

# FOURTH EVALUATION ROUND

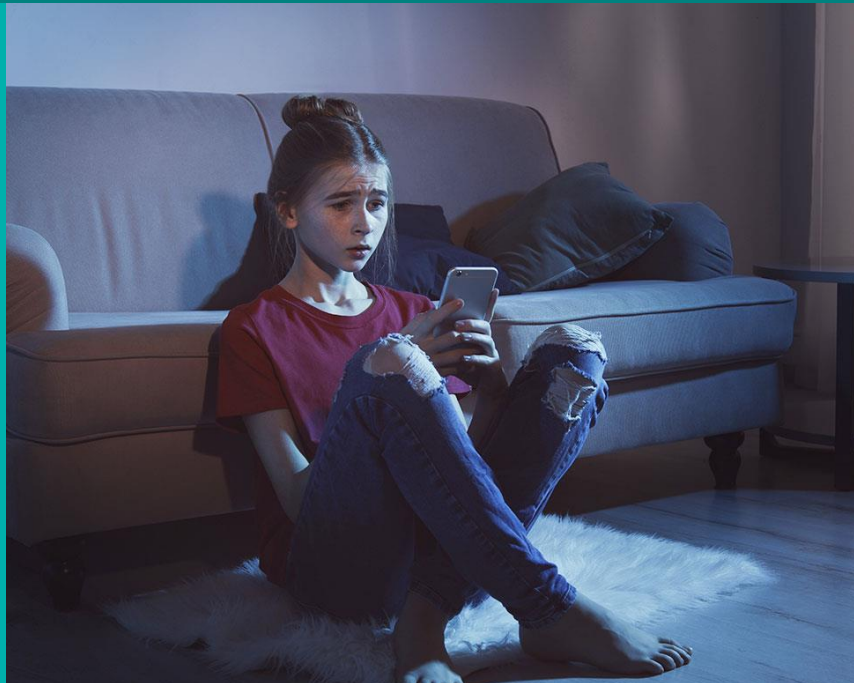
Measures to prevent and detect vulnerabilities  
to human trafficking

EVALUATION REPORT

# AUSTRIA

## GRETA

Group of Experts  
on Action against  
Trafficking in Human Beings



Implementation of the  
Council of Europe Convention  
on Action against Trafficking  
in Human Beings

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## Preamble

In accordance with Article 38, paragraph 1, of the Convention on Action against Trafficking in Human Beings ("the Convention"), GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions on which the evaluation procedure is based.

The first round of monitoring of the Convention provided an overview of its implementation by States Parties. The second evaluation round examined the impact of legislative, policy and practical measures on the prevention of trafficking in human beings (THB), the protection of the rights of victims, and the prosecution of traffickers, paying particular attention to measures taken to address new trends in human trafficking, in particular trafficking for the purpose of labour exploitation, and child trafficking. The third evaluation round focused on trafficking victims' access to justice and effective remedies.

For the fourth evaluation round of the Convention, GRETA has decided to focus on **vulnerabilities to human trafficking** and measures taken by States Parties to prevent them, detect and support vulnerable victims, and punish the offenders. An additional focus concerns the **use of information and communication technology (ICT)** to commit human trafficking offences, which brings structural changes to the way offenders operate and exacerbates existing vulnerabilities.

A number of provisions of the Convention establishing substantive and procedural obligations are relevant to this topic. The concept of "vulnerability" appears in Articles 4 (definitions), 5 (prevention of trafficking in human beings) and 12 (assistance to victims) of the Convention. According to paragraph 83 of the Explanatory report to the Convention, "by abuse of a position of vulnerability is meant abuse of any situation in which the person involved has no real and acceptable alternative to submitting to the abuse. The vulnerability may be of any kind, whether physical, psychological, emotional, family-related, social or economic. The situation might, for example, involve insecurity or illegality of the victim's administrative status, economic dependence or fragile health. In short, the situation can be any state of hardship in which a human being is impelled to accept being exploited. Persons abusing such a situation flagrantly infringe human rights and violate human dignity and integrity, which no one can validly renounce."

GRETA refers to the ICAT Issue Brief No. 12/2022 on Addressing vulnerability to trafficking in persons which refers to vulnerability as "those inherent, environmental or contextual factors that increase the susceptibility of an individual or group to being trafficked". It classifies vulnerability factors in three categories: personal (e.g. age, gender, ethnicity, disability), situational (e.g. destitution, unemployment, legal status) and contextual (e.g. discriminatory laws, policies and social norms, armed conflicts, crises) factors, which interact and may increase the risk of human trafficking for certain individuals, groups and/or communities.<sup>1</sup> Vulnerability to human trafficking is also subject to intersectional factors, such as gender, belonging to a minority group and socio-economic status.

In addition to the thematic focus on vulnerabilities to human trafficking, GRETA has decided that each State Party will receive **country-specific follow-up questions** related to recommendations not implemented or partially implemented after the third evaluation round.

GRETA recalls that it has adopted the use of three different verbs - "**urge**", "**consider**", and "**invite**" – which correspond to different levels of urgency for bringing the State Party's legislation and/or practice into compliance with the Convention. Thus, GRETA uses the verb "urge" when it assesses 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 to fully comply with an obligation of the Convention. By "inviting" a country to pursue its efforts, GRETA acknowledges that the authorities are already on the right track and encourages them to continue existing action.

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<sup>1</sup> [ICAT Issue Brief No. 12 on Addressing vulnerability to trafficking in persons](#)

## Executive summary

This report, covering the period 2020-2024, evaluates the measures taken by Austria to prevent vulnerabilities to trafficking in human beings (THB), detect and support vulnerable victims, and punish the offenders. In doing so, it pays particular attention to the use of information and communication technology (ICT) to commit human trafficking offences as well as to the use of technological innovations to prevent THB, protect victims, and prosecute traffickers. The report also evaluates progress made in selected areas examined by GRETA during previous evaluation rounds.

Over the years, the Austrian authorities have taken a series of steps to develop the legislative and institutional framework for action against THB. The regular adoption of comprehensive national action plans for combating human trafficking takes account of new trends and challenges and reflects GRETA's recommendations. The 7th National Action Plan (2024-2027) contains measures addressing vulnerable groups, such as children, asylum seekers and persons with disabilities, as well as measures focusing on the inclusion of survivors of trafficking in the design of policies and tools for combating THB.

The number of victims identified by the police as part of criminal investigations under sections 104a ("trafficking in human beings) and 217 ("trans-border prostitution trade") of the Austrian Criminal Code has remained relatively stable in the period 2020-2024 (about 120 per year). While the most frequent form of exploitation remains sexual exploitation of women and girls, there has been an increase in the identification of male victims and victims of trafficking the purpose of labour exploitation. Most of the victims originated from Nigeria, Romania, Bulgaria, Iraq, Serbia, Philippines and Hungary. Further, 12 Austrian victims were identified during the reporting period.

Children and adolescents have been identified as a group at risk for becoming victims of THB and are an important target group in the national anti-trafficking action plans. In 2023, the Federal Government adopted a comprehensive package of measures aiming to protect children and young people from violence, with a focus on sexual violence and abuse. Further, the initiative "Safer Internet.at" and the Media-Youth-Info Centre were set up to improve media literacy and online safety skills of children. The authorities are also taking measures to reduce the vulnerability of girls and young women to forced marriage.

Unaccompanied or separated children are a group particularly vulnerable to THB. In 2022, 13 276 unaccompanied children applied for asylum in Austria, of whom 11 613 disappeared. Children usually go missing from asylum reception centres at the beginning of the procedure when they are still under the care of the federal authorities, before being transferred to the care of the regions. A related issue of concern is the absence of a nationwide procedure for legal guardianship of unaccompanied children. GRETA urges the authorities to ensure that all unaccompanied and separated children are placed in safe and appropriate accommodation, with adequately trained staff, and are appointed legal guardians as expeditiously as possible.

The authorities have acknowledged the vulnerability to THB of migrant workers in precarious sectors, including restaurants, domestic work, construction, agriculture/seasonal work and delivery services. Austrian labour and social law provides a number of safeguards for migrant workers. However, the number of identified cases of alleged unlawful employment of third-country nationals has risen in recent years. While welcoming the range of measures put in place in Austria to protect migrant workers, GRETA considers that sufficient staff and resources should be made available to the agencies supervising the working conditions of migrant workers, including interpreters and cultural mediators, in order to enable them to carry out proactive inspections in at-risk sectors. The authorities should also increase the legal protection of 24-hour care providers and the legally binding certification of recruitment agencies.

Civil society organisations have raised concerns about the lack of a systematic procedure for identifying vulnerable persons (including victims of THB) in the asylum system, despite the training provided to asylum officials, legal counsellors, social workers and return counsellors. Access to work and education during the

asylum procedure is severely limited and many asylum seekers become self-employed. A case involving some 230 asylum seekers from Iraq who had been in bogus self-employment is undergoing criminal and labour court proceedings, with charges of THB, tax and social fraud. The perpetrators abused the position of vulnerability of the asylum seekers, threatening to report them to the asylum authorities. GRETA considers that the Austrian authorities should establish a procedure for the identification of victims of THB amongst asylum seekers as early as possible, and facilitate their access to the labour market, vocational training and German language courses.

The Austrian authorities pay particular attention to the vulnerabilities of sex service providers to THB. The COVID-19 pandemic resulted in a shift of sexual services to hotels, flats and escort services. As a result, the legal provisions regulating prostitution are being circumvented, increasing vulnerabilities. There are eight counselling centres in Austria for persons providing sex services which offer assistance and conduct outreach work to identify potential cases of exploitation. The funding provided to these counselling centres was increased in 2024. GRETA considers that the authorities should continue taking measures to counteract the risks of THB and exploitation of sex service providers through legislative improvements, information and awareness raising aimed at eliminating sexual and gender stereotypes, and by supporting migrant, refugee and asylum-seeking women to access vocational training, education and employment.

There have only been a few THB cases involving victims with disabilities. The 7th National Anti-Trafficking Plan envisages improving access to residential facilities for disabled people in the framework of the social assistance provided by the regions. GRETA considers that the Austrian authorities should increase co-operation and co-ordination between relevant state and regional actors responsible for the care of persons with disabilities and ensure low-threshold, non-discriminatory access to services.

A number of identified cases of forced marriage concern girls from the Roma community. Traffickers also exploit Roma children in forced begging and forced criminality. GRETA welcomes the measures taken to support the equality, inclusion and participation of Roma as part of the National Strategy for the Inclusion of Roma and the National Roma Dialogue Platform, and invites the Austrian authorities to mainstream the prevention of THB in existing policies to involve Roma NGOs in the design of measures.

There have been no developments as regards the setting up of a formalised National Referral Mechanism (NRM) for the identification and referral to assistance of victims of THB. The Ministry of the Interior's internal decree which gives police officers instructions on how to proceed in cases of human trafficking was revised in December 2023. The decree states that the police should refer victims to the specialised NGOs (LEFÖ-IBF and MEN VIA), subject to the victims' consent. While some other authorities are instructed to inform the police of suspected cases of THB, they are not obliged to refer potential victims to specialised NGOs. It is not a core task for labour inspectors to proactively identify cases of THB, and no victims have been identified during inspections of work places. GRETA once again urges the Austrian authorities to set up without further delay an NRM which follows a multi-disciplinary approach to victim identification and involves a range of frontline actors who may come into contact with victims of THB.

The Austrian authorities have increased the funding provided to two specialised NGOs for assistance to victims of THB. LEFÖ-IBF operates four shelters for female victims of THB and offers 10 small apartments at fair rent prices for independent living. Its contract was extended, enabling the expansion of support for women with disabilities and trans women and girls. MEN VIA operates a shelter for male victims which was expanded to support more victims. GRETA welcomes the increase in the government funding for victim assistance and considers that the authorities should give an official intervention status to MEN VIA and secure the long-term funding of its activities. The authorities should also ensure that adequate funding is provided to other NGOs to which victims of THB are referred for assistance.

In 2016, Austria adopted "Guidance for identifying and dealing with potential victims of child trafficking". According to civil society organisations, this Guidance is still not well-known to relevant authorities across Austria and is not systematically followed. The Task Force's Working Group on Child Trafficking is currently revising the Guidance with a view to taking into account new challenges, such as ICT, and the need for

specific focus on asylum-seeking children. GRETA considers that the Austrian authorities should finalise the revision of the Guidance and its formalisation into a National Referral Mechanism for child victims of human trafficking, as well as set up a specialised shelter for child victims of THB.

Section 104a of the Austrian Criminal Code includes “abuse of a position of vulnerability” amongst the means used to commit human trafficking. The particular vulnerability of the victim may be considered by the court as an aggravating factor for the offender’s sentence. GRETA considers that the Austrian authorities should provide investigators, prosecutors and judges with training and sensitisation on the concept of “abuse of a position of vulnerability” to ensure that it is properly applied in practice.

The available statistics from the Ministry of Justice suggest that the number of investigations, prosecutions and convictions for THB has been decreasing. GRETA considers that the Austrian authorities should take additional measures to ensure that THB cases are investigated proactively, prosecuted effectively, and lead to effective, proportionate and dissuasive sanctions. In this context, the Austrian authorities should encourage the specialisation of prosecutors and judges to deal with human trafficking cases and provide systematic and mandatory training on THB and on trafficking victims’ rights, trauma and protection needs.

The Austrian authorities have observed that the recruitment of victims of THB has shifted to the internet and social media, which make it possible for traffickers to identify and recruit their victims remotely, avoiding direct physical contact with them, and enabling a digital exchange of criminal proceeds. LEFÖ-IBF carries out online outreach work using social platforms in order to reach out to different target groups (au pairs, domestic workers, 24-hour care givers). In 2023, additional funding was provided to the Federal Crime Office’s Joint Operational Office for Combating Migrant Smuggling and Human Trafficking to investigate THB offences facilitated by ICT. Further, Cyber Crime Competence Centres were set up at the Criminal Intelligence Service and all regional Public Prosecutor’s Offices. GRETA welcomes these measures and considers that the Austrian authorities should invest further in capacity building and digital tools to conduct proactive investigations and identify victims of human trafficking recruited and/or exploited online.

No progress has been made in respect of developing a comprehensive system for data collecting related to THB. GRETA considers that the Austrian authorities should continue developing a comprehensive system for the collection and analysis of data on measures to protect and promote the rights of victims of THB, which should ensure the participation of all relevant actors.

The 30-day recovery and reflection period for victims of THB remains regulated in an internal decree of the Ministry of the Interior. While a decree is an important tool, GRETA considers that it is not sufficient for the purposes of implementing Article 13 of the Convention and once again urges the Austrian authorities to implement without further delay its long-lasting recommendation by enshrining in law the recovery and reflection period as provided in Article 13 of the Convention.

According to data provided by specialised NGOs, the overwhelming majority of compensation claims filed by trafficking victims in criminal proceedings have not been granted and only a few compensation awards have been effectively received. Further, the number of victims of THB who applied for compensation from the state and were granted such compensation remains low. GRETA once again urges the authorities to make additional efforts to guarantee effective access to compensation for victims of THB, in particular by instructing prosecutors to systematically request compensation on behalf of victims as part of criminal proceedings, and providing additional training to prosecutors and judges on the issue of compensation.

Finally, GRETA welcomes the steps taken to apply the non-punishment provision in practice, and considers that they should continue their work on the preparation of a guidance on the application of this provision, and provide training to law enforcement officials, prosecutors and judges.

## General information on trafficking in human beings in Austria (covering the period from 2020 until 22 November 2024)

<p>Entry into force of the Council of Europe Convention on Action against Trafficking in Human Beings</p> <p>Evaluations by GRETA</p>	<p>1 February 2008</p> <p><a href="#">First evaluation report</a> (published on 15 September 2011)  <a href="#">Second evaluation report</a> (published on 12 October 2015)  <a href="#">Third evaluation report</a> (published on 9 June 2020)</p>
<p>Co-ordination of action against THB</p>	<ul style="list-style-type: none"> <li>• National Co-ordinator on Combating Human Trafficking: Ambassador Georg Stillfried (Federal Ministry for European and International Affairs)</li> <li>• <a href="#">Task Force</a> on Combating Human Trafficking</li> <li>• Task Force working groups on Child trafficking, Sexual services and Trafficking for the purpose of labour exploitation</li> <li>• Working group on human trafficking of the City of Vienna</li> <li>• Regional (<i>Länder</i>) anti-trafficking co-ordinators</li> </ul>
<p>National rapporteur</p>	<p><a href="#">Task Force</a> on Combating Human Trafficking (equivalent mechanism)</p>
<p>Specialised bodies and NGOs</p>	<ul style="list-style-type: none"> <li>• Federal Crime Office's Joint Operational Office for Combating Migrant Smuggling and Human Trafficking</li> <li>• LEFÖ-IBF</li> <li>• MEN VIA</li> <li>• Platform against Exploitation and Human Trafficking</li> </ul>
<p>National strategy/action plan</p>	<p><a href="#">6th National Action Plan 2021-2023</a>  7th National Action Plan 2024-2027</p>
<p>Relevant legislation</p>	<ul style="list-style-type: none"> <li>• Criminal Code (section 104a criminalises human trafficking)</li> <li>• Victims of Crime Act</li> <li>• Code of Criminal Procedure</li> <li>• Security Police Act (<i>Sicherheitspolizeigesetz</i>)</li> <li>• Asylum Act (section 57 provides for a residence permit for THB victims)</li> </ul>
<p>National Referral Mechanism (NRM)</p>	<p><a href="#">Guidelines for identifying and dealing with of potential child victims of trafficking</a></p> <p>There is no NRM for adult victims.</p>
<p>Trafficking profile</p>	<p>Austria is primarily a country of destination and transit for trafficked persons, and to some extent also a country of origin. The most frequent form of exploitation is sexual exploitation of women and girls, followed by labour exploitation of men and women, domestic servitude (which concerns mostly women), exploitation of criminal activities and forced begging.</p>



## I. Introduction

1. Austria was amongst the first countries to ratify the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") and has been in the first group of Parties to be evaluated by GRETA under each evaluation round.

2. Over the years, the Austrian authorities have taken a series of steps to develop the legislative and institutional framework for action against trafficking in human beings (THB), as well as to strengthen co-ordination between relevant actors and international co-operation. This includes amendments to criminal law and the Victims of Crime Act, the adoption of an internal decree of the Ministry of Justice and a circular by the Federal Chancellery on the non-punishment provision, as well as an internal decree of the Ministry of the Interior on how to proceed in cases of THB. The authorities regularly adopt comprehensive national action plans for combating THB which reflect new trends and take into account GRETA's recommendations. The composition of the Austrian Task Force on Combating THB, which co-ordinates and steers national anti-trafficking action, has gradually been expanded, and a working group on trafficking for the purpose of labour exploitation was established in 2012. Further, a specialised support centre and shelter for male victims of THB was set up. Practical guidelines on identifying presumed child victims of THB were developed in 2016. However, after three rounds of evaluation, GRETA concluded that there were continuing gaps in certain areas, in particular data collection on THB, the setting up of a formalised National Referral Mechanism involving a range of frontline actors who may come into contact with victims of THB, victims' access to compensation, and enshrining in law the recovery and reflection period.

3. On the basis of GRETA's third report, on 12 June 2020 the Committee of the Parties to the Convention adopted a recommendation to the Austrian authorities, requesting them to inform the Committee within a two-year period of measures taken to comply with the recommendation.<sup>2</sup> The report submitted by the Austrian authorities was considered at the 30th meeting of the Committee of the Parties (14 June 2022) and was made public.<sup>3</sup>

4. On 4 July 2023, GRETA launched the fourth round of evaluation of the Convention in respect of Austria by sending the questionnaire for this round to the Austrian authorities. The deadline for submitting the reply to the questionnaire was 3 November 2023 and the authorities' reply was received on 13 November 2023.<sup>4</sup>

5. An evaluation visit Austria took place from 10 to 14 December 2023 in order to hold meetings with relevant governmental and non-governmental actors, collect additional information and examine the practical implementation of adopted measures. The visit was carried out by a delegation composed of:

- Ms Helga Gayer, President of GRETA;
- Mr Sergey Ghazinyan, Second Vice-President of GRETA;
- Ms Petya Nestorova, Executive Secretary of the Convention;
- Mr Roemer Lemaître, Administrator in the Secretariat of the Convention.

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<sup>2</sup> <https://rm.coe.int/cp-rec-2020-03-aut-en/16809eaf17>

<sup>3</sup> <https://rm.coe.int/report-submitted-by-austria-on-measures-taken-to-comply-with-committee/1680a6fac4>

<sup>4</sup> <https://rm.coe.int/greta-2023-11-aut-q4-en-rep-with-appendices/1680adde40>

6. During the visit, the GRETA delegation met the National Anti-trafficking Co-ordinator, Ambassador Georg Stillfried, and members of the Austrian Task Force on Combating Human Trafficking. Amongst the officials met by GRETA were representatives of the Federal Chancellery, the Federal Ministry for European and International Affairs, the Federal Ministry of Justice, the Federal Ministry of the Interior (including the Federal Criminal Police Office, the Federal Office for Immigration and Asylum, and the Financial Intelligence Unit), the Federal Ministry of Labour and Economy (including the Federal Labour Inspectorate), the Federal Ministry of Social Affairs, Health, Care and Consumer Protection, the Federal Ministry of Finance, the Federal Agency for Reception and Support Services (BBU), and the Agricultural and Forestry Inspectorate of Lower Austria. Further, the delegation met officials from the City of Vienna (Human Rights Office and other relevant departments) and the Regional Government of Carinthia, as well as other relevant agencies in Carinthia. Discussions were also held with members of the Human Rights Advisory Council of the Austrian Ombudsman Board.
7. The GRETA delegation held separate meetings with non-governmental organisations (NGOs) and trade unions.
8. Meetings were also held with representatives of the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR).
9. In the course of the visit, the GRETA delegation visited a federal reception centre for asylum seekers in Ossiach, Carinthia.
10. The list of the national authorities, NGOs and other organisations with which the delegation held consultations is set out in Appendix 3 to this report. GRETA is grateful for the information provided by them.
11. GRETA wishes to place on record the co-operation provided by the Austrian authorities and in particular by the contact person appointed to liaise with GRETA, Mr Wolfgang Spadinger, Director for border issues and the fight against trafficking in human beings at the Federal Ministry for European and International Affairs.
12. The draft version of the present report was approved by GRETA at its 51st meeting (1-5 July 2024) and was submitted to the Austrian authorities for comments. The authorities' comments were received on 15 October 2024 and were taken into account by GRETA when adopting the final report at its 52nd meeting (18-22 November 2024). The report covers the situation up to 22 November 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 2.

## II. Overview of trends and changes in the legislative, institutional and policy framework for action against human trafficking

13. Austria continues to be primarily a country of destination and transit for trafficked persons, and to some extent also a country of origin. Data on victims of trafficking continues to be collected separately by the police and by each of the two specialised NGOs providing assistance to victims (LEFÖ-IBF to female victims, MEN VIA to male victims), applying different criteria and with varying availability of disaggregation (see the table in Appendix 1). The number of victims identified by the police as part of criminal investigations<sup>5</sup> has remained relatively stable during the reporting period (about 120 per year), with the exception of 2020 when fewer victims were identified due to the COVID-19 pandemic. While the most frequent form of exploitation remains sexual exploitation of women and girls, there has been an increase in the identification of male victims and victims of THB for the purpose of labour exploitation. Most of the victims originated from Nigeria, Romania, Bulgaria, Iraq (due to a large-scale case of labour exploitation identified in 2022, see paragraph 71), Serbia, Philippines and Hungary. Further, a small number of Austrian victims was identified (1 woman in 2020, 9 women in 2021, 2 children in 2022).

14. As regards **emerging trends of trafficking in human beings**, the Austrian authorities have indicated that after the COVID-19 pandemic, many establishments of the sex service industry remain closed and services of sex workers have shifted to the illegal sector (hotels, flats and escort services). As a result, the legal provisions regulating prostitution are being circumvented. Criminals have been moving their recruiting and contacting activities to the internet and social media, making the identification of victims and their referral to support more difficult. Child trafficking and the exploitation of children for pickpocketing, shoplifting, begging and drug-related crimes is another area of concern. Further, seasonal agricultural and construction workers suffer from precarious working conditions.

15. There have been no **legislative changes** to the offence of THB in section 104a of the Austrian Criminal Code (CC). Other changes made to the CC since 2019 do not specifically relate to this section but can have an impact on combating THB as they alter the penalties for particular acts of violence, which may include THB. Such changes include, *inter alia*, the extension of aggravating circumstances in section 33, paragraph 2, of the CC as well as the amendment of section 39a (which applies to cases in which the perpetrator intentionally committed an offence by using violence or making dangerous threats). Further, the "persistent use of force" according to section 107b of the CC was amended by partly enhancing the penalty. Moreover, the Protection against Violence Act 2019, which entered into force on 1 January 2020, introduced far-reaching changes for the protection from, and prosecution of, acts of domestic and gender-based violence that also apply to victims of THB. The Austrian authorities have also referred to the "Hate on the Net" legislative package 2, which entered into force on 1 January 2021.<sup>6</sup> Some of the measures contained in it, such as the expansion of psychosocial and legal support in proceedings to children, could be relevant to victims of THB.

16. The **institutional framework** for combating THB has remained unchanged. The Task Force on Combating Human Trafficking (hereafter, "Task Force"), set up under the Federal Ministry for European and International Affairs, continues to co-ordinate the anti-trafficking activities of stakeholders across Austria. It brings together relevant ministries, agencies, the federal provinces (*Länder*), social partners and specialised NGOs. The Task Force continues to meet about five times per year (usually four times in Vienna and once a year in one of the *Länder*). Depending on the agenda of the meetings, additional NGOs are invited, such as the Austrian Platform against Exploitation and Human Trafficking.<sup>7</sup>

<sup>5</sup> The Police Criminal Statistics cover victims identified during investigations under section 104a of the CC ("trafficking in human beings) and section 217 of the CC ("trans-border prostitution trade").

<sup>6</sup> The "Hate of the Net" legislative package is a comprehensive set of measures aimed at curbing hate speech, threats and other illegal content on large social medial platforms.

<sup>7</sup> For more information, see: <http://gegenmenschhandel.at/>

17. The three permanent working groups of the Task Force, respectively on sexual services,<sup>8</sup> trafficking for the purpose of labour exploitation, and trafficking in children, have continued their work. A non-permanent working group on the preparation of the 7th National Action Plan held a number of meetings in 2023. Another working group, on future perspectives, was envisaged by the 6th National Action Plan (2021-2023), but its setting up has been postponed to the 7th National Action Plan. A study on the status of human trafficking was commissioned by the Ministry of the Interior to the Ludwig Boltzmann Institute at the end of 2020 in order to support the preparation of the 6th National Action Plan and inform the activities on the working group on future perspectives, but it was not published. Regardless of that, a kick-off meeting of the new working group is expected to take place in early 2025.

18. The Task Force fulfils the role of monitoring and evaluation and submits reports on the implementation of measures against THB to the Government and Parliament. It fulfils the role of "equivalent mechanism" to National Rapporteur on THB. The Austrian authorities have indicated that they are looking at examples of other countries which have created the position of an independent National Rapporteur on THB. However, they noted the need for a discussion on the added value of a National Rapporteur mechanism, taking into account the resources that would need to be allocated, and indicated that this would be on the agenda of the working group on future perspectives. Recalling its position on the need for a structural separation between monitoring and executive functions in order to have an objective evaluation of anti-trafficking law, policy and practice, GRETA stresses the importance of conducting an independent evaluation of the implementation of the Action Plan as a tool for assessing the impact of the activities and for planning future policies and measures to combat human trafficking. **GRETA considers that the Austrian authorities should examine the possibility of establishing an independent National Rapporteur or designating another existing mechanism for monitoring the anti-trafficking activities of state institutions, as provided for in Article 29, paragraph 4, of the Convention, or commissioning the monitoring to an external, independent evaluator.**

19. In December 2020, a new Federal Agency for Reception and Support Services (*Bundesagentur für Betreuungs- und Unterstützungsleistungen, BBU GmbH*) was put in charge of providing material reception conditions for asylum seekers. Since January 2021, the BBU has also been responsible for providing legal advice and legal representation, return counselling and return assistance, human rights monitoring, and interpretation and translation services.<sup>9</sup> In 2023, the BBU became a member of the working group on children of the Austrian Task Force of Combating Human Trafficking.

20. The Task Force is in charge of elaborating **National Action Plans** on Combating Human Trafficking. During the reporting period, the 6th National Action Plan on Combating THB (2021-2023) was implemented. The 7th National Action Plan (2024-2027) was approved by the Council of Ministers on 12 March 2024 and has started being implemented.<sup>10</sup> The Plan takes into account GRETA's previous recommendations, and comprises a total of 103 measures subdivided into chapters dealing with national and international co-ordination and co-operation, prevention, protection of victims, prosecution, and monitoring, research and future developments. Each measure has an indication of the agencies responsible for its implementation and indicators for measuring the implementation. There are measures addressing vulnerable groups, such as children, asylum seekers and persons with disabilities, as well as measures focusing on the inclusion of survivors of THB and the LGBTIQ+ community. The Plan foresees the creation of a group dealing with monitoring, data collection and research. Another noteworthy measure is the envisaged appointment of anti-trafficking co-ordinators in all regions.<sup>11</sup> Other measures contained in the new Plan are discussed in later parts of this report. It is also envisaged to examine the development of a strategy against THB. **GRETA welcomes the adoption of the new National Action Plan on Combating Human Trafficking, the process of its development through broad consultation, its comprehensive content and attention to new trends and risks.**

<sup>8</sup> The full name of the Working Group is "Sexual Services – Improving the framework conditions to prevent exploitation".

<sup>9</sup> [BBU GmbH - Services for people seeking protection](#)

<sup>10</sup> Available (in German) at: [Kampf gegen den Menschenhandel – BMEIA - Außenministerium Österreich](#)

<sup>11</sup> Currently, regional anti-trafficking co-ordinators have been appointed in the regions of Tyrol and Vorarlberg.

### III. Addressing vulnerabilities to trafficking in human beings

#### 1. Prevention of trafficking in human beings

##### a. Introduction

21. Prevention is crucial in combating trafficking in human beings. Article 5 of the Convention therefore requires States Parties to establish and/or strengthen effective policies and programmes to prevent THB in co-ordination between relevant public agencies, non-governmental organisations and other elements of civil society. Such policies and programmes should have a particular focus on persons vulnerable to trafficking and professionals concerned with trafficking in human beings, and shall include research, information, awareness-raising and education campaigns, social and economic initiatives and training programmes. In the development and implementation of prevention measures, States Parties are required to promote a human rights-based approach and to use gender mainstreaming and a child-sensitive approach, taking specific measures to reduce children's vulnerability to trafficking. Furthermore, Article 5 of the Convention requires States parties to take measures to enable migration to take place legally. In addition, Article 6 of the Convention places a positive obligation on Parties to adopt measures to discourage the demand that fosters all forms of exploitation of persons which leads to trafficking.

22. The Austrian authorities have indicated that women and girls, trans persons and migrants are among the groups of people who are at particular risk of becoming victims of human trafficking. Amongst these groups, the Austrian authorities pay particular attention to the vulnerabilities of sex service providers. In this context, the 6th National Action Plan contained, *inter alia*, the following measures: examination of the current situation of trans persons as victims of human trafficking in the context of sexual exploitation; continuation or establishment of working groups/round tables on human trafficking and the regulation of prostitution in the regions; and revision of the indicators for the identification of victims of human trafficking for the purpose of sexual exploitation. The 7th National Action Plan (2024-2027) also contains relevant measures, such as researching the situation of trans persons and LGBTIQ+ persons as victims of all forms of exploitation, including sexual exploitation, as well as a comprehensive and cross-agency focus on male victims of THB, particularly for labour exploitation but also for sexual exploitation.

23. Children and adolescents have been identified as a group at risk for becoming victims of THB and were therefore an important target group of the measures in the 6th National Action Plan. In the areas of prevention and victim protection, the measures included training for professionals on the subject of child trafficking as well as further development of information materials and guidelines for authorities and institutions dealing with potential victims of child trafficking. Some of the measures from the 6th National Action Plan, such as the establishment of a nationwide protection facility for child victims of trafficking, could not be implemented and have been carried over to the 7th National Action Plan. The new plan pays particular attention to child trafficking and contains a series of measures, including to sensitise school children to online security and THB, and to exchange on the online dimension of child trafficking.

24. The authorities have also acknowledged the vulnerability of workers (particularly migrant workers) in precarious sectors, including restaurants, domestic work (live-in caretakers, *au pairs*), construction, agriculture/seasonal work, and delivery services. The 7th National Action Plan contains a series of relevant measures (e.g. awareness raising, research on the impact of new forms of employment).

25. The experiences of victims of THB and at-risk individuals inform policies and practices aimed at preventing THB. For example, during the development of the multilingual information flyer "[Rights, Support, Security!](#)" on key indicators of human trafficking and labour exploitation, LEFÖ-IBF organised focus groups with victims to ensure that the text was simple and accessible to break language barriers and that the illustrations were understandable without the accompanying text to reach persons who have difficulty reading or cannot read. The experiences of victims and at-risk individuals also informed the prevention campaigns "[Be safe on the way!](#)" and "[Welcome to Austria! Stay Safe!](#)" targeting Ukrainian refugees.

#### **b. Measures to prevent the vulnerability of specific groups to trafficking in human beings**

26. This section examines the preventive measures taken with regard to certain vulnerable groups on the basis of the information provided by the Austrian authorities as well as non-state actors. GRETA underlines that not every individual belonging to one of these groups is vulnerable to trafficking *per se*, and there are usually additional vulnerability factors involved. The different groups selected should be viewed with due regard to the complexity and intersectionality of vulnerabilities to human trafficking.

##### *i. Children*

27. As noted above, the Task Force's Working Group on Child Trafficking, comprising representatives from federal ministries and agencies (including the BBU), the regions, civil society organisations, IOM and victim protection institutions meets several times a year. Its work is co-ordinated by the Austrian Federal Chancellery's Directorate General Family and Youth.

28. On 25 January 2023, the Austrian Federal Government adopted a comprehensive package of measures that aim to protect children and young people from violence, with a focus on sexual violence and abuse. While the package does not include specific actions on child trafficking, the adopted measures seek to create a protective environment for children that also leads to an improvement in the reporting of cases of abuse. It includes the following measures: changes in criminal law with regard to the possession and production of child pornographic material; expansion of individual sexual therapy services for sexual offenders; expansion of psychosocial aftercare for children and adolescents who have been victims of sexual abuse; expanding cyber investigations by specialists in the state criminal investigation departments; and a nationwide campaign to raise awareness and educate people about the right of children to be free from violence and strengthen children's rights. The adopted measures include the obligatory introduction of child safeguarding concepts with risk assessment in all federal schools (general and vocational secondary schools) for the prevention of all forms of violence and guidelines for behaviour in suspected cases and appropriate training for the school personnel, the support for the establishment of child safeguarding guidelines in institutions and leisure organisations dealing with children and young people and a federal quality ensuring office for the approval of their child protection guidelines.

29. With a view to developing children's life skills (including media literacy and online safety skills), knowledge and participation, the Federal Chancellery's Directorate General Family and Youth has set up the initiative "Safer Internet.at" and the Media-Youth-Info Centre, which work on improving media literacy and online safety skills of children (see also paragraph 149). In December 2023, this initiative started being used in asylum centres for unaccompanied or separated children. According to the authorities, media literacy is included in the curriculum of some middle schools.

30. Further, within the framework of the EU-project "Alert Actors Report", which was implemented by ECPAT Austria until 2021, measures were taken to raise awareness and optimise the existing reporting mechanisms for suspected cases of sexual exploitation of children in tourism,<sup>12</sup> as well as to develop quality standards for low-threshold reporting mechanisms in cases of sexual exploitation of children in the context of travel and tourism. In addition, information, training and education measures were provided to travellers, tourism experts, and companies in the tourism sector. ECPAT Austria also continues to develop the cross-border campaign "Don't look away!", which has been running for several years and includes awareness raising at domestic tourism schools and tour operators as well as public relations work. The campaign receives funding from the Federal Chancellery's Directorate General Family and Youth and the Federal Ministry for Labour and Economy's Directorate General Tourism.

31. Unaccompanied or separated children are a group particularly vulnerable to human trafficking. In 2022, 13 276 unaccompanied children<sup>13</sup> applied for asylum in Austria, of whom 11 613 disappeared.<sup>14</sup> Between January and September 2023, 4 946 unaccompanied children lodged asylum claims, and 4 715 children disappeared. In Carinthia, GRETA was informed that in 2023, some 1 000 children had disappeared; there were cases of children getting out of minivans, applying to asylum and then disappearing. Children go missing from asylum reception centres usually at the beginning of the procedure when they are still under the care of the federal authorities, before being transferred to the care of the *Länder*; as a consequence, the asylum proceedings are discontinued, and there is not much effort to trace their whereabouts. When a missing child is reported, a police report is filed and the child welfare service is informed, but in most cases, the necessary information (real name, date of birth) about the child is missing. In their comments on the draft GRETA report, the Austrian authorities explained that the previously mentioned figures relate to all asylum seekers who claimed to be children when applying for asylum. The authorities further indicated that some 75% of the asylum seekers had not been registered by any other Schengen or Schengen-associated country prior to arriving in Austria. According to the authorities, Austria serves as a transit country for unaccompanied children whose destination countries are, *inter alia*, Germany, France, the Netherlands, the United Kingdom or Sweden. In this connection, the authorities stated that none of the asylum-seekers claiming to be children had reappeared in Austria, suggesting that they had continued their migration journey.

32. In the City of Vienna, as of 30 November 2023, the Youth Department was responsible for taking care of 478 children (including 159 under the age of 14). The City of Vienna runs the Drehscheibe Centre, described in previous GRETA reports.<sup>15</sup>

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<sup>12</sup> ECPAT's reporting site: [www.nicht-wegsehen.at](http://www.nicht-wegsehen.at)

<sup>13</sup> Unaccompanied children are mostly coming from Syria, Afghanistan and some African countries.

<sup>14</sup> <https://www.asyl.at/de/wir-informieren/presseaussendungen/kind-ist-kind-550-schulklassen-voll-fluechtlingen-verschwunden/>; <https://www.ordensgemeinschaften.at/artikel/7321-symposium-kinderschutz-2022-verswinden-11-613-fluechtlingswaisen-spurlos>

<sup>15</sup> See paragraph 236 of the 3rd GRETA report on Austria.

33. Linked to the issue of disappearances of unaccompanied or separated asylum-seeking children is the absence of a nationwide uniform procedure for legal guardianship of unaccompanied children, creating a protection gap. The main reason for this situation is a dispute over the responsibility for unaccompanied children between the Ministry of the Interior, which is responsible for the initial reception, and the regions, which are responsible for long-term accommodation but refuse to pay for the accommodation and care until Austria is officially responsible for the asylum procedure, i.e. until the Ministry of the Interior has completed the admission procedure. Since child and youth welfare matters are within the competencies of the regions under Austrian law,<sup>16</sup> there is no federal authority which could take legal guardianship over unaccompanied children. During the admission process, unaccompanied children aged 14-18 (who are considered "responsible minors" under Austrian law) are in the care of the federal government. They are accommodated primarily at the federal reception centre in Traiskirchen and sometimes at the special care centre in Reichenau. As long as they are accommodated in these two centres, they are not provided with a legal guardian by the regional Child and Youth Services Authority (KJH), which only intervenes in special crisis situations and in the event of threat notifications. The children are thus largely left to their own devices. Unaccompanied children under the age of 14 are accommodated directly in care facilities under the responsibility of the regional KJH and, in principle, the KJH takes legal guardianship of these children. However, two regions (Lower Austria and Burgenland) are of the opinion that the federal government is also responsible for the care of children under the age of 14.

34. Unaccompanied children are housed in federal facilities for months, increasing the risk of violence, exploitation, and abuse of children. Without a legal guardian, the risk of human trafficking cannot be ruled out.<sup>17</sup> In 2021, because of poor treatment of children in the asylum system, the Ministry of Justice set up an independent child welfare commission which criticised the problem of the lack of legal guardianship of unaccompanied asylum-seeking children and recommended that the care for such children be urgently standardised throughout Austria.<sup>18</sup> According to the BFA, 21 of the 31 recommendations made in the commission's report have been implemented, and the funding for unaccompanied children increased after the report was published. However, the war in Ukraine has reportedly exacerbated the problem of legal guardianship. In May 2022, the Minister of Justice presented a draft for a nationwide uniform system of support for unaccompanied children at a child protection summit with the responsible state councils.<sup>19</sup> In their comments on GRETA's draft report, the authorities explained that two models are under consideration: the first proposes that the regional KJH would be entrusted by law with the legal guardianship of unaccompanied children from their first day in Austria, while the second suggests that the BBU would initially have legal guardianship of unaccompanied children and once the child enters the asylum process, legal guardianship would be transferred to the regional KJH. The constitutional competence in this matter has been clarified and is being discussed between stakeholders at the federal and regional level.

<sup>16</sup> The relevant provisions are sections 207, 209 and 211 of the Civil Code.

<sup>17</sup> <https://www.amnesty.at/themen/unbegleitete-gefluechtete-kinder-in-oesterreich/warum-unbegleitete-gefluechtete-kinder-in-oesterreich-dringend-besseren-schutz-brauchen/> (in German)

<sup>18</sup> [https://www.bmj.gv.at/dam/jcr:bd8d4f89-37d7-4aad-acd4-8ca6ff6a34f5/Kurzfassung\\_BerichtderKindeswohlkommission\\_13.Juli2021\(002\).pdf](https://www.bmj.gv.at/dam/jcr:bd8d4f89-37d7-4aad-acd4-8ca6ff6a34f5/Kurzfassung_BerichtderKindeswohlkommission_13.Juli2021(002).pdf) (in German)

<sup>19</sup> <https://www.diepresse.com/6138389/asylrechtsexperte-anzahl-verschwundener-fluechtlingswaisen-besorgniserregend> (in German)



35. GRETA was informed that the federal agency BBU operated 24 federal reception facilities, not all of which accommodated unaccompanied children. There are three reception facilities in the region of Carinthia (in Villach, Klagenfurt and Ossiach). GRETA visited the federal reception centre in Ossiach, which specialises in the accommodation of unaccompanied children and women with children during the refugee status determination procedure, while awaiting family reunification with members of their families who already reside in Austria. The capacity of the institution was 186 places and at the time of the visit it was accommodating 77 persons, around 80% of whom were children. Staff comprised 18 social workers, two nurses, a psychologist and two administrators; there were no cultural mediators. Some of the staff spoke languages spoken by the asylum seekers and interpretation could also be provided via a video interpreting service. The initial checks after arrival usually take around three to four weeks and during this time, staff pay attention to potential vulnerabilities, including THB. No such cases have been identified so far. In their comments on GRETA's draft report, the authorities indicated that a child protection "concept" was developed by the BBU together with UNICEF and other partners. They noted that as part of the development and implementation of this concept, child protection officers were trained in all federal reception facilities in which children are accommodated. Further, the authorities noted that there is a close co-operation between the BBU and the regional KJH, the aim being to minimise the length of the stay of unaccompanied children at federal reception facilities.

36. The Austrian authorities are taking a series of measures in order to reduce the vulnerability of girls and young women to forced marriage, which is a separate offence, but may be subsumed under the offence of human trafficking when the marriage leads to sexual or labour exploitation. According to studies on the prevalence of forced marriage in Austria, there are an estimated 200 cases per year, based on the number of victims that seek counselling from the specialised NGOs established in Graz, Vienna and Innsbruck.<sup>20</sup> A number of cases concern girls from the Roma community (see also paragraph 93). Reference can be made to the NGO "Orient Express" in Vienna, with a team of some 35 multilingual counsellors running a counselling centre, a national-wide Co-ordination Centre, co-funded by the federal authorities and the Women's Department of the City of Vienna, and a crisis shelter.<sup>21</sup> The BBU co-operates with the NGOs "Orient Express" and "Periferi"<sup>22</sup> to ensure swift action in cases involving young women and girls who have asylum or subsidiary protection status and are trafficked abroad by family members for the purpose of forced marriage, in order to provide them with the best possible support upon their return to Austria. More projects exist in other parts of Austria.<sup>23</sup> Additionally, a study is being carried out into the current situation on the issue of forced marriage (FORMA).<sup>24</sup>

37. The responsibility for implementing assistance measures regarding children at risk lies with the child and youth welfare offices of the regions. By way of example, GRETA was informed that in the Region of Lower Austria, in cases where the child's welfare might be endangered, at least two qualified social workers are legally obliged to clarify the circumstances of the case and subsequently provide a case assessment. If necessary, measures can be implemented immediately including removing children from their homes as a last resort. In these cases, the legal custody is temporarily transferred to the child and youth welfare services. The measure must be reported to the district court within eight days. The children can be placed in suitable institutions which offer care and support by pedagogical, psychological, social and further adequate professionals.

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<sup>20</sup> See GREVIO's first thematic report on Austria, GREVIO(2024)4, paragraph 109.

<sup>21</sup> [Frauenberatung | Orientexpress Wien | Österreich \(orientexpress-wien.com\)](https://www.orientexpress-wien.com)

<sup>22</sup> <https://www.periferi.at/ueber-uns>

<sup>23</sup> "Empowerment in cases of forced marriage and female genital mutilation", Counselling centre DIVAN in Graz, Counselling service in the western part of Austria ("*Verein Frauen aus allen Ländern*" in Innsbruck).

<sup>24</sup> [Projekt "FORMA" : Caritas Wien](#)

38. There are several measures in the 6th and 7th National Action Plans related to preventing child trafficking and providing relevant training. Information materials and brochures such as the folder "Child trafficking in Austria" and the "Guidance for professionals and institutions on how to identify and deal with potential victims of child trafficking" aim to educate professionals that potentially come in contact with victims of child trafficking and contribute to raising awareness among the general public. Workshops and trainings on the identification, treatment and care of child victims of trafficking are held on a regular basis for the police, the asylum and immigration authorities, and the competent child care institutions of the State and the regions. These training activities are held by the Federal Criminal Police Office as well as ECPAT, LEFÖ-IBF, MEN-VIA and IOM, together with experts in the field of children's rights.

39. In many parties to the Convention, an increase in the trafficking of children for forced criminality is observed. However, the Austrian authorities indicated in their comments on GRETA's draft report that the Criminal Intelligence Service has not detected any signs of such an increase in Austria. No research is currently being undertaken by the Ministry of the Interior in this area.

40. **GRETA urges the Austrian authorities to take further measures to prevent trafficking of children, in particular by:**

- **ensuring that all unaccompanied and separated children are placed in safe and appropriate accommodation, with adequately trained staff, and are appointed legal guardians as expeditiously as possible, to ensure that the best interests of the child are effectively protected;**
- **reducing the amount of time unaccompanied and separated children spend in federal reception centres.**

41. **Further, GRETA considers that the Austrian authorities should:**

- **continue providing training on trafficking in human beings to teachers, child welfare professionals and other professionals working with children;**
- **mainstream the prevention of child trafficking, including as part of media literacy;**
- **mainstream the prevention of child trafficking through the school curriculum, for example by including it in the existing school programmes for developing media literacy and children's life skills.**

*ii. Migrant workers*

42. In its second and third reports, GRETA outlined the steps taken by the Austrian authorities to prevent and combat THB for the purpose of labour exploitation, including the main legal provisions on the regulation of the labour market, the activities of the Task Force's Working Group on THB for the purpose of labour exploitation, the mandate of the Labour Inspectorate and the Financial Police, and the assistance provided to migrant workers.<sup>25</sup> Consequently, this report focuses on developments since 2020.

43. In order to prevent the exploitation of labour, the Ministry of Labour and Economy provides information on its homepage about the rights and obligations of employees.<sup>26</sup> The official Austrian migration website<sup>27</sup> contains all relevant information (in German and English) on migration law as well as information about living and working conditions of foreign nationals in Austria, including their rights and ways to claim and government offices or NGOs to contact.

<sup>25</sup> See paragraphs 61-70 of GRETA's 2nd report and paragraphs 205-218 to GRETA's 3rd report.

<sup>26</sup> [www.bmaw.gv.at](http://www.bmaw.gv.at).

<sup>27</sup> [www.migration.gv.at](http://www.migration.gv.at).

44. Furthermore, the Federal Ministry of Social Affairs, Health, Care and Consumer Protection financially supports two initiatives aimed at empowering vulnerable target groups in order to combat and prevent exploitation and human trafficking: UNDOK,<sup>28</sup> a counselling centre for undocumented workers, set up in 2014, which offers counselling in several languages, usually of the main countries of origin of foreign workers, and ASOBEM, a project which offers legal counselling for migrant workers in several languages (Bulgarian, Romanian, Russian and soon in Ukrainian and Arabic). Further, information on THB, including links to organisations (victim assistance and relief organisations, counselling centres), is provided on various websites.<sup>29</sup>

45. Austrian labour and social law provides a number of safeguards for migrant workers. The Act against Wage and Social Dumping (*Lohn- und Sozialdumping-Bekämpfungsgesetz*, LSD-BG) provides for equal wage conditions for all employees working in Austria, including employees posted or assigned to Austria. Compliance with these provisions is subject to wage inspections and violations are subject to administrative penalties. In addition, the platform for the posting of workers (*Entsendeplattform*) provides information on the obligations that an employer based abroad must observe.<sup>30</sup> All wage-related taxes (social security contributions and levies, wage tax, municipal tax, etc.) are checked as part of a monitoring process conducted by the Anti-Fraud Office of the Ministry of Finance and the Austrian Health Insurance Fund (ÖGK).<sup>31</sup>

46. Paragraph 2 of the Employment Contract Law Adjustment Act (AVRAG) and Section 1164a of the General Civil Code (ABGB) provide for the mandatory minimum contents of the employment contract. If the employer has not issued a corresponding employment contract or freelance contract, the employee or freelance worker is entitled to receive a service note (*Dienstzettel*) informing them about these contents. During the admission procedure of third-country workers, the labour market authority also examines if the employment contracts meet the standards of AVRAG.

47. If there is a suspicion of underpayment, the employee may confidentially contact the competent authority to initiate administrative penalty procedures. According to the LSD-BG, the competent authorities are the District Administration Authority (District Commission, City Magistrate, Magistrate or, in Vienna, the Municipal District Office), the Health Insurance Institution, the Construction Workers' Holiday and Severance Pay Fund (in case of construction work) and/or the Anti-Fraud Office (if the regular work place is in another state, i.e. in case of cross border secondment).

48. To protect temporary workers, the Austrian Temporary Employment Act (AÜG) contains comprehensive regulations on employment contracts, social insurance issues and employee protection as well as regulations to avoid adverse developments in labour market policy. In addition, the collective agreement of the temporary employment industry contains regulations on remuneration, working hours and termination.

49. The Austrian migration system offers various opportunities for lawful migration, e.g. for highly qualified workers, key workers, skilled workers in shortage professions (in 2023 the list of shortage professions contains 98 professions at the federal level and additionally 56 professions in several regions), but also for seasonal workers at all skill levels in the tourism sector, agriculture and forestry. Two bilateral agreements were signed, with India and the Philippines, which include provisions related to migrant worker protection and the prevention of THB.

<sup>28</sup> UNDOK is run by the Trade Unions, the Chamber of Labour (BAK), the Austrian National Student Union and civil society organisations.

<sup>29</sup> [www.bmi.gv.at](http://www.bmi.gv.at), [www.bundeskriminalamt.at](http://www.bundeskriminalamt.at), [www.gegen-menschenhandel.at](http://www.gegen-menschenhandel.at).

<sup>30</sup> The information is available in German, English, Hungarian, Polish, Slovenian, Slovak and Czech at: [www.postingofworkers.at](http://www.postingofworkers.at)

<sup>31</sup> <https://www.gesundheitskasse.at/cdscontent/?contentid=10007.846789>

50. The Act Governing Employment of Foreign Nationals (AuslBG) provides the legal framework for the prevention of unlawful employment. It is always the employer, not the employee, who is sanctioned in case of unlawful employment. Foreign nationals have the same legal rights towards their employer in Austria regardless of whether they have a valid employment contract or reside legally in the country. A change of employer is possible, but a new application for a labour market authorisation may be required for the purpose. In the context of the application, the wage and working conditions, including social insurance coverage as well as liability of the employers, are examined by the Public Employment Service (AMS). Seasonal workers admitted within the quota regime of seasonal permits in the tourism sector, agriculture and forestry can change employer without being restricted by that quota again.

51. All migrant workers, including those in unauthorised employment, have access to the majority of Trade Union services - such as legal enforcement - without having to be a member. According to the authorities, no trade union membership is required to enforce labour and social law claims. The previously mentioned project ASOBEM provides information and advisory services in different languages on labour and social law issues, including residence and work permits. Legal representation is provided to members of the Trade Unions. The main issues for which legal representation is provided include unpaid wages, overtime work, non-observance of minimum wages, and social dumping.

52. Employers of domestic workers must set out the essential rights and obligations arising from the employment relationship in writing and hand over to the domestic workers a copy of the Act Governing Domestic Help and Domestic Employees (HGHAG), as well as any applicable collective agreements or minimum wage tariffs. Live-in domestic workers must be provided with their own living space, which must comply with health, building and fire regulations and be such that the privacy of the domestic worker is not endangered. The HGHAG allows domestic workers to change employers at any time, only the observance of a notice period is required. Domestic workers automatically obtain a membership in the Chamber of Labour and can turn to the Ombud for Equal Treatment. Every year, the Ministry for European and International Affairs and the Ministry of the Interior organise a briefing session for domestic workers employed by diplomatic households, with the active participation of LEFÖ-IBF. GRETA was informed that the number of such workers had decreased from around 250 to 75. The current legal situation does not allow for targeted inspections of domestic workers' conditions and there is no centralised data collection on sanctions imposed for violations of the HGHAG.

53. In its second report, GRETA expressed concerns about the situation of workers categorised as "self-employed" who have no access to social protection and fall outside the safeguards of labour laws. The differentiation between self-employment and dependent work of non-EU/EEA workers is regulated via section 2, paragraphs 2 and 4, of the AuslBG. The assessment of whether the case is seen as dependent work or self-employment is based on the actual economic content rather than on the outer appearance of facts. An abuse of such legal constructions entails severe sanctions against the employer: administrative fines ranging from 1 000 to 10 000 euros per illegally employed worker and, when illegal employment occurs repeatedly, from 2 000 to 20 000 euros per illegally employed worker as well as, in exploitative circumstances (which constitute a criminal offence), prison sentences. Furthermore, it is provided that such employers can lose their trade license and be excluded from public tenders and subsidies. The sanctions also apply in cases of abusing subcontracting and posting of workers. However, according to NGOs and trade unions met by GRETA, the burden of proof of the employment relationship lies on the worker, and this should be reversed.

54. Unlike domestic workers, live-in care workers (referred to as “24-hour carers”) are mostly self-employed. There are around 800 recruitment agencies and some 60 000 care providers in Austria. A governmental certification body ÖQZ-24<sup>32</sup> for recruitment agencies provides a list of placement agencies that have voluntarily submitted themselves to a review in accordance with the guidelines of the Ministry of Social Affairs.<sup>33</sup> For certification, recruitment agencies undertake, among other things, to carry out quality assurance through home visits by qualified health and nursing staff at least once a quarter. Any relevant information for the caregiver must be provided in the caregiver’s native language. The Ministry of Social Affairs, Health, Care and Consumer Protection (BMSGPK) provides support to the CuraFAIR project, which is a contact point for 24-hour care providers in Vienna, Linz and Graz, and will be expanded throughout Austria, offering advice in a range of languages, including Romanian and Slovak. In their comments on GRETA’s draft report, the authorities indicated that additional CuraFAIR contact points had been established in Innsbruck and Klagenfurt. Further, the NGO Volkshilfe, with funding from BMSGPK, offers online supervision to help care providers overcome stressful situations. GRETA was informed that the National Council issued a motion for creating a professional profile for 24-hour carers (3202/A(E), which was sent to the Labour and Social Affairs Committee for preparation. According to this motion, the certification of recruitment agencies has not had the desired effect, as certification is voluntary, and it is estimated that a maximum of 20% of 24-hour carers work for certified agencies. Moreover, there is no effective inspection of the working conditions of 24-hour carers (see paragraph 58).

55. In its third report, GRETA urged the Austrian authorities to expand the mandate of labour inspectors to enable them to play a frontline role in the prevention of THB for the purpose of labour exploitation and the identification of victims.<sup>34</sup> There have been no changes to the mandate of labour inspectors, which continues to be limited to supervising the protection of the health and safety of employees, including adherence to working hours and the employment of children and young people; they do not investigate cases of labour exploitation. That being said, human trafficking and labour exploitation is integrated in the training of labour inspectors, which includes a list of indicators for the identification of victims of labour exploitation and a list of counselling facilities for victims of trafficking. Labour inspectors are obliged to report suspected cases of THB to the Federal Criminal Police Office’s which runs a human trafficking hotline (which enables public officials and citizens to report indications of THB by phone or email).<sup>35</sup> GRETA was informed that there are some 300 labour inspectors throughout Austria and that interpreters and cultural mediators are not used during labour inspections. However, inspectors with different cultural backgrounds and knowledge of foreign languages are being hired.

56. There is a separate Labour Inspectorate for construction work (only for Vienna and parts of Lower Austria). Further, Agriculture and Forestry Inspectorates are set up by the respective regional governments, which supervise occupational health and safety as well as wages. There can be interviews with the workers and sometimes Google Translator is used, but in case of complaints, an interpreter will be engaged in co-operation with NGOs. GRETA was informed that some four years previously there was a case in Lower Austria involving the exploitation of migrants in the field of construction. Following this case, the IOM included relevant topics in the training of labour inspectors.

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<sup>32</sup> <https://oeqz.at/guidelines>.

<sup>33</sup> See paragraph 218 of GRETA’s 3rd report.

<sup>34</sup> Public officials and citizens can report indications of THB by phone or email.

57. The Financial Police is an investigation and control unit of the Anti-Fraud Office of the Ministry of Finance which performs a range of tasks related to combating tax evasion and social fraud, including the inspection of employment contracts and collective agreements, on-site checks to detect unlawful employment, and combating wage and social dumping in the posting of workers. When migrant workers without residence or work permits are detected, the inspectors are instructed to check if there is an indication of trafficking and inform the criminal police for further action. The Ministry of Finance provides annually a three-day training on THB and exploitation, aimed at operational staff. A total of 267 participants have taken part in 13 training courses since 2009. The Financial Police has at its disposal a list of interpreters and cultural mediators developed by the Ministry of Finance.

58. Since 2007, the Social Security Agency for the Self-employed (SVS) has been carrying out announced home inspections on behalf of the Ministry of Social Affairs, Health, Care and Consumer Protection for the purpose of quality assurance for individuals receiving financial assistance for 24-hour-care. According to the authorities, the aim of these inspections is to support those in need of care as well as their relatives and to ensure the quality of home care throughout Austria. Around 13 500 home visits took place in 2023. The results of the inspections regularly show that the care and support provided are of good quality care. However, these results have been criticised because announced visits allow for adequate preparation, potentially distorting the results. For this reason, a pilot project was carried out in Vienna and Tyrol in February-September 2019, in which unannounced home inspections were conducted in 548 households. In their comments on GRETA's draft report, the authorities indicated that since the results of the pilot project showed that there were no differences between the regular announced home visits and those unannounced, the project will not be continued.

59. According to the Austrian authorities, there is close co-operation between labour inspectors, the Financial Police, social insurance institutions as well as immigration and crime investigation units of the federal police for conducting proactive workplace inspections in all economic sectors, with a particular emphasis on high-risk sectors. For example, co-operation takes place in the context of the Joint Action Days (JADs) organised by Europol once a year. Joint inspections are not common and there is an official secrecy in carrying out the work. However, under the Act of the Chamber of Labour, the latter can carry out visits together with the Labour Inspectorate. There are no NGOs involved in the inspections, but in cases of possible trafficking, specialised NGOs such as LEFÖ, UNDOC and MEN VIA will be informed. There are some joint inspections with the police on construction sites.

60. In its third report, GRETA urged the authorities to address the risks of THB in the agricultural sector. The Working Group on trafficking for the purpose of labour exploitation dedicated three meetings to this topic in 2021 and set up a sub-working group to address labour exploitation in the agricultural sector. Austria also participated in the European Labour Authority (ELA) campaign "Rights4allSeasons" in 2021.

61. Another problem identified at the meetings of the Working Group in 2020-2021 was the significant lack of information among au pairs about their rights in Austria, which increases their vulnerability to labour exploitation. An information brochure for au pairs, available in a range of languages,<sup>36</sup> was published in 2021. There is a minimum wage for au pairs which is updated annually. Third-country nationals need visas to work as au pairs and the employer needs to register them and provide a contract which specifies the number of free days and working hours. The visa is issued first for six months and if they participate in German and Austrian culture classes, it is extended.<sup>37</sup>

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<sup>36</sup> The leaflet was translated into Russian and English, and the European Labour Agency funded the translation into seven other languages.

<sup>37</sup> The top country of origin of au pairs in January-October 2023 was Columbia (157), followed by Brazil (93), Madagascar (92) and Mexico (81).

62. In 2021 the Working Group on trafficking for the purpose of labour exploitation focused on recruitment agencies. IOM and ILO drafted guidelines for people who were contacted by private recruitment agencies. The policy was pursued quite effectively but there might still be some gaps. Illegal placement or recruitment is being fined. Following the discussion in the WG, the impression of the IOM is that the role of private recruitment agencies is not quite understood. More efforts are needed to study the field of the practices.

63. A new study conducted by the European Migration Network on behalf of IOM was published in March 2024. It examines the unlawful employment of third-country nationals in Austria in the period from 2017 to 2023. According to its findings, the number and proportion of identified cases of alleged unlawful employment of third-country nationals have risen sharply. The spectrum of violations is wide and can range from underpayment and other forms of wage and social dumping to human trafficking. The main sectors concerned are catering and tourism, agriculture and forestry, and construction. Another area of risk that has stood out in recent years is delivery services, where there are hardly any prevention mechanisms. The Financial Police have also been increasingly noticing new risks in other sectors, for example security services, event management or demolition work. Unlawful employment usually does not take place directly with large companies, but via subcontractors. In recent years, there has been an increase in the posting of third-country nationals to Austria via other EU Member States. Asserting and enforcing the rights of unlawfully employed third-country nationals is seen as a key challenge, as they make little use of existing mechanisms. Even though employees cannot be punished for unlawful employment, there may be consequences under immigration law that make it considerably more difficult to assert or enforce their rights.<sup>38</sup>

64. While welcoming the range of measures put in place in Austria to protect migrant workers, GRETA notes that there are a number of remaining gaps and new challenges. **Referring to GRETA's Guidance Note on combating trafficking for labour exploitation<sup>39</sup> and the Council of Europe Committee of Ministers Recommendation to Member States CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation,<sup>40</sup> GRETA considers that the Austrian authorities should take further steps to prevent THB of migrant workers, in particular by:**

- **providing training on trafficking in human beings to all officials who supervise the working conditions of migrant workers, including the Labour Inspectorate for construction work, the Agriculture and Forestry Inspectorates, and the Social Security Agency for the Self-employed, and issuing clear reporting requirements in case of detecting presumed cases of THB;**
- **ensuring that sufficient staff and resources are made available to the agencies supervising the working conditions of migrant workers, including interpreters and cultural mediators, in order to enable them to carry out proactive inspections in at-risk sectors;**
- **increasing the legal protection of 24-hour care providers, including by developing the conditions under which access to private households can be granted for labour inspection, and the legally binding certification of recruitment agencies;**
- **strengthening the provision of legal migration pathways to reduce vulnerabilities to THB;**

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<sup>38</sup> Prisca Ebner, Unlawful employment of third-country nationals in Austria, European Migration Network and IOM Country Office for Austria, October 2023.

<sup>39</sup> <https://rm.coe.int/guidance-note-on-preventing-and-combating-trafficking-in-human-beings-1680a1060c>.

<sup>40</sup> <https://rm.coe.int/booklet-preventing-and-combating-trafficking-in-human-beings-for-the-p/1680aa08ef>.

- **disseminating the information leaflet for au pairs in the main countries of origin of au pairs;**
- **continuing to raise awareness amongst employers and migrant workers about the risks of THB for the purpose of labour exploitation and the rights of victims of trafficking and where to access support, as well as on workers' rights under labour laws.**

*iii. Asylum seekers and refugees*

65. According to UNHCR, 112 272 asylum applications were received in 2022 in Austria. Most of them came from Afghanistan, India and Syria. In 2023, a total of 59 232 asylum applications were received. In 2023 the average duration of the asylum procedure at first instance amounted to 5.5 months, compared to 3.5 months in 2022. The sharp drop after 2017 (average duration of 14 months) is a result of the broader application of fast-track procedures.<sup>41</sup>

66. The examination of each asylum case happens within the framework of an individual procedure before the Federal Office for Immigration and Asylum (BFA), which is a department of the Ministry of the Interior. In addition to the requirements for asylum, the system also checks whether the person in question is to be granted subsidiary protection or a residence title for other reasons as set out in Article 57 of the Asylum Act. Current information on the situation in countries of origin is closely monitored and taken into account. In case of an appeal against a decision of the BFA, the obligation to leave the country is reviewed by the Federal Administrative Court (BVwG) in addition to the need for protection. The BFA is obliged to abide by the court's decisions and must implement them once the decision is legally binding.

67. Since 2021, the Federal Agency for Reception and Support Services (BBU) is in charge, *inter alia*, of providing legal assistance to asylum seekers at first and second instance. GRETA was informed that, in practice, access to legal assistance is not available in the first instance of the asylum procedure. In December 2023, the Constitutional Court issued a decision declaring that the central legislative act of the BBU was not in accordance with the Austrian Constitution. The Court found that the independence of legal advice for asylum seekers is only laid out in the form of a contract between the Agency and the Ministry of the Interior, but is not adequately guaranteed by law, which is why the right to an effective legal remedy has to be further strengthened in law. The Constitutional Court ruled that the legislative bodies have until 1 July 2025 to introduce new legal regulations.<sup>42</sup>

68. Reference should be made to Supreme Court judgment VfGH e1070/2022<sup>43</sup> which overruled the decision of the Federal Administrative Court not to grant international protection to a Nigerian woman who had been trafficked first to Italy and then to Austria, where she applied for international protection in 2016. After she was returned to Italy under the Dublin Regulation in May 2017, she was forced into prostitution again and travelled back to Austria in February 2020. The Supreme Court pointed out that the Federal Administrative Court had itself acknowledged that the complainant belonged to a group at risk of stigmatisation (namely "women who have returned to Nigeria after having freed themselves/been freed of THB"), which is precisely where the "clearly defined identity" of the group manifests itself, as it is obviously viewed as different by the society in which it is located. In its judgement, the Supreme Court made specific reference to the EASO Guidance on membership of a particular social group.<sup>44</sup>

<sup>41</sup> [Regular procedure - Asylum Information Database | European Council on Refugees and Exiles \(asylumineurope.org\)](https://asylumineurope.org/)

<sup>42</sup> Ibidem.

<sup>43</sup> [https://www.ris.bka.gv.at/Dokumente/Vfgh/JFT\\_20221129\\_22E01070\\_00/JFT\\_20221129\\_22E01070\\_00.html](https://www.ris.bka.gv.at/Dokumente/Vfgh/JFT_20221129_22E01070_00/JFT_20221129_22E01070_00.html)

<sup>44</sup> [EASO Guidance on membership of a particular social group](#)



69. GRETA refers to the final observations of the UN Committee against Torture (CAT), issued in May 2024,<sup>45</sup> which noted with satisfaction the efforts made by Austria to respond to the large influx of asylum seekers and migrants in an irregular situation arriving in its territory, but was concerned about reports alleging that the authorities had acted in breach of the principle of *non-refoulement* in some instances. In particular, the Committee was concerned about the absence of a formal national mechanism to identify vulnerable asylum-seekers, such as victims of torture, trafficking and gender-based violence, upon arrival in reception centres, record any indications as to their claims and provide them with support services. Civil society organisations met by GRETA raised concerns about the lack of a systematic procedure for identifying vulnerable persons (including victims of THB) in the asylum system, despite training provided by IOM to asylum officials, legal counsellors, social workers and return counsellors since 2014. In 2022, this training was incorporated in the basic curriculum of new asylum officials of the BFA. It includes a handbook on the identification of trafficked persons in the context of asylum, with a list of indicators and contact information for referrals (see paragraph 108).

70. According to the Austrian authorities, upon arrival at a federal reception facility, applicants for international protection undergo an initial interview and medical examination, undertaken, *inter alia*, to identify potential vulnerabilities and human trafficking cases. The authorities indicated that these interviews are conducted in the applicant's native language, with medical professionals assessing psychological well-being and providing crisis intervention as needed. Within 72 hours, a second interview gathers more information on vulnerabilities, and the applicants are reportedly informed about available support services. The federal reception facilities are routinely inspected, through announced and unannounced visits, alongside an internal monitoring system established within the Federal Ministry of the Interior.

71. As noted in GRETA's third report on Austria, access to work and education during the asylum procedure is severely limited and many asylum seekers become self-employed.<sup>46</sup> At the time of GRETA's fourth visit to Austria in December 2023, a large-scale case involving some 230 asylum seekers from Iraq who had been in bogus self-employment was undergoing criminal and labour court proceedings, with charges of THB, tax and social fraud. The asylum seekers were sent to work on different jobs (security staff at sports events and shopping centres, cooks, truck drivers, gas station attendants) by a company registered by an Austrian and a German national. The perpetrators abused the position of vulnerability of the asylum seekers, threatening to report them to the asylum authorities. They worked up to 17 hours per day and were paid 9.50 euros per hour, from which they had to pay tax and social insurance. The exploitation went on from 2018 to June 2022 when the NGO MEN VIA got in contact with some of the men following media reports. The police identified 57 of the men as victims of THB (see also paragraphs 106 and 138). It is noteworthy that some of the men had complained to the Chamber of Labour but had been turned down because they were self-employed. UNDOK was providing legal assistance to the workers to help them claim back wages from the insolvency fund. Many of the workers had debts with the self-employed workers social security. Criminal proceedings into this case are ongoing.

72. GRETA refers to the European Committee of Social Rights 2019 report on Austria, which highlighted the difficulties faced by refugees and those entitled to subsidiary protection to access adequate, safe and affordable housing. Once asylum is granted, refugees are entitled to benefits under basic welfare support, including accommodation, for an additional four months. However, in practice there are various hurdles (e.g., income from employment or several years of main residence at the same address as a prerequisite).<sup>47</sup> The UNHCR noted that since August 2019, according to an amendment of the Public Housing Act, third-country nationals generally need to demonstrate more than five years of residence in Austria and to have passed an integration exam including German language requirements to be granted public housing support.<sup>48</sup>

<sup>45</sup> [tinternet.ohchr.org/\\_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2749&Lang=en](https://tinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2749&Lang=en)

<sup>46</sup> See paragraph 72 of GRETA's 3rd report on Austria.

<sup>47</sup> <https://rm.coe.int/stn-rev-esc-11-bericht-bundesarbeitskammer/1680aa17e4> (German)

<sup>48</sup> [https://www.unhcr.org/dach/wp-content/uploads/sites/27/2019/05/AT\\_UNHCR\\_Analyse\\_WGG\\_2019.pdf](https://www.unhcr.org/dach/wp-content/uploads/sites/27/2019/05/AT_UNHCR_Analyse_WGG_2019.pdf)

73. Following Russia's full-scale invasion of Ukraine on 24 February 2022, some 200 000 Ukrainians arrived in Austria, predominantly women and children, of whom some 70 000 remain in the country. According to UNHCR, the response of the authorities, in partnership with civil society, was effective. LEFÖ-IBF prepared flyers and posters in Ukrainian, Russian and English,<sup>49</sup> which were distributed in all organisational units of the BFA and were included on the BFA homepage in order to reach the largest possible target group of Ukrainian displaced persons.<sup>50</sup> Information for Ukrainian refugees is available on various government websites.<sup>51</sup> Temporary protection ensures access to the labour market, education and medical care, and the right to temporary residence has been prolonged until 4 March 2026. In their comments on the draft GRETA report, the authorities indicated that Vienna operates the largest arrival centre for Ukrainians in Austria, which is open 24/7 for new arrivals. Placement in long-term accommodation in Vienna's basis service is carried out on a case-by-case basis. There is an option to stay in asylum accommodation centres, but GRETA was informed that there were no vacant places in Vienna and the surrounding areas. While social protection is granted, the amount paid (440 Euro per month for an adult) is not sufficient to cover the needs of Ukrainian refugees. According to a survey carried out by IOM amongst Ukrainians, it is hard to receive basic care and start working. Though there were suspicious cases, none of them were confirmed as THB.

74. **GRETA considers that the Austrian authorities should take further measures to prevent vulnerabilities to trafficking in human beings of asylum seekers, in particular by:**

- **establishing a procedure for the identification, as early as possible, of victims of THB amongst asylum seekers, and their referral to specialised assistance and protection;**
- **ensuring access to legal assistance and representation for asylum seekers at all stages of the international protection proceedings;**
- **facilitating greater access to the labour market, vocational training and German language courses for asylum seekers, to prevent them from becoming vulnerable to exploitation and THB;**
- **ensuring access to decent accommodation for asylum seekers and refugees.**

*iv. Vulnerabilities related to the gender dimension of human trafficking and of persons engaged in prostitution*

75. According to information provided by the Austrian authorities, the budget for the Federal Chancellery's Directorate General for Women and Equality for the advancement of women more than doubled between 2019 and 2023. A large part of the funds is allocated to the protection and prevention of violence against women and against a culture of tolerance towards violence against women. Numerous preventive and protective measures have been and are being implemented, such as the nationwide expansion of counselling centres on sexual violence, the substantial budget increase for violence protection facilities, and the implementation of comprehensive awareness-raising activities on violence against women. In addition, measures are being taken to combat gender discrimination and strengthen the financial autonomy of women and girls to improve the underlying problems of gender inequality and female poverty. Further, general counselling centres for women and girls are set up throughout Austria. These facilities also provide comprehensive advice on topics such as education or the labour market. They also offer help in cases of violence and, if necessary, establish contact with a violence-specific counselling centre. The support services in Austria are available to all women, regardless of their origin, cultural background or mother tongue. GRETA refers to the first thematic evaluation report on Austria (2024) of the Group of Experts on Combating Violence against Women (GREVIO), which stresses the need to "step

<sup>49</sup> [Be safe on the way! - LEFÖ \(lefoe.at\)](https://www.lefoe.at/)

<sup>50</sup> <https://www.bfa.gv.at/news.aspx?id=4B41624452766E4C4D64413D>

<sup>51</sup> [Information for Ukrainian citizens \(oesterreich.gv.at\)](https://www.oesterreich.gv.at/)

up efforts to eradicate prejudice, gender stereotypes and patriarchal attitudes in Austrian society, and make primary prevention of violence against women a priority in future action plans and measures, including through awareness-raising campaigns” and to “set up further sexual violence referral centres in an even geographical distribution”.<sup>52</sup>

76. In Austria sex work is regulated by the regions. From a labour law point of view, sex service providers are regarded as self-employed, regardless of their actual working conditions. Nevertheless, under tax law and/or social security law, they can be classified as employees on the basis of their actual working conditions. In practice, this leads to legal uncertainty.

77. The Ministry of Health is responsible for organising health checks of sex workers at the beginning of their registration for sex work and subsequently once every six weeks. These obligatory health checks are perceived by some sex workers as degrading and discriminatory. Discussions are underway to lift the obligation to undergo a health check every 6 weeks and leave it to each sex worker to decide when to do a check-up.

78. In addition to the Task Force’s Working group on sexual services, which is chaired by the Federal Chancellery’s Directorate General for Women and Equality, regional working groups or round-tables have been set up and meet periodically in most regions, except for Vorarlberg. Their aim is to develop measures to improve the living and working conditions of sex service providers, to strengthen their rights and thus to counteract the risk of exploitation. The information brochure "Sex Work-Info" has been developed and translated into eight languages, providing comprehensive information about rights and available assistance.<sup>53</sup>

79. There are eight counselling centres for persons providing sex services. These centres provide assistance in various areas, including employment, housing, health and addressing issues of violence and exploitation. Further, these counselling centres conduct outreach work to provide support, including identifying potential cases of violence or exploitation, as well as assessing whether the person is willing to report such incidents. In their comments on GRETA’s draft report, the authorities indicated that funding for these counselling services, sourced from the Federal Chancellery’s Directorate General for Women and Equality, was increased in 2024.

80. As noted in paragraph 14, the COVID-19 pandemic resulted in a shift of sexual services to hotels, flats and escort services. As a result, the legal provisions regulating prostitution are being circumvented, increasing vulnerabilities to THB and exploitation. The issue was discussed in the Working Group on Sexual Services, which made recommendations on, *inter alia*, amending the legislation. The recommendations made by the Working Group concern the need to harmonise the legal regulations and their enforcement across regions while adjusting the legal framework in the regions to allow for a wider variety of legal workplaces, which would enhance sex workers’ choices about their working conditions. An additional recommendation is the provision of accessible and transparent information for sex workers, including guidance on the benefits of legal work and the risks of working in illegality. Raising client awareness of the advantages of legal work and fair working conditions is another recommendation. GRETA did not receive an update on the follow-up of these recommendations.

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<sup>52</sup> See GREVIO’s First Thematic Evaluation Report on Austria, GREVIO(2024)4, paragraphs 41 and 46.

<sup>53</sup> [Prostitution - Federal Chancellery of Austria \(bundeskanzleramt.gv.at\)](https://www.bundeskanzleramt.gv.at)

81. The Directorate General for Women and Equality of the Federal Chancellery and the Ministry of the Interior have been funding the specialised NGO LEFÖ-IBF which provides comprehensive outreach work, counselling and assistance to female victims of trafficking, the majority of whom were subjected to sexual exploitation (see the table in Appendix 1). In all its measures, LEFÖ-IBF follows an empowering approach and accompanies women and girls on their way to a self-determined and dignified life. The focus lies on social inclusion in all its dimensions - especially language, work and social integration, which are essential for this process. In 2021, its budget was increased by 50% and the contract was extended, enabling, for example, nationwide outreach work in the digital space and the expansion of support for women with disabilities and trans women and girls (see also paragraphs 114-115).

82. NGOs which are members of the Platform against Exploitation and Human Trafficking carry out a range of outreach activities for persons engaged in prostitution, including research and support to exit prostitution. However, there are obstacles related to their lack of knowledge of German or status as asylum seekers (i.e. limited possibilities for work other than self-employment).

83. GRETA refers to the Concluding observations of the UN Committee on the Elimination of Discrimination against Women (CEDAW) on the ninth periodic report of Austria, which welcomed Austria's efforts to improve its institutional and policy framework aimed at accelerating the elimination of discrimination against women and promoting gender equality, but noted with concern the structural violence and exclusion faced by foreign women in prostitution, in particular those in an irregular situation, and the lack of measures to provide exit programmes and alternative income-generating opportunities to women who wish to leave prostitution.<sup>54</sup> In their comments on GRETA's draft report, the Austrian authorities disagreed with this last point, indicating that victims of THB (including those exploited in prostitution) who hold a temporary residence permit in accordance with section 57 of the Asylum Act may be issued work permits for any kind of work without a labour market test. For such victims, the Public Employment Service, in co-operation with LEFÖ-IBF, offers special counselling services for labour market integration. Further, the authorities have highlighted that counselling centres for persons providing sex services (see paragraph 79) provide support and information to persons who wish to leave sex work.

84. Trans persons can be vulnerable to sexual exploitation. GRETA was informed that there are around 50 trans persons providing sex services in Austria. No cases of THB amongst trans persons have been reported. In October 2022 the Human Rights Office of the City of Vienna and the Vienna Anti-Discrimination Office for LGBTIQ Affairs held a joint meeting with relevant partners on the topic of "Investigating the current situation of transgender persons as trafficked persons in the context of sexual exploitation". The results of the meeting were forwarded to the Task Force on Human Trafficking. In addition, the Vienna Anti-Discrimination Office for LGBTIQ Affairs has undertaken a number of measures, including the distribution of the information leaflet for persons providing sex services to queer counselling centres in Vienna, and sensitisation of queer counselling centres in Vienna to the issues of sex work and trafficking in human beings. Furthermore, the City of Vienna Women's Department funds the project TransR for trans sex workers.

**85. GRETA welcomes the steps taken by the Austrian authorities to address the vulnerabilities related to the gender dimension of human trafficking, and considers that they should continue taking measures to counteract the risks of THB and exploitation of sex service providers, through legislative improvements, information and awareness raising aimed at eliminating sexual and gender stereotypes, and by supporting migrant, refugee and asylum-seeking women to access vocational training, education and employment.**

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<sup>54</sup> See UN Committee on the Elimination of Discrimination against Women (CEDAW), Concluding observations on the ninth periodic report of Austria, CEDAW/C/AUT/CO/9, p. 7.

v. *Persons with disabilities*

86. Persons with disabilities<sup>55</sup> are not expressly mentioned in the Council of Europe Anti-Trafficking Convention, but their vulnerability to human trafficking is documented in reports issued by GRETA and other international bodies. Amongst the factors which render persons with disabilities vulnerable to THB are dependence on caregivers or support systems, limited access to information and resources, difficulty communicating or advocating for themselves, stigma and discrimination, as well as lack of or limited access to the labour market and decent work.<sup>56</sup> Reference can also be made to the Committee on the Elimination of Discrimination against Women' (CEDAW) General recommendation No. 38 (2020), which states that women and girls with disabilities are a group particularly vulnerable to being trafficked, and calls on States to provide them with special economic and social support.<sup>57</sup>

87. The situation of victims of THB with mental and/or physical disabilities in Austria is an issue of concern that has been raised by the specialised NGOs and is also reflected in the 6th and 7th National Action Plans. According to the 6th Plan, the Federal Ministry of Social Affairs, Health, Care and Consumer Protection was working on the improvement of the access to specialised residential facilities and care services for victims of human trafficking with disabilities, together with the regions and the victim protection organisations. The 7th Plan envisages to improve access to residential facilities for disabled people in the framework of the social assistance provided by the regions. The authorities informed GRETA that in October 2023 a meeting took place with social assistance representatives from all regions to address human trafficking of people with disabilities. The goal was to assess the situation and find ways to improve the placement of victims into suitable care facilities. Based on the feedback from the regions, the Federal Ministry of Social Affairs, Health, Care and Consumer Protection is now creating a document for victim support organisations. This document will outline the legal framework and provide contact details for relevant authorities in each region.

88. According to the authorities, there have been only a few THB cases involving victims with disabilities in Austria, and NGOs assist each year approximately three to four victims who have physical or cognitive impairments and/or mental illnesses, requiring specialised support and care. GRETA was informed that MEN VIA assisted one male victim and LEFÖ-IBF one female victim, both of whom needed permanent care due to mental and physical disabilities. However, after a period of time spent in the shelters, ensuring sustainable accommodation in accordance with the needs of the victims was challenging due to complex legal issues.

89. During a meeting with officials from the City of Vienna, GRETA was informed that trafficked persons with a disability can receive funding for services (such as assisted living, day structure and other psychosocial support) if they meet the general eligibility requirements of the Vienna Social Fund (FSW). The Counselling Centre for Persons with Disabilities of the FSW is in contact with the two specialised NGOs for victims of human trafficking. Staff members are also sensitised to the issue of human trafficking. If they are identified as victims of human trafficking and are cared for by a specialised victim protection institution (LEFÖ-IBF or MEN VIA), third-country nationals can receive assistance from the Vienna Refugee Aid even before receiving a residence permit, based on disability and special care or accommodation needs, in accordance with the Vienna Basic Supply Act (*Wiener Grundversorgungsgesetz*). This is not possible for EU citizens, including those with disabilities, as they do not fall within the target group of the Vienna Refugee Aid.

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<sup>55</sup> According to Article 1 of the UN Convention on the Rights of Persons with Disabilities, persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

<sup>56</sup> See OSCE, *Invisible Victims: The Nexus between Disabilities and Trafficking in Human Beings*, March 2022, p.16.

<sup>57</sup> CEDAW, [General recommendation No. 38 \(2020\) on trafficking in women and girls in the context of global migration](#), paras. 40 and 55.

90. Austria ratified the UN Convention on the Rights of Persons with Disabilities (including its Optional Protocol and inquiry procedure) in 2008. In its Concluding observations on the combined second and third periodic reports of Austria (28 September 2023), the Committee on the Rights of Persons with Disabilities welcomed, *inter alia*, the adoption of the National Action Plan on Disability for the period 2022–2030 and the Federal Act on Accessibility Requirements for Products and Services, which will enter into force on 28 June 2025. However, the Committee was concerned about the increased enrolment of pupils with disabilities in segregated schools, including at the kindergarten level. The Committee was also concerned about the high rates of violence against persons with disabilities, in particular persons with disabilities still in institutions, women and girls with disabilities and persons with intellectual and/or psychosocial disabilities, as evinced by a study of the Federal Ministry of Social Affairs, published in 2019. Further, the Committee noted with concern the serious shortcomings in the collection and publication of data on the situation of persons with disabilities across all areas of life, including health, education, employment and the justice system.<sup>58</sup>

**91. GRETA considers that the Austrian authorities should increase co-operation and co-ordination between relevant state and regional actors responsible for the care of persons with disabilities and ensure low-threshold, non-discriminatory access to services.**

**92. Further, GRETA invites the authorities to conduct research into the vulnerabilities of persons with disabilities to trafficking in human beings and develop preventive measures specifically aimed at this group.**

*vi. Roma community*

93. As noted in paragraph 36, a number of identified cases of forced marriage concern girls from the Roma community. Traffickers also exploit Roma children in forced begging and forced criminality. Further, there are women and girls from the Roma community coming from Hungary who work illegally as sex workers. In Carinthia, GRETA was informed of the case of a disabled Hungarian Roma girl, who was offered through social media for sex; the police managed to find the girl and referred her to LEFÖ-IBF for assistance, but after staying in their shelter for some weeks, the girl ran away and was later found to be sexually exploited in Budapest. Officials met by GRETA noted the difficulties in working with victims from the Roma community due to its “closedness”.

94. Austria has a National Strategy for the Inclusion of Roma which was last updated in 2017 with the close involvement of Roma civil society.<sup>59</sup> There is also a National Roma Dialogue Platform, and the Working Group on Child Trafficking is planning to have an exchange with them. Within the Federal Chancellery, there is a National Roma Contact Point for Austria implementing the EU Framework for the equality, inclusion and participation of Roma until 2023.

95. The Romano Centro<sup>60</sup> represents Roma from different groups working together to improve the living conditions of Roma and fight against discrimination. The focus of their activities is education and culture, but they also offer counselling and support services for social and legal issues. Since 2003, the Romano Centro offers counselling specifically for women. In 2022, a total of 84 women took advantage of Romano Centro's counselling and support services.

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<sup>58</sup> [CRPD/C/AUT/CO/2-3: Concluding observations on the combined second and third periodic reports of Austria | OHCHR](#)  
<sup>59</sup> [Roma-Strategie - Bundeskanzleramt Österreich](#)  
<sup>60</sup> [Romano Centro](#)

96. In its 2020 report, the European Commission against Racism and Intolerance (ECRI) noted positively the progress made in the educational inclusion of Roma children. The Roma school mediation and extra-curricular tuition provided by Roma NGOs in public schools was considered by ECRI as a good practice. In 2020, there were four mediators in Viennese schools financed partly by the Ministry of Education, the Ministry for Foreign Affairs and the European Social Fund. Regrettably, this programme could not be expanded due to lack of funds. Given the important role that Roma mediators have been playing, ECRI urged the Austrian authorities to institutionalise their functions and increase their number at schools across the country.<sup>61</sup> The ECRI report also noted that a negative factor for Roma integration was the limited and unequal access to employment. ECRI commended the steps taken to increase job opportunities for Roma through two consecutive targeted project calls on Roma-Empowerment in the Labour Market issued by the Federal Ministry of Labour, Social Affairs and Consumer Protection and financed by the European Social Fund (ESF). However, ECRI noted that while some aspects of the Roma Strategy yielded promising results, progress has been made primarily through targeted funding under the EU special funds.

**97. GRETA welcomes the measures taken to support the equality, inclusion and participation of Roma, and invites the Austrian authorities to mainstream the prevention of human trafficking in the policies and activities which are part of the National Strategy for the Inclusion of Roma, and to involve Roma NGOs in the design of measures.**

## **2. Measures to protect and promote the rights of victims of trafficking**

98. Chapter III of the Convention provides for a series of measures to protect and promote the rights of victims. In the first place, it is of paramount importance to identify victims of trafficking correctly as identification enables them to benefit from the other measures and rights contained in the Convention. Pursuant to Article 10 of the Convention, States Parties shall ensure that the authorities competent to identify victims of trafficking have persons trained and qualified to perform the identification, and that these authorities collaborate with relevant support organisations in the identification process. Further, Article 12 of the Convention sets out the assistance measures which States Parties must provide to trafficking victims. Paragraph 7 of this article requires Parties to ensure that services are provided taking due account of the special needs of persons in a vulnerable position as well as the rights of children. Given the relevance of victim identification and assistance to the thematic focus of the fourth evaluation round of the Convention, this part of the report examines the application of these two provisions. Other provisions of Chapter III of the Convention, which have been examined in detail by GRETA during the previous evaluation rounds, are discussed in the chapter of the report entitled "Follow-up issues".

### **a. Identification of victims of THB**

99. In its previous reports, GRETA urged the Austrian authorities to set up a formalised National Referral Mechanism (NRM) which involves a range of frontline actors who may come into contact with victims of trafficking, defines the procedures and their respective roles, and follows a multi-disciplinary approach.

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<sup>61</sup> [2020 ECRI REPORT](#)

100. No developments have taken place in this respect. The Ministry of the Interior internal decree referred to in GRETA's previous report, issued in 2018, gives police officers instructions on how to proceed in cases of human trafficking. This internal decree was revised with regard to the identification of victims of THB in relation to the start of the 30-day recovery and reflection period and published on 5 December 2023 (see paragraph 165). Police officers are required to notify all suspected cases of THB to the respective regional police department dealing with migrant smuggling and THB as the identification of victims lies within their competence. The decree states that the police should refer victims to the specialised NGOs (LEFÖ-IBF and MEN VIA), subject to the victims' consent. While some other authorities such as labour inspectors are instructed to inform the police of suspected cases of THB, they are not obliged to refer potential victims to specialised service providers. According to NGO reports, not all relevant authorities are obliged to inform the police of suspected cases of THB nor to refer victims to specialised assistance.

101. The Austrian authorities have referred to several initiatives intended to promote the identification of victims of THB, such as the anonymous national human trafficking hotline, and checks carried out by the police to identify perpetrators and victims in co-operation with the victim protection institutions and the child and youth welfare agency. As previously stressed by GRETA, the well-established co-operation between the police and specialised NGOs cannot be a substitute for a fully-fledged NRM defining the roles and responsibilities of all relevant actors, including immigration and asylum officials, labour inspectors, Financial Police, social workers, etc.

102. Different statistics on the number of identified victims of THB are provided by the police and the two specialised NGOs contracted by the federal authorities to provide assistance to victims of THB (see the table in Appendix 1). According to LEFÖ-IBF data, about one-third of the female victims referred to LEFÖ-IBF are detected by the police. In the second place, some 25% of the victims are detected by NGOs, followed by referrals from governmental agencies.

103. The identification of victims of THB is part of the basic training of police officers provided by the Federal Police Academy (SIK) since 2015 (see also paragraph 134). The content of the training is continuously evaluated and adapted as required. Border police officers are sensitised to THB in a variety of nationwide training courses at different levels. In the context of the training, educational videos produced by the Criminal Intelligence Service have been prepared.

104. As regards the identification of victims of trafficking through inspections of work places, it is not a core task for labour inspectors to proactively identify cases of THB, and no victims have been identified. Labour inspections prioritise sectors where there are risks of violations, such as construction and restaurants. A joint action day was organised together with the police in nail salons. There were no cases when inspectors were notified of THB in the field of agriculture. Further, checks of unlawful employment by the Financial Police have not led to the identification of victims of THB. In their comments on the draft GRETA report, the authorities stated that every year, the Financial Police in charge of certain aspects of controlling wage and social dumping of posted workers received a training course of THB in co-operation with SIK.

105. Reference has already been made in paragraph 71 to the large-scale case of labour exploitation which concerned around 230 Iraqi asylum seekers in bogus self-employment, some of whom were identified as victims of THB by the police. This is the largest single case on THB for labour exploitation detected so far, and the NGO MEN VIA, which is assisting the victims, noted the need for additional resources. However, MEN VIA still has no official intervention status, despite previous recommendations made by GRETA, and the funding provided to it by the federal authorities is granted on an annual basis, making it more difficult to provide proper follow-up of large cases (see also paragraph 116).



106. An important development during the reporting period is the introduction in June 2023 of a new chapter in the BFA binding instructions for the Dublin procedure (*Verbindliche Arbeitsanleitung "Dublin-Verfahren"*). It confirms that human trafficking is relevant for the Dublin procedure, even though it is not explicitly mentioned in the Dublin Regulation, and can be grounds for accepting a person into the national asylum system instead of transferring them to the country of the first asylum claim. Possible justification could include personal safety or supporting a criminal investigation. Officials are instructed to co-ordinate with the Criminal Intelligence Service. A trafficked person cannot be transferred during the recovery and reflection period (reference is made to case C-66/21 of the European Court of Justice).<sup>62</sup> An individual assessment must be made on whether the trafficked person would be likely to experience a human rights violation due to the transfer (e.g. re-trafficking). If no evidence is provided to the contrary, it is assumed that the country of first asylum is safe. Officials must make an individual prognosis of whether the trafficked person would experience a violation of Article 3 or Article 8 of the ECHR due to the transfer. Reference is made to specific guarantees to child victims of trafficking according to the Dublin Regulation. **GRETA welcomes these new instructions.** In their comments on GRETA's draft report, the authorities indicated that it is currently not possible to evaluate in how many cases the new instructions were applied to victims of trafficking during the asylum procedure.

107. In practice, trafficked persons are often not identified until the second instance of the asylum procedures, which can lead to issues related to the credibility of their claims. The fact that legal assistance is not available at the first instance is problematic.

108. Since 2014, the BFA has delivered training courses on how to recognise and deal with victims of trafficking, in co-operation with LEFÖ-IBF, MEN VIA and IOM. Since 2022, the training created by IOM on "Human Trafficking: Recognising Trafficked Persons in Asylum and Alien Law Proceedings" has been part of the BFA's educational training course. Participation in this training is mandatory for all new case officers.

109. GRETA has paid particular attention to the awareness of staff working in prisons and remand prisons about the issue of THB, due to the fact that some victims of trafficking might be detained/imprisoned as a result of the failure to carry out the identification procedure and apply the non-punishment principle. The in-service training for staff at police detention centres (*Personenanhaltzentren*) includes courses held by the Criminal Intelligence Service in Vienna in co-operation with LEFÖ-IBF and MEN VIA focusing on victim identification. The Austrian authorities indicated that there are an increasing number of remand prisoners who were allegedly engaged in THB or migrant smuggling. No information was provided on any training or sensitisation of prison staff to the issue of THB.

110. As regards the identification of victims of trafficking amongst diplomatic domestic staff, the authorities indicated that since 2022, there has been one case concerning the Embassy of Kenya and two concerning the Embassy of Saudi Arabia. In 2023 there were two more cases concerning service staff of a Vienna-based embassy. All cases have been dealt with by the Protocol Department of the Ministry for European and International Affairs together with LEFÖ-IBF and MEN VIA. The case concerning the Embassy of Kenya was formally initiated upon the victim's report. The proceedings were terminated in February 2023 due to diplomatic immunity and were suspended in August 2024, which prevented judicial action against the implicated diplomats in relation to the allegations. Nevertheless, the victim of this case had the possibility of converting her residence permit to one that offers a more secure legal status in Austria and access to support services, social integration programmes and resources for legal residents. While welcoming this, GRETA notes that the termination and suspension of the case raises significant concerns regarding the enforcement of anti-trafficking laws where diplomatic immunity creates barriers to justice. GRETA was not provided with information about the outcome of the other two cases.

<sup>62</sup> European Court of Justice C-66-21 20 October 2022; [O.T.E. vs Staatssecretaris van Justitie en Veiligheid](#) (Netherlands).

111. While welcoming the training provided and the attention to identifying victims of THB as part of Dublin procedures, GRETA is concerned by the continuing absence of an NRM in Austria. Consequently, **GRETA once again urges the Austrian authorities to set up without further delay an NRM which follows a multi-disciplinary approach to victim identification and involves a range of frontline actors who may come into contact with victims of THB, including labour inspectors, social workers, asylum staff, officials dealing with irregular migrants, prison staff, medical professionals, NGOs and trade unions, and defines their respective roles and responsibilities at all stages of the procedure.**

112. **Further, GRETA considers that the Austrian authorities should:**

- **pay increased attention to identifying victims of trafficking amongst asylum seekers and persons placed in immigration detention centres and prisons;**
- **ensure that a vulnerability assessment is systematically applied to all asylum seekers and that it includes the detection of possible indicators of THB.**

#### **b. Assistance to victims**

113. During the reporting period, the Austrian authorities have increased the funding provided to the two specialised NGOs (LEFÖ-IBF and MEN VIA) for assistance to victims of THB.

114. LEFÖ-IBF is funded by the Ministry of the Interior and the Federal Chancellery's Directorate General for Women and Equality.<sup>63</sup> In 2021 its contract was expanded to cover, among other things, online outreach work and targeted work with vulnerable communities, such as au pairs, 24-hour care givers and domestic staff in diplomatic households. Its funding is adjusted each year based on inflation and case numbers. It receives referrals of female victims of THB from state agencies, especially the police, and currently operates four shelters for female victims of THB (aged 15+), with 28 places, offering different levels of staff support, ranging from 24/7 intensive support to (semi)independent living. Since 2021 and within the concept of independent and sustainable living, LEFÖ-IBF offers 10 small apartments at fair rent prices to ensure that trafficked women do not remain longer than necessary in close care relationships. There is a constant rise in the number of presumed and identified victims receiving support, which reached 384 in 2022. Some of the victims have disabilities and it is hard to find accommodation after staying in a shelter. The services are also available to victims who have children. In accordance with section 25(3) of the Security Police Act, LEFÖ-IBF has a mandate to provide free and anonymous counselling to all female victims aged 15+. It is the only victim protection organisation authorised by the government to provide psychosocial and legal court support in cases of trafficking in women.

115. LEFÖ-IBF provides its entire range of services to trans women and girls, and is co-operating with the NGO Queer Base for counselling transgender persons. In addition, the support offered by the general counselling centres for women and girls in Austria is available to all women, regardless of their sexual orientation, and can put women in contact with eight specialised counselling services for LGBTIQ+ persons, which ensure comprehensive, free and anonymous counselling.

116. The Ministry of Social Affairs, Health, Care and Consumer Protection, the Ministry of the Interior and the Ministry of Justice fund the NGO MEN VIA, which is specialised in providing support to male victims of trafficking. MEN VIA receives annual funding of 480 000 euros. It operates a shelter which was recently expanded to support more victims. As noted in paragraph 105, MEN VIA has been dealing with a large-scale case of trafficking for labour exploitation, requiring additional resources.

<sup>63</sup> The Ministry of Justice also provides funding for the provision of legal assistance to victims.

117. There are several other NGOs providing services to victims of THB. SOLWODI runs a shelter with 10 places. Hope for the Future supports 25 victims, 6 of whom are male. None of these NGOs receive government funding.

118. In their comments on GRETA's draft report, the authorities stated that the decision to designate two specific NGOs for victim support (namely, LEFÖ-IBF for women and MEN VIA for men) is justified by the need to ensure high levels of protection for victims and specialised support. The quality of the services provided by these NGOs is ensured through regular monitoring and evaluation, which shows that both NGOs are working efficiently.

119. As regards support for the (re)integration of victims of THB, LEFÖ-IBF provides access to German language classes and further education and integration services in co-operation with Public Employment Service Austria. Since 2021 and with regard to the social (re)integration of victims, LEFÖ-IBF offers a Buddy Programme that aims to empower trafficked women and increase self-confidence and self-reliance by working with "buddies" who volunteer their time to talk, converse and communicate in German around the process of inclusion into Austrian society. Mentors/buddies regularly spend time with the trafficked women, including visiting cultural centres, playing sports or practicing German.

120. Further, the Diakonie pilot project "Readdress" (*Einstieg für Umstieg*), which is funded by the ESF, provides psychological assistance, housing and offers for job qualification to sex workers who want to pursue a change of profession and no longer wish to work in the field of sex work. In their comments on GRETA's draft report, the authorities noted that this pilot project does not cater to the specific needs of trafficking victims as not every sex worker is a victim of THB. According to civil society representatives met by GRETA, follow-up programmes providing integration support to victims of THB are lacking. There is a need for low-threshold German classes. Hope for the Future is participating in the EU-funded CERV project which focuses on job placement.

121. **GRETA welcomes the increase in the government funding for victim assistance and considers that the Austrian authorities should take additional steps to:**

- **give an official intervention status to MEN VIA and secure the long-term funding of its activities;**
- **when victims of THB are referred by state agencies to NGOs for the provision of assistance and services, ensure that adequate funding is provided to these NGOs, including those working outside Vienna;**
- **strengthen access to the labour market for victims of THB and their economic and social inclusion through the provision of vocational training, language courses and job placement, raising awareness among potential employers, and the promotion of micro-businesses, social enterprises and public-private partnerships with a view to creating appropriate work opportunities for victims of trafficking.**

### c. Identification of, and assistance to, child victims of trafficking

122. As noted in GRETA's third report, the responsibility for implementing assistance measures regarding child victims of THB lies with the child and youth welfare offices of the *Länder*. In 2016, Austria adopted "Guidance for identifying and dealing with potential victims of child trafficking,"<sup>64</sup> which was expected to fulfil the role of a National Referral Mechanism (NRM) for children. It provides non-binding guidance to relevant professionals, including a set of indicators to enable early identification of child victims and recommended actions for police, child and youth welfare services, asylum and immigration authorities, healthcare sector and detention authorities. According to civil society organisations, the Guidance is not well-known to relevant authorities across Austria and is not systematically followed. Information on identified child victims of THB is not collected in a centralised manner and the statistics provided to GRETA by the Austrian authorities refer to suspected cases of child trafficking in only two of the 10 federal states (Vienna and Tyrol).<sup>65</sup>

123. As part of the implementation of the 6th National Action Plan, the Task Force's Working Group on Child Trafficking started revising the Guidance with a view to taking into account new challenges, such as ICT, and the need for specific focus on asylum-seeking children (linked to the inclusion of the BBU in the Working Group). The work will be continued under the 7th National Action Plan. The goal is for this Guidance to form a partial basis for a fully-fledged NRM for child victims of THB, as foreseen in the National Action Plan. The Guidance will be used in future training.

124. In 2023, the Working Group on Child Trafficking updated and republished the information folder "Child Trafficking in Austria", which contains information on identifying and dealing with (potential) victims of child trafficking. The updated version of the current folder also includes information on potential victims of child trafficking from Ukraine.<sup>66</sup>

125. No progress has been made on the setting up of a nationwide specialised facility (shelter) for child victims of THB, which is one of GRETA's long-lasting recommendations. This measure was included in the 6th National Action Plan and the Working Group on Child Trafficking prepared a draft concept for a specialised shelter. The 7th National Action Plan envisages to continue the process of setting up a specialised shelter. For this purpose, the existing concept for a shelter for child victims of trafficking was revised in 2024 and is currently being examined by the Federal Ministry of the Interior. Technical support for the establishment of the protection facility will be provided as part of a project co-funded by the European Union via the Technical Support Instrument and implemented by the Council of Europe, which will run from 1 January 2025 for two years. In September 2024, the Criminal Intelligence Service Austria, in collaboration with the Federal Chancellery and the Working Group on Child Trafficking, held a two-day workshop entitled "Workshop Protection Facility – International Information Gathering for the Establishment of a Nationwide specialised facility for Child Victims of Trafficking" to discuss best practices for facilities dedicated to child victims of trafficking. The event featured experts from France and Portugal, along with contributions from the Netherlands and Belgium.

<sup>64</sup> *Handlungsorientierungen zur Identifizierung von und zum Umgang mit potentiellen Opfern von Kinderhandel*, available at: [https://www.bmeia.gv.at/fileadmin/user\\_upload/Zentrale/Aussenpolitik/Menschenrechte/Handlungsorientierungen\\_zur\\_Identifizierung\\_und\\_zum\\_Umgang\\_mit\\_potenziel....pdf](https://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Aussenpolitik/Menschenrechte/Handlungsorientierungen_zur_Identifizierung_und_zum_Umgang_mit_potenziel....pdf)

<sup>65</sup> In 2021, there were 6 suspected cases in Tyrol and 3 in Vienna; in 2022, 15 in Tyrol and 1 in Vienna; in 2023, 31 in Tyrol and 4 in Vienna.

<sup>66</sup> [https://www.bmeia.gv.at/fileadmin/user\\_upload/Zentrale/Aussenpolitik/Menschenrechte/Folder\\_Kinderhandel\\_Web.pdf](https://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Aussenpolitik/Menschenrechte/Folder_Kinderhandel_Web.pdf)

126. **GRETA considers that the Austrian authorities should:**

- **finalise the revision of the Guidance on identifying and dealing with possible child victims of THB and its formalisation into a National Referral Mechanism for child victims of human trafficking;**
- **continue providing training on the Guidance on identifying and dealing with possible child victims of THB to ensure that it is applied by all relevant professionals across the country;**
- **set up a specialised shelter for child victims of THB.**

### **3. Substantive criminal law and procedural law**

127. The Convention places on States 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. As the implementation of these provisions of the Convention was examined in detail by GRETA during the preceding evaluation rounds, given the focus of the fourth round, particular attention is paid to the notion of “abuse of a position of vulnerability” and its application in case-law. Further, GRETA has decided to examine as part of the fourth evaluation round the application of Article 19 of the Convention on the criminalisation of the use of services of victims of trafficking.

#### **a. Notion of “abuse of a position of vulnerability” in the law and case-law**

128. Abuse of a position of vulnerability is an integral part of the international legal definition of trafficking in human beings and is central to any understanding of trafficking.<sup>67</sup> It is one of the means by which trafficking acts are committed and is relevant to all forms of trafficking and all exploitative purposes. Abuse of a position of vulnerability occurs when “an individual’s personal, situational or circumstantial vulnerability is intentionally used or otherwise taken advantage of, to recruit, transport, transfer, harbour or receive that person for the purpose of exploiting him or her, such that the person believes that submitting to the will of the abuser is the only real or acceptable option available to him or her, and that belief is reasonable in light of the victim’s situation.”<sup>68</sup>

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<sup>67</sup> See UNODC Issue Paper *Abuse of a position of vulnerability and other “means” within the definition of trafficking in persons*, United Nations, April 2013, p. 3.

<sup>68</sup> UNODC [Guidance Note](#) on “abuse of a position of vulnerability” as a means of trafficking in persons in Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

129. Section 104a of the Austrian CC ("trafficking in human beings") includes "abuse of a position of vulnerability" (*Ausnutzung einer Zwangslage*) amongst the means used to commit human trafficking. As noted in GRETA's second report on Austria, the concept of vulnerability is not specifically defined in the CC. In the explanatory remarks to the Criminal Law Amendment Act 2002, a position of vulnerability is described as a serious pressure situation. It is not limited to economic distress alone, but can also be caused by, for example, a drug addiction, homelessness or fear of violence. The Austrian authorities have stated that in general, certain groups of people are considered to be specifically vulnerable, such as for example pregnant women and mothers of small children, minorities, migrants and refugees, homosexual people, children and elderly people, people with disabilities as well as homeless people. The abuse of vulnerability entails the intentional exploitation of these specific characteristics or circumstances. Examples of abuse of a position of vulnerability as a means used in THB offences mostly involve certain deficiencies in the lives of the affected persons. Indicative factors include the lack of a supportive family background, responsibility for caring for children or other relatives, lack of formal education, insufficient income, lack of access to information about the country of destination, false information about the rights in the country of destination, often intended to raise anxieties and mistrust towards the authorities there. In many cases the victims depend on the perpetrators to provide them with housing, food, etc. Adding the inability of the victims to speak German and their irregular status in Austria, their position of vulnerability is intensified.<sup>69</sup>

130. The particular vulnerability of the victim may be considered by the court as an aggravating factor for the offender's sentence, pursuant to sections 32 to 34 of the CC which prescribe the aggravating and mitigating circumstances.

131. By way of example, the Austrian authorities have referred to a case involving a girl and a young woman from Nigeria who were trafficked to Italy under the pretence of being able to do voluntary work in Europe. They were subjected to a "voodoo" ritual designed to intimidate them and keep them in a dependent relationship, and were forced to engage in prostitution in order to pay off the alleged debts incurred for their transportation. During the asylum procedure, they provided mostly false information, especially their years of birth, in order to be able to work in prostitution in Austria or to avoid the authorities' control as minors. The first accused had lured the victims to his apartment and referred them to brothels and private individuals or had sexual intercourse with them himself, taking advantage of their predicament. He was convicted of, *inter alia*, human trafficking in accordance with section 104a, paragraphs 1 and 5, of the CC and sentenced to a prison sentence of three and a half years. There was a partial acquittal of the charge under section 104a, paragraph 5, of the CC because the second victim was an adult at the time of the crime. GRETA notes with concern that the sentence does not appear to be proportionate to the seriousness of the facts.

132. There is no specific guidance in the sense of decrees or similar applying the concept of "abuse of a position of vulnerability". Even though section 57.1 of the Judges' and Public Prosecutors' Service Act provides for a general duty of all judges and public prosecutors to follow in-service training, it is considered that they cannot be mandated to follow training on specific topics. According to the Ministry of Justice, the national training programmes for prosecutors and judges address various forms and structures of violence, victim protection and hearings of traumatised victims (see also paragraph 141). There are also opportunities to participate in THB seminars organised by EU institutions.

**133. GRETA considers that the Austrian authorities should provide investigators, prosecutors and judges with training and sensitisation on the concept of "abuse of a position of vulnerability" to ensure that it is properly applied in practice (see also the recommendation in paragraph 142).**

<sup>69</sup> See paragraph 163 of GRETA's 2nd report on Austria.

## **b. Investigation, prosecution and sanctions**

134. The Federal Crime Office's Joint Operational Office for Combating Migrant Smuggling and Human Trafficking leads national efforts to investigate THB offences and co-ordinates with foreign law enforcement agencies. In each regional police office, there is a unit specialised on the investigation of offences of THB, cross-border prostitution trade and migrant smuggling. For example, at the time of GRETA's visit, the specialised police unit in Carinthia had 8 investigators, 4 of whom were women. Mandatory training on THB is provided by the Federal Police Academy (SIK) to all new police officers as part of the basic training. This includes each year two three-day seminars on THB, cross-border prostitution trade and victims' rights. Advanced in-service training is also provided.

135. Some of the regional Prosecutor's Offices have specialised prosecutors and some courts have specialised judges. In their comments on GRETA's draft report, the authorities indicated that the Regulation on the Act of Public Prosecution Service requires the heads of Prosecutor's Offices to group specific types of prosecutorial matters into single units when appropriate. However, not all regional Prosecutors' Offices have established special competences for THB.

136. The Austrian Financial Investigation Unit (FIU) is responsible for analysing information on money laundering and terrorism. Information is received from notaries, banks, etc. In case of a suspicion of THB, the information is reported to the police. In 2022, 31 analysis reports on THB were sent to relevant departments, and in 2023, 54 analysis reports. However, it was noted that banks find it difficult to identify red flags of THB.

137. The available statistics from the Ministry of Justice are limited and suggest that the number of investigations, prosecutions and convictions for THB under section 104a of the CC has been decreasing (see the table in Appendix 1). There were 43 investigations for THB (under section 104a of the CC) in 2019, 41 in 2020, 28 in 2021, and 41 in 2022. Prior to 2022, the data was not disaggregated into form of exploitation, but in 2022, there were 7 investigations for sexual exploitation, 10 for labour exploitation, 1 for child trafficking, and the remainder were for other forms of exploitation. As regards convictions for THB, there were 10 in 2019, 4 in 2020, 5 in 2021, 4 in 2022, and 1 in 2023. No information was provided to GRETA on the sentences.

138. Reference has already been made in paragraph 71 to the ongoing case concerning the labour exploitation of around 230 Iraqi asylum seekers. Following a preliminary investigation against three defendants on the basis of section 33, paragraphs 1 and 2(b) of the Financial Crimes Act, charges of THB were brought against two defendants. The main proceedings are still ongoing.

139. GRETA was also informed that in 2022, there was a conviction related to the exploitation of a Moroccan au pair. In their comments on GRETA's draft report, the authorities indicated that the convicted person had recruited through deception and housed several adults in Tyrol (Stams and Rietz) from September 2018 to November 2019. One of the defendants was sentenced to a custodial sentence subject to a probationary period of three years and an unconditional fine. Three victims were awarded 200 euros each and were referred to civil proceedings for the remaining claims. **In this context, GRETA refers to the recommendation made in paragraph 176.** The proceedings against the second defendant were initially dismissed and settled at the main hearing by diversion (payment of a fine and damages to two victims).

140. In Carinthia, GRETA was informed of an investigation into, *inter alia*, allegations of THB of Moroccan nationals subjected to labour exploitation in horse farms. Some 60 horse farms all over Austria were involved in this case. A group of Moroccans already residing in Austria invited other Moroccans to Austria on false promises. They ended up being exploited on horse farms and did not receive any payment. In May 2023, a criminal complaint was filed against one person for migrant smuggling and for aiding and abetting unauthorised residence against remuneration, resulting in a conditional custodial sentence and a fine. Two other persons faced charges for THB and aiding unauthorised residence; one of them passed away, while the other was acquitted for reasons related to evidence. Investigations into other stable owners also concluded with acquittals due to evidence considerations.

141. As already noted in paragraph 132, there is no compulsory further training for the judiciary in Austria. The Austrian authorities indicated that judges and prosecutors have the opportunity to participate in training events organised by international organisations and European training platforms such as the European Judicial Training Network (EJTN) or the Academy of European Law (ERA). According to the Austrian authorities, these trainings recently included the use of educational videos produced by the Federal Criminal Police Office in Vienna to illustrate the Austrian criminal law provisions on THB. For instance, one judge participated in the ERA training "Financial Investigation of Trafficking in Human Beings" in March 2023. The Federal Ministry of Justice supported the ERA project "Countering Trafficking in Human Beings: Measures to Tackle Impunity, Enhance Financial Investigations, Decrease Sexual Exploitation and Improve Victims' Protection" and included *inter alia* the one-and-a-half-day seminar in Vienna in December 2022 "Countering impunity by enhancing investigations into and the prosecution of THB". In their comments on GRETA's draft report, the authorities indicated that all training events on THB, both national and international, are advertised on the national electronic education management system and the intranet page of the Federal Ministry of Justice.

142. **GRETA considers that the Austrian authorities should take additional measures to ensure that THB cases are investigated proactively, prosecuted effectively, and lead to effective, proportionate and dissuasive sanctions. In this context, the Austrian authorities should encourage the specialisation of prosecutors and judges to deal with human trafficking cases and provide systematic and mandatory training on THB and on trafficking victims' rights, trauma and protection needs.**

### **c. Criminalisation of the use of services of a victim**

143. Section 205a of the CC criminalises a person: "1) who has sex with another person against that person's will (without any [further] violence or coercion); or 2) who exploits the victim's plight; or 3) who has gained the victim's consent after intimidation". The use of services related to sexual exploitation of victims under 16 years of age is criminalised by section 207b (1) of the CC, and of victims under 18 years, by sections 207b (2) and (3) of the CC. Customers of sex workers who are under 18 years of age are punishable under Section 207b (3) of the CC with up to three years of imprisonment.

144. Pursuant to Section 28c, paragraph 2, point 2 of the Act Governing the Employment of Foreign Nationals, a person who employs another person without the right of residence, of whom he/she knows that this person is a victim of THB, is to be punished with a prison sentence of up to two years for the use of the employee's forced work or services. In their comments on GRETA's draft report, the authorities referred to further legislation which according to them criminalises the use of services of a victim of THB. According to them, for the use of services regarding labour exploitation, criminal liability may arise under section 12 of the CC in conjunction with section 104a of the CC, or under section 116 of the Aliens Police Act in conjunction with section 28c (2) of the Act Governing the Employment of Foreign Nationals. Regarding exploitation for forced marriage, section 106a of the CC, which specifically addresses forced marriage, could apply as an alternative to section 104a of the CC. The use of services regarding exploitation for organ removal is punishable under section 12 in conjunction with section 85(2) of the CC, which addresses injuries resulting in permanent serious consequences.



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145. GRETA was not provided with examples of cases in which the above-mentioned legal provisions were applied in respect of users of services of victims of THB. GRETA notes that the use of services of adult victims of trafficking for the purpose of sexual exploitation, with the knowledge that the person concerned is a victim of trafficking, is not explicitly criminalised.

146. **GRETA considers that the Austrian authorities should adopt a legal provision criminalising the use of all services which are the object of exploitation as referred to in Article 4 of the Convention, with the knowledge that the person is a victim of THB.**

## **IV. Addressing human trafficking facilitated by information and communication technology (ICT)**

147. Countries monitored by GRETA have reported an increased use of information communication technologies (ICT) for recruiting and controlling victims of trafficking. In 2022, GRETA conducted a study to assess the extent to which technology impacts trafficking and explore the operational and legal challenges that states face in detecting, investigating and prosecuting online and ICT-facilitated trafficking.<sup>70</sup> As highlighted by the study, the impact of technology is particularly acute in relation to the recruitment and exploitation of victims, including their control throughout the different stages of the trafficking process. This study highlighted a number of challenges to the identification, investigation and prosecution of THB cases due to the high volume of online activities and the associated high volume of digital evidence, the use of encrypted communications, nicknames and aliases, and the time-consuming process of acquiring evidence from private companies and/or other jurisdictions. At the same time, anti-trafficking stakeholders are using technological innovations to prevent human trafficking, protect victims, and prosecute traffickers. It is therefore essential to invest in human capital and technological tools to harness the potential of ICT for effectively combating human trafficking.

148. The Austrian authorities have observed that the recruitment of victims of THB has shifted to the internet and social media, which make it possible for traffickers to identify and recruit their victims remotely, avoiding direct physical contact with them, and enabling a digital exchange of criminal proceeds. The perpetrators usually target victims in their own countries of origin or victims speaking the same language.

149. The Austrian Federal Chancellery's Directorate General Family and Youth promotes measures and initiatives to improve media literacy and to ensure that young people can learn to deal with the media in a conscious and critical manner. The Directorate General co-operates closely with other organisations in the field of media literacy, in particular with the Austrian Awareness Centre Saferinternet.at<sup>71</sup> which supports children, young people, parents and teachers in the safe, competent and responsible use of digital media. Saferinternet.at offers approximately 3 000 workshops annually, attracting approximately 60 000 participants. At the moment, there are 95 distinct leaflets and publications on various aspects of a secure internet usage and the enhancement of media proficiency. Saferinternet.at is part of the Safer Internet Centre Austria, which is the Austrian partner in the EU Safer Internet Network, together with Stoptime (a hotline for child sexual abuse and national socialist reactivation) and Rat auf Draht (a helpline for children, young people and their carers).

150. LEFÖ-IBF carries out online outreach work using social platforms (e.g. Facebook) in order to reach out to different target groups (au pairs, domestic workers, 24-hour care givers). Further, other NGOs (Herzwerk, SOLWODI, Light Up) organise awareness raising for children on safe use of social media.

151. Concerning co-operation with ICT companies and Internet service providers, including content hosts and social media, the authorities have indicated that in Austria, there is a dual system regulating advertising. On the one hand, there are legal provisions (Unfair Competition Act, CC, Pornography Act, Data Protection Act, etc.) and, on the other hand, there are self-restraining guidelines under the Ethics Code of the Advertising Industry (amended on 12.01.2021) pursuant to the Communication Austria Act (KOG). The Ethics Code<sup>72</sup> is the core element of the Austrian system for protecting consumers from advertising abuse and establishes general and specific rules of conduct for the advertising industry. Advertising for sexual services, as far as it is legally allowed, must not violate the dignity of people, especially of sex service providers.

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<sup>70</sup> Paolo Campana, Online and Technology-Facilitated Trafficking in Human Beings, Council of Europe: <https://rm.coe.int/online-and-technology-facilitated-trafficking-in-human-beings-full-rep/1680a73e49>, published in April 2022.

<sup>71</sup> <https://www.saferinternet.at/>

<sup>72</sup> [https://werberat.at/layout/ETHIK\\_KODEX\\_1\\_2021.pdf](https://werberat.at/layout/ETHIK_KODEX_1_2021.pdf)

152. In 2023, additional funding was provided by the Austrian Government to the Federal Crime Office's Joint Operational Office for Combating Migrant Smuggling and Human Trafficking to investigate THB offences facilitated by ICT. It monitors social media platforms and operates web-crawlers to detect suspicious advertisements. The authorities have stated that it is important to maintain close co-operation with various operators of internet platforms advertising sex workers. Furthermore, Austria regularly participates in joint EMPACT "HACKATHON" days of action against criminal networks that use websites, social media platforms and the Darknet to recruit victims for sexual exploitation.

153. Austria is also participating in the EU-funded project THB Liberi which is led by the German Federal Criminal Police Office. The project provides licences for a web-crawler, which is a search engine to find open-source intelligence on the internet and this reveals evidence that can be used in the court. It is an important tool to identify possible victims on the internet.

154. The Cyber Crime Competence Centre (C4) was set up at Criminal Intelligence Service Austria, which is part of the Federal Criminal Police Office.<sup>73</sup> It consists of investigation experts, IT forensics experts and technology experts, and is responsible for digital evidence recovery and analysis, investigation related to cybercrime and the co-ordination of the fight against cybercrime.

155. The Court of Audit recommended in its 2021 report that, in particularly affected jurisdictions, organisational frameworks within the relevant public prosecutors' offices should be established for specialised processing of cybercrime investigations, and that measures should be taken to ensure that the processing of large-scale cybercrime cases is brought together in one public prosecutor's office as quickly as possible. A pilot project was initiated in 2021 by the Association of Public Prosecutors and the Vienna Public Prosecutor's Office. Cybercrime competence centres were set up in 2022, in Vienna, Graz and Salzburg Public Prosecutor's Offices. Subsequently, the Ministry of Justice issued a decree in December 2022 to set up such centres at all Public Prosecutor's Offices, on a trial basis for a period of one year. In March 2023, there were 10 such competence centres in all regional Prosecutor's Offices.<sup>74</sup> However, GRETA was informed that they are still new and do not have capacity to deal with the volume of work (for example, there are only 3 persons in the competence centre of Vienna). It is planned to have more prosecutors specialised in cybercrime. Training was provided to cybercrime competence centres.

156. The annual seminar "Cybercrime" as well as the new "Basic Training Cybercrime" including in-depth modules such as "Social Media", "Investigations in the Darknet" and "Crypto Currencies" provide knowledge and technical understanding for prosecutors to prosecute crimes on the internet. The challenges of cross-border investigations and international co-operation are taken into account.

157. Austria has been a party to the Council of Europe Convention on Cybercrime (Budapest Convention) since October 2012 and has signed, but not yet ratified, its Second Additional Protocol on enhanced co-operation and disclosure of electronic evidence.

**158. GRETA welcomes the steps taken by the Austrian authorities to strengthen the capacity to detect and investigate cybercrime offences, and considers that they should develop further measures specifically aimed at preventing ICT-facilitated trafficking in human beings by investing in capacity building and digital tools to conduct proactive investigations. This should involve training of law enforcement officers, labour inspectors and financial police officers in the areas of Internet monitoring and online investigation, such as cyber-patrolling, undercover online investigation, and social network analysis, in order to identify victims of human trafficking recruited and/or exploited online.**

<sup>73</sup> <https://bundeskriminalamt.at/en/305/>

<sup>74</sup> <https://www.derstandard.at/story/2000144282424/regierung-verschaerft-strafen-fuer-cybercrime-delikte>

159. **Furthermore, GRETA invites the Austrian authorities to ratify the Second Additional Protocol to the Convention on Cybercrime on enhanced co-operation and disclosure of electronic evidence.**

## **V. Follow-up topics specific to Austria**

### **1. Data collection**

160. In its previous reports, GRETA urged the Austrian authorities to develop a comprehensive system for the collection and analysis of data on measures to protect and promote the rights of victims of THB. No progress has been made in this respect and data concerning victims of THB continues to be collected separately by different governmental bodies and NGOs, applying different criteria and collecting different data. Further, there is no standardised data on investigations, prosecutions, convictions and sentences, which is disaggregated by form of exploitation (see the table in Appendix 1).

161. Data collection on THB was identified as one of the areas where there is potential for more clarity and improvement in the context of the 6th and 7th National Action Plans for Combating Human Trafficking. According to the authorities, Austria has been participating in a joint system of data collection as well as a common database on THB with other EU countries since 2021, which requires all 27 EU Member States to collect data in a uniform way, using a three-pillar structure (NGO/police/judiciary) and to transmit it to the EU via a network of contact points (in the case of Austria, the National Statistics Agency "Statistics Austria").

162. In their reply to GRETA's draft report, the authorities stated that a meeting took place in December 2022 with representatives from the Federal Ministry for European and International Affairs, the Federal Ministry of the Interior, the Criminal Intelligence Service, the Federal Ministry of Justice, LEFÖ-IBF and MEN VIA. This meeting led to the assessment that the diverging figures in the statistics result from the fact that data is collected at different steps of the procedure. Thus LEFÖ-IBF and MEN VIA collect data on persons who may be victims of THB and who receive assistance, but some of them are subsequently not confirmed to be victims of THB. The authorities have stated that the police are the sole authority responsible for formally identifying victims, and their reported numbers constitute the official count of THB victims, overriding any differing data from other sources. The Federal Ministry of Justice reports on victims involved in court proceedings, which may lead to slight discrepancies with police figures due to the time involved in the legal process, meaning that victims may be counted in different reporting periods. The Austrian authorities have also stated that they have already addressed the issue of avoiding multiple counts by NGOs. Other issues, such as better inclusion of first responders other than LEFÖ-IBF and MEN VIA, are still on the agenda.

163. **GRETA considers that the Austrian authorities should continue developing a comprehensive system for the collection and analysis of data on measures to protect and promote the rights of victims of THB, which should ensure the participation of all relevant actors that can contribute to the provision of data, including NGOs and other service providers, law enforcement, immigration officials, labour inspectorates, health-care providers, prosecution services and others involved in the identification and registration of victims of trafficking, and the investigation and prosecution of human trafficking and related offences.**

## 2. Recovery and reflection period

164. In its previous reports, GRETA urged the Austrian authorities to enshrine in law the recovery and reflection period and ensure that it is systematically offered to presumed foreign victims of trafficking, including EU and EEA citizens, together with all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.

165. The 30-day recovery and reflection period for victims of THB remains regulated in an internal decree of the Ministry of the Interior, which was updated on 5 December 2023 in relation to the start of the recovery and reflection period. The decree reportedly states that the 30-day recovery and reflection period starts from the first contact if facts justify the assumption that the person is a possible victim of THB, or if there is a positive assessment of a reported case as defined in section 104a of the CC. During this period, pending administrative proceedings, for instance under the immigration legislation, shall be postponed, and, if necessary, resumed afterwards. The period implies a 30-day ban on the deportation of potential victims as defined in section 57, paragraphs 1 to 3, of the Asylum Act even if a measure terminating residence is in force. Reference has already been made in paragraph 106 to the amended BFA instructions for the Dublin procedure (*Verbindliche Arbeitsanleitung "Dublin-Verfahren"*), which affirm that a trafficked person cannot be transferred to another Member State during the recovery and reflection period.

166. The authorities have referred, by way of example, to two instances in which the Federal Administrative Court decided to release two potential female victims of human trafficking from detention and granted them a period of 30 days to decide whether they would like to make a statement on the indicated crimes.

167. GRETA is concerned that there is still no legal provision in Austria to guarantee a right to a recovery and reflection period. GRETA notes that in accordance with Article 13, paragraph 1, of the Convention, the recovery and reflection period must be explicitly provided for in internal law (i.e. not merely in an internal instruction or a handbook). As pointed out in GRETA's 2024 Guidance Note on the recovery and reflection period, having a clear legal basis for granting the recovery and reflection period creates legal certainty and consistency of application.<sup>75</sup> While a decree is an important tool, GRETA considers that it is not sufficient for the purposes of implementing Article 13 of the Convention. **Therefore, GRETA once again urges the Austrian authorities to implement without further delay its long-lasting recommendation by enshrining in law the recovery and reflection period as provided in Article 13 of the Convention. Officers performing identification should be issued with clear instructions stressing the obligation to systematically offer the recovery and reflection period to all presumed foreign victims of human trafficking, including EU and EEA citizens, together with all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.**

## 3. Compensation

168. In the third report, GRETA urged the Austrian authorities to ensure effective access to compensation for victims of trafficking. This should involve steps to ensure that the collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation of the victim, is part of the criminal investigations with a view to supporting compensation claims in court. Further, a procedure should be introduced through which victims are entitled to obtain a decision on compensation from the offender as part of the criminal.

<sup>75</sup> <https://rm.coe.int/guidance-note-on-recovery-and-reflection-period-group-of-experts-on-ac/1680b1a3ca>

169. In their report submitted in reply to the Committee of the Parties recommendation in June 2022, the Federal Ministry of Justice noted that there is a procedure in place through which victims are entitled to obtain a decision on compensation from the offender (section 67, paragraph 1, of the CPP). In terms of legislative or procedural changes, the Austrian authorities highlighted the removal of a procedural hurdle in connection with seizure (section 115, paragraph 1, subparagraph 3, of the CPP) in order to achieve standardisation of case-law and effective asset protections for victims. The report also referred to two cases provided by the NGOs LEFÖ-IBF and MEN-VIA which are intended to showcase best practices in the collection of evidence, including about financial gain from the exploitation of the victim and the duration of harm and pain for the determination of compensation, as well as examples of judgments in criminal and civil court granting compensation to victims of THB.

170. According to data provided by specialised NGOs, the overwhelming majority of compensation claims filed by trafficking victims in criminal proceedings have not been granted (e.g. 3 out of 40 claims were granted in 2020, 9 out of 44 in 2021, 9 out of 34 in 2022), and only a few have been effectively received (e.g. one in 2022, one in 2021). In the case of claims for compensation in civil proceedings (18 in 2020, 20 in 2021, 20 in 2022), none were reportedly effectively granted. Reference can be made to a judgment of a regional civil court in 2021 by which two victims of THB were awarded compensation of 16 500 euros. The court ordered a psychological opinion to determine the pain and harm suffered by the victims, which were related to the juju ritual they had to undergo.<sup>76</sup>

171. The Austrian authorities have also referred to a case of THB for labour exploitation in the construction sector in which a group of victims was supported by MEN VIA. Thanks to the systematic collection of evidence, such as documentation on unpaid taxes, lack of health insurance registration, contradictory book-keeping and other violations by the companies of the exploiter, it was possible to calculate the unpaid wages and other damages suffered by the victims, and the court ordered the exploiter to pay a significant financial compensation to the victims.<sup>77</sup>

172. The Austrian authorities have noted that the specialised THB unit of the Federal Office of Criminal Investigation and the units in the regions collect evidence of the harm the victim has suffered, as well as the financial gain from the exploitation of the victim, which are paramount for the police investigation.

173. Victims of THB can also claim compensation from the state pursuant to the Victim of Crime Act.<sup>78</sup> The Austrian authorities indicated that in 2019-2021, there were 13 applications for compensation by victims of THB under this Act (with 5 positive decisions, 4 negative decisions, and 4 applications not yet decided). A total of 182 280 euros was awarded in compensation. No information was provided to GRETA concerning state compensation awarded to victims of THB in 2022-2024.

174. On 28 May 2020, an updated edition of the Guidelines for Property Orders (*Leitfaden Vermögensrechtliche Anordnungen*) was published. According to the authorities, this document is intended to serve as a tool for the daily work of police officers, prosecutors and the judiciary. It includes specific guidance aimed at making compensation for victims easier. For instance, there is a section covering compensation for victims from forfeited assets, returns to the victims from confiscated objects pursuant to section 69 of the CCP, and confiscation for victim compensation pursuant to section 20a, paragraph 2.2, of the CC.

175. Further, in 2019, LEFÖ-IBF collaborated with the Federal Ministry of Justice to develop a brochure on THB "Compact Knowledge for Practice: Criminal Proceedings, Compensation and Victim Protection", which includes a section on compensation for victims of THB.<sup>79</sup>

<sup>76</sup> Report submitted by the Austrian authorities on measures taken to comply with the Committee of the Parties' Recommendation CP/Rec (2020)03, p.2.

<sup>77</sup> Ibid., p.3. More information on the case is available (in German) at: <http://vorarlberg.orf.at/stories/3107614/>

<sup>78</sup> See GRETA's 3rd report on Austria, paragraph 91 and following.

<sup>79</sup> [https://lefoe.at/wp-content/uploads/2014/05/Kompaktwissen\\_Strafrecht\\_Menschenhandel\\_April2019.pdf](https://lefoe.at/wp-content/uploads/2014/05/Kompaktwissen_Strafrecht_Menschenhandel_April2019.pdf)

176. The Austrian authorities acknowledge that compensation to victims of THB remains an important challenge, requiring systematic efforts. **GRETA once again urges the Austrian authorities to make additional efforts to guarantee effective access to compensation for victims of THB, in particular by:**

- **instructing prosecutors to systematically request compensation on behalf of victims as part of criminal proceedings;**
- **providing additional training to prosecutors and judges on the issue of compensation with a view to ensuring that they use all the possibilities the law provides to enable victims of THB have access to compensation.**

#### **4. Non-punishment provision**

177. As noted in GRETA's third report, in February 2017, the Federal Ministry of Justice issued an internal decree aimed at raising awareness of the non-punishment provision. Further, in April 2017, the Federal Chancellery issued a circular on the implementation of the non-punishment provision in the context of administrative law. During the reporting period, a non-permanent group of the non-punishment provision was set up with a view to developing a guidance note on the implementation of the non-punishment principle in practice since the authorities do not consider it as a legislative challenge. However, this working group did not make progress and stopped its activity, which is why the 7th National Action Plan (2024-2027) envisages to continue this measure.

178. The Austrian authorities have provided the following example of application of the non-punishment provision. The case concerns an entrepreneur with Kosovar and Serbian citizenship who was sentenced to three years in prison, including two years of a conditional sentence, *inter alia*, under section 104a, paragraphs 1 and 5, of the CC. He recruited, accommodated and promoted seven construction workers using unfair means and with the intent to exploit their labour. The three Kosovar victims were the defendant's 17, 18 and 21-year-old cousins whom he had brought to Austria with the help of smugglers. First, he directed them to Germany, where they were supposed to apply for asylum. He then ordered two cousins back to Austria and provided them with fake Romanian identity cards. They had to work up to 220 hours a month as iron layers, and in the first 8 to 9 months they only received enough money to buy the most necessary food, on the grounds that the expenses for the smuggling and the false documents had to be offset first. The defendant hired four other victims, Romanian nationals of Roma ethnicity, under false promises and took advantage of their economic predicament to exploit them in the same way as his cousins. One of the Kosovar victims was entered and reported twice by the financial police using false identity documents. However, the victim did not reveal the true background of the false identity, namely that he had been a victim of human trafficking. Initially, a charge of forgery of documents was brought against him, but this was withdrawn due to the above-mentioned Ministry of Justice decree on the non-punishment principle and the proceedings were discontinued.

179. According to NGO representatives, the application of the non-punishment principle to children should be urgently reviewed as a number of children arrested for drug-trafficking, pickpocketing or burglary are convicted without due attention being paid to their possible exploitation and trafficking.

180. **GRETA welcomes the steps taken by the Austrian authorities to apply the non-punishment provision in practice and considers that they should continue their work on the preparation of a guidance on the application of this provision, and provide training to law enforcement officials, prosecutors and judges.**

## VI. Conclusions

181. Since the publication of GRETA's third report on Austria on 9 June 2020, progress has been made in a number of areas covered by that report.

182. The 7th National Action Plan on Combating Human Trafficking (2024-2027) was adopted through broad consultation, taking into account GRETA's previous recommendations and new trends and risks, and it foresees the creation of a group dealing with monitoring, data collection and research. The binding instructions on the Dublin Procedure of the Federal Office for Immigration and Asylum (BFA) were revised in 2023 to affirm that a trafficked person cannot be transferred during the recovery and reflection period, and that an individual assessment must be made of the risks of human rights violations prior to a Dublin procedure transfer. Further, the Austrian authorities have increased the funding provided for assistance to victims of THB to the two specialised NGOs (LEFÖ-IBF and MEN VIA).

183. GRETA welcomes these positive developments in Austria. However, despite the progress achieved, some issues continue to give rise to concern. A certain number of recommendations made repeatedly by GRETA in its preceding reports have not been implemented or have been only partially implemented. In this report, GRETA once again urges the Austrian authorities to take action in the following areas:

- **Identification of victims** (Article 10 of the Convention). The Austrian authorities should set up a National Referral Mechanism (NRM) which follows a multi-disciplinary approach to victim identification and involves, in addition to the police, a range of frontline actors who may come into contact with victims of THB, including labour inspectors, social workers, asylum staff, officials dealing with irregular migrants, prison staff, medical professionals, NGOs and trade unions.
- **Recovery and reflection period** (Article 13 of the Convention). The Austrian authorities should enshrine in law the recovery and reflection period as provided in Article 13 of the Convention.
- **Compensation** (Article 15 of the Convention). The Austrian authorities should make additional efforts to guarantee effective access to compensation for victims of THB, by instructing prosecutors to systematically request compensation on behalf of victims as part of criminal proceedings. Prosecutors and judges should receive additional training on the issue of compensation with a view to ensuring that they use all the possibilities the law provides to enable victims of THB to have access to compensation.

184. Given that these recommendations have been made repeatedly, their priority implementation is requested and will be followed up as part of the monitoring of the implementation of the Convention.

185. As regards the thematic focus of the fourth evaluation round, which is on **vulnerabilities to trafficking in human beings**, the Austrian authorities have indicated that women and girls, trans persons and migrants are among the groups of people who are at particular risk of becoming victims of human trafficking. The 7th National Action Plan on Combating Human Trafficking comprises measures addressing vulnerable groups, such as children, asylum seekers, migrant workers and persons with disabilities. Further, a range of legislative and other measures have been put in place to protect migrant workers. The experiences of victims of THB and at-risk individuals inform policies and practices aimed at preventing THB.



186. While welcoming the measures taken by the Austrian authorities to prevent trafficking through measures addressed at vulnerable groups, GRETA has identified a number of areas of concern which require further action. The following issues should be addressed as a matter or priority:

- ensure that all **unaccompanied and separated children** are placed in safe and appropriate accommodation, with adequately trained staff, and are appointed legal guardians as expeditiously as possible, as well as reducing the amount of time such children spend in federal reception centres;
- ensure that sufficient staff and resources are made available to the agencies supervising the working conditions of **migrant workers**, including interpreters and cultural mediators, in order to enable them to carry out proactive inspections in at-risk sectors;
- establish a procedure for the identification, as early as possible, of victims of THB amongst **asylum seekers**, and their referral to specialised assistance and protection.

187. GRETA welcomes the steps taken by the Austrian authorities to strengthen the capacity to detect and investigate cybercrime offences and the additional funding provided to the Federal Crime Office's Joint Operational Office for Combating Migrant Smuggling and Human Trafficking to investigate THB offences facilitated by ICT. In order to address the routine **use of ICT** to recruit and exploit victims of trafficking, the authorities should promote further capacity building and digital tools to conduct proactive investigations. This should involve training of law enforcement officers, labour inspectors and financial police officers in the areas of Internet monitoring and online investigation, such as cyber-patrolling, undercover online investigation, and social network analysis, in order to identify victims of human trafficking recruited and/or exploited online.

188. GRETA invites the Austrian authorities to keep it regularly informed of developments as regards the implementation of the Convention. GRETA trusts that there will continue to be a political commitment in Austria to sustain the efforts to combat human trafficking by following the human-rights based approach of the Convention and looks forward to continuing the dialogue with the Austrian authorities and civil society.



## **Appendix 2**

### **List of GRETA's conclusions and proposals for action**

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

#### **1. Topics related to the fourth evaluation round of the Convention**

##### ***Measures to prevent the vulnerability of specific groups to trafficking in human beings***

###### *Children*

- GRETA urges the Austrian authorities to take further measures to prevent trafficking of children, in particular by:
  - ensuring that all unaccompanied and separated children are placed in safe and appropriate accommodation, with adequately trained staff, and are appointed legal guardians as expeditiously as possible, to ensure that the best interests of the child are effectively protected;
  - reducing the amount of time unaccompanied and separated children spend in federal reception centres (paragraph 40);
- GRETA considers that the Austrian authorities should:
  - continue providing training on trafficking in human beings to teachers, child welfare professionals and other professionals working with children;
  - mainstream the prevention of child trafficking, including as part of media literacy;
  - mainstream the prevention of child trafficking through the school curriculum, for example by including it in the existing school programmes for developing media literacy and children's life skills (paragraph 41).

###### *Migrant workers*

- Referring to GRETA's Guidance Note on combating trafficking for labour exploitation and the Council of Europe Committee of Ministers Recommendation to Member States CM/Rec(2022)21 on preventing and combating trafficking in human beings for the purpose of labour exploitation, GRETA considers that the Austrian authorities should take further steps to prevent THB of migrant workers, in particular by:
  - providing training on trafficking in human beings to all officials who supervise the working conditions of migrant workers, including the Labour Inspectorate for construction work, the Agriculture and Forestry Inspectorates, and the Social Security Agency for the Self-employed, and issuing clear reporting requirements in case of detecting presumed cases of THB;
  - ensuring that sufficient staff and resources are made available to the agencies supervising the working conditions of migrant workers, including interpreters and cultural mediators, in order to enable them to carry out proactive inspections in at-risk sectors;
  - increasing the legal protection of 24-hour care providers, including by developing the conditions under which access to private households can be granted for labour inspection, and the legally binding certification of recruitment agencies;

- strengthening the provision of legal migration pathways to reduce vulnerabilities to THB;
- disseminating the information leaflet for au pairs in the main countries of origin of au pairs;
- continuing to raise awareness amongst employers and migrant workers about the risks of THB for the purpose of labour exploitation and the rights of victims of trafficking and where to access support, as well as on workers' rights under labour laws (paragraph 64).

#### *Asylum seekers and refugees*

- GRETA considers that the Austrian authorities should take measures to prevent vulnerabilities to trafficking in human beings of asylum seekers, in particular by:
  - establishing a procedure for the identification, as early as possible, of victims of THB amongst asylum seekers, and their referral to specialised assistance and protection;
  - ensuring access to legal assistance and representation for asylum seekers at all stages of the international protection proceedings;
  - facilitating greater access to the labour market, vocational training and German language courses for asylum seekers, to prevent them from becoming vulnerable to exploitation and THB;
  - ensuring access to decent accommodation for asylum seekers and refugees (paragraph 74).

#### *Vulnerabilities related to the gender dimension of human trafficking and of persons engaged in prostitution*

- GRETA welcomes the steps taken by the Austrian authorities to address the vulnerabilities related to the gender dimension of human trafficking, and considers that they should continue taking measures to counteract the risks of THB and exploitation of sex service providers, through legislative improvements, information and awareness raising aimed at eliminating sexual and gender stereotypes, and by supporting migrant, refugee and asylum-seeking women to access vocational training, education and employment (paragraph 85).

#### *Persons with disabilities*

- GRETA considers that the Austrian authorities should increase co-operation and co-ordination between relevant state and regional actors responsible for the care of persons with disabilities and ensure low-threshold, non-discriminatory access to services (paragraph 91);
- Further, GRETA invites the authorities to conduct research into the vulnerabilities of persons with disabilities to trafficking in human beings and develop preventive measures specifically aimed at this group (paragraph 92).

#### *Roma community*

- GRETA welcomes the measures taken to support the equality, inclusion and participation of Roma, and invites the Austrian authorities to mainstream the prevention of human trafficking in the policies and activities which are part of the National Strategy for the Inclusion of Roma, and to involve Roma NGOs in the design of measures (paragraph 97).

### ***Identification of victims of THB***

- GRETA once again urges the Austrian authorities to set up without further delay a NRM which follows a multi-disciplinary approach to victim identification and involves a range of frontline actors who may come into contact with victims of THB, including labour inspectors, social workers, asylum staff, officials dealing with irregular migrants, prison staff, medical professionals, NGOs and trade unions, and defines their respective roles and responsibilities at all stages of the procedure (paragraph 111);
- GRETA considers that the Austrian authorities should:
  - pay increased attention to identifying victims of trafficking amongst asylum seekers and persons placed in immigration detention centres and prisons;
  - ensure that a vulnerability assessment is systematically applied to all asylum seekers and that it includes the detection of possible indicators of trafficking in human beings (paragraph 112).

### ***Assistance to victims***

- GRETA welcomes the increase in the government funding for victim assistance and considers that the Austrian authorities should take additional steps to:
  - give an official intervention status to MEN VIA and secure the long-term funding of its activities;
  - when victims of THB are referred by state agencies to NGOs for the provision of assistance and services, ensure that adequate funding is provided to these NGOs, including those working outside Vienna;
  - strengthen access to the labour market for victims of THB and their economic and social inclusion through the provision of vocational training, language courses and job placement, raising awareness among potential employers, and the promotion of micro-businesses, social enterprises and public-private partnerships with a view to creating appropriate work opportunities for victims of trafficking (paragraph 121).

### ***Identification of, and assistance to, child victims of trafficking***

- GRETA considers that the Austrian authorities should:
  - finalise the revision of the Guidance on identifying and dealing with possible child victims of THB and its formalisation into a National Referral Mechanism for child victims of human trafficking;
  - continue providing training on the Guidance on identifying and dealing with possible child victims of THB to ensure that it is applied by all relevant professionals across the country;
  - set up a specialised shelter for child victims of THB (paragraph 126).

### ***Notion of "abuse of a position of vulnerability" in the law and case-law***

- GRETA considers that the Austrian authorities should provide investigators, prosecutors and judges with training and sensitisation on the concept of "abuse of a position of vulnerability" to ensure that it is properly applied in practice (paragraph 133).

### ***Investigation, prosecution and sanctions***

- GRETA considers that the Austrian authorities should take additional measures to ensure that THB cases are investigated proactively, prosecuted effectively, and lead to effective, proportionate and dissuasive sanctions. In this context, the Austrian authorities should encourage the specialisation of prosecutors and judges to deal with human trafficking cases and provide systematic and mandatory training on THB and on trafficking victims' rights, trauma and protection needs (paragraph 142).

### ***Criminalisation of the use of services of a victim***

- GRETA considers that the Austrian authorities should adopt a legal provision criminalising the use of all services which are the object of exploitation as referred to in Article 4 of the Convention, with the knowledge that the person is a victim of THB (paragraph 146).

### ***Addressing human trafficking facilitated by information and communication technology (ICT)***

- GRETA welcomes the steps taken by the Austrian authorities to strengthen the capacity to detect and investigate cybercrime offences, and considers that they should develop further measures specifically aimed at preventing ICT-facilitated trafficking in human beings by investing in capacity building and digital tools to conduct proactive investigations. This should involve training of law enforcement officers, labour inspectors and financial police officers in the areas of Internet monitoring and online investigation, such as cyber-patrolling, undercover online investigation, and social network analysis, in order to identify victims of human trafficking recruited and/or exploited online (paragraph 158);
- GRETA invites the Austrian authorities to ratify the Second Additional Protocol to the Convention on Cybercrime on enhanced co-operation and disclosure of electronic evidence (paragraph 159).

## **2. Follow-up topics specific to Austria**

### ***Overview of trends and changes in the legislative, institutional and policy framework for action against human trafficking***

- GRETA considers that the Austrian authorities should examine the possibility of establishing an independent National Rapporteur or designating another existing mechanism for monitoring the anti-trafficking activities of state institutions, as provided for in Article 29, paragraph 4, of the Convention, or commissioning the monitoring to an external, independent evaluator (paragraph 18).

### ***Data collection***

- GRETA considers that the Austrian authorities should continue developing a comprehensive system for the collection and analysis of data on measures to protect and promote the rights of victims of THB, which should ensure the participation of all relevant actors that can contribute to the provision of data, including NGOs and other service providers, law enforcement, immigration officials, labour inspectorates, health-care providers, prosecution services and others involved in the identification and registration of victims of trafficking, and the investigation and prosecution of human trafficking and related offences (paragraph 163).

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***Recovery and reflection period***

- GRETA once again urges the Austrian authorities to implement without further delay its long-lasting recommendation by enshrining in law the recovery and reflection period as provided in Article 13 of the Convention. Officers performing identification should be issued with clear instructions stressing the obligation to systematically offer the recovery and reflection period to all presumed foreign victims of human trafficking, including EU and EEA citizens, together with all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period (paragraph 167).

***Compensation***

- GRETA once again urges the Austrian authorities to make additional efforts to guarantee effective access to compensation for victims of THB, in particular by:
  - instructing prosecutors to systematically request compensation on behalf of victims as part of criminal proceedings;
  - providing additional training to prosecutors and judges on the issue of compensation with a view to ensuring that they use all the possibilities the law provides to enable victims of THB have access to compensation (paragraph 176).

***Non-punishment provision***

- GRETA welcomes the steps taken by the Austrian authorities to apply the non-punishment provision in practice and considers that they should continue their work on the preparation of a guidance on the application of this provision, and provide training to law enforcement officials, prosecutors and judges (paragraph 180).

## Appendix 3

### List of public bodies, intergovernmental organisations and civil society organisations with which GRETA held consultations

#### **Public bodies**

- National Anti-trafficking Co-ordinator - Ambassador Georg Stillfried, Federal Ministry for European and International Affairs
- Task Force on Combating Human Trafficking
- Federal Ministry for European and International Affairs
- Federal Chancellery, Directorate General for Woman and Equality and Directorate General for Family and Youth
- Federal Ministry of Justice
- Public Prosecutor's Office of Vienna
- Federal Ministry of the Interior
- Federal Criminal Police Office
- Federal Office for Immigration and Asylum
- Financial Intelligence Unit
- Federal Ministry of Labour and Economy
- Federal Ministry of Social Affairs, Health Care and Consumer Protection
- Federal Labour Inspectorate
- Federal Ministry of Finance
- Agricultural and Forestry Inspectorate of Lower Austria
- Federal Agency for Reception and Support Services (BBU)
- Human Rights Advisory Council of the Austrian Ombudsman Board

#### *City of Vienna*

- Human Rights Office and other relevant departments

#### *Federal State of Carinthia*

- Office of the Government of Carinthia
- Regional Criminal Police Office
- Regional Immigration Police Office
- Public Prosecutor's Office of Carinthia
- Financial Police



**Intergovernmental organisations**

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

**NGOs and other civil society organisations**


- Caritas
- ECPAT Austria
- Hope for the future
- KAVOD
- LEFÖ-IBF
- Ludwig Boltzmann Institute
- MEN VIA
- Platform against Exploitation and Human Trafficking
- SOLWODI
- UNDOK

## **Government's comments**

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

GRETA engaged in a dialogue with the Austrian 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 Austrian authorities on 20 December 2024 and invited them to submit any final comments. The comments of the authorities, submitted on 31 January 2025, are reproduced hereafter.

 **Bundesministerium**  
Europäische und internationale  
Angelegenheiten

[bmeia.gv.at](https://bmeia.gv.at)

BMEIA - IV.2 (Visa-, Grenz-, Aufenthalts- und  
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To  
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Executive Secretary of the Council of Europe  
Convention on Action against Trafficking in  
Human Beings

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No.: 2025-0.062.069

Reference to DERD/HDGE/PN/jrs

Vienna, 30 January 2025

Excellency,

Austria would like to take this opportunity to thank you and GRETA for the invitation to submit final comments on the report as well as taking into account the comments on the draft report from October. It brought great comfort to stakeholders fighting against THB in Austria to see the dedication GRETA has displayed in digesting the comments made to the draft report. The spirit of cooperation and of respectful dialogue embodied in the December version of the report is highly appreciated and is one of the features to make GRETA an outstanding monitoring mechanism.

Please find enclosed some additional comments by the Federal Ministry of Justice, the Federal Ministry of the Interior and the Federal Chancellery's Directorate General Family and Youth for further consideration.

The Federal Chancellery's Directorate General for Women and Equality would like to provide the following, additional explanation regarding pt. 80:

In relation to the measures implemented to encourage a shift towards legality, we would like to highlight several initiatives that have been undertaken and have partly already been communicated to GRETA:

Regarding the recommendation to “harmonise the legal regulations and their enforcement across regions”:

- Point 78: The draft report outlined that regional round tables have been established in almost all federal states. Promoting the implementation of these regional networks has been a strategic focus of the Working Group on Sexual Services since 2021. These networks play a crucial role in ensuring consistent regional enforcement of the laws.
- In Vorarlberg, the law regulating sexual services was amended in February 2024 to permit sex workers to provide home visits for clients with disabilities.
- Similar legal discussions are currently underway in Carinthia and Tyrol to amend the law and broaden the range of legal workplaces available to sex workers who serve clients with disabilities.
  - Expanding and diversifying workplaces is a key measure that empowers sex workers by providing them with more legal options, thus supporting the transition towards legality.

Regarding the recommendation to “provide accessible and transparent information”:

- Point 79: In 2024, funding for counselling services—provided by the Directorate General for Women and Equality within the Federal Chancellery—was increased. This additional budget has allowed for the expansion of outreach work, which now extends to every federal state in Austria.
- Point 78: The "Sex Work-Info" brochure has been updated and is now available both online and in print at no cost. Translated into eight languages, it offers comprehensive information on rights and available support services ([Broschüre Sexwork-Info - Bundeskanzleramt Österreich](#)).

Sincerely,

Wolfgang Spadinger  
Deputy Anti-Trafficking Coordinator