of victims with a view to ensuring that risks are correctly assessed, and that trafficking victims can return in safety and effectively reintegrate.**

7. Substantive criminal law, investigation, prosecution and procedural law

a. Substantive criminal law (Articles 18, 20, 23, 24 and 25)

162. Pursuant to Article 18 of the Convention, Parties have the obligation to establish THB as a criminal offence when committed intentionally. In addition, forging travel or identity documents, removing, concealing or destroying them, as well as procuring or providing them, must be established as criminal offences, when committed intentionally and for the purpose of enabling THB (Article 20).

163. As noted in paragraph 45, THB is criminalised in Article 2:239 of the Aruban CC. This provision is worded in such a way that cases where the exploitation has not taken place yet (“with the intention of exploiting”) are also punishable. In June 2023 the maximum prison sentence for the basic offence of THB was raised from eight to 12 years. In cases where the offence was committed by two or more persons or the victim was under 18 years of age or violence was used, the maximum prison sentence was increased from 12 to 15 years. Where the victim suffered serious physical injuries, the maximum prison sentence went from 15 to 18 years. If the victim has died, the heaviest sanction was increased from 18 to 30 years’ imprisonment or a life prison sentence. In all cases, a fine of up to 100,000⁴⁷ Aruban Florin (approximately 51,000 Euros) can be imposed on the perpetrators. From the wording of Article 2:239, GRETA notes that it is possible to choose between a prison sentence and a fine. However, pursuant to the Prosecutor-General’s 2018 Guideline on the prosecution of THB and human smuggling, prosecutors are in principle obliged to propose to the judge to impose imprisonment.

164. According to Article 2:258 of the CC, taken in conjunction with Article 1:64 of the CC, when persons are sentenced for human trafficking and have committed this offence as part of their profession, courts can bar them from practising it as an additional sentence.

165. Furthermore, pursuant to Article 1:77 of the CC, the OM can request the confiscation of illicitly obtained gains, which applies to criminal assets obtained through trafficking.

166. Aruban law does not establish a specific criminal offence for retaining, removing, concealing, damaging or destroying a travel or identity document of another person committed intentionally and for the purpose of enabling THB. However, such behaviour can be taken into consideration to establish the element of force or coercion as part of the crime of THB. Damaging or destroying a travel or identity document can be prosecuted separately as destruction of property or forgery.

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

167. The Convention requires Parties to consider taking measures to criminalise the use of services which are the object of exploitation, with the knowledge that the person is a victim of THB (Article 19). This provision targets the client, whether of a victim of trafficking for sexual exploitation or of a victim of forced labour or services, slavery or practices similar to slavery, servitude or organ removal.⁴⁸

168. The use of services from a victim of trafficking in human beings, with the knowledge that the person is a victim, is criminalised in Article 2:240 of the CC. However, there has never been a criminal case under this provision.

169. **GRETA invites the Aruban authorities to keep the application of the provisions criminalising the knowing use of the services of victims of trafficking under review with a view to ensuring that they are effectively applied in practice.**

⁴⁷ See Article 1:54 of the CC.

⁴⁸ Explanatory Report on the Convention, paragraph 231.

c. Corporate liability (Article 22)

170. Pursuant to Article 1:127 of the CC legal persons can be held liable for committing punishable acts. Criminal prosecution can be instituted against a legal person, against those who gave the order for the punishable act to be committed and those who were actually in charge while the punishable act was taking place. No example of a prosecution of a legal person for THB was reported.

171. GRETA invites the Aruban authorities to ensure that any offences related to THB committed by legal persons are effectively investigated and prosecuted.

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

172. Pursuant to Article 26 of the Convention, Parties must provide for 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.

173. There is no specific non-punishment provision for victims of human trafficking in Aruban law. However, in accordance with Articles 1:114a and 1:115b of the CC victims of THB are not punishable, to the extent that they are considered to be acting in a situation of necessity or psychological *force majeure*. Further, pursuant to Article 207(2) of the CPC, prosecution may be waived on grounds of public interest. Furthermore, in accordance with Article 1:12 of the CC, if victims are prosecuted for punishable acts committed because of exploitation and the courts regard them as guilty, the courts may decide in the light of the circumstances of the case not to impose a sentence. No examples of the application of any of these provisions vis-à-vis victims of THB were reported.

174. GRETA notes that no guidance is available for law enforcement officials, prosecutors and judges concerning the application of the non-punishment provision in respect of victims of THB.

175. GRETA urges the Aruban authorities to adopt a specific legal provision and/or develop guidance for law enforcement officials and prosecutors on the scope of the non-punishment provision in order to ensure compliance with Article 26 of the Convention. Reference is made in this context to the recommendations on non-punishment for legislators and prosecutors contained in the paper issued by the OSCE Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings in consultation with the Alliance against Trafficking in Persons Expert Coordination Team.⁴⁹

e. Investigation, prosecution and procedural law (Articles 1, 27 and 29)

176. One of the purposes of the Convention is to ensure the effective investigation and prosecution of THB (Article 1(1)(b)). In this context, Parties are required to cooperate with each other regarding investigations and/or criminal proceedings related to THB (Article 32). Further, the Convention establishes that the investigation or prosecution of THB offences must not be dependent on victims' reports, and that associations or NGOs aimed at fighting THB or protecting human rights must be able to assist and support victims during criminal proceedings, in accordance with the conditions established in the internal law and with the victim's consent (Article 27).

177. In Aruba the OM is the only body authorised to initiate criminal investigations. While a formal complaint by a victim can give cause to proceed with a criminal investigation, the OM can also start an investigation without it. As stated in paragraph 27, there is a specialised prosecutor on human trafficking and migrant smuggling within the OM.

⁴⁹ <http://www.osce.org/secretariat/101002?download=true>

178. According to the Aruban authorities a financial investigation is always part of the criminal investigation into THB (Article 177a of the CPC). Financial investigations into THB and other criminal offences are conducted by a specialised unit in the Aruban Police. Special investigation techniques, such as interception of telecommunications, can be used with the authorisation of a judge in accordance with the CPC.

179. Prosecutors can seize traffickers' assets (Article 119 of the CPC) and courts can order the confiscation of those assets upon conviction of the traffickers (Articles 1:67 and 1:68 of the CC).

180. On 28 April 2018 the Prosecutor-General of Aruba issued a Guideline on the prosecution of THB and human smuggling, with binding sentencing instructions for prosecutors depending on the type of exploitation and other relevant factors (the duration of the exploitation, the number and the vulnerability of the victims, the amount of profit made by the perpetrator(s)).

181. Between 2020 and 2022, the specialised prosecutor supervised a total of four criminal investigations on suspicion of trafficking in human beings under Article 2:239 of the CC. Two investigations were discontinued for lack of evidence. In a third case, involving two Indian nationals exploited as domestic workers by other Indians, the specialised prosecutor decided to prosecute. The case concluded in a conviction for migrant smuggling, employing an illegal migrant and falsification of documents. In another case, involving a Colombian woman exploited as a domestic worker, the investigation is still pending. In 2023 the UMM was also conducting an investigation into a suspected case of THB for sexual exploitation.

182. There has been no conviction for THB in Aruba since it joined the Convention in 2015. The last two convictions for THB date back to 2013 and were upheld on appeal in 2016.

183. Officials met during the visit acknowledged difficulties with investigating and prosecuting cases of THB. According to them victims often fail to self-identify as trafficking victims, refuse to testify or quickly return to their home country because of the lack of assistance services (see paragraphs 128 and 133). GRETA was further told that criminal investigations into THB were lengthy, which was also caused by the absence of the victims in Aruba. In this context, GRETA notes that the interview with the victim could be an important part of the evidence, including impact statement, together with other types of evidence. It is also difficult to handle the compensation of a victim in the court case if the victim is not present.

184. GRETA is concerned by the low number of investigations and prosecutions in cases of THB and the absence of any conviction for THB. GRETA stresses that, in general, failure to convict traffickers and the absence of effective, proportionate and dissuasive sanctions, undermine efforts to combat THB and to support victims to testify.

185. While welcoming the existence of a specialised prosecutor for THB, **GRETA considers that the Aruban authorities should continue to take steps to ensure that THB cases are investigated proactively, prosecuted successfully, and lead to effective, proportionate and dissuasive sanctions, including by:**

- **identifying gaps in the investigation and prosecution of cases of THB for different purposes of exploitation;**
- **making use of special investigation techniques in order to gather material, documental, financial and digital evidence, at as early a stage of the investigation as possible and not having to rely exclusively on testimony by victims or witnesses;**
- **improve the possibilities for victims to participate in the pre-trial phase and court proceedings by providing them with protection and assistance;**
- **providing further training to police officers and prosecutors to investigate and prosecute cases of THB and to distinguish them from migrant smuggling cases, including through cooperation with other relevant actors and countries.**

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

186. By virtue of Article 28 of the Convention, Parties must take measures to provide effective and appropriate protection from potential retaliation or intimidation, in particular during and after the investigation and prosecution of perpetrators. This protection can be of various types (including physical, relocation, identity change) and is to be provided to victims of trafficking, to those who report it or otherwise cooperate with the investigating or prosecuting authorities, to witnesses who give testimony and, when necessary, to members of the families of those listed above. Further, Article 30 of the Convention includes a provision requiring Parties to take measures to protect victims' private life and identity and to provide for their safety and protection from intimidation in the course of judicial proceedings, including special protection measures for child victims of THB.

187. In Aruba measures aimed at the protection of victims of all crimes, including THB, are contained in the CPC. Article 261 of the CPC states that where a witness is seriously threatened, an investigating judge may, at the request of the OM or at the request of the witness, provide that the witness be examined in such a way that her or his identity is completely concealed. Additional protection measures apply to child victims or witnesses and as a rule children are not confronted with their traffickers during the criminal proceedings.

188. A new CPC is planned to enter into force in 2024. GRETA was informed that it would extend victims' rights, for example, during the criminal proceedings, victims will have the opportunity to be assisted by professionals other than a lawyer.

189. The police are responsible for ensuring the protection of victims of THB. The SOP states that as part of each screening procedure to identify a victim of THB a risk assessment should be made to determine threats to the security and safety of the victim. In accordance with the Memorandum of Understanding on Cooperation to prevent and combat human trafficking and smuggling (see paragraph 193), it is possible to relocate the victim if the safety of the victim cannot be guaranteed on the island where the investigation takes place. GRETA was informed that in the case which concluded in 2013 (see paragraph 182), the victims were relocated to Curacao for the duration of the investigation.

190. **GRETA invites the Aruban authorities to ensure that all measures to protect victims of criminal offences are available in practice to victims of THB, witnesses and their legal representatives, to prevent reprisals and intimidation during investigation, as well as during and after the court proceedings.**

g. Jurisdiction (Article 31)

191. According to Articles 1:2, 1:3, 1:6 and 1:7 of the CC, Aruban criminal law applies to any person who commits an offence in Aruba, regardless of whether or where any complaint was submitted, including on board a vessel or an aircraft under the Aruban or Dutch flag at the time that the offence is committed, and when an offence is committed against an Aruban Dutch national or by an Aruban Dutch national or a Dutch national or an alien who has his or her habitual residence in Aruba. In accordance with Article 1:5 of the CC the criminal law of Aruba also applies to anyone against whom criminal prosecution has been taken over by Aruba from another country on the basis of a treaty from which the authority to prosecute by Aruba follows.

8. International cooperation (Article 32)

192. The Convention requires Parties to cooperate with each other “to the widest extent possible” in order to prevent and combat THB, protect and assist victims, and investigate related criminal offences (Article 32).

193. Aruba cooperates actively with the other constituent countries in the Kingdom of the Netherlands, as well as internationally. Since 2009 Aruba, Curaçao, Sint Maarten and the Netherlands have signed several Memoranda of Understanding on Cooperation to prevent and combat human trafficking and smuggling. The latest version of the Memorandum was signed in July 2023. The national anti-trafficking coordinators from the four countries hold regular meetings. Officials from Curaçao and Sint Maarten have visited the CMMA to receive training and to exchange information about human trafficking. For example, in 2023 the CMMA provided training to 175 officials of the government of Sint-Maarten. Since 2019 the government of the Netherlands has provided considerable financial support to the Aruban authorities to implement additional border protection measures and to mitigate the risk of mass migration from Venezuela. These funds were used to finance the CMMA and conduct awareness raising and research on THB and THB related issues. Several KMar officers from the Netherlands were also sent to Aruba to increase the capacity of the police (see paragraph 34).

194. As regards international cooperation, the Justice Ministers of Aruba, Curaçao, Sint Maarten and the Netherlands signed a Memorandum of Understanding with the Department of Justice of the USA regarding the enhancement of existing cooperation and strengthening of law enforcement and the criminal justice system in the Caribbean parts of the Kingdom of the Netherlands. However, law enforcement officials met during the visit stated that cooperation with several countries in Latin America remains a challenge. For example, interaction with Venezuela stopped almost completely following the imposition of sanctions on Venezuelan officials.

195. Requests for mutual legal assistance are dealt with by the OM in accordance with Articles 555 to 567 of the CPC. The police cooperate with partners in foreign countries in the fight against trafficking in human beings using established cooperation channels such as Interpol. The police have also worked with UNODC to enhance its capacity to combat THB in migration flows (see paragraph 36).

196. **GRETA welcomes Aruba’s involvement in international cooperation against human trafficking and invites the authorities to continue and further develop this cooperation, in particular as regards training of relevant professionals, protection of victims and criminal investigation of cross-border cases.**

Appendix I: List of GRETA's proposals

Overview of the legal and policy framework in the field of action against trafficking in human beings

1. GRETA considers that the Aruban authorities should include in the national action plan specific objectives and indicators for activities to prevent and combat THB and commission an independent evaluation of the national action plan as a tool for assessing the impact of the activities and for planning future policies and measures to combat THB.

Definition of "trafficking in human beings"

2. GRETA considers that stating explicitly the irrelevance of the consent of a victim of trafficking to the intended exploitation could improve the implementation of the anti-trafficking provisions and provide victims with greater confidence in self-reporting to NGOs and public authorities.

Comprehensive approach and coordination

3. GRETA considers that the Aruban authorities should continue raising awareness among professionals and the general public as regards the scope of the definition of trafficking in human beings and the difference and links between human trafficking and migrant smuggling.

4. GRETA considers that the Aruban authorities should take further steps to ensure that national action to combat THB is comprehensive, including by:

- ensuring that public bodies and civil society actors engaged in anti-trafficking action are provided with the dedicated financial resources necessary to carry out the relevant activities, including those under the national action plan;
- ensuring the involvement of civil society organisations in action against THB, including in the work of the TMMA.

5. GRETA considers that the Aruban authorities should reflect on appointing an independent National Rapporteur for monitoring the anti-trafficking activities of State institutions and making recommendations to persons and institutions concerned (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).

Training of relevant professionals

6. GRETA welcomes the efforts made in Aruba to train different professionals on issues related to human trafficking and invites the Aruban authorities to strengthen their efforts, in particular concerning the training of judges, lawyers, social workers and child protection authorities. Future training programmes, including on the use of information and communication technology (ICT) in the context of human trafficking, should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to proactively identify victims of trafficking, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.

Data collection and research

7. For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA considers that the Aruban authorities should continue to develop and maintain a comprehensive and coherent statistical system on trafficking in human beings, by compiling reliable statistical information from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. This should be accompanied by all the necessary measures to respect the right of data

subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information.

8. GRETA considers that the Aruban authorities should continue conducting and supporting research on THB issues, including on ICT-facilitated human trafficking, as an important source of information for future policy measures.

Measures to raise awareness

9. GRETA welcomes the efforts made in Aruba in the area of awareness raising as a form of prevention of THB and invites the Aruban authorities to plan future actions in the light of the assessment of the impact of previous awareness-raising measures.

Measures to prevent labour exploitation

10. GRETA urges the Aruban authorities to intensify their efforts to prevent and combat THB for the purpose of labour exploitation, taking into account GRETA's Guidance Note on combating trafficking for labour exploitation and the recommendation of the Committee of Ministers CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation, in particular by:

- ensuring that the capacity of labour inspectors is increased and they are given a mandate to play a frontline role in the prevention of THB for the purpose of labour exploitation, paying particular attention to at-risk sectors, such as construction, hospitality and domestic work;
- reducing the risk of human trafficking and labour law violations arising from the workers' dependency on the employer by allowing migrant workers to change employers and apply for extensions of their work permits;
- taking effective steps to regulate recruitment and temporary work agencies;
- alerting the general public and, more specifically, migrant workers to the risks of THB for the purpose of labour exploitation and where to get assistance;
- strengthening cooperation between labour inspectors, other officials, trade unions and civil society actors, with a view to preventing abuse and detecting cases of THB for the purpose of labour exploitation.

11. GRETA considers that the Aruban authorities should:

- ensure that inspections take place in private households to prevent abuse of domestic workers and detect cases of THB for the purpose of labour exploitation;
- further improve the training of labour inspectors, including on the rights of victims of THB.

Measures to prevent trafficking in children

12. GRETA considers that the Aruban authorities should take additional measures to prevent trafficking in children, in particular by:

- raising public awareness about the risks and manifestations of child trafficking;
- sensitising and training child professionals about THB, how to prevent it and how to report possible cases to the competent authorities;
- continuing to promote online safety of children and alerting relevant actors of the risks of trafficking in children committed via the Internet.

Measures to discourage demand

13. GRETA considers that the Aruban authorities should review the 1921 National Ordinance on Contagious Diseases and provide in internal law sufficient safeguards to protect foreign women from THB and exploitation.

14. GRETA urges the Aruban authorities to develop legislative, administrative, educational, social, cultural or other measures to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society, trade unions and the media, including by promoting awareness among businesses, strengthening corporate social responsibility and prevention trafficking in supply chains.

Identification of victims of trafficking in human beings

15. GRETA urges the Aruban authorities to take steps to ensure that all victims of trafficking are identified as such and can benefit from the assistance and protection measures contained in the Convention, in particular by:

- ensuring that, in practice, the identification of victims of THB, upon which assistance measures depend, is not linked to the prospects of the investigation and prosecution;
- strengthening multi-agency involvement in the identification of victims of trafficking by formally recognising the role of NGOs in the decision-making process leading to identification;
- ensuring that there is a separation between immigration enforcement functions and labour inspectorate roles, and that when labour inspectors identify migrant workers who are presumed victims of human trafficking, the persons concerned have access to protection and are not detained or removed from the country subject to victim identification procedures being completed;
- paying increased attention to the identification of victims of trafficking among asylum seekers and migrants, including by recruiting or otherwise engaging a sufficient number of trained staff, including interpreters and cultural mediators, to more effectively interact with migrants and asylum seekers.

16. GRETA considers that the Aruban authorities should continue and strengthen their efforts to proactively identify victims of trafficking, rather than relying on self-identification, by reinforcing the capacity and training of all professionals who might come into contact with victims.

Assistance to victims

17. GRETA urges the Aruban authorities to ensure that:

- access to assistance for foreign victims of THB is not made conditional on their cooperation in the investigation or prosecution but is based on their individual needs;
- adequate financial and human resources are made available in Aruba to enable all victims of THB to benefit from the assistance measures provided for under Article 12 of the Convention.

Identification and assistance of child victims of trafficking

18. GRETA urges the Aruban authorities to take steps to improve the identification and assistance of child victims of trafficking, in particular by:

- strengthening the procedure for identifying children, based on cooperation between relevant institutions, which takes account of the situation and specific needs of child victims of trafficking, with input from child protection specialists and a focus on the best interests of the child as the prime consideration;
- ensuring that relevant actors (police, child protection authorities, education professionals, social workers and NGOs) take a proactive approach and have appropriate training and guidance to identify child victims of trafficking for all forms of exploitation, including forced begging, forced criminality and forced marriage;
- ensuring that a proper risk assessment, including vulnerability to THB, is conducted during the asylum procedure and before returning migrant children to their home country, taking into account the best interests of the child.

Recovery and reflection period

19. GRETA urges the Aruban authorities to ensure that a recovery and reflection period of at least 30 days, as provided for in Article 13 of the Convention, is specifically defined in law, and that all persons for whom there are reasonable grounds to believe that they are victims of trafficking, especially those at threat of expulsion from the country, are systematically informed of the possibility to use a recovery and reflection period and are effectively granted such a period.

Residence permits

20. GRETA urges the Aruban authorities to provide in law for the issue of a renewable residence permit to victims on THB in cases where the competent authority considers that their stay is necessary owing to their personal situation and/or for the purpose of their cooperation in connection with an investigation or criminal proceedings, in accordance with Article 14 of the Convention.

Compensation and legal redress

21. GRETA urges the Aruban authorities to adopt legislative or other measures to facilitate and guarantee access to compensation for victims of trafficking, and in particular to:

- ensure that victims of trafficking are systematically informed, at an early stage, in a language that they can understand, of the right to seek compensation from the perpetrator and the procedures to be followed;
- enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid and by including the issue of victim compensation in training programmes for relevant stakeholders;
- set up a state compensation scheme accessible to victims of THB.

Repatriation and return of victims

22. GRETA considers that the Aruban authorities should develop the institutional and procedural framework for the repatriation and return of victims of THB with a view to:

- ensuring that the return of victims of trafficking is conducted with due regard for their rights, safety and dignity of the victim, is preferably voluntary and complies with the obligation of *non-refoulement*. This includes informing victims about existing support programmes, and protecting them from re-victimisation and re-trafficking;
- ensuring that the best interests of the child are effectively respected, protected and fulfilled, inter alia, through an assessment of risks and safety carried out, prior to any removal measure, by specialised bodies in cooperation with the competent contacts in the country of origin, especially for unaccompanied children;
- developing cooperation with countries of origin of victims with a view to ensuring that risks are correctly assessed, and that trafficking victims can return in safety and effectively reintegrate.

Criminalisation of the use of services of a victim

23. GRETA invites the Aruban authorities to keep the application of the provisions criminalising the knowing use of the services of victims of trafficking under review with a view to ensuring that they are effectively applied in practice.

Corporate liability

24. GRETA invites the Aruban authorities to ensure that any offences related to THB committed by legal persons are effectively investigated and prosecuted.

Non-punishment of victims of trafficking in human beings

25. GRETA urges the Aruban authorities to adopt a specific legal provision and/or develop guidance for law enforcement officials and prosecutors on the scope of the non-punishment provision in order to ensure compliance with Article 26 of the Convention.

Investigation, prosecution and procedural law

26. GRETA considers that the Aruban authorities should continue to take steps to ensure that THB cases are investigated proactively, prosecuted successfully, and lead to effective, proportionate and dissuasive sanctions, including by:

- identifying gaps in the investigation and prosecution of cases of THB for different purposes of exploitation;
- making use of special investigation techniques in order to gather material, documental, financial and digital evidence, at as early a stage of the investigation as possible and not having to rely exclusively on testimony by victims or witnesses;
- improve the possibilities for victims to participate in the pre-trial phase and court proceedings by providing them with protection and assistance;
- providing further training to police officers and prosecutors to investigate and prosecute cases of THB and to distinguish them from migrant smuggling cases, including through cooperation with other relevant actors and countries.

Protection of victims and witnesses

27. GRETA invites the Aruban authorities to ensure that all measures to protect victims of criminal offences are available in practice to victims of THB, witnesses and their legal representatives, to prevent reprisals and intimidation during investigation, as well as during and after the court proceedings.

International cooperation

28. GRETA welcomes Aruba's involvement in international cooperation against human trafficking and invites the authorities to continue and further develop this cooperation, in particular as regards training of relevant professionals, protection of victims and criminal investigation of cross-border cases.

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

Public bodies

- National Coordinator on Human Trafficking and Migrant Smuggling
- Ministry of Justice and Social Affairs
- Ministry of Labour, Integration and Energy
- Ministry of Public Health and Tourism
- Ministry of General Affairs, Innovation, Government, Infrastructure and Planning
- Aruban Police Force
- Dutch Caribbean Coastguard
- Royal Netherlands Marechaussee (KMar)
- Coordinator Centre on Human Trafficking and Migrant Smuggling Aruba
- Chief Prosecutor of Aruba
- Specialised prosecutor for human trafficking and migrant smuggling
- Judicial Affairs Committee of the Aruban Parliament (*Staten*)

Intergovernmental organisations

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

Civil society organisations

- Foundation against Domestic Violence
- Hebrew Immigrant Aid Society (HIAS)
- Red Cross Aruba

Government's comments

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

GRETA engaged in a dialogue with the Aruban 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 Aruban authorities on 17 July 2024 and invited them to submit any final comments. In their reply submitted on 6 November 2024, reproduced hereafter, the authorities stated that they did not wish to submit any further comments.



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To: Ms. Petya Nestorova
Executive Secretary Convention on Action against Trafficking in Human Beings

From: Ms. Jeannette Richardson Baars MA LLM
National Coördinator on Human Trafficking and Migrant Smuggling Aruba

Date: November 6th, 2024

Ref: CMMA 04/2024

FINAL REPORT FROM GRETA

Dear Ms. Nesterova,

We would like to express our appreciation for the work carried out by GRETA in the process leading up to the final report. The evaluation process has been a positive experience and a stimulation for our efforts to improve our response to human trafficking.

Discussions with GRETA in 2023 -2024 have influenced the start of several new projects and the adaptation of existing documents.

We see no need to give any further comments on the report.

Yours sincerely,


Jeannette Richardson Baars MA LLM
National Coördinator on Human Trafficking and Migrant Smuggling Aruba
Contactperson

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