



EVALUATION REPORT

IRELAND

Third evaluation round

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

GRETA

Group of Experts
on Action against
Trafficking
in Human Beings

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Executive summary

The legislation governing human trafficking in Ireland has remained largely unchanged since GRETA's second evaluation. The Criminal Justice (Victims of Crime) Act 2017 introduced statutory rights for all victims of crime, including victims of human trafficking. With a view to co-ordinating the institutional response to human trafficking, the Department of Justice established a human trafficking stakeholders forum in September 2020, bringing together relevant state departments, agencies and civil society organisations. GRETA welcomes the designation of the Irish Human Rights and Equality Commission (IHREC) as National Rapporteur for trafficking in human beings in October 2020.

Ireland continues to be primarily a country of destination of victims of trafficking in human beings. The number of presumed victims of trafficking identified by An Garda Síochána was 103 in 2017, 64 in 2018, 42 in 2019, 38 in 2020, and 44 in 2021. While trafficking for the purpose of sexual exploitation remains the prevalent form of exploitation, the number of persons trafficked for the purpose of labour exploitation has increased. In the period 2016-2020, 46% of the presumed victims came from Africa (primarily from Nigeria), 36% from the European Economic Area, and 11% from Asia.

The focus of the third evaluation round of the Convention being on trafficking victims' access to justice and effective remedies, the report analyses in detail the implementation of provisions of the Convention establishing substantive and procedural obligations relevant to this topic.

While welcoming the range of information materials available to victims of trafficking on their rights, GRETA considers that the Irish authorities should ensure the availability of qualified interpreters who are sensitised to the issue of human trafficking and the vulnerabilities of victims, at all stages of the victim identification process and criminal proceedings.

The service provided by the Legal Aid Board (LAB) to presumed victims of trafficking is limited to legal advice and information and does not extend to legal representation in criminal or civil proceedings. GRETA urges the Irish authorities to ensure that legal assistance is provided systematically as soon as there are reasonable grounds for believing that a person is a victim of trafficking, before he/she has to decide whether or not they want to co-operate with the authorities or make an official statement, and that trafficking victims are appointed a lawyer to represent them in judicial and administrative proceedings, including to claim compensation.

GRETA is concerned that no victim of trafficking has received compensation in Ireland, be it from the perpetrators or the State. Trafficking victims are treated as witnesses in criminal proceedings and not as injured parties entitled to compensation. GRETA urges the Irish authorities to make efforts to guarantee effective access to compensation for victims of trafficking, including by ensuring that the collection of evidence about the harm the victim has suffered is part of the criminal investigation, and by making full use of the legislation on the freezing and forfeiture of assets to secure compensation to victims. The authorities should also review the eligibility criteria for state compensation with a view to making it available in practice to victims of trafficking.

GRETA notes with concern that the number of investigations into human trafficking offences has been decreasing over the years, and the number of prosecutions is very low. In June 2021, the Mullingar Circuit Criminal Court handed down the first convictions for human trafficking under the Criminal Law (Human Trafficking) (Amendment) Act 2013 in respect of two women of Nigerian who had trafficked four Nigerian women for the purpose of prostitution. There have been no convictions for trafficking for the purpose of labour exploitation in Ireland, despite the increasing number of identified suspected cases. GRETA urges the Irish authorities to ensure that human trafficking offences are proactively and promptly investigated, making use of special investigation techniques in order to gather material, documentary, financial and digital evidence, and not having to rely exclusively on testimony by victims or witnesses. Prosecutors and judges should be sensitised to the different forms of human trafficking, the rights of victims and the need to adopt victim-centred and trauma-informed approaches.

Furthermore, GRETA considers that the Irish authorities should take further steps to ensure consistent application of the principle of non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so. Such measures should include the development of detailed guidance for police officers and prosecutors on the scope and application of the non-punishment provision. Consideration should also be given to adopting a specific legal provision on the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so.

The report also examines progress made on the implementation of previous GRETA recommendations on selected topics. While welcoming the steps taken in Ireland since the second evaluation to prevent and combat trafficking for the purpose of labour exploitation, GRETA notes that the limited number of labour inspectors does not enable the proactive identification of victims of trafficking for the purpose of labour exploitation. Further, while the review of the conditions of the Atypical Working Scheme for Seafishers has provided some additional safeguards, the current conditions of the Scheme do not appear to be sufficient to prevent abuses. GRETA urges the Irish authorities to step up their efforts to combat trafficking for labour exploitation, including through establishing safe reporting procedures for foreign workers, concrete possibilities of regularisation of the trafficked person's residence status and access to the labour market, and the provision of targeted and tailored support services.

GRETA welcomes the measures taken in the areas of awareness-raising and discouraging demand for the services of trafficked persons, and invites the Irish authorities to continue making efforts in these areas, in partnership with civil society, trade unions and the private sector, including internet providers and tech companies.

In May 2021, the Irish Government announced the approval of the creation of a new National Referral Mechanism (NRM) allowing a fundamental shift to the victim identification model, where identification of victims of trafficking will no longer be the sole responsibility of An Garda Síochána. GRETA urges the Irish authorities to finalise the introduction of a revised NRM which ensures multi-agency involvement in the identification of victims of trafficking and gives a formal role in the identification process to a series of frontline actors, including specialised NGOs and labour inspectors.

There are still no specialised accommodation facilities for victims of trafficking, who continue to be accommodated in asylum seekers' facilities provided by the International Protection Accommodation Service. GRETA once again urges the Irish authorities to set up, as a matter of priority, specialised accommodation facilities for victims of trafficking and to ensure that accommodation is gender-sensitive, appropriate and safe, and that victims are provided with specialised services. Further, the authorities should enact statutory rights to assistance and protection for possible victims of trafficking, regardless of the victims' nationality or immigration status.

The number of presumed child victims of trafficking identified in Ireland has been very low. Lack of reporting on children at risk and proactive identification of presumed victims contribute to the near absence of child victims of trafficking. GRETA urges the Irish authorities to step up their efforts to combat child trafficking, including through putting in place a robust child protection system capable of enabling the identification of trafficking indicators amongst Irish and EU children, and by providing further training and tools to stakeholders.

The relevant Irish legislation concerning the recovery and reflection period has not changed. GRETA considers that the Irish authorities should review the place and role of the recovery and reflection period in the context of the review of the NRM, ensuring that, in compliance with Article 13 of the Convention all possible foreign victims of trafficking, including EEA nationals, are offered a recovery and reflection period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.

Preamble

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

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

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

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

Access to justice and effective remedies is contingent on the fulfilment of a number of preconditions, including prompt and accurate identification of victims of trafficking, the provision of a recovery and reflection period, the availability of material, psychological, medical and legal assistance, regularisation of the victim's stay, the right to seek and enjoy asylum, and the application of the principle of *non-refoulement*.

These preconditions, corresponding to different provisions of the Convention, have been examined at length during the first and second evaluation rounds of monitoring of the Convention. Consequently, GRETA has decided to ask each State Party for an update on the implementation of GRETA's previous recommendations on selected topics through a separate country-specific part of the questionnaire. GRETA's findings and analysis of these topics are presented in a separate chapter.

I. Introduction

1. The Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) entered into force for Ireland on 1 November 2010. GRETA’s first evaluation report on Ireland was published on 26 September 2013,¹ and the second evaluation report was published on 20 September 2017.²

2. On the basis of GRETA’s second report, on 13 October 2017, at the 21st meeting of the Committee of the Parties to the Convention, the Committee adopted a recommendation to the Irish authorities,³ requesting them to inform the Committee within a one-year period of measures taken to comply with the recommendation. The report submitted by the Irish authorities on 15 October 2018 was considered at the 23rd meeting of the Committee of the Parties on 8 November 2018 and was published.⁴

3. On 12 October 2020, GRETA launched the third round of evaluation of the Convention in respect of Ireland by sending the questionnaire for this round to the Irish authorities. The deadline for submitting the reply to the questionnaire was 12 February 2021, and the authorities’ reply was received on 11 June 2021.⁵

4. In preparation of the present report, GRETA used the reply to the third-round questionnaire by the Irish authorities, the above-mentioned report submitted by them in reply to the Committee of the Parties’ recommendation, additional information submitted by them in reply to the Committee of the Parties’ recommendation, and information received from civil society. An evaluation visit to Ireland took place from 6 to 10 December 2021. It was carried out by:

- Mr Francesco Curcio, member of GRETA;
- Ms Conny Rijken, member of GRETA;
- Ms Petya Nestorova, Executive Secretary of the Convention;
- Mr Adrien Aristide, trainee in the Secretariat of the Convention.

5. During the visit, the GRETA delegation held consultations with Ms Helen McEntee, Minister for Justice, and officials from the Department of Justice, the Department of Children, Equality, Disability, Integration and Youth, the Department of Social Protection, the Department of Health, the Department of Foreign Affairs, the Department of Further and Higher Education, Research, Innovation and Science, the Human Trafficking Investigation and Co-ordination Unit of An Garda Síochána, the Garda National Immigration Bureau, the Child and Family Agency (Tusla), the Workplace Relations Commission, the Office of the Director of Public Prosecutions, the International Protection Office, the International Protection Accommodation Services (IPAS), the Legal Aid Board, the Criminal Injuries Compensation Tribunal, the Criminal Assets Bureau, and Solas (National Training and Employment Authority).

6. Furthermore, the GRETA delegation met representatives of the Irish Human Rights and Equality Commission, which has been designated as independent National Rapporteur on human trafficking, as well as Dr Niall Muldoon, Ombudsman for Children.

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

² <https://rm.coe.int/greta-2017-28-fgr-irl-en/168074b426>

³ <https://rm.coe.int/cp-2017-29-irl-en/168075e9d0>

⁴ <https://rm.coe.int/cp-2018-21-rr2-irl-en/16808ef25d>

⁵ <https://rm.coe.int/reply-from-ireland-to-the-questionnaire-on-the-implementation-of-the-c/1680a4c35c>

7. The GRETA delegation held separate meetings with representatives of non-governmental organisations (NGOs), trade unions, researchers, lawyers and victims of human trafficking. Discussions were also held with representatives of the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR).
8. During the visit, the GRETA delegation visited the Mosney Village in County Meath, an accommodation centre for asylum seekers which can be used for hosting victims of trafficking in human beings.
9. The list of the national authorities and NGOs with which GRETA's delegation held consultations is set out in Appendix 2 to this report. GRETA is grateful for the information provided by them. GRETA wishes to place on record the excellent co-operation provided in the preparation and conduct of the evaluation visit by officials of the Department of Justice, in particular Mr Keith Lynn, Ms Lisa Lieghio, Ms Laura Cooney and Mr Deaglan O'Briain.
10. The draft version of the present report was approved by GRETA at its 43rd meeting (28 March - 1 April 2022) and was submitted to the Irish authorities for comments. The authorities' comments were received on 14 June 2022 and were taken into account by GRETA when adopting the final report at its 44th meeting (27 June - 1 July 2022). The report covers the situation up to 1 July 2022; developments since that date are not taken into account in the following analysis and conclusions. GRETA's conclusions and proposals for action are summarised in Appendix 1.

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

11. Ireland continues to be primarily a country of destination of victims of trafficking in human beings (THB). Data reported in the annual reports on THB issued by the Department of Justice⁶ shows that the number of presumed victims of trafficking identified by An Garda Síochána has been declining: 103 in 2017, 64 in 2018, 42 in 2019, 38 in 2020, and 44 in 2021.⁷ A decision was taken in 2017 to stop counting as victims of human trafficking the victims of offences prosecuted under section 3(2) of the Child Trafficking and Pornography Act 1998 (as amended by the Criminal Law (Human Trafficking) Act 2008), which concerns the sexual exploitation of a child without the involvement of a third party and without any commercial element (see also paragraph 102).⁸ As a result of this correction, the number of presumed child victims of THB in 2017 dropped from 32 to 3, and the total number of presumed victims of THB in 2017, from 103 to 75 (the breakdown of the data in the following paragraph is on the basis of the corrected figure for 2017).

12. According to the available data, trafficking for the purpose of sexual exploitation remains the prevalent form of exploitation in Ireland (31 victims in 2017, 27 in 2018, 34 in 2019, 26 in 2020, 25 in 2021) and concerns almost exclusively women and girls (only 6 male victims have been identified). At the same time, the number of persons trafficked for the purpose of labour exploitation has increased over the period 2017-2021 (35 victims in 2017, 35 in 2018, 3 in 2019, 10 in 2020, 19 in 2021). It would appear that surges in the number of identified victims of labour trafficking are linked to operations in various production and service sectors, e.g. fishing and farming in 2018. Other sectors where victims of THB have been identified include construction, restaurants, car washing, waste recycling and domestic work. Further, there have been presumed victims of trafficking for the purpose of forced criminality (8 in 2017, 2 in 2018, 5⁹ in 2019, 2 in 2020) as well as for a combination of exploitative purposes. The majority of the identified adult victims were women (41 in 2017, 30 in 2018, 31 in 2019, 33 in 2020, 28 in 2021). The number of male victims was, respectively, 30 in 2017, 29 in 2018, 2 in 2019, 5 in 2020, and 16 in 2021. The number of presumed child victims of THB was 3 (all female) in 2017, 5 (including 3 female) in 2018, 9 (including 7 female) in 2019, and none in 2020 and 2021. In the period 2016-2020, 46% of the presumed victims came from Africa (primarily from Nigeria), 36% from the European Economic Area, and 11% from Asia. The number of presumed Irish victims of THB was 4 in the period 2017-2021.

13. GRETA notes that the above figures of presumed victims do not reflect the real scale of the phenomenon of human trafficking in Ireland, due to persisting limitations of the National Referral Mechanism and the fact that An Garda Síochána remains the only stakeholder taking decisions on identifying victims of THB (see paragraph 197). Trafficking for the purpose of labour exploitation remains under-recognised and under-reported.¹⁰ Similarly, trafficking for criminal exploitation is an area where victims are often not recognised as such. The Irish authorities have indicated that while the demand for and access to sexual services involving 'person-to-person' contact may have decreased during the COVID-19 pandemic, there are indications of increased demand for online sexual services. The methodology employed by online platforms and the level of encryption they utilise make it difficult to detect victims of sexual exploitation.

⁶ [About Blueblindfold and for Further Information – Blue Blindfold Campaign](#)

⁷ By way of comparison, the number of presumed victims of trafficking reported to or detected by An Garda Síochána was 48 in 2012, 44 in 2013, 46 in 2014, 78 in 2015 and 95 in 2016.

⁸ Charges brought under this provision relate to offences of sexual exploitation of a child which do not amount to human trafficking, as the offence occurred without an "act" (recruitment, transport, etc.), without the involvement of a third party and without any commercial element. At the same time, the authorities "recognise the value in maintaining data of child sexual offences and will continue to provide info on this crime separately to information provided on human trafficking". See Department of Justice and Equality, *Trafficking in Human Beings in Ireland Annual Report 2017*, p.5.

⁹ Two of the victims were subjected to a combination of exploitation, including criminal activities.

¹⁰ Michale J. Breen, Amy Erbe Healy, Michael G. Healy, *Report on Human Trafficking and Exploitation on the Island of Ireland*, Mary Immaculate College, Limerick, 2021, p. 75.

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

14. The legislation governing human trafficking in Ireland has remained largely unchanged since GRETA's second evaluation. The criminalisation of human trafficking is set out in the Criminal Law (Human Trafficking) Act 2008, as amended by the Criminal Law (Human Trafficking) (Amendment) Act 2013.¹¹ The identification of victims of trafficking and issues regarding their assistance and temporary residence continues to be delivered through the Department of Justice's Administrative Immigration Arrangements for the Protection of Victims of Human Trafficking.¹² In May 2021, the Government announced the approval of the creation of a new National Referral Mechanism (NRM) allowing a fundamental shift to the victim identification model, where identification of victims of trafficking will no longer be the sole responsibility of An Garda Síochána (see paragraph 200).

15. The Criminal Justice (Victims of Crime) Act 2017, which transposed into Irish law Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime and was passed into law in November 2017, introduced statutory rights for all victims of crime, including victims of human trafficking.¹³ In addition, under the Victims Charter, which was relaunched in 2021, there are now a set of rights and entitlements to services offered by the various state agencies regarding interaction with victims.

16. On 3 December 2021, the Irish Government announced a regularisation scheme for long-term undocumented migrants who, depending on their situation, are entitled to receive a residence permit for two, three or four years. According to estimates, there are between 17 000 and 25 000 undocumented migrants who could make use of this scheme, including those working in prostitution. The scheme is open for applications until 31 July 2022.

17. As regards the institutional framework, the Department of Justice continues to be responsible for co-ordinating national policy on human trafficking, in collaboration with other government agencies and civil society organisations. In 2019, the Department of Justice underwent an extensive reorganisation pursuant to which its operational model was restructured into two main pillars: a Civil Justice and Equality pillar, and a Criminal Justice pillar. Following this restructuring, the Anti-Trafficking Unit was abolished. The Irish authorities have indicated that the structure of the Department of Justice ensures that a broad base of expertise supports Ireland's anti-human trafficking measures. This is led and co-ordinated by the Criminal Justice Policy function, with specialist support from the Immigration Service Delivery function, the Operations and Service Delivery function with regard to funding of NGOs, and the Transparency function with regard to awareness-raising campaigns. The new functional structure separates those areas so that expertise can be focused on specific areas of policy and service delivery. As a result, the Anti-Human Trafficking area has two new subject matter expert teams, one focused on policy from the perspective of tackling the perpetrators and the other to support the victims of human trafficking and engage with the NGO sector. The Criminal Justice Policy function is responsible for co-ordination and development of the Government's response to the problem of human trafficking, including working with a range of Government Departments and agencies; developing and maintaining structures and policies to ensure that the Irish Government complies with Ireland's international obligations; collecting standardised, non-personalised information on victims of THB; co-ordinating and chairing interdepartmental and interagency meetings; providing annual funding to NGOs; and publishing an annual report. In 2020, a total of 687 254 euros was provided by the Department of Justice to NGOs active in the field of combating human trafficking, an increase of 51% over the funding allocation in 2019. GRETA welcomes the increased state funding provided to anti-trafficking NGOs.

¹¹ Available at: <http://www.irishstatutebook.ie/2013/en/act/pub/0024/index.html>

¹² [http://www.blueblindfold.gov.ie/website/bbf/bbfweb.nsf/page/ACJN-8YSMJ41738285-en/\\$File/Immigration%20arr.pdf](http://www.blueblindfold.gov.ie/website/bbf/bbfweb.nsf/page/ACJN-8YSMJ41738285-en/$File/Immigration%20arr.pdf)

¹³ <http://www.irishstatutebook.ie/2017/en/act/pub/0017/index.html>
[The Criminal Justice \(Victims of Crime\) Act 2017](http://www.irishstatutebook.ie/2017/en/act/pub/0017/index.html)

18. Furthermore, in November 2019 the Department of Justice, the Office of the Director of Public Prosecutions (DPP) and An Garda Síochána established a High Level Group on Human Trafficking, chaired by the Department of Justice, to keep all issues relevant to the legislative and operational framework for investigation and prosecution of cases that involve THB under review, and to recommend any necessary improvements, including to the legislation and the training of investigators. GRETA was informed that the group met quarterly and had discussed, amongst others, issues related to witness credibility, unwillingness of witnesses to give evidence, and prosecution strategies in the absence of evidence of use of force, coercion, threats or fraud.

19. The Irish Human Rights and Equality Commission (IHREC) was designated as National Rapporteur for trafficking in human beings in October 2020, as per Article 19 of the EU's Anti-Trafficking Directive. In June 2022, the IHREC published its first report "Trafficking in Human Beings in Ireland: Evaluation of the Implementation of the EU Anti-Trafficking Directive", which provides a number of recommendations and "is expected to underpin effective monitoring and policy development in addressing trafficking in human beings".¹⁴ GRETA welcomes this development, but notes that the mandate of the IHREC as National Rapporteur does not cover data collection. **Noting the importance of data collection and research for an objective evaluation of the implementation of anti-trafficking legislation, policy and activities, GRETA considers that the Irish authorities should give the IHREC a statutory remit to request and receive appropriate information from relevant actors.**

20. The Roundtable Forum which existed at the time of GRETA's second visit in 2017 is no longer operational. With a view to co-ordinating the institutional response to human trafficking, the Department of Justice established a human trafficking stakeholders forum in September 2020, bringing together relevant state departments, agencies and civil society organisations (a total of 25 members). Two meetings of the stakeholders forum were held in 2020 and none in 2021. To complement the work of the forum, two sub-groups are being convened, on the setting up of a new National Referral Mechanism (NRM) and on reviewing the current National Action Plan and developing a new one (see paragraph 22). The first sub-group met in March 2021 and March 2022, and the second one in March 2021 and May 2022. The Irish authorities have indicated that it is intended to set up more sub-groups to explore a range of topics, including trafficking for sexual exploitation, trafficking for the purpose of labour exploitation, support to child victims of trafficking, specialised accommodation for victims to THB, access to justice, and compensation for victims. According to the authorities, a work plan framework has been agreed with immediate, medium and long-term goals. The stakeholders forum will also explore the subjects of training for government officials and frontline service workers, and compensation for victims of human trafficking. GRETA welcomes the increased level of engagement with civil society through the stakeholders' forum. However, during the visit, it transpired that the role and status of the stakeholders' forum was not clear to representatives of civil society organisations, who did not know its terms of reference and whether it was permanent or not. **Noting the importance of maintaining co-ordination of anti-trafficking action at national level, GRETA considers that the Irish authorities should take steps to strengthen the work of the stakeholders' forum, clarify its status, and ensure that the sub-groups are enabled to make progress.**

21. Further, a new annual Victims' Forum met for the first time in March 2022, bringing together state, social and community groups.

¹⁴ Irish Human Rights and Equality Commission (IHREC), *Trafficking in Human Beings in Ireland: Evaluation of the Implementation of the EU Anti-Trafficking Directive*, June 2022, p. 7. Available at: [Trafficking in Human Beings in Ireland - IHREC - Irish Human Rights and Equality Commission](#)

22. The Second National Action Plan to Prevent and Combat Human Trafficking, adopted in 2016 and already described in GRETA's second report,¹⁵ is still in force. It contains a list of 65 actions in the areas of prevention, assistance to victims, criminal justice response, co-ordination and co-operation between key actors, both nationally and internationally, increased knowledge of emerging trends, and effective response to child trafficking. Delivery on the commitments in the Plan is reliant on a range of state bodies and civil society organisations. GRETA is concerned that some of the key actions included in the Second Action Plan, such as a fundamental re-examination of the victim identification process and the role to be played by all stakeholders, including NGOs, a review of the NRM and an examination of the appropriateness and efficacy of victim support services, have not yet been implemented. As part of the stakeholders forum's work plan, it has been announced that a review of the Second National Action Plan and the development of a Third Plan of Action will take place, focusing on whether there is need for a new plan of action, and if so, what are the most effective aspects of the current plan that should be carried through. The Minister for Justice told GRETA that there was a clear agreement on the need for a new strategy on combating THB. Further, GRETA was informed that two meetings of relevant Government bodies took place related to the development of a new Action Plan, on 31 January and 16 March 2022. Stakeholder and public consultations will also take place. The Third National Action Plan is expected to be issued in the third quarter of 2022. According to the authorities, it will focus on identification and support of victims, enhanced data collection, awareness raising, training, the gender aspects of THB and the integration of victims. Timelines, target dates and an effective monitoring framework will also be established.

23. A new strategy on domestic, sexual and gender-based violence¹⁶ for the period 2022-2026 was published on 28 June 2022, based on the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. It refers to human trafficking of women and girls as a form of gender violence. The strategy also covers men who are the subject of violence, but no mention is made of male victims of THB. While the new strategy does not include measures specific for THB victims, it aims, *inter alia*, to raise awareness of the links between prostitution and trafficking, develop education and public awareness campaigns on the harm of pornography and the sex trade.

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

1. Introduction

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

25. The right to effective remedies is a reflection of the human rights-based approach underpinning the Convention. Regardless of whether a State is implicated in the trafficking or directly responsible for the harm, the positive obligations arising from international human rights law require States to facilitate and guarantee effective access to remedies if they have failed to take reasonable steps to prevent human trafficking, protect potential or actual victims of trafficking, and effectively investigate trafficking offences.¹⁷

¹⁵ See paragraphs 28-30 of GRETA's second report on Ireland.

¹⁶ <https://www.gov.ie/en/publication/a43a9-third-national-strategy-on-domestic-sexual-and-gender-based-violence/>

¹⁷ *Rantsev v. Cyprus and Russia*, no. 25965/04, ECHR 2010; application no. 25965/04, judgment of 7 January 2010; *L.E. v. Greece*, application No. 71545/12, judgment of 21 January 2016; *Chowdury and Others v. Greece*, application No. 21884/15, judgement 30 March 2017.

26. According to the Basic Principles on the Right to an Effective Remedy for Victims of Trafficking in Persons,¹⁸ the right to an effective remedy is considered to include restitution,¹⁹ compensation,²⁰ rehabilitation,²¹ satisfaction²² and guarantees of non-repetition.²³

27. All victims of trafficking require access to appropriate and effective remedies, starting with access to justice. The provision of effective remedies serves multiple purposes. The remedy of compensation, for instance, for any injury, loss or harm sustained, can provide critical support in victims' recovery and empowerment, help their social inclusion and prevent re-victimisation. The remedy of rehabilitation can similarly help in victims' recovery, as well as social inclusion. Of relevance in this respect is also the 1985 United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, which outlines the main steps to be taken to improve access to justice, fair treatment, restitution, compensation and social assistance for victims of crime.²⁴

28. The Convention provides specifically for the substantive right of victims of trafficking to compensation and legal redress, as well as for a number of procedural rights necessary to ensure access to these entitlements. These include the rights to be identified as a victim of trafficking, to be granted a recovery and reflection period, as well as a residence permit (to enable a victim to remain in the country and seek access to remedies), and to receive counselling, information, legal assistance and free legal aid.

29. Another important procedural right is provided by the non-punishment provision of the Convention (Article 26) according to which victims of human trafficking must not be imposed penalties for their involvement in unlawful activities committed while they were being trafficked. Further, the Convention requires State Parties to enable the seizure and confirmation of the assets of traffickers, which could be used to fund state compensation schemes for victims.

30. Children need special support to access remedies, the best interests of the child being the primary consideration in all actions concerning trafficked children. The appointment of legal guardians to represent unaccompanied or separated children plays a vital role in enabling child victims of trafficking to access justice and remedies. Further, facilitating family reunification can be an important element of restitution.²⁵

¹⁸ UN General Assembly, Basic principles on the right to an effective remedy for victims of trafficking in persons, Annex to the Report by the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, 28 July 2014, A/69/33797.

¹⁹ Restitution includes restoration of liberty, including release of the victim from detention; enjoyment of human rights and family life, including reunification and contact with family members; safe and voluntary repatriation; temporary or permanent residence status, refugee status, complementary/subsidiary protection or third-country resettlement; recognition of the victim's legal identity and citizenship; restoration of the victim's employment; assistance and support to facilitate social integration or reintegration; return of property, such as identify and travel documents and other personal belongings.

²⁰ Compensation may cover damages for physical or mental harm; damages for lost opportunities, including employment, education and social benefits; reimbursement of costs of necessary transportation, child care or temporary housing; material damages and loss of earnings; moral or non-material damages; reimbursement of legal fees and other costs relating to the participation of the victim in the criminal justice process; reimbursement of costs incurred for legal, medical or other assistance.

²¹ Rehabilitation includes medical and psychological care, legal and social services, shelter, counselling and linguistic support, independently of the capacity or willingness of the victims to co-operate in legal proceedings.

²² Satisfaction includes effective measures aimed at the cessation of continuing violations; verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety, privacy and other interests of the victims of their families; an official declaration or a judicial decision restoring the dignity, reputation and rights of the victim; public apologies; judicial and administrative sanction against the perpetrators.

²³ Guarantees of non-repetition include ensuring the effective investigation, prosecution and sanctioning of traffickers; all measures necessary to protect victims from re-trafficking; providing or strengthening training of relevant officials; strengthening the independence of the judiciary; modifying practices that cause, sustain or promote tolerance to trafficking, including gender-based discrimination and situations of conflict and post-conflict; effectively addressing the root causes of trafficking; promoting codes of conduct and ethical norms for public and private actors; protecting legal, medical and other professionals and human rights defenders who assist victims.

²⁴ United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Adopted by General Assembly resolution 40/34 of 29 November 1985, available at: https://www.unicef-irc.org/portfolios/documents/472_un-declaration-crime.htm

²⁵ UNODC, ICAT Issue Paper, *Providing Effective Remedies for Victims of Trafficking in Persons*, 2016, pp. 7-8. Available at: http://icat.network/sites/default/files/publications/documents/Ebook%20ENG_0.pdf

31. Civil society, including NGOs, trade unions, diaspora organisations and employer organisations, have a key responsibility in enabling victims of THB to claim compensation and other remedies.²⁶ In this context, reference should be made to the international projects COMP.ACT - European Action on Compensation for Trafficked Persons²⁷ and Justice at Last - European Action for Compensation of Victims of Crime,²⁸ which aim to enhance access to compensation for trafficked persons.

32. The private sector should also play a role in enabling access to, as well as providing, remedies to trafficked persons, in accordance with the UN 'Protect, Respect and Remedy' Framework and the United Nations Guiding Principles on Business and Human Rights.²⁹ The role of businesses includes steps to ensure that their supply chains are free of trafficked labour, as well as the adoption and implementation of measures to facilitate access to remedies for victims for any harm that occurs. Further, businesses have the potential to help trafficked persons regain economic autonomy.³⁰ States should therefore ensure that business enterprises implicated in human trafficking are held responsible and take steps to reduce barriers that could lead to a denial of access to remedies.

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

2. Right to information (Articles 12 and 15)

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

35. The information that victims of trafficking must be provided with deals with essential matters, including availability of protection and assistance arrangements, the various options open to the victim, the risks they run, the requirements for legalising their presence in the Party's territory, the various possible forms of legal redress, how the criminal-law system operates (including the consequences of an investigation or trial, the length of a trial, witnesses' duties, the possibilities of obtaining compensation from persons found guilty of offences or from other persons or entities, and the chances of a judgment being fully and effectively enforced). The information and counselling should enable victims to evaluate their situation and make an informed choice from the various possibilities open to them.³¹

36. Many victims do not speak, or barely speak, the language of the country they have been brought to for exploitation. Lack of knowledge of the language, procedures and laws adds to their isolation and is one of the factors preventing them from claiming their rights. Apart from the language, information to presumed trafficked persons is often provided under time-constraint, in writing, in a formal and lengthy way, in a conceptually non-user-friendly format. The provision of translation and interpretation, where needed, is an essential measure for guaranteeing access to rights, which is a prerequisite for access to justice. That being said, the use of cultural mediation is often necessary in order to verify the full

²⁶ OSCE, *Compensation for Trafficked and Exploited Persons in the OSCE Region*, 2008, pp. 48-53.

²⁷ <http://www.compactproject.org/>

²⁸ <http://lastradainternational.org/about-lsi/projects/justice-at-last>

²⁹ United Nations Guiding Principles on Business and Human Rights, implementing the UN 'Protect, Respect and Remedy' Framework, Doc. A/HRC/17/31 (2011);

³⁰ UNODC, ICAT Issue Paper, *Providing Effective Remedies for Victims of Trafficking in Persons*, 2016, pp. 8-9.

³¹ See Explanatory Report on the Convention, paragraphs 160-162.

conceptual understanding of information provided. GRETA has stressed the need for ensuring the availability, quality and independence of interpreters and cultural mediators.³²

37. Pursuant to the Criminal Justice (Victims of Crime) Act 2017, victims of offences, including victims of human trafficking, are entitled to information on first contact with An Garda Síochána or the Ombudsman Commission in relation to an alleged offence, including on the services providing support to victims; the procedure for making a complaint in relation to an offence; the circumstances in which a victim may be entitled to assistance in the form of interpretation and translation; the role of the victim in the criminal justice process; protection measures; compensation; the right to give evidence or make submissions; the procedure for making complaints; the types of cases in which legal advice and legal aid may be available.

38. In addition, under the Victims Charter, which was redeveloped in 2020 and relaunched in early 2021, there are a set of rights and entitlements to services offered by the various state agencies working with all crime victims.³³ The Victims Charter is available in 38 languages.

39. Every organisation interacting with victims commits to: speaking or writing to a victim in simple and easy-to-understand language, taking account of the victims' ability to understand and to make themselves understood; being sensitive to the needs of the victim if they cannot read or write very well; providing an interpreter and translation if English is not the victim's first language so that they can take part in the investigation or to act as a witness in court. The Crime Victims Helpline is available by phone and email to provide information about victims' rights and guidance on victim support services.³⁴

40. All presumed victims of THB are notified to the Human Trafficking Investigation and Co-ordination Unit (HTICU) of the Garda National Protective Services Bureau (GNPSB) for the purpose of identification and investigation of the case. According to the Irish authorities, victims of THB are provided with information at each stage of the identification, investigation and recovery process. Each of the State agencies that interact with victims, in particular An Garda Síochána, the Legal Aid Board, the Health Service Executive (HSE) and the Child and Family Agency (Tusla), ensure that they are kept informed and have access to any supports they may require. Victim support services exist within these agencies. Further, victims of human trafficking can access the Blue Blindfold website³⁵ which provides victim support information and contacts for frontline services. The website was updated in 2020 with a user-friendly interface and revised and updated information. It provides an overview of available supports, a guide to the procedures for victims of human trafficking, and information on how members of the public can spot and report the signs of trafficking.

41. State agencies refer presumed victims of THB to specialised NGOs which provide them with further information on their rights and assistance to access services. Some NGOs have developed specific information materials for victims of THB, for example the Immigrant Council of Ireland has a leaflet for victims of trafficking. Further, in 2019, as part of the ASSIST project, former victims of trafficking were involved in the design of information materials targeting third-country national female victims of trafficking on the availability of gender-specific services to victims of sexual exploitation.³⁶

42. Furthermore, victim information booklets (not specific to human trafficking) can be found in an array of languages on the Garda Síochána website.³⁷ The Office of the Director of Public Prosecution also makes information related to the criminal justice process available to all victims on their webpage, in 12 different languages.³⁸

³² See 8th General report on GRETA's activities, paragraphs 168-169.

³³ [Victims Charter](#)

³⁴ [Who We Are - Crime Victims Helpline](#)

³⁵ [Support Services for Victims – Blue Blindfold Campaign](#)

³⁶ [ASSIST - Gender Specific Legal Assistance and Integration Support for Third Country National Female Victims of Trafficking for Sexual Exploitation | Immigrant Council of Ireland](#)

³⁷ [Garda Victim Service - Garda](#)

³⁸ [Information for the Public - Office of the Director of Public Prosecutions \(dppireland.ie\)](#)

43. There is currently no regulation on interpreters/translators in Ireland. An Garda Síochána use translation services where necessary when making a report and then when sending the victim their copy of the report. The authorities have indicated that the services are provided by an approved translation company contracted by An Garda Síochána. Further, the Department of Justice funds contracts with private sector translation companies to provide translation and interpretation services when required to victims of human trafficking. The Legal Aid Board provides interpreters free of charge to its clients, using the same interpreters who have developed an awareness of the sensitivities associated with the area of work, and all costs are paid by the Board. The Workplace Relations Commission also utilises interpreters as required. The Health Service Executive uses different translation services and GRETA was informed that standardised translation/interpretation services should be offered to all health services in early 2022 (January) following a public procurement process.

44. However, NGO representatives and lawyers noted that because of the absence of an accreditation system for private translation companies, the quality of translators/interpreters varied a lot. Interpreters are reportedly not culturally and socially sensitised, which is crucial in cases involving foreign victims and victims of violence.

45. The Department of Justice are currently engaging with the IOM on introducing cultural mediators to facilitate communication (including interpretation) and support vulnerable victims and witnesses of migrant backgrounds. The project aims to support migrants who are suspected victims of trafficking or at risk and sexual gender-based violence survivors by providing information on available services and empowering them to seek the help of specialised services. Building trust and providing cultural interpretation, these mediators will be fundamental in supporting and enhancing victim referrals, overall engagement and the effective information provision to those otherwise unwilling or unable to access or navigate mainstream national services. The project started in October 2021 and 11 cultural mediators (including for the Roma and Traveller communities) had been recruited by the time of GRETA's visit in December 2021.

46. While welcoming the range of information materials available to victims of THB on their rights, GRETA considers that the Irish authorities should ensure the availability of qualified interpreters/translators who are sensitised to the issue of human trafficking and the vulnerabilities of victims, at all stages of the victim identification process and criminal proceedings, and that the costs of interpretation are covered by the authorities.

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

47. Article 15(2) of the Convention establishes the obligation for Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. As court and administrative procedure is often very complex, legal assistance is necessary for victims to be able to claim their rights. It is for each Party to decide the requirements for obtaining such free legal aid. Parties must have regard not only to Article 15(2) of the Convention, but also to Article 6 of the ECHR. Even though Article 6(3)(c) of the ECHR provides for free assistance from an officially appointed lawyer only in criminal proceedings, European Court of Human Rights case law³⁹ also recognises, in certain circumstances, the right to free legal assistance in a civil matter on the basis of Article 6(1) of the ECHR. Thus, even in the absence of legislation granting free legal assistance in civil matters, it is for the courts to assess whether, in the interest of justice, an applicant who is without financial means should be granted legal assistance if unable to afford a lawyer.

³⁹ *Airey v. Ireland* judgment, 9 October 1979.

48. GRETA's reports highlight the value of a lawyer being appointed as soon as there are reasonable grounds for believing that a person is a victim of trafficking, before the person makes an official statement and/or decides whether to co-operate with the authorities. Early access to legal assistance is also important to enable victims to undertake civil actions for compensation and redress.⁴⁰

49. In Ireland, when An Garda Síochána identify a person as a presumed victim of human trafficking, he/she is referred to the Legal Aid Board (LAB), which has a Human Trafficking Legal Team within the International Protection Services and runs a network of law centres throughout the country. The functions of the LAB are regulated by the Civil Legal Aid Act 1995.⁴¹ The service provided by the LAB to presumed victims of trafficking is limited to legal advice and information and does not extend to legal representation in criminal or civil proceedings. It should be noted that the procedural position of a victim of THB in criminal proceedings in Ireland is generally that of a witness (should the prosecution or the defence decide to call them as one). When reporting a crime (either during their initial statement or during subsequent interviews), victims have the right to bring a person of their choice for support, including persons affiliated with NGOs. Under existing legislation, the LAB is not authorised to provide representation in criminal trials (save in the case of victims of sexual offences where a victim's prior sexual history is raised by the accused during the trial) or before the Workplace Relations Commission or Labour Court. If the victim has or is about to apply for international protection, the LAB can provide legal representation in relation to the application, and a €10 fee must be paid as a contribution towards legal services.

50. The LAB has an information booklet that they provide to any victim of human trafficking referred to them for legal assistance.⁴² According to it, potential victims of THB are provided with free legal advice and information by the LAB in relation to the following: their status in Ireland and the measures set out in the Administrative Immigration Arrangements which provide for recovery and reflection and temporary residence, as well as applications for leave to remain in the State; where the victim is seeking redress through the employment protection legislation (legal advice only); information on what is involved in a criminal trial for a victim/witness; information on compensation; information on voluntary return; criminal matters related to the trafficking offence.

51. Victims referred to the LAB must complete an application form (however, it is not accessible on the link available on LAB's website).⁴³ Legal services are provided to victims regardless of their immigration status. Victims are not financially assessed and do not pay a contribution towards the legal services. The services of translators and interpreters are provided on victims' request, or when it becomes apparent that a victim cannot proceed without the aid of a translator. GRETA was informed that the LAB prioritises requests for legal assistance in order to ensure that potential victims of trafficking have access to legal services within a reasonable timeframe. Some victims may decline the legal services of the LAB if they are not ready yet to engage, and in some cases they may already have access to legal support through NGOs.

52. The LAB services are provided by solicitors who have received specialist training, usually in the LAB's Smithfield Law Centre, or, if the victims live in the Galway/Mayo area, by the Galway Seville House Law Centre. A key function of The Bar of Ireland is the delivery of ongoing professional training and education for members of the Law Library in the form of continuing professional development. In July 2021, the Bar of Ireland hosted a workshop for practitioners with regard to the lack of prosecutions and the rights of victims. The issue of further training has been placed on the agenda of the Bar of Ireland's Human Rights Committee with a view to organising further training events and programmes relating to the representation of victims of trafficking in human beings. The solicitors in the LAB who deal directly with trafficking cases attend relevant training on an ongoing basis, most recently a two-day workshop run by IOM in conjunction with UNODC in May 2022. Further, in early 2022, training on the indicators of trafficking was provided to the panel of private practitioners who provide services in the area of international protection.

⁴⁰ See 8th General report on GRETA's activities, paragraph 167.

⁴¹ [Civil Legal Aid Act, 1995 \(irishstatutebook.ie\)](https://www.irishstatutebook.ie/civ/act/1995/act-1995-0011/)

⁴² [Legal Advice for potential Victims of Human Trafficking - LAB \(legalaidboard.ie\)](https://www.legalaidboard.ie/)

⁴³ Ibidem.

53. The solicitor will, at the pre-trial stage, explain and re-assure the potential witness about the procedures that will arise and notify them about their rights as appropriate, including on issues such as seeking compensation from the alleged trafficker. A solicitor does not prepare a statement to the Gardaí on behalf of the client nor engage in any collation or preparation of material in anticipation of a criminal trial. A solicitor or caseworker will not accompany a client, other than a child or a client regarded as exceptionally vulnerable, during an interview by investigating Gardaí. If a potential victim of human trafficking is charged with a criminal offence they should be advised of the existence of the criminal legal aid scheme and assisted in obtaining representation on foot of that scheme. A solicitor or caseworker may, where considered appropriate and necessary, accompany the client during the trial itself, primarily to provide reassurance regarding the actual procedures. Due to the sensitivity of human trafficking cases and the potential ongoing danger to victims as the case progresses, every care is taken to ensure that the confidentiality of the client is maintained. For example, it may be preferable to contact clients directly by telephone to arrange appointments rather than sending letters to them at addresses which may compromise their anonymity.

54. According to information provided by the LAB, in 2020, 19 potential human trafficking victims (15 female and 4 male; 14 subjected to sexual exploitation, 3 to labour exploitation, and 2 to exploitation for criminal purposes) registered with the LAB. In 2019, 10 potential victims of human trafficking (8 related to sexual exploitation, 1 to labour exploitation and 1 to exploitation for criminal purposes) referred by An Garda Síochána to the LAB applied for legal services. In 2018, 21 potential victims of human trafficking (12 subjected to sexual exploitation, 7 to labour exploitation, and 2 to a combination of sexual and labour exploitation) applied for legal services. In 2017, 31 potential victims of human trafficking (15 subjected to sexual exploitation, 11 to labour exploitation, and 5 to unknown forms of exploitation) applied for legal services.

55. A victim of THB can engage a private solicitor should they so wish. An NGO can legally represent a victim of THB in criminal proceedings but only if they are registered as a legal practitioner with the Law Society of Ireland. If they are not a registered legal practitioner the NGO can still attend court but only to provide emotional assistance, advice and support to the victim of THB. To ensure that victims of trafficking have early access to legal practitioners, where appropriate, the Department of Justice funds NGOs that provide legal assistance. For example, the Immigrant Council Independent Law Centre provides legal assistance, including early legal advice to victims of THB, within the limit of its operational capacity. It specialises in the provision of gender-specific legal services to migrant female victims of trafficking as well as child victims. The services are provided by solicitors with extensive experience on THB and migration matters. The legal service is delivered on a charitable basis in accordance with The Solicitors Acts, 1954 and 2002 (Independent Law Centres) Regulations, 2006. Further, in February 2021, the Immigrant Council of Ireland received 90 667 euros from the State Fund for Victims of Crime for the provision of services to victims of THB and domestic violence, including legal advice. The specialised NGO Ruhama also provides legal services to women affected by prostitution and sex trafficking, including accompaniment when providing statements to An Garda Síochána or other bodies in the justice system, and facilitation of access to immigration legal advice and follow up.

56. GRETA is concerned that access to legal advice is not available at an early stage, i.e. when a possible victim of trafficking is being identified by An Garda Síochána. Further, the only referrals the LAB gets are through An Garda Síochána. The narrow interpretation of the obligation to provide legal assistance to victims of trafficking excludes the provision of legal aid to victims in vindicating their rights in relevant judicial and administrative proceedings, including in order to claim compensation. Few victims of trafficking have access to qualified lawyers with specialised knowledge of human trafficking.

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

- **legal assistance is provided systematically as soon as there are reasonable grounds for believing that a person is a victim of trafficking, before he/she has to decide whether or not they want to co-operate with the authorities and/or make an official statement;**
- **trafficking victims are appointed a lawyer with specialised knowledge of THB to represent them in judicial and administrative proceedings, including to claim compensation.**

4. Psychological assistance (Article 12)

58. Human trafficking and exploitation may have serious psychological and physical consequences for the victims, including mental health problems and loss of self-esteem. Psychological assistance is needed to help victims of trafficking deal with the trauma they have been through and achieve a sustained recovery and social inclusion. Some victims require long-term therapeutic attention due to the violence they have suffered. Every victim of trafficking should have a clinical assessment tailored to include an evaluation of his/her particular readiness for therapy conducted by an experienced clinician.⁴⁴

59. The HSE has a human trafficking team, with six staff members, including a psychologist, who assess and plan the care to be provided to victims, according to their particular needs. Presumed victims of trafficking are referred to NGOs which provide psycho-social support. For example, Ruhama has therapists (staff and volunteers) who offer trauma therapy, coping mechanisms for daily life, adverse event support and capacity building. However, GRETA was informed of challenges due to the shortage of psychological support services. Victims of THB met by GRETA during the visit gave accounts of difficulties they had experienced as a result of the disruption of psychological support.

60. **GRETA considers that the Irish authorities should take further steps to ensure that victims of THB are provided with long-term psychological assistance, to help them overcome the trauma they have been through, and to achieve a sustained recovery and social inclusion.**

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

61. Article 12, paragraph 4, of the Convention requires State Parties to enable victims of trafficking who are lawfully present in the country to have access to the labour market, vocational training and education. An important element of the recovery and successful social inclusion of trafficked persons is their economic empowerment, which can be achieved through job placement, microbusinesses and social enterprises.⁴⁵ GRETA has stressed the need to develop public-private partnerships with a view to creating appropriate work opportunities for victims of trafficking.⁴⁶

62. The National Training and Employment Authority (SOLAS), while not having a specific role on THB, provides further education and training to Irish and foreign nationals (some 197 nationalities) who may include victims of THB. There are 16 regional education and training boards (ETB) which are also accessible to non-Irish nationals. Most adult education and training is free of charge, including for international protection applicants. Further, SOLAS funds education centres in women's shelters and asylum centres. SOLAS also organises online training ("e-colleges") and the private sector is often involved in the provision of training and education. In 2020, SOLAS reported that 855 asylum seekers and 1 165 refugees were enrolled in further education and training (52% were female).

⁴⁴ OSCE, *Trafficking in Human Beings Amounting to Torture and Other Forms of Ill-Treatment* (2013), Vienna, p.115.

⁴⁵ Rebecca Surtees, NEXUS Institute, *Re/integration of trafficked persons: supporting economic empowerment*, Issue paper No. 4, King Baudouin Foundation (2012).

⁴⁶ See 8th General report on GRETA's activities, paragraph 183.

63. Further, Ruhama provides practical support to women affected by sex trafficking in accessing education and development opportunities. It offers education and career-related workshops and runs the Bridge to Work Programme, which provides support in job reach, interview skills, group classes and internships.

64. A reform with respect to access to the labour market for asylum seekers has been introduced, with initial temporary measures adopted in June 2018. As of January 2021, applicants for international protection can apply for permission to access the labour market six months (instead of the previous nine) from the date of their first application for international protection, and permissions are subject to renewal every 12 months.

65. During the evaluation visit, GRETA met several victims of trafficking who confirmed that they had been following different education and training classes while being accommodated in centres run by the International Protection Accommodation Service (IPAS), including online courses during the COVID-19 pandemic, and some of them had managed to obtain jobs.

66. GRETA commends the efforts in the area of further education and training and invites the Irish authorities to ensure effective access to the labour market for victims of THB and their economic and social inclusion through the provision of vocational training and job placement, raising awareness amongst different employers, and the promotion of micro-businesses, social enterprises and public-private partnerships, including through state supported employment programmes, with a view to creating appropriate work opportunities for victims of trafficking.

6. Compensation (Article 15)

67. Article 15 (3) of the Convention establishes a right of victims to compensation. The compensation is pecuniary and covers both material injury (such as the cost of medical treatment) and non-material damage (the suffering experienced). However, even though it is the trafficker who is liable to compensate the victim, in practice there is rarely full compensation whether because the trafficker has not been found, has disappeared or has declared him/herself bankrupt. Article 15(4) therefore requires that Parties take steps to guarantee compensation of victims. The means of guaranteeing compensation are left to the Parties, which are responsible for establishing the legal basis of compensation, the administrative framework and the operational arrangements for compensation schemes. In this connection, Article 15(4) suggests setting up a compensation fund or introducing measures or programmes for social assistance to and social integration of victims that could be funded by assets of criminal origin.

68. Compensation fulfils multiple purposes: payment of reparation for injury, loss or harm cause by the offender, access to justice, empowerment of victims, and may be seen as punishment and have a deterrent effect. As such, compensation plays a crucial role in the fight against human trafficking, not only as an instrument of restorative justice, but also by way of prevention and recognition by States of human rights violations.

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

70. In its second report, GRETA urged the Irish authorities to take measures to ensure that avenues for compensation are easily accessible to trafficked people.

71. The Irish legislation regarding access to compensation for victims of criminal offences from the perpetrators remains as described in GRETA's second report.⁴⁷ Pursuant to section 6 of the Criminal Justice Act 1993, the court is entitled, instead of or in addition to any other penalty imposed, to make a compensation order requiring the convicted person to pay compensation in respect of any personal injury or loss resulting from the offence the individual was convicted of to any person who has suffered such injury or loss. Prosecutors draw the provisions of section 5 of the Criminal Justice Act 1993 as amended by section 31 Criminal Justice (Victims of Crime) Act 2017 to the attention of a sentencing court and furnish any evidence or submission received concerning the effect of the offence on the victim. The amount of compensation is at the discretion of the judge who takes into account the means and financial commitment of the offender.

72. No victim of trafficking has received compensation from the perpetrator for the offence of human trafficking in Ireland, due to the absence, until June 2021, of convictions for THB. In a recent case which led to two persons being convicted for THB in Mullingar (see paragraph 103), there was a financial investigation and it was established that the defendants had assets in other countries, but any monies that may be recovered would not be available as compensation that could be paid to the victims, as all confiscations relating to the proceeds of crime are transferred to the Exchequer (see paragraph 99). According to lawyers met by GRETA, it is unusual for criminal courts to order compensation to be paid to victims. Prosecutors met by GRETA stated that the DPP cannot suggest compensation to the criminal judge or ask for it on behalf of the victim.

73. Furthermore, a victim of THB may take civil action to claim damages either under legislative or common law rules which may relate to an employment situation or personal injuries. Victims of THB for the purpose of labour exploitation can bring claims to employment tribunals, in the District Court under the Employment Permits (Amendment) Act, and in civil courts for personal injuries, torts, etc. In civil actions, compensatory damages are assessed under two main categories: general damages and special damages. Special damages award the plaintiff for costs and expenses incurred by him/her as a result of the negligence or wrong-doing of the defendant for the financial costs and expenses, both past and future, incurred as a result of the incident. Moral/psychological injuries are not covered by personal injuries in either civil or criminal proceedings.

74. The Employment Permits (Amendment) Act, enacted in July 2014, addressed the deficiency where a foreign national could not enforce employment rights if a contract of employment was unlawful due to a failure to have an employment permit. The Act provides that it is a defence for the foreign national to the charge of having been without an employment permit where the foreign national can show that all reasonable steps to comply with the requirement to have an employment permit were taken by him/her. The Act also provides that the Minister may take a civil action on the foreign national's behalf for compensation for work done or services rendered as well as responsibility for the cost of such action.

75. Persons who are legally employed may seek redress for loss of earnings and other employment rights breaches through the Workplace Relations Commission's (WRC) adjudication service. The WRC's Inspectorate can also recover unpaid wages for workers and in 2020, it recovered €1.7 million in unpaid wages for employees and carried out 7 687 inspections. Neither the WRC, nor the Labour Court have jurisdiction to determine whether a person is a victim of trafficking or not. Such a person could, provided that they had a legal entitlement to work in Ireland, seek restitution through these bodies, but it is not possible to distinguish what percentage of the €1.7 million in unpaid wages that was recovered was in respect of victims of THB.

⁴⁷ See paragraph 173 and following of GRETA's second report on Ireland.

76. According to lawyers met by GRETA during the third evaluation visit, despite the previously mentioned legal avenues, in practice victims of THB do not take civil cases against perpetrators for a variety of reasons, including the lack of legal aid and the length of time that civil proceedings take. As noted previously, the Human Trafficking Specialised Unit within the Legal Aid Board (LAB) provides legal advice and information in relation to compensation, however, no legal representation is envisaged to support victims of THB to claim compensation in criminal or civil proceedings. Lawyers met by GRETA noted that a claim to the WRC for labour exploitation would be difficult because the victim would have no right to legal aid and because the victim would have to have been lawfully employed by the perpetrator. If the victims were not employed under a contract, or if they were employed without a valid immigration permission, they would have no claim.⁴⁸ According to research, there is a whole host of barriers for victims seeking redress in the WRC, including fear of losing their employment and visa.⁴⁹ A cross-cutting issue is access to interpretation and language barriers in dealing with the legal system.

77. As regards the enforcement of compensation orders, where a court decides that an offender must pay compensation to a victim the court may ask the Probation Service to supervise the payment of the compensation. In a civil action if there is a failure to pay the debt, a creditor/victim can go to court to get a judgment that the debt is owed. There are four main ways a creditor can enforce a judgment: execution against goods; instalment orders, followed by committal orders (if necessary); attachment of earnings; judgment mortgage. Other ways of enforcing judgments include attachment of debts, appointment of a receiver and bankruptcy proceedings. No victims of THB have had resort to these provisions, due to the absence of compensation orders.

78. Victims of human trafficking can be granted compensation from the State through the Scheme of Compensation for Personal Injuries Criminally Inflicted, run on an administrative basis by the Criminal Injuries Compensation Tribunal. The Tribunal is a non-statutory independent structure under the aegis of the Department of Justice, which is formed under the terms of the Scheme. It considers applications from people who suffer a personal injury or death as a result of a crime of violence.⁵⁰ The Scheme is administered in accordance with its written terms and conditions. In April 2021, the Minister for Justice announced a number of immediate changes⁵¹ to the Scheme as well as medium-term plans for further, more fundamental reform (see paragraph 85). Following the immediate changes, the number of Tribunal members was doubled (from 7 to 14). The members are practising barristers and solicitors who comprise the Tribunal and provide services on a part-time basis, for which they are paid fees.

79. Applications to the Scheme are not dependent on residence status, nationality or, in the majority of cases, the nature of the offence. The following persons are eligible to make an application under the Scheme: individuals who have sustained a personal injury, where the injury is directly attributable to a reported crime of violence; individuals who sustained a personal injury in circumstances arising from action by them in assisting or attempting to assist the prevention of a reported crime or the saving of human life; dependents of a victim who has died due to a violent crime inflicted on them. It is a condition of the Scheme that the injury must have been sustained within the State or aboard an Irish ship or

⁴⁸ After GRETA's evaluation visit in December 2021, the Supreme Court delivered judgment in [Sobhy v. Chief Appeals Officer](#) [2021] IESC 81. The Court held that the contract of employment of an undocumented person is illegal and void, and that an undocumented person is not entitled to social welfare — maternity benefit in this case — even if they have paid social insurance contributions. The final paragraph of the judgment reads: "The result of this appeal could perhaps unwittingly make it once again attractive for an employer to employ an undocumented person, as employer's PRSI will not have to be paid. In many cases that would be a sufficient attraction even allowing for the possibility that the employer could face criminal sanction and many employers might simply take that chance. In the event of a prosecution, many employees might not be available or in a position to give evidence. That is a consequence that may need further legislative clarity or intervention." The judgment highlights how vulnerable undocumented people are to exploitation under Irish law.

⁴⁹ Cliodhna Murphy, David M. Doule and Stephanie Thompson, *Experiences of Non-EEA Workers in the Irish Fishing Industry*, Maynooth University and International Transport Workers Federation, 2021 [victims labour exploitation in particular](#)
⁵⁰ http://www.justice.ie/en/JELR/Pages/Criminal_Injuries_Compensation_Scheme

⁵¹ The immediate changes updated the monetary limits of state compensation, which had not been updated since the Scheme was originally introduced in 1974. The minimum level of award payable under the Scheme was increased from €50 to €500 and the level of award which may be sanctioned by an authorised officer of the Tribunal was increased from €250 to €3 000.

aircraft. It is also a requirement of the Scheme that the crime has been reported to An Garda Síochána (or the Garda Síochána Ombudsman Commission - GSOC - if the alleged perpetrator was a member of the Gardai) and that the applicant fully co-operates with An Garda Síochána's (or GSOC's) investigation into the criminal incident. Applications must be made to the tribunal as soon as possible but not later than three months after the incident. Pursuant to the immediate changes announced in April 2021, notwithstanding the three-month limit for the submission of applications, the Tribunal may accept applications in circumstances deemed by the Tribunal to be exceptional for up to two years after the event giving rise to the injury. State compensation does not depend on the outcome of the criminal case and/or the failure to obtain compensation from the offenders, however, the Tribunal will typically await the outcome of legal proceedings prior to making a decision on an application where criminal proceedings are ongoing. While victims may seek compensation under both a civil action court order and the Tribunal's Scheme of Compensation for Personal Injuries Criminally Inflicted, they cannot be doubly compensated for any losses suffered. If an application is made for a civil action court order, the processing of any application under the scheme may be suspended until the outcome of the court proceedings is known.

80. Applications to the Scheme are made by way of a standardised hard copy application form which is downloaded from the Scheme's site⁵² and submitted by the applicant to the Tribunal, along with any necessary supporting documentation. Tribunal staff process the application in the first instance and liaise with the applicant on obtaining the documentation necessary for the Tribunal to make a decision on their file. The onus is on the applicant to establish their case. In order to be reimbursed vouched expenses the applicant must provide copies of payment receipts. Medical reports must be provided to underpin claims relating to medical expenses and employment, taxation and social welfare information must be provided where loss of earnings are being claimed. Under the Scheme, a decision on a claim is typically made in the first instance on the basis of the submitted documents only, i.e. without a hearing. The Scheme provides that a decision of first instance on an application may be made by a duly authorised officer of the Tribunal in cases where the amount sought does not exceed €3 000. Where the amount sought is greater than €3 000, the application must be submitted for decision of first instance to the Tribunal. Where the amount sought is below €75 000, the application will be decided at first instance by a single Tribunal member and where the amount sought is above €75 000, the application will be decided collectively by three Tribunal members. The applicant can appeal the Tribunal's decision. In cases that are appealed, the three Tribunal members comprising the appeal panel (none of whom have been involved in the first decision) will consider the application afresh on a 'de novo' basis. The Tribunal's decision made at the appeal hearing is deemed the final decision under the Scheme.⁵³

81. No legal representation is necessary when applying for state compensation and normally applicants do not need to come before the Criminal Injuries Compensation Tribunal in person unless they appeal the decision of first instance and since COVID-19 appeal hearings are held remotely. The Scheme is intended to operate in an informal way and this is set out in the terms and conditions. While an applicant is always entitled to seek independent advice or representation, including legal advice and legal representation, the Scheme does not provide for the reimbursement of legal costs. The matter of legal costs for applicants in the context of the Criminal Injuries Compensation Scheme was most recently considered in December 2020 when the Irish Court of Appeal dismissed the appeal in respect of this aspect of the appellant's claim (i.e. legal costs).⁵⁴

⁵² www.gov.ie/criminalinjuries

⁵³ While the Criminal Injury Compensation Tribunal's decision made at the appeal hearing is deemed the final decision under the Scheme, the Irish High Court has said it would review a decision of the Tribunal in appropriate cases, such as where the principles of constitutional justice have been violated or where the scheme of compensation has been misinterpreted.

⁵⁴ Neutral Citation Number [2020] IECA 342 - [https://www.courts.ie/acc/alfresco/8b9a12ff-b9b1-4a8b-a585-ef375aa18397/2020_IECA_342%20\(Unapproved\).pdf/pdf#view=fitH](https://www.courts.ie/acc/alfresco/8b9a12ff-b9b1-4a8b-a585-ef375aa18397/2020_IECA_342%20(Unapproved).pdf/pdf#view=fitH)

82. The Criminal Injuries Compensation Tribunal only considers financial losses, such as lost earnings, out-of-pocket expenses and bills. It does not compensate a victim for pain and suffering.⁵⁵ When deciding the amount of the award, the Tribunal will consider any social welfare payments, salary or wages the victim received while on leave from work and will also take into account any compensation paid to the victim by or on behalf of the offender. Compensation awards are not subject to taxation. An applicant who receives an award of compensation under the Scheme can still access social security or other benefits (however, the determination of certain benefits may involve consideration of a persons' overall means and income, e.g. the provision of social security benefits which are based on a means test). It is also the case that a general principle applies under the Scheme that there can be no double compensation made to applicants.

83. The average amount of compensation paid in awards under the Scheme over the period 2018-2020 was €77 367 (with a total of 211 awards amounting to €16 324 518 euros). The average processing time for claims historically has been four years. Improvements in the numbers of decisions made on files have been seen since 2019, as evidenced in the Annual Reports.⁵⁶ Since the number of Tribunal members was doubled in 2021, the number of claims processed annually has also increased.

84. The Criminal Injuries Compensation Tribunal has not made any awards to victims of THB to date. GRETA was informed that there were two applications in which the applicants stated they were victims of human trafficking. One of these cases is subject to plenary proceedings in the High Court and the other case was sent to a Tribunal member for decision in early 2022 and a determination on the case is awaited.

85. In terms of more fundamental reforms, the Government agreed in principle in March 2021 that the Scheme should be placed on a statutory basis. A working group was set up in May 2021 to consider reforms to the Scheme, including introducing appropriate upper limits in respect of material and non-material losses. It has met 13 times to date, examining structure, eligibility criteria and other issues. A number of commitments related to the Scheme have been incorporated in the Justice Action Plan 2022, including that by the end of the second quarter of 2022 the Minister for Justice will submit proposals to Government dealing specifically with the provision of compensation under the Scheme concerning upper limits in respect of material and non-material losses and that by the end of the fourth quarter recommendations will be made to the Minister on the future structure of the new statutory Scheme and that work will commence on the General Scheme of a Bill for the Scheme.

86. GRETA is concerned that no victim of THB has received compensation in Ireland, be it from the perpetrators or the State. Effective access to information on how to seek compensation is not guaranteed by the mere existence of information on a website and in brochures. Victims may not be able to complete the forms correctly, and may not be able to provide additional documentation without expert legal advice and assistance. Trafficking victims are treated as witnesses in criminal proceedings and not as injured parties entitled to compensation. Moreover, the requirements to be met for a victim of trafficking to be eligible for state compensation are prohibitively high, and there can be no recovery for pain and suffering.

87. **GRETA urges the Irish authorities to make efforts to guarantee effective access to compensation for victims of THB, in line with Article 15 (4) of the Convention, including by:**

- **ensuring 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 investigation, with a view to supporting compensation claims in court;**
- **making full use of the legislation on the freezing and forfeiture of assets, as well as international co-operation, to secure compensation to victims of THB, and ensure that recoverable property which is seized in criminal proceedings is returned as soon as possible to the victim or used to compensate the victim;**

⁵⁵ In 1986 compensation in respect of "pain and suffering" (e.g. psychological injuries) was removed from the Scheme.

⁵⁶ www.gov.ie/criminalinjuries

- **enabling victims of trafficking to effectively exercise their right to compensation, by ensuring access to legal assistance and free legal aid;**
- **including compensation in the training programmes of legal practitioners, prosecutors and the judiciary, encouraging them to use all the possibilities the law offers to uphold compensation claims by victims of THB, and requiring courts to state, where applicable, why compensation is not considered;**
- **ensuring that the right to compensation is not limited to pecuniary costs and that non-pecuniary damages are eligible for compensation in criminal and civil proceedings as well as under the state compensation scheme;**
- **reviewing the lack of recourse to mechanisms for the recovery of unpaid wages in cases of undocumented workers;**
- **reviewing the eligibility criteria for state compensation with a view to making it available in practice to victims of trafficking, and ensuring that eligibility is not affected by the failure of the victim to inform the authorities of the crime or to cooperate with them.**

88. **Furthermore, GRETA invites the Irish authorities to consider setting a special compensation fund for victims of THB, funded by the assets confiscated from perpetrators (see paragraph 99).**

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

89. One of the purposes of the Convention is to ensure the effective investigation and prosecution of THB. Article 27(1) of the Convention establishes that the investigation or prosecution of THB offences must not depend on victims' reports. The aim is to avoid traffickers' subjecting victims to pressure and threats in attempts to deter them from complaining to the authorities. Pursuant to Article 27(2), if the competent authority with which the complaint has been lodged decides that it does not itself have jurisdiction in the matter then it must forward the complaint without delay to the competent authority of the Party in whose territory the offence was committed. Further, under Article 27(3), each Party shall ensure to non-governmental organisations and other associations which aims at fighting trafficking in human beings or protection of human rights, the possibility to assist and/or support the victim with his or her consent during criminal proceedings concerning the offence of trafficking in human beings.

90. Article 23 requires Parties to match their action to the seriousness of the offences and lay down criminal penalties, which are "effective, proportionate and dissuasive". Further, paragraph 3 of Article 23 places a general obligation on Parties to adopt appropriate legal instruments enabling them to confiscate or otherwise deprive offenders (e.g. by so called "civil" confiscation) of the instrumentalities and proceeds of human trafficking criminal offences. As trafficking in human beings is engaged in for financial profit, measures depriving offenders of assets linked to or resulting from the offence are an effective anti-crime weapon. The freezing and confiscation of proceeds of crime is crucial for reinforcing the effect of the penalty, as well as ensuring the payment of compensation to the victim. It requires as a prerequisite to detect, identify, freeze and seize the illegal assets at the time of the criminal investigations and to have adequate procedures to do so. The identified, seized and confiscated illegal profits of trafficking should be used to compensate victims of trafficking, directly or through a victim compensation fund.

91. Further, Article 22 of the Convention requires Parties to ensure that legal persons can be held liable for human trafficking offences committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person who has a leading position within the legal person. Liability under this article may be criminal, civil or administrative.

92. In its second report on Ireland, GRETA urged the authorities to take measures to ensure that THB offences are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions, in particular by encouraging the Office of the Director of Public Prosecutions (DPP) to further develop their specialism in THB with a view to successfully prosecuting more traffickers, ensuring that units investigating THB offences are properly resourced, reviewing the legislation and the investigation/prosecution procedure with a view to identifying and addressing gaps, and strengthening efforts to investigate and prosecute cases of trafficking for the purpose of labour exploitation.

93. In Ireland, the Criminal Law (Human Trafficking) Act 2008, as amended through the Criminal Law (Human Trafficking) (Amendment) Act 2013, provides for penalties of up to life imprisonment and, at the discretion of the court, an unlimited fine for trafficking of human beings, for all forms of exploitation covered by the Act. Trafficking offences committed by a public official during performance of his/her duties is determined as an aggravating factor and attracts a sentence that is greater than what would have been imposed in the absence of such a factor. The other aggravating circumstances for trafficking in human beings envisaged in the Convention are not enshrined in Irish legislation. The determination of the penalty in any individual case is largely a matter for the trial judge, taking case-law into account.

94. Plea bargaining is constitutionally impermissible in Ireland, and has been specifically disapproved of by the Irish Supreme Court for many years.

95. An Garda Síochána has had a Human-Trafficking Investigation and Coordination Unit (HTICU) since 2009, which has been placed within the Garda National Protection Services Bureau (GNPSB) since 2015. The HTICU oversees all investigations which involve alleged human trafficking and provides advice, guidance and operational support to other Garda units which undertake relevant investigations throughout Ireland. There is a separate unit dealing with organised prostitution (Operation Quest).

96. Investigations undertaken by An Garda Síochána relating to suspected THB typically arise as a consequence of a report made by a victim or another person on their behalf regarding the alleged commission of criminal acts which constitute the offence of human-trafficking. As regards recourse to special investigative techniques when investigating suspected cases of THB, GRETA was informed during the visit that they were rarely used in such cases. The use of "covert methods of intelligence gathering" is regulated by the Criminal Justice Surveillance Act 2009. The handling of informants is overseen by a High Court Judge. Further, members of An Garda Síochána are authorised to carry out surveillance for serious offences, including human trafficking. In Ireland, data intercepted from mobile phones and applications is not used as evidence. This practice is not unique to THB cases.

97. When undertaking investigations relating to human trafficking, An Garda Síochána endeavours to 'follow the money trail' and uncover money-laundering. Depending on the complexity of the investigation, the assistance of other bureaux within An Garda Síochána may be sought, for their expertise in particular areas of crime. As appropriate, referrals are sent to the Criminal Assets Bureau (CAB), which focuses on the assets of Organised Crime Gangs (OCGs), in terms of tax avoidance and asset seizure by way of illustration.

98. As noted in GRETA's second report, the CAB enjoys extensive powers to target criminal assets and ask the court to freeze them prior to conviction.⁵⁷ The CAB operates under the provisions of the Proceeds of Crime Act, 1996 to 2016. The CAB can freeze and seize assets which it shows to the High Court are the proceeds of criminal conduct. This is done on the civil standard of proof, which is known as non-conviction based forfeiture. The CAB can only target assets in Ireland, but in the context of Joint Investigation Teams with other countries, assets abroad can be targeted as well. Part II of the Criminal Justice Act 1994 specifically provides for confiscation following conviction on indictment (which includes all offences in relation to human trafficking). Following amendments in 2017, a confiscation application can be made not only in respect of the proceeds of the particular offence for which the offender has been convicted but also in respect of the proceeds of conduct constituting that offence (extended confiscation). Where a

⁵⁷ See paragraph 213 of GRETA's second report on Ireland.

person has been convicted on indictment and sentenced or otherwise dealt with in respect of a list of 'relevant offences' listed in the Criminal Justice Act 1994 as amended, section 8F of the Criminal Justice Act 1994 gives discretion to the Director to apply for a confiscation order, and to the court to make such order, if it is determined that the convicted person has benefited from the offence for which he was convicted or from conduct constituting that offence. GRETA was informed that CAB had been active in cases of investigations into cannabis growing houses, brothel keeping, prostitution and smuggling of migrants/human trafficking. However, there have been no convictions for THB resulting in the confiscation of assets.

99. All confiscations relating to the proceeds of crime are transferred to the Minister for Public Expenditure and Reform to be paid into, or disposed of, for the benefit of the Exchequer. It is from this central fund that the Government draws for expenditure on all necessary public services and investment including for communities affected by crime. Government Departments provide funding from their voted budgets to a range of NGOs that support victims of human trafficking (see paragraph 189).

100. According to information provided by the Irish authorities, the number of THB offences recorded by An Garda Síochána was 115 in 2017, 64 in 2018, 42 in 2019, 38 in 2020 and 44 in 2021. The number of prosecutions for THB was 3 in 2017, 0 in 2018, 4 in 2019, 0 in 2020 and 3 in 2021.

101. GRETA notes with concern that the number of investigations into THB has been decreasing over the years, and the number of prosecutions into THB cases is very low compared to the number of investigations. As noted in GRETA's second report, the limited number of prosecutions for human trafficking is linked to the nature of the criminal justice system in Ireland. The level of proof required by Irish courts is very high and the Office of the DPP prosecutes in circumstances where there is a *prima facie* case, i.e. a body of evidence on which a jury properly instructed in the relevant law could conclude beyond a reasonable doubt that the accused was guilty, and where it is in the public interest to prosecute. The Guidelines for Prosecutors outline a number of relevant factors that must be considered in assessing whether or not the public interest requires prosecution.⁵⁸ Representatives of the Office of the DPP met by GRETA referred to a number of problematic issues when considering investigation files submitted by An Garda Síochána in possible human trafficking cases, such as witness credibility, conflicting accounts of victims, and absence of evidence of force, coercion, threats of fraud. According to lawyers met by GRETA, there are also difficulties with victims returning to their countries of origin and not coming back to Ireland to give evidence at trial (in one case, the victims' level of fear was such that the Gardaí could not get them to travel and the case had to be withdrawn). As a general rule, the Office of the DPP has no investigative function and no power to direct An Garda Síochána or other agencies in their investigations. However, the DPP may advise investigators in relation to the sufficiency of evidence to support nominated charges and the appropriateness of charges or in relation to legal issues arising in the course of investigation. Whilst not responsible for the conduct of investigations, the DPP is free to indicate what evidence would be required to sustain a prosecution.

⁵⁸ Available on the Director of Public Prosecutions [webpage](#).

102. Prior to June 2021, there had been no convictions for THB under the Criminal Law (Human Trafficking) (Amendment) Act 2013. As noted in GRETA's second report, all convictions under the Criminal Law (Human Trafficking) Act 2008 were under section 3 ("trafficking, taking, etc. child for purpose of sexual exploitation") on charges of sexual assault, pornography, restricting the liberty and sexually exploiting a child by the accused, which are strictly speaking not trafficking offences but rather sexual offences. As already noted in paragraph 11, a decision was taken in 2017 to stop counting as victims of human trafficking the victims of offences prosecuted under section 3(2) of the Child Trafficking and Pornography Act 1998 (as amended by the Criminal Law (Human Trafficking) Act 2008), which concerns the sexual exploitation of a child without the involvement of a third party and without any commercial element.⁵⁹

103. Following a six-week trial, on 11 June 2021, the Mullingar Circuit Criminal Court found two women of Nigerian origin guilty of human trafficking in what was the first conviction for THB under the Criminal Law (Human Trafficking) (Amendment) Act 2013. The trial heard evidence from four women forced into prostitution in Ireland after undergoing a voodoo ceremony in Nigeria. The victims provided dramatic evidence of long journeys from Nigeria via north Africa and southern Europe before arriving in Ireland. One witness gave evidence that she was trafficked into Ireland on a promise of earning up to €3 500 per month by working as a shop assistant but was forced into prostitution within days of arriving in Ireland. The trial heard that one of the defendants had kept €44 000 of one of the victim's earnings while also threatening to kill her son and entire family back in Nigeria if she did not follow instructions.⁶⁰ During the trial, independent experts provided evidence for the prosecution, and psychological reports were presented concerning the victims. The victims made impact statements.⁶¹ One of the victims, who had had to leave Ireland, was not enabled to travel back to Ireland to attend the court hearing, but could follow it through a video link. The two defendants were each found guilty on two counts of trafficking women from Nigeria into Ireland between September 2016 and June 2018. They were also each convicted of organising prostitution and money laundering offences, and received imprisonment sentences of, respectively, 5 years and 6 months and 5 years and 2 months. The verdict was reached by a jury. The DPP appealed the verdict on grounds of undue leniency and one of the defendants also appealed. The appeal has not been heard yet.

104. Representatives of the Office of the DPP informed GRETA that An Garda Síochána had had initial suspicions in the Mullingar case back to 2017-2018 and had been advised by the DPP to look for evidence, such as bank accounts and money movements. The case was reportedly investigated by the Garda unit in Mullingar and not by the specialised Human Trafficking Investigation and Coordination Unit (HTICU). Over time, the DPP were satisfied that there was a *prima facie* case and decided to prosecute. The Office of the DPP advised the Gardai on what was required in terms of evidence to support the charges, which helped build the case and enabled the successful prosecution.

105. At the time of GRETA's visit in December 2021, the Office of the DPP informed GRETA of an ongoing case (Operation Borrow) involving Brazilian defendants and victims, and concerning organised prostitution, THB and money laundering. Two out of nine suspects had been charged and remanded in custody since July 2021. Two victims had been identified and were receiving assistance in Ireland. The trial is set to proceed on 4 October 2022 and further arrests were planned against other suspects in this case.

⁵⁹ Of relevance is the case [2021] IECA 308, in which the Court of Appeal found that the trial judge was incorrect in ruling as a matter of statutory interpretation that the offence of sexual exploitation (of a child) is not a standalone offence, but rather requires proof that the complainant had been trafficked.

⁶⁰ [Two women guilty of human trafficking in first conviction of its type \(irishtimes.com\)](https://www.irishtimes.com/news/crime-and-law/two-women-guilty-of-human-trafficking-in-first-conviction-of-its-type-1.4548444)

⁶¹ If the defendant pleads guilty or is found guilty, the victim of THB has the right to make a personal statement ("victim impact statement") to the court before the perpetrator is sentenced. The court may consider the statement when it is sentencing the offender.

106. There have been no convictions for trafficking for the purpose of labour exploitation in Ireland, despite the increasing number of identified suspected cases. GRETA was informed that there had been investigations related to the fishing industry, but no prosecutions were opened for THB due to insufficiency of evidence, and the fishers who had been identified as presumed victims of THB had to leave the NRM (see paragraph 180). In their comments on the draft GRETA report, the Irish authorities indicated that even if the WRC has carried out over 500 inspections of some 170 relevant fishing vessels since the Atypical Working Scheme for Seafishers was established, and has initiated 21 prosecutions against fishing vessel owners in relation to offences under employment legislation since 2017 (see paragraph 180), no prosecutions have been sent to the DPP so far.

107. According to lawyers met by GRETA during the visit, although over a dozen cases of trafficking for labour exploitation had been referred to Gardai, including a number of investigations in the agriculture sector, not a single one had been prosecuted. There appears to be a blind spot in recognising cases of labour exploitation involving coercion or deception as human trafficking. Failure to collect supporting evidence during labour inspections, due to lack of proper engagement with potential victims of exploitation (see paragraph 181), contributes to the lack of successful prosecutions. At the time of the visit, there was an ongoing investigation into suspected THB for labour exploitation which concerned Slovak nationals working in a bakery in Cork. Further, several cases investigated in Ireland have reportedly been prosecuted in other jurisdictions, e.g. Romania and the UK.

108. There is no system in place to ensure that judges deal with cases of THB without undue delay at present, but every case is dealt with on its own facts and circumstances, and urgent cases are prioritised. The prosecution will regularly draw such cases to the attention of the listing judge. Extensive case law on delay requires that cases involving juveniles and vulnerable persons should be given priority. The length of time it will take to conclusion of a criminal trial from the date of charging of an accused will vary from case to case and will depend on such issues as whether the accused enters a plea of guilty or not and the complexity of the relevant prosecution, including whether or not it involves an international dimension.

109. A victim of THB has the right to ask to be kept informed about significant developments in the investigation. However, they are not entitled to get any information that could interfere with the investigation or put anyone in danger. This information would normally be provided between the HTICU and the victim's legal representative. If a decision is made to stop the investigation, without having identified a suspect, the victim has a right to ask for a summary of the reasons for this decision. The victim also has the right to information about when and where the court case will take place, what the suspect is being charged with, and – if the defendant is convicted – the date they are due to be sentenced. When an offender receives a prison sentence, the victim has the right to be told the expected date of their release, when they are about to be released or transferred, if they have escaped, and if they die while in custody.

110. Under section 8 of the Victims of Crime Act, victims may request a summary of the reason for the decision made not to prosecute a person for an alleged offence. There are time limits within which a victim must request such a summary. The Victims of Crime Act provides in section 11 that the Office of the DPP is not required to provide a summary of the reason for a decision not to prosecute where such disclosure could: a) interfere with the investigation of an alleged offence; or b) prejudice ongoing or future criminal proceedings in respect of an alleged offence; or c) endanger the personal safety of any person; or d) endanger the security of the State. A victim who is informed of a decision not to prosecute a person for an alleged offence may, within 28 days after receiving the information, submit a request to the DPP for a review of the decision concerned. The Irish authorities have indicated that the Office of the DPP will also give careful consideration to any request by a victim that proceedings be discontinued, but the expressed wishes of victims may not coincide with the public interest and in such cases, particularly where there is other evidence implicating accused person or where the gravity of the alleged offence requires it, the public interest may require the continuation of a prosecution.

111. The Garda Síochána Ombudsman Commission (GSOC) provides an avenue for any person who is dissatisfied with any issue in relation to Garda conduct. Each year, around 2 000 formal complaints are opened, containing around 5 000 allegations of Garda misconduct (there can be several allegations in one complaint). The GSOC may investigate matters in relation to the conduct of Gardaí, when it is in the public interest, even if a complaint has not been received. The GSOC may decide to open such an investigation itself, or may be requested to do so by the Policing Authority or by the Minister for Justice. Following amendments in 2016, the Policing Authority or the Minister may also refer a matter for the Commission to consider whether it should investigate it in the public interest.

112. According to the most recent figures available, the average duration of a Circuit Court criminal trial (from first appearance in the Circuit Court until the final order is made) is 672 days. No figures exist for THB cases. The COVID-19 pandemic affected the work of the Office of the DPP. It was not possible to have jury trials for 16 weeks in 2020 due to COVID-19 restrictions. This resulted in the postponement of trials from 2020 to 2021-2022. By contrast, the core work of the Office of the DPP on making decisions on prosecutions has been largely unaffected. According to the Irish authorities, greater use of ICT solutions, and more flexible working, are now well embedded, and working well.

113. GRETA remains concerned by the inadequate criminal justice response to human trafficking in Ireland. Failure to prosecute and convict traffickers engenders a culture of impunity and undermines efforts to identify victims and to support them to testify. Human trafficking cases require significant investment to ensure that there is no over-reliance on vulnerable victims and that those benefiting from the exploitation of victims of trafficking are identified and sanctioned, including through the use of special investigative techniques, following the money flows and online activity, and engaging in transnational co-operation.

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

- **ensuring that human trafficking offences for different forms of exploitation are proactively and promptly investigated, making use of special investigation techniques in order to gather material, documentary, financial and digital evidence, and not having to rely exclusively on testimony by victims or witnesses;**
- **systematically carrying out financial investigations in order to identify perpetrators' assets;**
- **without prejudice to the statutory independence of the DPP, ensuring that there is effective collaboration with An Garda Síochána in the gathering of evidence required to sustain a prosecution;**
- **using pre-recorded evidence in cases where victims cannot provide in-person testimony due to having left the country, providing video conference facilities and enabling victims who wish to testify to travel back to Ireland;**
- **sensitising prosecutors and judges to the different forms of THB, the rights of victims of THB and the need to adopt victim-centred and trauma-informed approaches, and providing training which includes the relevant case-law of the European Court of Human Rights;**
- **ensuring that THB prosecutions lead to effective, proportionate and dissuasive sanctions for those convicted.**

115. **GRETA also considers that the Irish authorities should take steps to ensure that the length of court proceedings in cases of trafficking of human beings is reasonable, in line with the case-law of the European Court of Human Rights (related to Article 6, paragraph 1, of the ECHR) and the standards set by the European Commission for the Efficiency of Justice (CEPEJ).⁶²**

⁶² <https://rm.coe.int/cepej-2018-26-en-rapport-calvez-regis-en-length-of-court-proceedings-e/16808ffc7b>

8. Non-punishment provision (Article 26)

116. Pursuant to Article 26 of the Convention, Parties must provide for the possibility of not imposing penalties upon victims of trafficking for their involvement in unlawful activities, to the extent that they have been compelled to do so. As stressed by GRETA in its 2nd General Report, the criminalisation of victims of trafficking not only contravenes the state's obligation to provide services and assistance to victims, but also discourages victims from coming forward and co-operating with law enforcement agencies, thereby also interfering with the State's obligation to investigate and prosecute those responsible for THB. GRETA considers that the absence of a specific provision on the non-punishment of victims of trafficking entails a risk of treating them differently depending on the prosecutor in charge of the case.

117. In its second report on Ireland, GRETA urged the authorities to take further measures to ensure compliance with Article 26 of the Convention, including by adopting a specific legal provision on the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so, and/or developing detailed, updated guidance for police officers and prosecutors on the aims and scope of the non-punishment provision. GRETA also recommended that prosecutors be encouraged to consider THB as a serious violation of human rights when assessing the public interest of prosecuting identified victims of trafficking, and that the non-punishment provision be included in the training of police officers, prosecutors, judges and lawyers.

118. There is still no specific provision in Irish law on the non-punishment of victims of trafficking. The Irish authorities have stated that the Office of the DPP is a fully independent office and it would not be possible to constrain their decision-making by introducing legal provisions against prosecutions of categories of persons. The Office of the DPP has issued guidelines for prosecutors, which were last updated in 2019 (5th edition). Paragraphs 4.7 and 4.8 of the Guidelines explicitly cover the question of whether prosecutions should be considered in relation to crimes committed by a victim of human trafficking. They state that in assessing whether the public interest lies in commencing or continuing with a prosecution, a prosecutor should exercise particular care where there is information to suggest that the suspect is a victim of crime. Using as an example a case where it is suggested that the suspect is a victim of human trafficking, the Guidelines state that such a person may be suspected of a range of offences, from breaches of immigration law to offences relating to prostitution, and that in a case where there is credible information that a suspect is also a victim of crime, the prosecutor should consider whether the public interest is served by a prosecution of the suspect. Factors which should be considered in assessing whether to commence or continue with such a prosecution include: (i) the nature of the offence allegedly committed by the suspect; (ii) whether there is any information that coercion or duress was exercised against the suspect in the context of the alleged offence; (iii) where there are allegations that the suspect was subjected to duress – whether it is alleged that this included violence or threats of violence or the use of force, deceit or fraud, or an abuse of authority or exploitation of a position of vulnerability; and (iv) whether the suspect has co-operated with the authorities in relation to any offences believed to have been committed against the suspect.

119. In 2018, the Supreme Court, in its decision in *DPP v Gleeson*,⁶³ set out a test of when someone might be acting under duress and this would be the model used by the authorities when considering whether to prosecute offences committed by victims of human trafficking.

120. According to the Irish authorities, in practice, An Garda Síochána give effect to the non-punishment principle by considering potential victims of human trafficking as victims when this becomes apparent during the identification process. Generally, where potential victims of human trafficking claim that they are victims, they are entered into the National Referral Mechanism on the balance of probabilities that they are. This remains the case until a full investigation is completed.

⁶³ [DPP v Gleeson](#) [2018] IESC 53 (1 November 2018).

121. Since the introduction of the Criminal Law (Sexual Offences) Act 2017, which decriminalised the sale of sex, potential victims of human trafficking in these cases are more easily identified and non-punishment for these victims is enshrined in law. In April 2022, the Minister for Justice announced an initiative to expunge previous convictions secured under sections 7 or 8 of the Criminal Law (Sexual Offences) Act 1993, where the person was convicted on the basis of evidence that they were offering their services as a prostitute to another person. An Garda Síochána have identified 402 convictions recorded for soliciting or importuning for the purposes of prostitution, contrary to section 7, and 205 convictions for loitering for the purposes of prostitution and failing to comply with a direction of a Garda, contrary to section 8.

122. According to lawyers met by GRETA, in their experience, the authorities take a compassionate and practical view with regard to offences committed by victims of THB. NGOs met by GRETA referred to recent cases in which presumed victims of THB were not punished for offences committed under compulsion, e.g. in cannabis cultivation. However, GRETA was informed of a case in which a Vietnamese woman found in a cannabis grow-house was remanded in custody despite her lawyer arguing that she might have been trafficked. The Gardaí stated that she had arrived under false pretences and had no knowledge that there was a grow-house at the address. The woman concerned was subsequently released from custody, but was reportedly not referred to the NRM.⁶⁴ The programme of outreach to prisons which the MRCI previously ran, referred to in GRETA's second report, in order to detect potential victims of trafficking, is no longer funded. GRETA was informed that the Government reviewed the prison sentences in the cases referred to them by the MRCI and found no evidence of THB.

123. GRETA notes that the IHREC, as National Rapporteur on human trafficking, has taken the position that the non-punishment principle should be placed on a statutory footing. According to IHREC, the current DPP Guidance does not go into sufficient detail with respect to the non-punishment principle, and the ineffective victim identification system has led to victims of trafficking being remanded in custody for lengthy periods of time.⁶⁵

124. GRETA recalls that the fear of reprisals for activities carried out under compulsion can be a persisting factor which deters victims of THB from contacting the authorities and/or support organisations. The non-punishment principle is an essential cornerstone in the fight against human trafficking, preventing re-victimisation and ensuring that victims can access services.⁶⁶

125. GRETA considers that the Irish authorities should take further steps to ensure consistent application of the principle of non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so. Such measures should include the development of detailed guidance for police officers and prosecutors on the scope and application of the non-punishment provision. Consideration should also be given to adopting a specific legal provision on the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so.

⁶⁴ <https://www.thejournal.ie/trafficking-vietnamese-cannabis-limerick-4872737-Oct2019/>

⁶⁵ Irish Human Rights and Equality Commission (IHREC), *Trafficking in Human Beings in Ireland: Evaluation of the Implementation of the EU Anti-Trafficking Directive*, June 2022, p. 61 and following.

⁶⁶ With regard to the non-punishment provision, see *V.C.L. and A.N. v. the United Kingdom* European Court of Human Rights final judgment of 5 July 2021.

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

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

127. Further, Article 30 of the Convention requires Parties to adapt their judicial procedure so as to protect victims' privacy and ensure their safety, including special protection measures for child victims. While the measures provided for in Article 28 have to do with extra-judicial protection, the measures referred to in Article 30 are concerned with the procedural measures to be introduced. The following means can be used, in accordance with the European Convention on Human Rights and the case-law of the European Court of Human Rights, to achieve the objectives of Article 30: non-public hearings, audio-visual technology, recordings of testimony, and anonymous testimony.

128. While the Gardaí are investigating a case of THB, they will decide whether the presumed victim needs special support or protection. A Crime Protection Officer is available to provide advice on personal safety and provide victims of THB with a safety and security plan. A Garda Liaison Officer is also appointed to them, whose job it is to explain why they are coming to court and what will happen there. As noted in paragraph 49, in so far as their status is concerned, victims of THB are just witnessed for the prosecution. They are not entitled to a free-of-charge legal representative during the criminal proceedings (save in circumstances where the witness is being questioned in relation to their previous sexual history) who could ensure and protect their right to safety, privacy and confidentiality during the court proceedings.

129. Under section 10 (1) of the Criminal Law (Human Trafficking) Act 2008, all persons are excluded from the court during the proceedings (other than officers of the court, persons directly concerned in the proceedings and such other persons as the judge of the court may determine). In proceedings to which this section applies, the verdict/decision and the sentence (if any) is pronounced in public (section 10 (2) of the Act). The anonymity of victims of trafficking is protected by section 11 of the Act, which makes it an offence for any person to publish or broadcast any information that is likely to enable the identification of the alleged victim of trafficking. Under section 11 (2), the judge of the court may, where he or she considers that the interests of justice so require, direct that such information may be published or broadcast in such manner and subject to such conditions as he or she may specify in the direction.

130. The Criminal Justice (Victims of Crime) Act 2017 provided additional protections for victims of THB. Section 15 stipulates that an individual assessment should be carried out for all victims to identify any protection needs a victim may have, to what extent they may benefit from protection measures, and whether, due to the victims' particular vulnerability or secondary and repeat victimisation, intimidation and retaliation, they should benefit from special measures in the course of the investigation or court proceedings. The assessment may be adapted having regard to the severity of the alleged offence and any apparent harm suffered by the victim. The victim should be consulted in relation to the assessment and his/her views taken into account in relation to any protection measures. A child is presumed to have protection needs and any assessment carried out shall take into account the best interests of the child. Protection measures may include the provision of advice regarding the personal safety of the victim or the protection of property, advice regarding safety orders or barring orders, and the making of an application

to remand the alleged offender in custody or seeking to have conditions attached to bail. Special measures during investigations may include interviews being conducted by a specially trained person, by the same person and in premises designed for the purpose of conducting interviews. Special measures in court proceedings may include making an application under Part III of the Criminal Evidence Act 1992 to enable a victim to give evidence via live television link, through an intermediary or from behind a screen or other similar device. The Court may also exclude members of the public from proceedings and restrict questioning regarding a victim's private life. Further, section 14A of Criminal Evidence Act 1992 provides that all victims, and in the case of relevant offences, witnesses under 18, may on application give evidence from behind a screen or similar device, provided they are available for cross-examination at the trial.

131. According to lawyers met by GRETA, the introduction of the Criminal Justice (Victims of Crime) Act 2017 has had a positive impact on the situation of victims and witnesses. There used to be a presumption that adult witnesses would be present in court, but following the entry into force of the Act, screens started being put in place to prevent a witness having to see the accused. These measures can be used in trafficking cases to protect victims.

132. GRETA was informed that in the recent trial in a case of THB in Mullingar (see paragraph 103), the victims attended court hearings throughout the six-week trial. They were escorted to Court by the Gardaí and a victim suite was put in place for them, where there were facilities for meals, coffee and tea, and they could view the trial from a video link from a separate courtroom. One of the victims, based in the UK, was also provided with a video link. A family liaison officer was appointed to each of the victims by the Gardaí to support them throughout the criminal process, and they also received support from the NGO Ruhama.

133. GRETA was informed that in the Mullingar case, the victims were cross-examined by three different barristers, all with three different cross-examination styles. GRETA is concerned by the re-traumatising effect of cross-examination on vulnerable victims of THB, and stresses the need for protecting them from secondary victimisation and further trauma during the court proceedings. There is a specific provision in the Criminal Justice (Victims of Crime) Act 2017 which prevents questions which relate to a witness' private life or strays away from the offence. If such questions were asked, the cross-examination would be stopped by the Court. In this context, GRETA refers to Recommendation No. R(97) 13 of the Committee of Ministers of the Council of Europe concerning intimidation of witnesses and the rights of the defence, which establishes a set of principles as guidance for national law and provides a list of measures which could help protect the interests both of witnesses and of the criminal justice system, while guaranteeing the defence appropriate opportunities to exercise their rights in criminal proceedings.

134. As noted in GRETA's second report on Ireland, An Garda Síochána operates a witness protection programme to counter attempts by criminal gangs and other groups to prevent the normal functioning of the criminal justice system, including through the threat and the use of violence and the systematic intimidation of witnesses. The witness protection programme is supported by provisions in the Criminal Justice Acts which deal with the intimidation of witnesses or jurors, the trial of offences and the provision of evidence by video link. Individual Garda Síochána assessments completed by investigating personnel within the organisation highlight whether a victim or witness will require any special measures, either during the investigation or if the report goes to court. This may include protection measures where an interview is conducted or the use of video conferencing in courtrooms. Witness protection is used in cases of serious crime, organised crime and terrorism. The budget allocation to the Garda Witness Protection Programme for 2017, 2018 and 2019 was €1 198 000. The Irish authorities have stated that information on the number of witness protection measures used for the protection of victims and witnesses of THB is not made publicly available in the interest of protecting those using the services.

135. For details concerning the protection of child victims and witnesses, see the separate section below (paragraphs 156-160).

136. **GRETA welcomes the changes introduced by the Criminal Justice (Victims of Crime) Act 2017 and considers that the Irish authorities should make full use of the available measures to protect victims and witnesses of THB and to prevent their intimidation or re-traumatisation during the investigation and during and after the court proceedings, including through the use of video conferences and other suitable means to avoid face-to-face cross-examination (“direct confrontation”) of victims and defendant, and by treating victims of trafficking as particularly vulnerable victims.**

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

137. The Human Trafficking Investigation and Coordination Unit (HTICU) which has been in place since 2009, is assigned a national remit with regard to the investigation of human-trafficking. The HTICU is housed within the Garda National Protection Services Bureau (GNPSB), which was established in 2015. As of December 2021, the HTICU employed 22 staff members (one Detective Superintendent, one Inspector, three detective sergeants, 14 detective Gardaí, one executive officer and two clerical officers). In addition, there are six staff members in the Organised Prostitution Unit (‘Operation Quest’, set up in 2019 to identify buyers of sexual services), which is headed by the same Superintendent as the HTICU and works closely with the HTICU. Further, An Garda Síochána has established a Divisional Protective Services Unit (DPSU) within every Garda Síochána division, which engages with especially vulnerable victims in specialised crime types, including human trafficking, child abuse, sexual crime and domestic abuse. Personnel assigned to DPSUs have been provided with training consisting of a number of modules addressing issues such as: investigation of sexual crime; child protection; investigation of domestic abuse; online child exploitation and sex offender management. According to the Irish authorities, An Garda Síochána have been allocated an unprecedented budget of 1.952 billion euros for 2021. The significant level of funding provided over recent years is enabling sustained, ongoing recruitment of Garda members and staff.

138. Within the Office of the Director of Public Prosecution (DPP), as part of the Directing Division, a unit dealing with THB cases was set up in 2021. It comprises two lawyers who also cover other offences, in particular smuggling and organised prosecution. They have a nation-wide mandate to take decisions on whether to prosecute in cases of THB.

139. The GNPSB through the HTICU provides human trafficking-related training as part of the core curriculum of training delivered to trainees within the Garda College. According to the Irish authorities, by the end of 2019, a total of 4 963 members of An Garda Síochána had been provided with core curriculum human trafficking related training. The training addresses such issues as victim identification, awareness-raising, relevant legislation and responsibilities placed on An Garda Síochána in the context of the Section National Action Plan against THB. Beyond core curriculum training, specialised human trafficking training has been provided to 1 489 members of An Garda Síochána and others. The HTICU also participates in continuous professional development courses and received specialist training from Europol, Interpol, CEPOL, the European Commission and the FBI, as well as partaking in joint training activation with the Police Service of Northern Ireland and the UK authorities. However, the Irish authorities have indicated that the COVID-19 pandemic severely interrupted An Garda Síochána training on human trafficking and no such training was delivered in 2020-2021 and to date in 2022. The development of a new training module to be delivered by the Garda College was also delayed as a consequence of the COVID-19 pandemic. The Garda College Divisional office indicated that the only human trafficking training which is currently delivered is within the Children’s First module, a two-day workshop mandatory for all trainee Gardaí.

140. The High-Level Working Group on Human Trafficking set up in November 2019 by the Department of Justice, the Office of DPP and An Garda Síochána has organised workshops to deal with practical and policy advice on investigation. An online training was organised together with the US State Department and US Department of Justice in relation to trends, and the investigation and prosecution of human trafficking matters. This training included representatives from the Department of Justice, An Garda Síochána, The Law Society, the Bar Council, the United Nations International Organisation for Migration, the Legal Aid Board, Ruhama, the Migrants Rights Centre for Ireland, the Immigrant Council, and the University of Limerick.

141. Within the Department of Justice's Border Management Unit (BMU) 48 officers were recruited in 2021. Part of their induction training included a module on detecting cases of THB at ports of entry. In terms of existing officers in 2021, in excess of 80% (or 101 of 124) participated in various human trafficking training.

142. GRETA welcomes the existence of investigators specialised in trafficking in human beings and the training provided to them, as well as the beginning of specialisation on THB within the Office of the Director of Public Prosecution, and considers that the Irish authorities should ensure that the training provided is systematic and periodically updated, and should further promote capacity-building and specialisation, with a view to enabling the proactive investigation and successful prosecution of human trafficking cases.

11. International co-operation (Article 32)

143. Article 32 of the Convention requires parties to co-operate to the widest extent possible to prevent and combat THB, to protect and to provide assistance to victims, and to investigate and prosecute cases of THB. International co-operation between State Parties to the Convention is also essential for enabling access to effective remedies for victims of trafficking. Parties must co-operate with one another "to the widest extent possible". This principle requires them to provide extensive co-operation to one another and to minimise impediments to the smooth and rapid flow of information and evidence internationally. As regards international co-operation in criminal matters for the purposes of investigations or proceedings, the provisions of the Convention neither cancel nor replace the provisions of relevant international or regional instruments⁶⁷ on mutual legal assistance and extradition, reciprocal arrangements between Parties to such instruments and relevant provisions of domestic law concerning international co-operation.

144. In 2018 An Garda Síochána joined the EU Cycle 2018-2021 EMPACT Group for Human Trafficking, which is part of an intelligence-led policing approach to tackling organised crime and THB. Ireland is also a member of the EMPACT group ETUTU, which focuses on human trafficking from Nigeria. Ireland participated in the EMPACT Joint Days of Action and Week of Action (in 2019, the focus was on child trafficking/exploitation at Dublin Airport, as well as seafarers joining fishing vessels arriving at Dublin Airport). Furthermore, Ireland participates in the Interpol Task Force on Human Trafficking.

145. An Garda Síochána was expected to participate in three national Action Days in 2020, in the course of the EMPACT Joint Action Days (JADs) targeting sexual and labour exploitation, but due to the COVID-19 related restrictions, only two of them were undertaken. The first one, in which both An Garda Síochána and the Police Service of Northern Ireland (PSNI) participated, was held on 25 February 2020 and was designed to target THB for labour exploitation, with a particular focus on the car wash industry. The second one, also with the participation by both An Garda Síochána and the PSNI, was held on 3 March 2020 and targeted THB involving sexual exploitation and the associated demand for the purchase of sexual services.

⁶⁷ For example, the European Convention on Extradition, the European Convention on Mutual Assistance in Criminal Matters and its protocols, Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member states, the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

146. Prior to 2019, Ireland had not participated in Joint Investigation Teams (JITs), even though the Criminal Justice (Joint Investigation Teams) Act 2004 had given effect to the EU Council Decision of 13 June 2002 of the Council of the European Union on Joint Investigation Teams.⁶⁸ In 2019, Ireland started participating in its first JIT which concerned the smuggling of migrants from Belgium to the UK, and has since engaged in several other JITs, with the UK and Lithuania, which relate to other crimes but may be extended to THB. In their comments on the draft GRETA report, the authorities indicated that Ireland recently notified the Council of the European Union that it wishes to take part in the adoption and application of the 2021 proposal for a Regulation of the European Parliament and of the Council establishing a collaboration platform to support the functioning of Joint Investigation Teams and amending Regulation (EU) 2018/1726.

147. Since January 2018, Ireland has issued 17 outgoing mutual legal assistance requests where the primary offence was listed as human trafficking; 10 of those requests have been completed to date. Ireland relies on the European Arrest Warrant to seek the return of a person wanted in relation to a crime. Ireland has not opted into the European Investigation Order.

148. Given the importance of electronic evidence in cases of THB, which is increasingly committed online and with the use of information and communication technology, GRETA encourages Ireland to ratify the Council of Europe Cybercrime (Budapest) Convention.

149. GRETA was informed that Brexit had not had an effect on international co-operation with the UK. Co-operation with law enforcement agencies in Northern Ireland has reportedly been strengthened, with a number of cross-border operations and investigations into organised prostitution, THB and migrant smuggling. An Garda Síochána aims to ensure a 'whole of island' approach to organised criminal activity and joint specialised training with the Police Service of Northern Ireland takes place.

150. Irish Aid, which is the international development branch of the Department of Foreign Affairs and Trade, has been funding a programme through the ILO based around the ILO's Decent Work Agenda. One of the four main themes of this programme is combating forced labour, which covers human trafficking of vulnerable women and children. Irish Aid also finances a number of NGOs and religious organisations working in different countries. For example, funding of over one million euros has been provided since 2010 to ECPAT International, from the Civil Society Fund. The most recent grant awarded was for €100 000 in 2020, aimed at empowering NGOs in Georgia, Kazakhstan and Uzbekistan to end sexual exploitation of children. The Department of Foreign Affairs has also provided several grants for projects related to THB (e.g. €20 000 euros in 2021 to NGOs in Turkey on the provision of services to victims of trafficking from Syria; €30 000 for a project run by the OSCE/ODIHR in Ukraine for enhancing the human dimension of security, including THB; and 25 000 euros to OSCE for combating THB along the Mediterranean migration routes).

151. Reference should also be made to the Santa Marta Group, set up in 2014 as an alliance of international police chiefs and bishops from around the world working together with civil society to combat THB. Within the Santa Marta Group, Ireland leads the North Atlantic Maritime Project, which relates to THB in the maritime industry.

152. GRETA welcomes the efforts made by the Irish authorities in the area of international co-operation against human trafficking, and invites them to make full use of the available international co-operation tools, including with regard to financial investigations and the enforcement of compensation orders, as well as the setting up of JITs in human trafficking cases and strengthening co-operation with countries to which victims of THB are returned.

⁶⁸ As noted in GRETA's second report on Ireland (see paragraph 215), the authorities thought that there was a legal problem preventing Ireland from participating in JITs, but this turned out not to be the case.

12. Cross-cutting issues

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

153. As noted in CEDAW General recommendation No. 33 on women's access to justice, discrimination against women, based on gender stereotypes, stigma, harmful and patriarchal cultural norms and gender-based violence, which affects women in particular, has an adverse impact on the ability of women to gain access to justice on an equal basis with men.⁶⁹ The Council of Europe Gender Equality Strategy 2018-2023 notes that while accessing justice might be difficult for everyone, it is even more so for women, due to gender inequality in society and in the justice system, and therefore one of the objectives of the Strategy is to ensure the equal access of women to justice.⁷⁰ GRETA notes that in the case of trafficking in human beings, gender stereotypes, prejudices, cultural barriers, fear and shame impact women's access to justice, and these barriers may persist during investigations and trials. This is particularly true for some groups of women, such as victims of gender-based violence, migrant, refugee and asylum-seeking women, ethnic minority women and women with disabilities. On the socio-economic level the obstacles include lack of awareness of one's legal rights and legal procedures or of how to access legal aid, which can stem from gender differences in educational levels, and access to information. A further obstacle may be the lack of financial resources, including the means to pay for legal representation, legal fees, judicial taxes, transportation to courts or child care.⁷¹ Such obstacles, and remedies to them, are listed in a Council of Europe training manual for judges and prosecutors on ensuring women's access to justice, as well as in the publication "Women's Access to Justice: Guide for Legal Professionals".⁷²

154. The Irish authorities have stated that victims of human trafficking are interviewed by Gardaí with specialist training in engagement with vulnerable victims, human trafficking and sexual crime. In such areas of special sensitivity An Garda Síochána will provide a Garda, and where appropriate a doctor, of the same sex of the victim. However, there may be times when this is not possible.

155. Lawyers met by GRETA during the evaluation visit stated that safeguards have been put in place and it is common that female police officers will be used for questioning female victims.

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

156. The Criminal Justice (Victims of Crime) Act 2017 contains specific provisions and additional protections for children. A child is presumed to have protection needs and any assessment of their protection needs shall take into account the best interests of the child. A video recording of any statement made during an interview with An Garda Síochána by a victim under 18 shall be admissible in evidence. In the absence of a parent, guardian or other authorised person, the relevant authority shall arrange for another appropriate person to accompany a child victim at any interview or at court proceedings at which the victim is required to be present. All victims, and in the case of relevant offences, witnesses under 18, may on application give evidence from behind a screen or similar device.

157. The court has the power to appoint a legal guardian to act for the child in the legal proceedings (known as a guardian ad litem) who can establish the wishes and feelings of the child and represent these to the court. They can also advise the court on the child's best interests. Children without a legal guardian or person who can act in a parental capacity will be placed in the care of an appropriate state agency (or in the care of a foster family) with an assigned social worker who is specifically trained to assist and support child victims of THB.

⁶⁹ CEDAW General recommendation No. 33 on women's access to justice, paragraph 8, CEDAW/C/GC/33 of 3 August 2015: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/33&Lang=en

⁷⁰ Council of Europe Gender Equality Strategy 2018-2023, pp.24-26, <https://rm.coe.int/prems-093618-qbr-gender-equality-strategy-2023-web-a5/16808b47e1>

⁷¹ Council of Europe training manual for judges and prosecutors on ensuring women's access to justice, page 13 available at <https://rm.coe.int/training-manual-women-access-to-justice/16808d78c5>

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

158. The HTICU of the Garda National Protective Services have specifically trained officers to investigate and assist victims of THB, including children, to ensure that access to justice is child-sensitive. Further, solicitors and legal clerks of the Legal Aid Board who deal with victims of trafficking receive specific training to assist in the delivery of legal services to children.

159. Tusla's website for young people was created by young people with experience of Tusla services to help other young people.⁷³ The website offers advice for children, provides details of who they may meet in Tusla and information on the supports they provide.

160. The Children's house ("Barnahus model") was introduced in Ireland in 2019 and funding was provided for the setting up of three children's houses. According to the Irish authorities, the Barnahus National Agency Steering Committee is meeting regularly. The purpose-designed centre for Barnahus West opened in Galway in 2022 after operating from previous sites between 2019 and 2021. Two further Barnahus sites are planned in Dublin and Cork. Funding of €0.78m from the Dormant Accounts Fund, and €0.6m from the European Technical Support Innovation Fund has been secured to assist in delivering nationwide Barnahus services. The multidisciplinary and interagency interventions do not include prosecutors as their role in Ireland is different from that in other countries.

c. role of businesses

161. Ireland's National Plan on Corporate Social Responsibility 2017-2020⁷⁴ is an action-orientated plan aimed at supporting businesses and organisations of all sizes and all sectors to adopt responsible business practices. Responsible supply chain management, responsible procurement and increased transparency through financial reporting, contained in the National Plan on Corporate Social Responsibility are each seen as measures which can reduce the risk of human trafficking. There is complementarity between this Plan and the second National Action Plan to Prevent and Combat Human Trafficking. Action No. 19 of the latter commits the government to "work with civil society, trade unions and business representatives to explore effective methodologies to reduce the demand for all forms of trafficking."

162. Ireland's National Plan on Business and Human Rights 2017-2020, launched by the Department of Foreign Affairs and Trade, aims to give effect to the UN Guiding Principles on Business and Human Rights. It includes in its initial priorities the encouragement and facilitation of the sharing of best practice on human rights due diligence, including effective supply chain audits.

163. In December 2018, the Office of Government Procurement (OGP) published an information note entitled "Incorporating Social Considerations into Public Procurement" for all public sector bodies, in which the mandatory exclusion from public contracts of those convicted for human trafficking offences was highlighted. This also highlighted the need to consider supply chain risks. In October 2019, the OGP issued a Circular promoting the use of environmental and social considerations in public procurement.⁷⁵ A National Public Procurement Policy Framework was published in November 2019 outlining the overarching approach to public procurement in Ireland, which mentions explicitly human trafficking as grounds for exclusion of potential suppliers.

164. A private member's Labour Exploitation and Trafficking (Audit of Supply Chains) Bill was introduced in April 2021 before the Oireachtas (Parliament). The Bill provides for transparent reporting in relation to the risk of labour exploitation and human trafficking in companies' supply chains or in any part of their business, and steps taken by them to ensure such activities do not take place. The Bill is currently before the second stage of the Dáil (the lower house of the Oireachtas).

⁷³ [Changing Futures](#)

⁷⁴ [National Plan on Corporate Social Responsibility](#) 2017-2020.

⁷⁵ [Circular](#)

165. **GRETA welcomes the above-mentioned initiatives, and considers that the Irish authorities should strengthen engagement with the private sector, in line with the UN Guiding Principles on Business and Human Rights⁷⁶ and Council of Europe Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business,⁷⁷ with a view to raising awareness of the important role and responsibility of businesses in supporting the rehabilitation and recovery of victims, and to providing access to effective remedies.**

d. measures to prevent and detect corruption

166. Trafficking in human beings can occur in various contexts. Human traffickers may form part of organised criminal groups, which frequently use corruption to circumvent the law, and money laundering to conceal their profits.

167. The Council of Europe body with the main role to play in the fight against corruption is the Group of States against Corruption (GRECO). Its country reports are relevant in addressing structural shortcomings in preventing corruption, including potentially in a THB context. GRETA refers to GRECO's fourth evaluation report on Ireland,⁷⁸ according to which the judiciary and the prosecution service are among the most trusted public institutions in Ireland. As regards judges, welcome progress was reported with the establishment of the Judicial Council in December 2019.⁷⁹

168. The Irish authorities have stated that there are no known or reported cases of misconduct of public officials in THB nor any sanctions issued.

169. During the third evaluation visit, GRETA met the Garda Inspectorate, which issued a report on corruption in 2020, following which an anti-corruption unit was set up in An Garda Síochána.⁸⁰ The Garda Inspectorate was in the process of carrying out an inspection on the work carried out by An Garda Síochána in relation to transnational organised crime. GRETA was informed of a case of corruption which related to prostitution, with a recommendation having been made to refer the case to other oversight bodies (Garda Ombudsman Commission or Garda Commissioner), which was in the process of being implemented.

170. **GRETA considers the Irish authorities should include measures against corruption in a THB context in the general policies against corruption, and effectively implement them.**

V. Follow-up topics specific to Ireland

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

171. In its second evaluation report, GRETA considered that the Irish authorities should make further efforts to prevent trafficking for the purpose of labour exploitation, including by providing training to labour inspectors to enable proactive identification of human trafficking cases, ensuring that labour inspections are properly resourced, frequent and targeted at sectors which show a high potential for human trafficking, reviewing the application of the Atypical Working Scheme in the fisheries industry, and strengthening the monitoring of recruitment and temporary work agencies.

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

⁷⁷ [Recommendation CM/Rec\(2016\)3](https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806c6921) of the Committee of Ministers to member States on human rights and business, adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies.

⁷⁸ <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806c6921>

⁷⁹ [Interim Report 2020 - Corruption prevention in respect of members of parliament, judges and prosecutors](https://www.gov.ie/en/news/2020-09/interim-report-2020-corruption-prevention-in-respect-of-members-of-parliament-judges-and-prosecutors)

⁸⁰ [gov.ie - Minister McEntee publishes Garda Inspectorate report 'Countering the Threat of Internal Corruption – A review of counter-corruption structures, strategies and processes in the Garda Síochána' \(www.gov.ie\)](https://www.gov.ie/en/news/2020-09/interim-report-2020-corruption-prevention-in-respect-of-members-of-parliament-judges-and-prosecutors)

172. As noted in paragraph 12, the number of presumed victims of trafficking for the purpose of labour exploitation has increased during the period 2017-2020 compared to the previous reference period. During the visit in December 2021, GRETA was informed that half of the identified presumed victims of THB in 2021 (a total of 34 by the time of the visit) had been subjected to labour exploitation. The presumed victims originated primarily from Eastern European countries (Romania, Lithuania, Slovak Republic). High-risk sectors for exploitation of migrant workers include agriculture and forestry, fisheries, meat processing, hospitality, construction, horse-racing, car washing, nail bars and domestic work.

173. The Workplace Relations Commission (WRC) is an office of the Department of Enterprise, Trade and Employment which fulfils a range of tasks, including adjudication of complaints and licensing of employment agencies. The WRC Inspectorate is authorised to deal with the enforcement of employment rights.⁸¹ As of November 2021, the WRC had 46 inspectors and seven Inspection Team Leaders, organised in five offices around Ireland. There were eight inspector vacancies and approval for recruitment of another 10 inspectors. According to the IHREC, the number of inspectors falls short by 37 of those recommended and agreed in 2006, and is three fewer than at the time of GRETA's second visit to Ireland. WRC inspectors exercise such powers as are conferred upon them by the Workplace Relations Act 2015. They have the powers to enter at all reasonable times any place or work or premises which they have reasonable grounds for believing are being used in connection with the employment of persons or for keeping documents relating to the employment of persons, to inspect and take copies of any books, documents or records, to examine any person whom they believe to be or have been an employer or employee, and to require any person at the place of work or premises to give such information or assistance as the inspector may reasonably require. Where breaches of legislation have been found, an inspector may, depending on the section of legislation involved, issue either a compliance notice or a fixed payment notice to an employer. Other breaches of employment law are classed as offences and may result in a criminal prosecution. Employers may be subject to fines or a prison term, where they are found to be in breach of the Employment Permits Acts. An inspector may on occasion be accompanied by other inspectors from the WRC, the Department of Employment Affairs and Social Protection, the Revenue Commissioners or by members of An Garda Síochána.

174. GRETA was informed that all WRC inspectors (with the exception of a small number of recent recruits) had been trained on the indicators of THB by the Garda National Protection Services Bureau. The WRC is a member of the High-Level Group on Combating Trafficking in Human Beings (see paragraph 18). WRC inspectors made five referrals with possible indicators of THB in 2021. Because the WRC has no role in the investigation or prosecution of THB, they have no information regarding the progress of these referrals.

175. According to the Irish authorities, WRC inspectors are solely concerned with ensuring compliance with the Employment Permits Acts, and do not prosecute employees found working without permission. In 2020, 147 joint inspections (less than 2% of the total number of inspections) took place, the majority involving Revenue or Department of Employment Affairs and Social Protection (DEASP) officers. No joint inspections were carried out with the Irish National Immigration Service. A small number involved the Garda National Immigration Bureau, largely in relation to employers where serious exploitation of workers is suspected and involved breaches of the law both under the remit of WRC Inspectors and Garda. The WRC has specific statutory information sharing powers with An Garda Síochána, the Ministry of Justice, Social Protection, Revenue and with other state bodies in matters related to detection, investigation and prosecution of offences. According to the IHREC, there is an absence of firewalls between the labour and immigration authorities, which can deter irregular migrants from coming forwards when they have been victims of THB. The IHREC is also concerned by the lack of effective recourse to mechanisms for recovery of unpaid wages in cases of undocumented workers (see paragraph 74).

⁸¹ The purpose of the Employment Permits Acts is to ensure that third-country nationals, employed in Ireland with an employment permit, have their employment rights protected. Under the Employment Permits Acts, anyone convicted of employing an illegal immigrant can be fined up to €250 000 and sentenced to a maximum of 10 years in jail (although most prosecutions are taken at District Court level, which has summary jurisdiction, and can result in fines of up to €3 000 or imprisonment for a term not exceeding 12 months, or both). Other offences under the Act's incur fines of up to €50 000, or imprisonment for five years, or both.

176. The EMPACT Trafficking in Human Beings campaign 2019 was focused on the detection of labour exploitation in the car wash and nail bar sectors as part of a Europe-wide operation. The operation involved inspections by labour inspectorates and police forces across Europe. Officers of An Garda Síochána accompanied inspectors in 39 inspections (out of a total of 169 inspections carried out).

177. The Atypical Working Scheme (AWS) for Seafishers, which was launched in February 2016 to facilitate the employment of non-EU fishermen on boats of 15 metres and over in length, has already been described in GRETA's second report on Ireland.⁸² In 2018, the International Transport Worker's Federation (ITF) brought a case to the High Court seeking an immediate moratorium on the grant or renewal of work permits under the AWS, pending a review of conditions attaching to the scheme. The ITF brought the case having identified a number of individuals who arrived in Ireland on foot, to whom permits were granted under the scheme, and who it alleged were subsequently subjected to human trafficking and other severe forms of labour exploitation on Irish fishing vessels. The IHREC acted as *amicus curiae* in this case. The High Court found that the State's administrative scheme for the recognition and protection of victims of human trafficking was inadequate to meet its obligations under EU law aimed at combating trafficking in human beings. On 30 April 2019, the ITF and the Minister for Justice and Equality presented the terms of a mediated settlement. The agreement made 21 changes to the AWS, including flexibility for non-EEA fishermen to move to another vessel within a defined time period without risk of visa cancellation and deportation, issuance of the contract in the worker's own language, greater promotion of awareness among non-EEA fishermen of their rights and entitlements, and inter-agency collaboration between the WRC, the Marine Survey Office (MSO) and the Gardaí. According to the Irish authorities, 17 of the 21 commitments have been fully delivered or completed to date. The remaining four commitments relate to ongoing monitoring, enforcement and reporting matters, and these commitments are also being delivered. The terms of the AWS currently require that the contract of employment must be of a 12-month duration. The contract includes payment of wages in line with the minimum wage (currently €10.10 per hour), medical needs provided for by the employer, and repatriation of the employee to his home country after the employment is terminated. Each contract is certified by a solicitor. In their comments on the draft GRETA report, the Irish authorities indicated that a review of the operation of the AWS is currently underway. A cross-departmental review will determine whether it should continue in its present form or whether there is a more suitable mechanism for the employment of non-EEA workers on eligible vessels under the current scheme.

178. GRETA was informed that 170 vessels currently come within the scope of the AWS. A total of 429 Atypical Permissions have been issued to non-EEA fishers from the launch of the AWS in February 2016 until 1 October 2021.⁸³ The main nationalities involved are Filipino (47%), Egyptian (25%), Ghanaian (12%), Indonesian (10%) and Indian (3%).

179. The WRC Inspectorate inspects fishing vessels. Seven inspectors, led by a Regional Manager, are trained and available for deployment on fisheries compliance operations. It is intended that at least four more inspectors will be assigned to the project, bringing to 11 the total number of inspectors available for fisheries operations. GRETA was informed that 45 contraventions of employment rights or employment permits legislation, relating to 17 vessel owners, were detected in 2021, and 36 contraventions were detected in 2020, relating to 20 vessel owners. COVID-19 restrictions had a major impact on live inspections in 2020; nonetheless, 31 desktop inspections and two on-board inspections were completed, covering some 37 vessels.

⁸² See paragraphs 68-70 of GRETA's second report on Ireland.

⁸³ The number of new permissions issued in 2020 was 40, as well as 143 renewed permission.

180. According to representatives of the ITF, some 32 fishers have been admitted to the NRM since 2016 following referrals by the ITF (24 of them came to Ireland under the AWS). No referrals were made in 2019 and 2020, but the ITF referred three Egyptians to the NRM in May 2021 and four Ghanaians in January 2021. The investigations carried out by An Garda Síochána did not result in prosecutions (see paragraph 106) and the fishers concerned had to leave the NRM as the Department of Justice did not consider them any longer to be victims of trafficking. Despite the above-mentioned improvements to the AWS, according to the ITF, while the AWS enables foreign fishers to be legally recruited, once they are out at sea the conditions of their contracts are not met. The ITF brought four cases to the attention of An Garda Síochána in 2020, three of which were accepted for investigation. However, there is reportedly a resistance from An Garda Síochána to take up such cases and the DPP has not prosecuted any of them. The cases are apparently being investigated as work-related injuries and no effort is made to collect evidence to build cases for THB. GRETA notes that the continuing absence of prosecutions and convictions for trafficking for labour exploitation is also linked to the high threshold which appears to be applied when interpreting the definition of “forced labour”. In this respect, reference is made to GRETA’s Guidance Note on combating human trafficking for the purpose of labour exploitation.⁸⁴

181. Reference should also be made to research carried out on the experiences of non-EEA workers in the Irish fishing industry,⁸⁵ which involved interviews with 24 such workers. Over two thirds observed that they could work between 15 and 20 hours a day. Less than half recalled boats being inspected by the WRC. Fear of losing one’s job and work permit, along with language barriers, were key challenges for workers to engaging with employers or inspectors to seek better working conditions. The participants in the research were often aware their employment rights were being infringed, but felt that they could do nothing about it. In their comments to GRETA’s draft report, the WRC noted that the sample of 24 workers was not reflective of the inspection activity of the WRC in this sector and may not be representative of the experiences of all fishers in the Irish fishing fleet. According to the WRC, all vessels within the scope of the AWS have had at least one inspection and those identified as requiring further attention have been subject to further inspections. In addition, the WRC carries out specific targeted campaigns such as the one in September 2021 (Operation Pallas), where over 30 inspections were carried out and 43 non-EEA fishers were interviewed. According to the WRC, a key component of all inspections is to interview workers who are on board or attending the vessel at the time of the inspection, and contact details for inspectors are given to the fishers interviewed.

182. Furthermore, according to information provided by the Minister of Transport in response to questions put by Parliament, the Marine Survey Office (MSO) carried out 12 unannounced fishing vessel inspections in 2018, 40 in 2019, 19 in 2020, and 7 in the first three months of 2021. The total number of inspections by the MSO was 145 in 2018, 141 in 2019, 67 in 2020, and 12 in the first three months of 2021. The MSO has received 28 referrals from the WRC, and 26 follow-up inspections relating to these referrals were carried out (including 23 unannounced).

183. Domestic workers enjoy the same protection under Irish employment legislation as all other legally employed workers. The rights of persons employed in private homes are set out in a Code of Practice, produced by the Labour Relations Commission in consultation with representatives of Social Partners. The WRC carries out inspections of domestic work largely through referrals, complaints or by examination of tax records. Between 2011 and 2019, 242 inspections were aimed at the domestic work sector and approximately €52 000 in unpaid wages were recovered. In relation to access to private homes, it is the WRC policy to request access to the workplace but if this is not possible then the employer has an obligation to make themselves available at another location. As noted in GRETA’s second report, the WRC has guidance for domestic workers (available in eight languages).

⁸⁴ <https://rm.coe.int/guidance-note-on-preventing-and-combating-trafficking-in-human-beings-/1680a1060c>
⁸⁵ [Experiences of Non-EEA Workers in the Irish Fishing Industry](#)

184. Further, the Department of Foreign Affairs has issued guidelines for members of diplomatic missions in Ireland who intend to employ private domestic workers (updated in January 2018).⁸⁶ Out of 64 foreign embassies in Ireland, five had private domestic employees. GRETA was informed that a private domestic worker who was working as a housekeeper for a member of the foreign diplomatic corps in Ireland had contacted a member of staff in the Protocol division in the Department of Foreign Affairs in November 2021 seeking assistance. The staff member contacted the MRCI who arranged emergency accommodation and assigned a case worker. According to the GNPSB, the investigation could not be progressed as the suspect was subject to diplomatic immunity and no longer resided in Ireland, which is why the case was closed. GRETA stresses the importance of comprehensively investigating cases of alleged exploitation in diplomatic households which could amount to human trafficking, and making sure that diplomats are held accountable for the treatment of people they employ.

185. On 4 February 2019, Ireland deposited its instrument of ratification of the Protocol of 2014 to the Forced Labour Convention, 1930.

186. While welcoming the steps taken in Ireland since the second evaluation to prevent and combat THB for the purpose of labour exploitation, GRETA notes that the limited number of inspectors does not enable the proactive identification of victims of trafficking for the purpose of labour exploitation. Further, while the review of the conditions of the Atypical Working Scheme for Seafishers has provided some additional safeguards, the current conditions of the Scheme do not appear to be sufficient to prevent abuses.

187. **GRETA urges the Irish authorities to step up their efforts to combat trafficking for labour exploitation by:**

- **reinforcing the human resources and training of the WRC Inspectorate to enable it to contribute to the prevention and detection of THB for labour exploitation; inspectors should have sectoral expertise, language skills and cultural competences to effectively perform their tasks;**
- **encouraging trafficked persons to self-identify as victims of trafficking, including through establishing safe reporting procedures for foreign workers and effective complaint mechanisms, concrete possibilities of regularisation of the trafficked person's residence status and access to the labour market, the provision of targeted and tailored support services;**
- **reviewing the Atypical Working Scheme in the fisheries industry with a view to ensuring that it contains sufficient safeguards against trafficking and exploitation of fishermen; in particular, the work permit should be sector-wide and not linked to one employer.**

188. **Furthermore, GRETA considers that the Irish authorities should take further steps to prevent THB for the purpose of labour exploitation, including by:**

- **putting in place practical co-operation and data sharing agreements between labour inspectors and law enforcement in order to ensure that personal information of workers, whether collected in the course of labour inspections, joint inspections, reporting or complaints mechanisms, is not used for immigration enforcement purposes, but to tackle the organisers of trafficking offences;**

⁸⁶ See paragraph 75 of GRETA's second report on Ireland.

- **developing a specific protocol on the investigation of trafficking for the purpose of labour exploitation in order to gather all necessary evidence, using special investigative techniques and carrying out financial investigations, in order to decrease reliance on trafficked persons' evidence;**
- **further developing co-operation with trade unions in the prevention of THB for the purpose of labour exploitation.**

2. Measures to raise awareness and discourage demand

189. In August 2020 the Department of Justice sent out a call to NGOs and stakeholders for applications for financial support for initiatives focusing on awareness raising and training for frontline staff, state, local authority, and civil society with regards to human trafficking. Four NGOs (the Migrant Rights Centre Ireland, the Immigrant Council of Ireland, MECPATHS and DORAS) responded to the call and were awarded a total of €107 784 for this task. Overall, the Government provided €687 254 of funding to six NGOs active in the field of human trafficking in 2020 (including €233 754 for awareness raising projects), an increase of 51% over the funding allocation for 2019.⁸⁷

190. The IOM Office in Ireland continues to be involved in awareness raising and training. On 12 October 2020 the Minister for Justice and IOM announced the launch of a new anti-human trafficking public awareness initiative. This initiative, the “#Anyone can be exploited campaign” included awareness-raising measures on social media and in key transport hubs (e.g. Dublin Airport and ports). A new website⁸⁸ was launched in conjunction with this initiative to highlight the availability of support and services for victims of trafficking, and a public webinar hosted by IOM and the Department of Justice was held on 1 October. Another awareness campaign, targeting the private sector, is expected to start in 2022.

191. As noted in GRETA's second report, the Criminal Law (Sexual Offences) Act 2017 decriminalised the selling of sexual services and introduced the offences of paying to engage in sexual activity with a prostitute (section 25) and paying to engage in sexual activity with a trafficked person (section 26). The stated purpose of these new offences is to discourage demand which fosters sexual exploitation, by criminalising the buyers of sexual services. Section 27 of the Act envisages a review of the operation of section 25 of the Act within three years from its commencement. GRETA was informed that the review had been commissioned and was expected to be completed in early 2022, but was further delayed as the independent expert is also leading on the familicide and domestic homicide review, which is being prioritised. **GRETA would like to be kept informed of the outcome of the review, which is important for evaluating the effects of criminalising the act of buying sexual services on the identification of trafficked persons, the protection and assistance offered to them, and the prosecution of traffickers.**

192. A number of research projects were concluded in 2020, including the Project on Perspectives of Trafficking for the Purposes of Sexual Exploitation in Ireland, and the Sexual Exploitation Research Project (SERP).⁸⁹ According to research, the new legislation has had a positive impact by shifting the burden of criminality to the buyers. The number of cases of purchase of sex recorded by the Gardai rose from 10 in 2018 to 92 in 2019. Gardai carry out checks in places of prostitution and check if there are victims of trafficking. The number of recorded incidents of brothel keeping has been on the decline. At the same time, according to NGOs, there has been no decrease in demand observed. During the COVID-19 pandemic, demand for sexual services shifted online, creating a new dynamic where knowledge of cybercrime and securing electronic evidence becomes increasingly important.

⁸⁷ According to information provided by the Irish authorities, the Department of Justice provided the following funding to Ruhama and Migrant Rights Centre Ireland: €426 441 in 2017, €375 000 in 2018, €434 500 in 2019.

⁸⁸ www.anyonetrafficked.com

⁸⁹ Monica O'Connor and Ruth Breslin, *Shifting the Burden of Criminality*, The Sexual Exploitation Research Programme, University College Dublin.

193. In 2019 the Department of Justice funded the sum of €96 050 to NGO Ruhama to carry out an awareness-raising campaign into the criminalisation of the purchase of sex. This campaign ran until 23 June 2020. The campaign built on the successes of the original 'We Don't Buy It' campaign, which took place in 2015. The campaign was developed in conjunction with the Men's Development Network, SPACE International and the Sexual Violence Centre Cork.

194. As regards steps taken to discourage demand which results in trafficking of persons for the purpose of labour exploitations, see paragraphs 173 and following.

195. GRETA welcomes the measures taken since the second evaluation in the areas of awareness raising and discouraging demand for the services of trafficked persons. GRETA invites the Irish authorities to continue making efforts in these areas, in partnership with civil society, trade unions and the private sector, including internet providers and tech companies.

3. Identification of victims of trafficking

196. In its second report, GRETA urged the Irish authorities to take steps to ensure that victims of trafficking are identified proactively and without delay, including by reviewing as a matter of priority the victim identification procedure and decision-making process, and promoting multi-agency involvement in the identification of victims of trafficking by giving a formal role in the identification process to frontline actors such as NGOs, labour inspectors, social workers, health-care staff and other bodies which may come into contact with victims of trafficking.

197. At the time of the third evaluation by GRETA, no changes had been made to the process of identification of a person as a suspected victim of human trafficking, set out in the 2008 Administrative Immigration Arrangements for the Protection of Victims of Human Trafficking⁹⁰ and already described in the two previous GRETA reports.⁹¹ An Garda Síochána remained the sole competent authority for identifying victims of human trafficking in Ireland, with all the downsides described in the previous GRETA reports.⁹² All suspected victims of human trafficking had to be referred to the Human Trafficking Investigation and Co-ordination Unit (HTICU) of An Garda Síochána for identification and investigation of the case. This double function creates an additional workload for the HTICU and takes away time from the investigation tasks. Furthermore, the obligation to speak to the Gardai discourages possible victims of THB to self-identify.

198. In its second report, GRETA recommended that the authorities closely monitor the relationship between asylum and THB with a view to ensuring that the right to seek and enjoy asylum does not impede identification as a victim of trafficking. The identification of presumed victims of THB is still highly connected with the asylum procedure. The Administrative Immigration Arrangements continue to force asylum applicants to choose between identification as a victim of trafficking and international protection. Following the commencement of the International Protection Act 2015 on 31 December 2016, the Office of the Refugee Applications Commissioner was replaced by an International Protection Office (IPO) within the Department of Justice and Equality, and the Refugee Appeals Tribunal was replaced by the International Protection Appeals Tribunal. The system for examining applications for international protection now follows a single application procedure during which all grounds for seeking international protection are examined and determined in one process. According to UNHCR, the standard length of time for first-instance decisions is 23 months.⁹³

⁹⁰ [http://www.blueblindfold.gov.ie/website/bbf/bbfweb.nsf/page/ACJN-8YSMJ41738285-en/\\$File/Immigration%20arr.pdf](http://www.blueblindfold.gov.ie/website/bbf/bbfweb.nsf/page/ACJN-8YSMJ41738285-en/$File/Immigration%20arr.pdf)

⁹¹ See paragraphs 146-152 of GRETA's first report on Ireland and paragraph 107 of GRETA's second report on Ireland.

⁹² See paragraph 114 of GRETA's second report on Ireland.

⁹³ There were 2 649 applications for international protection in Ireland in 2021, 1 566 in 2020, and 4 781 in 2019.

199. The International Protection Act explicitly recognises the vulnerable position of victims of trafficking, which must be taken into account when granting international protection. The IPO has a focal point on human trafficking. In 2017, the IPO issued the "Anti-Human Trafficking Guidance Paper", which is an internal guidance and training document for IPO staff (caseworkers and panel members). It includes indicators of trafficking, a checklist for assessing whether an applicant has been trafficked and guidance on handling victims and possible victims of trafficking. GRETA also notes positively the introduction of vulnerability assessment of persons seeking international protection.

200. On 11 May 2021, the Irish Government approved a proposal for a revised National Referral Mechanism (NRM) to make it easier for human trafficking victims to come forward and receive supports. Approval was also obtained to draft a general scheme of a Bill to put the new NRM on a statutory footing. The aim is to create a more holistic framework with multiple channels of entry to the NRM granting access to specialised supports. An important feature of the new model is that NGOs who have been designated as 'trusted partners' will become authorised referral partners. An NRM Operational Committee with membership from departments and agencies with functions in relation to identification of human trafficking victims will also be established. The Operational Committee will act to ensure that each competent authority will have an appropriate internal inquiry/investigation process to satisfy itself that the application is on balance of probabilities genuine. This will be separate to the criminal investigation process that An Garda Síochána will undertake in appropriate cases to establish if a prosecution against the perpetrator can be mounted. The Committee will be the forum for sharing of information on victims that have been identified, ensuring that victims are referred between agencies as necessary for access to services that are needed and that any immigration offences processes are paused. Furthermore, it is envisaged to set up a National Policy and Oversight Committee, with membership of all departments and agencies involved in the NRM, whose role will be to keep the NRM and its operations under review, identify policy or operational issues and agree on solutions. In their comments on the draft GRETA report, the Irish authorities indicated that an interdepartmental group had been set up to work on operational protocols which will outline how the different agencies will interact within the new framework. The group met on 31 January and 23 February 2022, and the next meeting was scheduled for June, after which it was expected that the general scheme of a Bill to introduce the establishment of the new NRM would be published. **GRETA would like to be kept informed of the adoption of the new NRM.**

201. GRETA urges the Irish authorities to finalise the introduction of a revised National Referral Mechanism which ensures multi-agency involvement in the identification of victims of trafficking and gives a formal role in the identification process to a series of frontline actors, including specialised NGOs and labour inspectors. The reviewed NRM should cover all victims, including EEA and Irish citizens, as well as asylum seekers, paying particular attention to children, and making sure that identification as a victim of trafficking and access to assistance does not depend on the person's co-operation in the investigation. The revised NRM should also ensure that the right to seek and enjoy asylum does not impede identification as a victim of trafficking. All frontline staff should be provided with regular training and guidance for the identification and referral of victims of trafficking.

4. Assistance to victims

202. In its second report, GRETA urged the Irish authorities to review as a matter of priority the policy of accommodating presumed victims of trafficking in accommodation centres for asylum seekers, with a view to ensuring that the accommodation is gender-sensitive, appropriate and safe, and that victims are provided with specialised services, and to enact statutory rights to assistance and protection for possible victims of trafficking, as specified in Articles 10 and 12 of the Convention, regardless of the victims' nationality or immigration status.

203. At present, it is still the practice that presumed and identified victims of trafficking are accommodated in full board accommodation facilities (previously referred to as "direct provision centres") delivered by the International Protection Accommodation Service (IPAS), which is placed under the Department of Children, Equality, Disability, Integration and Youth. In the absence of specialised accommodation for victims of THB in Ireland, during the third visit GRETA visited again the accommodation centre for asylum seekers Mosney Village in County Meath, which can be used for hosting victims of trafficking in human beings.⁹⁴ It occupies a large estate formally used as a holiday site, with around 260 houses, offering very good material conditions and a range of services and activities, as well as an on-site medical facility. Nevertheless, the concerns expressed by GRETA in its previous reports, namely that asylum seekers' centres, not being specialised for victims of trafficking, are not an appropriate environment for such victims, remain valid.⁹⁵ Victims of trafficking met by GRETA during the visit who had been staying at different IPAS facilities told GRETA that the accommodation provided was not appropriate for victims of trafficking because it was not safe, there was a lack of privacy, they were transferred many times, and it was uncertain how long they can remain.

204. GRETA was informed that in 2020, the Department of Justice and the Department of Children, Equality, Disability, Integration and Youth had started engaging with NGOs to see if an NGO-led solution to the accommodation issue was practical, in particular for female victims of sexual exploitation. In 2020, the authorities indicated their intention to begin a pilot accommodation service for victims of trafficking under the aegis of the NGOs Ruhama and DePaul Ireland. In February 2021, the Government published a White Paper to End Direct Provision and to Establish a New International Protection Support Service.⁹⁶ In May 2021, the Department of Children, Equality, Disability, Integration and Youth announced that it would invite NGOs to submit proposals on accommodation for trafficking victims, and following the organisation of a tender, a unit would open in the autumn on a trial basis, catering for eight to 10 victims.⁹⁷ This plan had not materialised by the time of GRETA's visit in December 2021 when GRETA was informed that the Department of Children, Equality, Disability, Integration and Youth was taking this forward in the context of the wider review of direct provision accommodation centres. In their comments on the draft GRETA report, the authorities indicated that the tender was delayed due to focused effort of the entire procurement team on sourcing accommodation and services to deal with arrivals from Ukraine. While it is difficult to provide a timeline for this procurement, it is unlikely to be before the last quarter of 2022.

205. GRETA once again urges the Irish authorities to set up, as a matter of priority, specialised accommodation facilities for victims of THB and to ensure that accommodation is gender-sensitive, appropriate and safe, and that victims are provided with specialised services. In addition to better support and protection of the victims, this would also be in the interest of the investigation. Further, the authorities should enact statutory rights to assistance and protection for possible victims of trafficking, as specified in Articles 10 and 12 of the Convention, regardless of the victims' nationality or immigration status.

5. Prevention of child trafficking and identification of, and assistance to, child victims of trafficking

206. In its second evaluation report, GRETA considered that the Irish authorities should improve the identification of, and assistance to, child victims of trafficking, in particular by ensuring that relevant actors take a proactive approach and increase their outreach work to identify child victims of trafficking, and providing adequate support and services which are adapted to the needs of child victims of trafficking, including appropriate accommodation, access to education and vocational training.

⁹⁴ See paragraph 133 of GRETA's second report on Ireland.

⁹⁵ See paragraph 135 of GRETA's second report on Ireland.

⁹⁶ [gov.ie - White Paper on Ending Direct Provision | Executive Summary in various languages \(www.gov.ie\)](https://www.gov.ie/en/white-papers/white-paper-on-ending-direct-provision-executive-summary-in-various-languages/). See also the report of the advisory group on the provision of support including accommodation to persons in the international protection process (commonly referred to as the Catherine Day Group report), [gov.ie - Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process \(www.gov.ie\)](https://www.gov.ie/en/reports-and-publications/report-of-the-advisory-group-on-the-provision-of-support-including-accommodation-to-persons-in-the-international-protection-process/).

⁹⁷ [Dedicated housing unit for trafficking victims to open in autumn](https://www.gov.ie/en/white-papers/white-paper-on-ending-direct-provision-executive-summary-in-various-languages/).

207. As noted in paragraph 11, the number of presumed child victims of THB identified in Ireland has been very low, in particular following the decision to stop counting as victims of human trafficking the victims of child sexual exploitation without the involvement of a third party or commercial element. Various interlocutors met during the third evaluation visit noted that the number of presumed child victims does not reflect the real situation. Lack of reporting on children at risk and proactive identification of presumed victims contribute to the near absence of child victims of trafficking. Little attention is paid to the risks of Irish and EU children falling victim to trafficking, the focus being on unaccompanied or separated asylum-seeking children. The Ombudsman for Children raised concerns about the situation of children from Roma and Traveller Communities, including those arriving from other EU countries. Further, according to a report by MECPATHS, there is a real and ongoing risk of sexual exploitation of children within the hospitality sector.⁹⁸ Online grooming and sexual exploitation of children is another area of growing concern. GRETA also notes recent research carried out by the University of Limerick ("Greentown Research Project"), which provides insights into how criminal networks attract and coerce children.⁹⁹ GRETA understands that the Ministry of Justice has tabled new legislation on the exploitation of children in criminal activities.

208. There are some 100 unaccompanied children in Ireland, which are under the responsibility of the Separated Children Seeking Asylum Team of Tusla. The Team provide a national service whereby they travel to collect children who arrive in various ports and airports around the country. Its staff are aware of trafficking as a potential risk factor for all young separated people who arrive in Ireland and have developed skills in identifying this group of vulnerable young people. If a young person has been identified as, or declares themselves to be, a victim of human trafficking they can be received into the care of the State (Tusla) and placed in residential or foster care, as appropriate. There are clear procedures and guidelines in place and a legislative basis to offer care and protection to the child/young person under the Child Care Act. However, GRETA was informed that Tusla staff do not receive specialised training on trafficking in children. Further, it would appear that the staffing levels of Tusla are rather low.

209. In its second report, GRETA invited the Irish authorities to ensure full compliance with Article 10(3) of the Convention concerning age verification, taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child.¹⁰⁰ The Ombudsman for Children has received complaints about the age assessment process and has written to Tusla, without any result for the time being. The Irish authorities have indicated that when a referral is made in relation to a young person claiming to be a minor or when the International Protection Office (IPO) is of the view that they are a minor they are referred to Tusla where an assessment to determine the young person's eligibility for services under the Child Care Act is undertaken. In all such cases the benefit of the doubt applies until such time as the determination of eligibility is concluded. The young person remains in an appropriate placement until a determination is made. If found not to be eligible for/in need of the care and protection of Tusla they are referred back to IPO.

210. While GRETA understands the reasons for the authorities' decision to stop counting as victims of trafficking child victims of offences under section 3(2) of the Child Trafficking and Pornography Act 1998 (as amended by the Criminal Law (Human Trafficking) Act 2008), GRETA is concerned by the negative impact that this decision might have on the identification of child victims of trafficking, in particular Irish children. The Irish authorities have indicated that the legislation is kept under review, in particular by the High Level Group on Human Trafficking, but there are currently no specific deficiencies or issues that have been identified with the legislative framework on child trafficking. **GRETA considers that the Irish authorities should continue keeping under review the legislative provisions on child trafficking and their consequences for the identification of child victims of trafficking.**¹⁰¹

⁹⁸ Michale J. Breen, Amy Erbe Healy, Michael G. Healy, *Report on Human Trafficking and Exploitation on the Island of Ireland*, Mary Immaculate College, Limerick, 2021, p. 77.

⁹⁹ https://www.justice.ie/en/JELR/Pages/Greentown_Research_Project

¹⁰⁰ [General Comment No. 6 Treatment of unaccompanied and separated children outside their country of origin](#), Committee on the Rights of the Child, Thirty-ninth session, 17 May - 3 June 2005.

¹⁰¹ In this context, see: [Man who admitted paying women to get access to children to be sentenced \(irishtimes.com\)](https://www.irishtimes.com)

211. **GRETA urges the Irish authorities to step up their efforts to combat child trafficking, including through:**

- **putting in place a robust child protection system capable of enabling the identification of trafficking indicators amongst Irish and EU children;**
- **ensuring that the revised NRM includes specific procedures for children and takes into account the special circumstances of children, involves child specialists and ensures that the best interests of the child are the primary consideration in all proceedings relating to child victims of THB and children at risk;**
- **provide further training and tools to stakeholders (police, prosecutors, asylum and migration authorities, Tusla staff, social workers, NGOs) on the identification of child victims of THB for different forms of exploitation;**
- **raising awareness of the risks and mechanisms of online grooming and exploitation of children, and exploring the possible links between online sexual exploitation of children and human trafficking.**

6. Recovery and reflection period and residence permits

212. In its second report, GRETA once again urged the Irish authorities to ensure, in compliance with Article 13 of the Convention, that all possible foreign victims of trafficking, including EEA nationals, are offered a recovery and reflection period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period. Further, GRETA considered that the Irish authorities should ensure that victims of trafficking can fully benefit from the right to obtain a renewable residence permit, without prejudice for the right to seek and enjoy asylum.

213. The relevant Irish legislation has not changed. In circumstances in which persons have no legal basis to remain in the State, protection may be granted under the Administrative Immigration Arrangements for the Protection of Victims of Trafficking, pursuant to which a 60-day recovery and reflection period (possibly longer for children) and/or six-month renewable temporary residence permit may be granted. The recovery and reflection period only applies where a person has no other permission to remain in Ireland. The residence permits are intended for cases in which the trafficked person wishes to assist An Garda Síochána or other relevant authorities in any investigation or prosecution in relation to the alleged trafficking.¹⁰² A person can make an application for a longer-term residence permit after three years of temporary residency permits or when the investigation/prosecution is complete (whichever is the shorter). After six consecutive six-month permits, the victim gets a two-year permit automatically by virtue of the fact that they have had little stability in their lives.

¹⁰² As noted in GRETA's second report, the notions of "co-operation" with or "assistance" to An Garda Síochána are not defined in the Administrative Immigration Arrangements, but the Irish authorities have stated that in practice co-operation is given a broad understanding and does not require the giving of formal witness statements for prosecutions.

214. According to the manually compiled statistics kept since 2017, the Domestic Residence and Permissions Unit have processed 105 cases in which the Garda National Immigration Bureau granted permissions to victims of human trafficking for a recovery and reflection period of 60 days and/or a six-month renewable temporary residence permits. 41 of these involved male victims and 64 female victims; 41 of the 105 cases resulted in granting a two-year permit after two six-monthly residence permits. The number of new residence permits issued was as follows: in 2020 – five (two men from Egypt and three women from Nigeria; in 2019 – four (three men and one woman, all from Nigeria; in 2018 – 23 (one woman from Brazil and 22 men from Egypt, Ghana, India and Philippines; in 2017 – six (three women, from Nigeria, China and South Africa, and three men, from Egypt and Philippines).

215. GRETA considers that the Irish authorities should review the place and role of the recovery and reflection period in the context of the review of the NRM, ensuring that, in compliance with Article 13 of the Convention all possible foreign victims of trafficking, including EEA nationals, are offered a recovery and reflection period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.

216. GRETA recalls that Article 14 of the Convention allows Parties to choose between granting a residence permit in exchange for co-operation with the authorities or on account of the victim's needs, or indeed to adopt both simultaneously. There are situations in which victims might be afraid to co-operate in the investigation because of threats from the traffickers. Granting a residence permit on account of the personal situation of the victim takes in a range of situations, such as the victim's safety, state of health and family situation, and tallies with the human-rights based approach to combating THB. **GRETA invites the Irish authorities to grant temporary residence permits to victims of THB on the basis of their personal situation, in addition to the residence permit on the basis of the victim's co-operation in the investigation or criminal proceedings.**

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

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

Topics related to the third evaluation round of the Convention

Right to information

- While welcoming the range of information materials available to victims of THB on their rights, GRETA considers that the Irish authorities should ensure the availability of qualified interpreters/translators who are sensitised to the issue of human trafficking and the vulnerabilities of victims, at all stages of the victim identification process and criminal proceedings, and that the costs of interpretation are covered by the authorities (paragraph 46).

Legal assistance and free legal aid

- GRETA urges the Irish authorities to take further steps to facilitate and guarantee access to justice for victims of THB, by ensuring that:
 - legal assistance is provided systematically as soon as there are reasonable grounds for believing that a person is a victim of trafficking, before he/she has to decide whether or not they want to co-operate with the authorities and/or make an official statement;
 - trafficking victims are appointed a lawyer with specialised knowledge of THB to represent them in judicial and administrative proceedings, including to claim compensation (paragraph 57).

Psychological assistance

- GRETA considers that the Irish authorities should take further steps to ensure that victims of THB are provided with long-term psychological assistance, to help them overcome the trauma they have been through, and to achieve a sustained recovery and social inclusion (paragraph 60).

Access to work, vocational training and education

- GRETA commends the efforts in the area of further education and training and invites the Irish authorities to ensure effective access to the labour market for victims of THB and their economic and social inclusion through the provision of vocational training and job placement, raising awareness amongst different employers, and the promotion of micro-businesses, social enterprises and public-private partnerships, including through state supported employment programmes, with a view to creating appropriate work opportunities for victims of trafficking (paragraph 66).

Compensation

- GRETA urges the Irish authorities to make efforts to guarantee effective access to compensation for victims of THB, in line with Article 15 (4) of the Convention, including by:
 - ensuring 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 investigation, with a view to supporting compensation claims in court;
 - making full use of the legislation on the freezing and forfeiture of assets, as well as international co-operation, to secure compensation to victims of THB, and ensure that recoverable property which is seized in criminal proceedings is returned as soon as possible to the victim or used to compensate the victim;

- enabling victims of trafficking to effectively exercise their right to compensation, by ensuring access to legal assistance and free legal aid;
 - including compensation in the training programmes of legal practitioners, prosecutors and the judiciary, encouraging them to use all the possibilities the law offers to uphold compensation claims by victims of THB, and requiring courts to state, where applicable, why compensation is not considered;
 - ensuring that the right to compensation is not limited to pecuniary costs and that non-pecuniary damages are eligible for compensation in criminal and civil proceedings as well as under the state compensation scheme;
 - reviewing the lack of recourse to mechanisms for the recovery of unpaid wages in cases of undocumented workers;
 - reviewing the eligibility criteria for state compensation with a view to making it available in practice to victims of trafficking, and ensuring that eligibility is not affected by the failure of the victim to inform the authorities of the crime or to co-operate with them (paragraph 87);
- Furthermore, GRETA invites the Irish authorities to consider setting a special compensation fund for victims of THB, funded by the assets confiscated from perpetrators (paragraph 88).

Investigations, prosecutions, sanctions and measures

- GRETA urges the Irish authorities to take measures to strengthen the criminal justice response to THB, including by:
- ensuring that human trafficking offences for different forms of exploitation are proactively and promptly investigated, making use of special investigation techniques in order to gather material, documentary, financial and digital evidence, and not having to rely exclusively on testimony by victims or witnesses;
 - systematically carrying out financial investigations in order to identify perpetrators' assets;
 - without prejudice to the statutory independence of the DPP, ensuring that there is effective collaboration with An Garda Síochána in the gathering of evidence required to sustain a prosecution;
 - using pre-recorded evidence in cases where victims cannot provide in-person testimony due to having left the country, providing video conference facilities and enabling victims who wish to testify to travel back to Ireland;
 - sensitising prosecutors and judges to the different forms of THB, the rights of victims of THB and the need to adopt victim-centred and trauma-informed approaches, and providing training which includes the relevant case-law of the European Court of Human Rights;
 - ensuring that THB prosecutions lead to effective, proportionate and dissuasive sanctions for those convicted (paragraph 114);

- GRETA also considers that the Irish authorities should take steps to ensure that the length of court proceedings in cases of trafficking of human beings is reasonable, in line with the case-law of the European Court of Human Rights (related to Article 6, paragraph 1, of the ECHR) and the standards set by the European Commission for the Efficiency of Justice (CEPEJ) (paragraph 115).

Non-punishment provision

- GRETA considers that the Irish authorities should take further steps to ensure consistent application of the principle of non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so. Such measures should include the development of detailed guidance for police officers and prosecutors on the scope and application of the non-punishment provision. Consideration should also be given to adopting a specific legal provision on the non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so (paragraph 125).

Protection of victims and witnesses

- GRETA welcomes the changes introduced by the Criminal Justice (Victims of Crime) Act 2017 and considers that the Irish authorities should make full use of the available measures to protect victims and witnesses of THB and to prevent their intimidation or re-traumatisation during the investigation and during and after the court proceedings, including through the use of video conferences and other suitable means to avoid face-to-face cross-examination ("direct confrontation") of victims and defendant, and by treating victims of trafficking as particularly vulnerable victims (paragraph 136).

Specialised authorities and co-ordinating bodies

- GRETA welcomes the existence of investigators specialised in trafficking in human beings and the training provided to them, as well as the beginning of specialisation on THB within the Office of the Director of Public Prosecution, and considers that the Irish authorities should ensure that the training provided is systematic and periodically updated, and should further promote capacity-building and specialisation, with a view to enabling the proactive investigation and successful prosecution of human trafficking cases (paragraph 142).

International co-operation

- Given the importance of electronic evidence in cases of THB, which is increasingly committed online and with the use of information and communication technology, GRETA encourages Ireland to ratify the Council of Europe Cybercrime (Budapest) Convention (paragraph 148).
- GRETA welcomes the efforts made by the Irish authorities in the area of international co-operation against human trafficking, and invites them to make full use of the available international co-operation tools, including with regard to financial investigations and the enforcement of compensation orders, as well as the setting up of JITs in human trafficking cases and strengthening co-operation with countries to which victims of THB are returned (paragraph 152).

Role of businesses

- GRETA welcomes the above-mentioned initiatives, and considers that the Irish authorities should strengthen engagement with the private sector, in line with the UN Guiding Principles on Business and Human Rights and Council of Europe Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business, with a view to raising awareness of the important role and responsibility of businesses in supporting the rehabilitation and recovery of victims, and to providing access to effective remedies (paragraph 165).

Measures to prevent and detect corruption

- GRETA considers the Irish authorities should include measures against corruption in a THB context in the general policies against corruption, and effectively implement them (paragraph 170).

Follow-up topics specific to Ireland***Developments in the legislative, institutional and policy framework for action against human trafficking***

- Noting the importance of data collection and research for an objective evaluation of the implementation of anti-trafficking legislation, policy and activities, GRETA considers that the Irish authorities should give the IHREC a statutory remit to request and receive appropriate information from relevant actors (paragraph 19);
- Noting the importance of maintaining co-ordination of anti-trafficking action at national level, GRETA considers that the Irish authorities should take steps to strengthen the work of stakeholders' forum, clarify its status, and ensure that the sub-groups are enabled to make progress (paragraph 20).

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

- GRETA urges the Irish authorities to step up their efforts to combat trafficking for labour exploitation by:
 - reinforcing the human resources and training of the WRC Inspectorate to enable it to contribute to the prevention and detection of THB for labour exploitation; inspectors should have sectoral expertise, language skills and cultural competences to effectively perform their tasks;
 - encouraging trafficked persons to self-identify as victims of trafficking, including through establishing safe reporting procedures for foreign workers and effective complaint mechanisms, concrete possibilities of regularisation of the trafficked person's residence status and access to the labour market, the provision of targeted and tailored support services;
 - reviewing the Atypical Working Scheme in the fisheries industry with a view to ensuring that it contains sufficient safeguards against trafficking and exploitation of fishermen; in particular, the work permit should be sector-wide and not linked to one employer (paragraph 187);

- GRETA considers that the Irish authorities should take further steps to prevent THB for the purpose of labour exploitation, including by:
 - putting in place practical co-operation and data sharing agreements between labour inspectors and law enforcement in order to ensure that personal information of workers, whether collected in the course of labour inspections, joint inspections, reporting or complaints mechanisms, is not used for immigration enforcement purposes, but to tackle the organisers of trafficking offences;
 - developing a specific protocol on the investigation of trafficking for the purpose of labour exploitation in order to gather all necessary evidence, using special investigative techniques and carrying out financial investigations, in order to decrease reliance on trafficked persons' evidence;
 - further developing co-operation with trade unions in the prevention of THB for the purpose of labour exploitation (paragraph 188).

Measures to raise awareness and discourage demand

- GRETA welcomes the measures taken since the second evaluation in the areas of awareness raising and discouraging demand for the services of trafficked persons. GRETA invites the Irish authorities to continue making efforts in these areas, in partnership with civil society, trade unions and the private sector, including internet providers and tech companies (paragraph 195).

Identification of victims of trafficking

- GRETA urges the Irish authorities to finalise the introduction of a revised National Referral Mechanism which ensures multi-agency involvement in the identification of victims of trafficking and gives a formal role in the identification process to a series of frontline actors, including specialised NGOs and labour inspectors. The reviewed NRM should cover all victims, including EEA and Irish citizens, as well as asylum seekers, paying particular attention to children, and making sure that identification as a victim of trafficking and access to assistance does not depend on the person's co-operation in the investigation. The revised NRM should also ensure that the right to seek and enjoy asylum does not impede identification as a victim of trafficking. All frontline staff should be provided with regular training and guidance for the identification and referral of victims of trafficking (paragraph 201).

Assistance to victims

- GRETA once again urges the Irish authorities to set up, as a matter of priority, specialised accommodation facilities for victims of THB and to ensure that accommodation is gender-sensitive, appropriate and safe, and that victims are provided with specialised services. In addition to better support and protection of the victims, this would also be in the interest of the investigation. Further, the authorities should enact statutory rights to assistance and protection for possible victims of trafficking, as specified in Articles 10 and 12 of the Convention, regardless of the victims' nationality or immigration status (paragraph 205).

Prevention of child trafficking and identification of, and assistance to, child victims of trafficking

- GRETA considers that the Irish authorities should continue keeping under review the legislative provisions on child trafficking and their consequences for the identification of child victims of trafficking (paragraph 210);

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- GRETA urges the Irish authorities to step up their efforts to combat child trafficking, including through:
 - putting in place a robust child protection system capable of enabling the identification of trafficking indicators amongst Irish and EU children;
 - ensuring that the revised NRM includes specific procedures for children and takes into account the special circumstances of children, involves child specialists and ensures that the best interests of the child are the primary consideration in all proceedings relating to child victims of THB and children at risk;
 - provide further training and tools to stakeholders (police, prosecutors, asylum and migration authorities, Tusla staff, social workers, NGOs) on the identification of child victims of THB for different forms of exploitation;
 - raising awareness of the risks and mechanisms of online grooming and exploitation of children, and exploring the possible links between online sexual exploitation of children and human trafficking (paragraph 211).

Recovery and reflection period and residence permits

- GRETA considers that the Irish authorities should review the place and role of the recovery and reflection period in the context of the review of the NRM, ensuring that, in compliance with Article 13 of the Convention all possible foreign victims of trafficking, including EEA nationals, are offered a recovery and reflection period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period (paragraph 215);
- GRETA invites the Irish authorities to grant temporary residence permits to victims of THB on the basis of their personal situation, in addition to the residence permit on the basis of the victim's co-operation in the investigation or criminal proceedings (paragraph 216).

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

Public bodies

- Department of Justice
- Department of Children, Equality, Disability, Integration and Youth
- Department of Social Protection
- Department of Health
- Department of Foreign Affairs
- Department of Further and Higher Education, Research, Innovation and Science
- Human Trafficking Investigation and Co-ordination Unit of An Garda Síochána
- Garda National Immigration Bureau
- Child and Family Agency (Tusla)
- Workplace Relations Commission
- Office of the Director of Public Prosecutions
- International Protection Office
- International Protection Accommodation Services (IPAS)
- Legal Aid Board
- Criminal Injuries Compensation Tribunal
- Criminal Assets Bureau
- Solas (National Training and Employment Authority).
- Irish Human Rights and Equality Commission
- Ombudsman for Children

Intergovernmental organisations

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

NGOs and other civil society organisations

- Akidwa
- Dublin Rape Crisis Centre
- Immigrant Council of Ireland
- Irish Refugee Council
- Migrants Rights Centre Ireland
- MECPaths

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- NUI Maynooth
 - Ruhama
 - Sexual Exploitation Research Programme - University College Dublin

Government's comments

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

GRETA engaged in a dialogue with the Irish 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 Irish authorities on 11 July 2022 and invited them to submit any final comments. The comments of the authorities, submitted on 8 September 2022, are reproduced hereafter.



Ms. Petya Nestorova
Executive Secretary
Council of the European Convention on Action against Trafficking in Human Beings
(GRETA and Committee of the Parties)
Council of Europe

Dear Ms. Nestorova,

Re: Follow up to the Recommendations of the Committee of the Parties of the implementation of the Council of Europe Convention on Action against Trafficking in Human beings by Ireland.

Please find below an update from Ireland on the measures that we are taking to implement the recommendations of the Council of Europe Convention on Action against Trafficking in Human beings.

The Government of Ireland is aware that vulnerable people are trafficked into Ireland for exploitation reasons including sexual exploitation, forced labour and forced criminality. Ireland is determined to combat this insidious crime and to support those who are victims of it. We have progressed significant measures to combat trafficking, to create a more victim-centred approach to identifying and supporting victims, to raise awareness and provide training. The two main areas of progress are:

Revised National Referral Mechanism (NRM)

The approval by the Irish Government last year to revise the National Referral Mechanism (NRM) to make it easier for victims of trafficking to come forward, be identified and access advice, accommodation and support. The revised NRM will provide for all agencies, both State and civil society, to co-operate, share relevant information about potential victims, identify those victims and facilitate their access to advice, accommodation and support. We want to ensure that every victim of trafficking is identified and helped so we can support them. Doing so will also help us to gather valuable information and evidence in order to bring to justice the traffickers who prey on vulnerable people with no regard for the lives and safety of their victims.

The General Scheme of the Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022 was approved by Irish Cabinet in July, placing the revised National Referral Mechanism on a statutory footing.

The Department of Justice is currently drafting the heads of a bill to put the framework on a legislative footing. In addition, a cross Government group had been established to work on the operational protocols which will support the framework and outline how the agencies will interact within the new Framework.

New Human Trafficking National Action Plan

The development of a new National Action Plan on human trafficking is also progressing. A focussed analysis of the current position in relation to human trafficking in Ireland has been produced. The analysis includes a research review, a synopsis of the extent of trafficking in Ireland and a summary of issues to be addressed.

The Department of Justice is engaging with a working group to draft the new National Action Plan high-level goals and outcomes. Work is progressing and a draft plan produced, with the final version due to be published by end of Q4 2022.

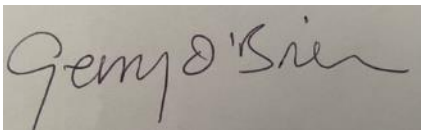
Other significant measures introduced to combat trafficking, create a more victim-centred approach to identifying and supporting victims and to raise awareness and provide training, include:

- The development of training, through NGOs, targeting front line staff in industries such as hospitality, airline, shipping and security who may come into contact with trafficked persons is underway.
- Increased funding for supporting victims of crime generally and increased funding dedicated specifically to supporting victims of trafficking.

Finally, it is understood that the Department of Children, Equality, Disability, Integration and Youth intends to procure and open a dedicated shelter for victims of human trafficking, in particular for female victims of sexual exploitation. We have been informed that the tender for this will issue shortly.

I wish to acknowledge the role of GRETA in contributing to the development of Irish policy in this area, and we welcome the positive comments made in the final report regarding our efforts. We will continue to give careful consideration to GRETA's recommendations.

Yours Sincerely



Mr. Gerry O'Brien

Criminal Justice Policy

27 September 2022

GOVERNMENT'S COMMENTS TO THE FINAL REPORT CONCERNING THE IMPLEMENTATION OF THE CONVENTION ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS BY IRELAND (THIRD EVALUATION ROUND).

Paragraph 73

General Damages/Pain and suffering is covered under the [Personal Injury Guidelines](#).

Paragraph 75

In relation to the following paragraph, we wish to stipulate that it is difficult to distinguish what percentage, **if any**, of the €1.7 million in unpaid wages that was recovered was in respect of victims of THB.

“Persons who are legally employed may seek redress for loss of earnings and other employment rights breaches through the Workplace Relations Commission’s (WRC) adjudication service. The WRC’s Inspectorate can also recover unpaid wages for workers and in 2020, it recovered €1.7 million in unpaid wages for employees and carried out 7,687 inspections. Neither the WRC, nor the Labour Court have jurisdiction to determine whether a person is a victim of trafficking or not. Such a person could, provided that they had a legal entitlement to work in Ireland, seek restitution through these bodies, but it is not possible to distinguish what percentage of the €1.7 million in unpaid wages that was recovered was in respect of victims of THB”.

Paragraph 76

In our view the following statement would be more accurate if it stated that THB victims do not *typically* take civil cases against perpetrators for a variety of reasons. In the interest of clarity, it may also be clearer to say that in some cases the victim *may have* been lawfully employed by the perpetrator.

“According to lawyers met by GRETA during the third evaluation visit, despite the previously mentioned legal avenues, in practice victims of THB do not take civil cases against perpetrators for a variety of reasons, including the lack of legal aid and the length of time that civil proceedings take. As noted previously, the Human Trafficking Specialised Unit within the Legal Aid Board (LAB) provides legal advice and information in relation to compensation, however, no legal representation is envisaged to support victims of THB to claim compensation in criminal or civil proceedings. Lawyers met by GRETA noted that a claim to the WRC for labour exploitation would be difficult because the victim would have no right to legal aid and because the victim would have been lawfully employed by the perpetrator. If the victims were not employed under a contract, or if they were employed without a valid immigration permission, they would have no claim. According to research, there is a whole host of barriers for victims seeking redress in the WRC, including fear of losing their employment and visa. A cross-cutting issue is access to interpretation and language barriers in dealing with the legal system”.

Paragraph 79

The new web page address for the Criminal Injuries Compensation Tribunal is www.gov.ie/criminalinjuries

Paragraph 86

The Irish Government would request that further information be included to explain the source of the claim that “the requirements to be met for victims of trafficking to be eligible for state compensation are prohibitively high, and there can be no recover for pain and suffering”.

Paragraph 95

It should be noted that *Operation Quest* does not exist anymore and was replaced (re-named) in 2021 by the Organised Prostitution Investigation Unit (OPIU).

Paragraph 137

As above, Operation Quest was replaced (re-named) in 2021 by the Organised Prostitution Investigation Unit (OPIU).

Paragraph 208

- Tusla's team for separated children have received specialised training on trafficking issues over the past few years and
- In 2021 hundreds of Tusla staff received training on its child sexual exploitation procedure (and as it pertains to Trafficking) via an eLearning module
- Also in early 2022 Tusla contracted further specialist training and delivered 3 Trafficking training sessions, attended by approx. 70 additional staff who work in the wider child protection and welfare teams.

Paragraph 209

With reference to the following comment, *"The Ombudsman for Children has received complaints about the age assessment process and has written to Tusla without any result for the time being"*.

Tusla (the Child and Family Agency) has had a number of engagements with the Ombudsman for Children on this matter and is not aware of any outstanding response due from Tusla.

Tusla believes it is important to clarify that the legal provision for undertaking age assessment, is under the International Protection Act 2015, and responsibility for age assessment, including the process for independent queries relating to an assessment of age, is with the Minister for Justice and the International Protection Office (IPO). Under the 2015 Act, following a referral to Tusla from the IPO, an assessment is carried out by Tusla Social Worker to assess the Agency's responsibilities regarding the eligibility of the applicant for services under the Child Care Act 1991 and the assessment is to determine if s/he is a child in need of care and protection of the State.

Finally, it should be noted that references in the report to State Compensation refers to the State Criminal Injuries Compensation.