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**Reply from Aruba
to the questionnaire for the evaluation
of the implementation
of the Council of Europe Convention
on Action against Trafficking in Human Beings by
the Parties**

Combined first and second evaluation round

Reply received on 15 August 2023

Secretariat of the Council of Europe Convention
on Action against Trafficking in Human Beings
(GRETA and Committee of the Parties)
Council of Europe
67075 Strasbourg Cedex
France

e-mail: Trafficking@coe.int

Introduction

The Council of Europe Convention on Action against Trafficking in Human Beings [CETS No. 197] (hereinafter "the Convention") was opened for signature in Warsaw on 16 May 2005, on the occasion of the Third Summit of Heads of State and Government of the Council of Europe member states and entered into force on 1 February 2008.

The monitoring mechanism of the Convention consists of two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA), a technical body, composed of 15 independent and impartial experts, and the Committee of the Parties, a more political body, composed of the representatives in the Committee of Ministers of the Parties to the Convention and of representatives of parties' non-members of the Council of Europe.

In accordance with Article 36, paragraph 1, of the Convention, GRETA "shall monitor the implementation of this Convention by the Parties". Pursuant to Article 38, paragraph 1, of the Convention and Rules 1 and 2 of the Rules of procedure for evaluating implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties (hereinafter "the Rules on the Evaluation Procedure"), GRETA will evaluate the implementation of the Convention following a procedure divided in rounds.

The first evaluation round with regard to a Party is initiated by sending the questionnaire the earliest one year and at the latest two years following the entry into force of the Convention for the Party concerned (Rule 3 of the Rules on the Evaluation Procedure).

For each evaluation round, GRETA prepares a questionnaire on the implementation by the Parties of the specific provisions of the Convention on which the evaluation is based. The questionnaire is public (Rule 5, first paragraph, of the Rules on the Evaluation Procedure).

In conformity with Rule 11 of the Rules on the Evaluation Procedure, replies to the questionnaire should be submitted in one of the official languages of the Council of Europe, which are English and French. Replies in other languages will not be taken into consideration. Replies should be detailed, answer all questions and reference texts should be attached when requested by GRETA.

States parties should provide copies or extracts of relevant legislation, regulations and case law mentioned in the reply to the questionnaire (as an appendix to the reply). These copies/extracts should be supplied in the original language and, wherever possible, also in one of the official languages of the Council of Europe.

A variety of stakeholders and civil society representatives should be effectively consulted in the preparation of the reply to the questionnaire, to ensure that the information provided is as comprehensive as possible.

Preliminary questions

- **Question 1:** Please specify which State body/agency was responsible for co-ordinating and collecting the replies to this questionnaire. Please specify the name and professional title of the person heading this State body/agency. Please indicate if this person is the "contact person" appointed by your country to liaise with GRETA or a different person.

The coordination and collection of replies to this questionnaire was done by the National Coordinator on Human Trafficking and Migrant Smuggling (LCMM), Mrs. Jeannette Richardson-Baars MA LL.M. This person has been appointed by Aruba as a contact person for GRETA.

- **Question 2:** Which State bodies/agencies contributed to responding to this questionnaire? Please indicate the main responsibilities and/or fields of competence of each of these bodies/agencies.

The members of the Taskforce on Human Trafficking and Migrant Smuggling Aruba (TMMA) contributed to responding to this questionnaire. The TMMA consists of representatives of the most relevant ministries, departments and organizations which work in the field of migration and therefore can contribute to an effective system to combat human trafficking. These are also the partners that have a role in victim identification, protection, assistance, or return and integration. Participants in the Taskforce on human trafficking and migrant smuggling (TMMA) are:

- *Ministry of Justice and Social Affairs*
 - *Aruba Police Force (KPA)*
 - *Bureau for Victims Assistance (BSOH)*
 - *Coordination Center on Human Trafficking and Migrant Smuggling (CMMA)*
 - *Public Prosecutors Office (OM)*
 - *Immigration Department (IA)*
 - *Department of Social Affairs (DSZ)*
 - *Migrant Control Department (GNC)*
 - *Ministry of Labor, Integration and Energy*
 - *Department of Integration and Management of Foreigners (DIMAS)*
 - *Department of Labor and Research (DAO)*
 - *Ministry of Public Health and Tourism*
 - *Department of Public Health (DVG)*
 - *Ministry of General Affairs, Innovation, Government, Infrastructure and Planning*
 - *Department of Foreign Affairs (DBB)*
 - *External partners*
 - *Coastguard Dutch Caribbean (KW)*
 - *Royal Dutch Military Police (KMAR)*
- **Question 3:** Did any non-governmental organisations (NGOs) or other entities of civil society contribute to responding to this questionnaire? If so, please indicate the main activities of each of the NGOs and/or other entities of civil society which contributed.

The members of the Humanitarian Organizations Platform (HOP), consisting of representatives of NGOs and international organizations working in Aruba, contributed to the responses to this questionnaire. The HOP started in 2020 as a collaboration with international organizations and NGOs such as UNODC, IOM, Red Cross Aruba, HIAS, PADF and UNHCR. Bilateral consultations take place with these organizations to

strengthen cooperation in an effort to prevent vulnerable groups from potentially becoming victims of human trafficking.

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

Section I.1. Integration of the human rights approach to action against trafficking in human beings

As stipulated in the Convention, trafficking in human beings (hereinafter "THB") "constitutes a violation of human rights and an offence to the dignity and the integrity of the human being" (third paragraph of the Preamble of the Convention). Therefore, in the letter and in the spirit of the Convention, THB is a violation of human rights and not just a criminal offence.

- *Question 4:* Please indicate if, in your internal law, THB is considered as a human rights violation (or only a criminal offence, see Section II.3. below).

Human trafficking is considered a violation of human rights in Aruba. Chapter 1 (Fundamental rights) of the Constitution of Aruba (Staatsregeling), states that anyone has the right to inviolability of the body (Article I.3) and the right to personal freedom and security (Article I.5).¹ In addition to the Convention, Aruba has ratified several instruments that prohibit human trafficking, slavery and forced labour. The rights derived from these instruments can be invoked by individuals before national courts, which can decide to include them in their consideration of a case.

The Memorandum of Understanding of cooperation to prevent and combat trafficking in human beings and smuggling, applicable to the Kingdom of the Netherlands since 2009, states that trafficking in human beings is by definition a violation of human rights and that the fight against trafficking in human beings and smuggling takes place from the human rights perspective and is in line with the relevant international treaties.

- *Question 5:* Please indicate what special legal protection exists under your internal law (including case law, if any) in cases of violations of human rights, which would apply in cases of THB (for example, constitutional protection, positive obligation of the state, priority examination, etc.).

In addition to the constitutional protection of human rights indicated above Aruba has accepted a positive obligation to protect human rights and to actively take measures to safeguard these rights under the Convention. The Public Prosecutors Office in Aruba states in their guideline for the prosecution of human trafficking and migrant smuggling that both are serious crimes and therefore have high priority in investigation and prosecution (Richtlijn mensenhandel en mensensmokkel)².

Section I.2. Comprehensive approach to THB, co-ordination of all actors and actions to prevent and combat THB and to protect its victims, and international co-operation

Questions in this section aim to obtain information concerning the comprehensive nature of the legal framework and policies on action against THB established by the parties to the Convention covering

¹ https://www.overheid.aw/bestuur-organisatie/wetteksten-0101-staatsregeling-van-aruba_41326/item/0101-staatsregeling-van-aruba_5724.html

² <https://omaruba.com/mensenhandel-en-mensensmokkel>

measures on prevention, protection and prosecution (Article 1) as well as on partnerships (Articles 29, 32 and 35).

- *Question 6:* Please indicate the titles of the main internal legal provisions and/or regulations containing measures to prevent THB, to protect and assist its victims, and to criminalise THB and prosecute traffickers.

Measures to prevent THB: National Action Plan 2018-2022, National Action Plan 2023-2025¹.

Measures to protect and assist victims: Standard Operating Procedure on identification, screening, protection, assistance, return and reintegration of victims of human trafficking in Aruba (2023)².

Measures to criminalize THB and prosecute traffickers: Aruba Penal Code, articles 2:239 and 2:240 (Landsverordening van 27 April 2012 houdende de vaststelling van een nieuw Wetboek van strafrecht van Aruba', AB 2012 no. 24³, wijzigingen: AB 2014 no 11, AB 2016 no 601, AB 2020 no 100, AB 2023 no 21)⁴.

- *Question 7:* Does your country have a comprehensive national policy and/or a National Action Plan to combat THB? If so, please indicate its title, date of adoption and duration, main fields of action and the body/bodies responsible for its implementation.

'Integral national approach to combatting human trafficking and migrant smuggling in Aruba' (NAP 2018-2022), duration 2018-2022, main fields of action: a) prevention and education, b) administrative enforcement, c) criminal enforcement and d) victims assistance, responsible bodies: National Coordinator on Human Trafficking and Migrant Smuggling (LCMM), Taskforce on Human Trafficking and Migrant Smuggling (TMMA), Tactical Investigative Unit Human Trafficking and Migrant Smuggling (UMM), Coordination Center on Human Trafficking and Migrant Smuggling (CMMA).

'National Action Plan on human trafficking and migrant smuggling' (NAP 2023-2025), duration 2023-2025, main fields of action: a) prevention and education, b) administrative and criminal enforcement, c) victims assistance, d) information sharing and e) multilevel cooperation, responsible bodies: National Coordinator on Human Trafficking and Migrant Smuggling (LCMM), Taskforce on Human Trafficking and Migrant Smuggling (TMMA), Investigative Unit Human Trafficking and Migrant Smuggling (UMM), Coordination Center on Human Trafficking and Migrant Smuggling (CMMA), Joint Intelligence Unit Human Trafficking and Migrant Smuggling (JIUMM).

- *Question 8:* In your country are there persons or entities specialised in the fight against THB and the protection of victims? If so, please describe the type and the periodicity of the training provided for these persons or the staff of these entities? Please specify the financial resources (in euros) allocated to this training.

In Aruba there are six (6) main entities involved in the fight against THB, each with their own specific tasks and responsibilities. They are: (1) the National Coordinator on human trafficking and migrant smuggling, (2) the Coordination center on human trafficking and migrant smuggling, (3) the Joint intelligence unit on human trafficking and migrant smuggling, (4) the Prosecutor on human trafficking and migrant smuggling, (5) the Investigative unit on human trafficking and migrant smuggling and (6) the Taskforce on human trafficking and migrant smuggling.

¹ See annex 1

² See annex 2

³ https://www.overheid.aw/bestuur-organisatie/16-strafrecht_3503/item/1601-wetboek-van-strafrecht_3705.html

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<https://www.overheid.aw/document.php?m=55&fileid=115513&f=34b9fc2810458bbd452fadbae471be46&attachment=0&c=62509>

1. *The National Coordinator on human trafficking and migrant smuggling (LCMM) is the representative of the government of Aruba (GOA) nationally, regionally, and internationally in matters concerning human trafficking and migrant smuggling. The LCMM chairs the Coordination center on human trafficking and migrant smuggling (CMMA) and the Taskforce on human trafficking and migrant smuggling (TMMA).*
2. *The Coordination center on human trafficking and migrant smuggling (CMMA) is the main point of contact for information, education and assistance in matters concerning human trafficking and migrant smuggling. The CMMA receives initial information (indicators, notifications) on possible cases of human trafficking from the public, registers this information and sends it to the Joint intelligence unit on human trafficking and migrant smuggling (JIUMM) for analysis. The CMMA provides education in the form of training, courses, webinars, and awareness campaigns. The CMMA is charged with the coordination of the assistance to victims of human trafficking and works closely with government entities and civil society organizations to offer the best assistance possible.*
3. *The Joint intelligence unit on human trafficking and migrant smuggling (JIUMM) is the point of contact for information from the public via the CMMA and directly from other government entities in suspected cases of human trafficking. The JIUMM will start the initial analysis, by gathering all possible information on persons, addresses, companies etc. This information will be combined into a proposal for investigation and send to the Steering Committee, consisting of senior public prosecutors and police officers, for a proactive investigation or into a dossier to be send to the Public Prosecutors Office (PPO) for investigation by the UMM. The JIUMM will register all information received in the national register on human trafficking and migrant smuggling.*
4. *The Prosecutor on human trafficking and migrant smuggling (PPM), a specialized prosecutor at the Public Prosecutors Office, will decide to investigate a case of human trafficking or migrant smuggling. The PPM will send the case to the Investigative unit on human trafficking and migrant smuggling (UMM) for investigation. The PPM will decide on prosecution of the traffickers or smugglers after the investigation has been concluded.*
5. *The Investigative unit on human trafficking and migrant smuggling (UMM) will investigate cases of human trafficking and migrant smuggling in close cooperation with the PPM. After completing the investigation, their report will be sent to the PPM for a decision on the prosecution of the traffickers or smugglers.*
6. *The Taskforce on human trafficking and migrant smuggling (TMMA) is an advisory entity to the government of Aruba (GOA). The TMMA, consisting of representatives of government stakeholders and chaired by the LCMM, will propose creation or adaptation of regulations, laws or policies to the government (asked and unasked) to improve the government's response towards human trafficking and migrant smuggling. The TMMA is also charged with drafting and executing the National Action Plan on Human Trafficking and Migrant Smuggling.*

Every year the staff of these entities receive training in the form of awareness training, skills training, and/or webinars. The training is organized by the Coordination Center on Human Trafficking and Migrant Smuggling (CMMA) and supported in-kind by the government of Aruba (GOA) by making trainers, materials, facilities, and logistics available to the CMMA. CMMA also coordinates training with international organizations like the United Nations Office on Drugs and Crime (UNODC), as part of their Track4TIP initiative. The CMMA supplies Quick Reference Cards (QRC) with the most common indicators of human trafficking in Aruba, procedures to use after identifying a potential victim and contact information to use for referral.

The CMMA budget for implementation of training and several other initiatives in connection with human trafficking came from the 'Bestedingsplan Vreemdelingenketen', a multi-year grant for projects in connection with the mass migration threat from Venezuela in 2019-2022 (in total 220,000.00 Euro). In 2022-2023 the funding for continued activities in connection with prevention efforts came in part from the CMMA budget within the 'Project Versterking Grenstoezicht', a multi-year grant for projects in connection with improving border security in the Dutch Caribbean in 2021-2028 (in total 352,663.00 Euro). Use of both budgets is subject to strict supervision and control, with regular progress reports to justify spending.

Additional information requested as part of the 2nd evaluation round: Please describe how the needs for training of professionals in the area of action against THB are identified and met, with an indication of the categories of staff that receive such training, whether the training is obligatory or optional, the content and focus of the training, and the funding provided for training activities. If the impact of training has been assessed, please provide details.

- *Question 9:* Is there, within your governmental structure, a national body responsible for co-ordinating all national actors and actions against THB (regardless of the denomination and whether it was set up for this specific purpose or whether this responsibility was assigned to an already existing governmental body)? If so, please specify its name, administrative status, annual budget (in euros), human resources, composition and competences. If there is currently no such co-ordinating body, are there any plans to set one up in the near future? If so, please give details.

The National Coordinator on Human Trafficking and Migrant Smuggling (LCMM) is the designated anti TIP official for Aruba. The LCMM is since 2009 supported by the Taskforce on Human Trafficking and Migrant Smuggling (TMMA) and since 2016 by the Coordination Center on Human Trafficking and Migrant Smuggling (CMMA). The Counter Trafficking and Smuggling Taskforce (TMMA) is the entity that is charged, together with the National Counter Trafficking and Smuggling Coordinator (LCMM), to advise the government on policy and actions to be taken in the area of human trafficking and smuggling. The TMMA consists of representatives of all relevant government departments and services with a task connected to migration. The Coordination Center on Human Trafficking and Migrant Smuggling (CMMA) is an entity charged with (1) collecting and dispersing information on human trafficking and migrant smuggling, (2) providing training on human trafficking and migrant smuggling and creating awareness by developing campaigns on the subject, and (3) create and execute an effective system for victim assistance.

- *Question 10:* Is this co-ordinating body also responsible for the co-ordination of the collection of administrative data or population survey data on THB? If not, please specify which body/entity has this responsibility.

The Coordination Center on Human Trafficking and Migrant Smuggling (CMMA) is an entity charged with collecting and dispersing data on human trafficking and migrant smuggling. They are supported by the Joint Intelligence Unit on Human Trafficking and Migrant Smuggling (JIUMM) who is in charge of the national register on human trafficking (themaregister mensenhandel).

- *Question 11:* Do NGOs have full membership status in your national co-ordinating body? If so, how many? Please describe the criteria for NGO membership.

NGOs are not members of the national coordinating body.

Additional information requested as part of the 2nd evaluation round: What steps are taken by your country to encourage state authorities and public officials to co-operate with NGOs and other civil society organisations, including trade unions, so as to involve them in the elaboration and implementation of anti-trafficking policies, programmes and other initiatives to prevent THB? Please

provide information on any memoranda of understanding or other agreements concluded between public bodies and NGOs in this field.

The Coordination Center on Human Trafficking and Migrant Smuggling (CMMA) has created a Humanitarian Organizations Platform (HOP) with UNODC, UNHCR, Red Cross Aruba, IOM, PADF and HIAS for monthly meetings to share information and help of possible victims of human trafficking in Aruba. The Coordination Center on Human Trafficking and Migrant Smuggling (CMMA) developed a Standard Operating Procedure (SOP) for assistance to victims of human trafficking in cooperation with IOM. Based on the SOP Implementation Plan, all relevant stakeholders within the government, the NGOs and civil society organizations will sign cooperation agreements to provide the necessary assistance to victims of trafficking.

- *Question 12:* Are there any other national or international entities or bodies participating in your national co-ordinating body? If so, please specify.

No

- *Question 13:* Please describe the legal basis for international co-operation between your country and other countries in the fight against THB:
 - national legislation.
 - international instruments/agreements (bilateral and/or multilateral).
 Please indicate the title of the legal instruments.

International cooperation under national law is as follows:

- 1. The National Ordinance on International Crimes (AB 2012 no. 40);*
- 2. The Extradition Decree of Aruba, Curaçao and Sint Maarten (extradition is a Kingdom matter);*
- 3. Criminal Code of Aruba (AB 2012 no.24), Title XVII; Crimes against personal liberty, where article 2:239 (et seq.) criminalizes trafficking in human beings.*

International cooperation based on international instruments/agreements include:

- 1. The UN Convention against Transnational Organized Crime (The Palermo Protocol)*

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Particularly Women and Children, complements the United Nations Convention against Transnational organized Crime (also known as the Palermo Convention). The Protocol lays down definitions and contains provisions on the prevention of trafficking in human beings, the protection of victims and the prosecution of perpetrators. (Aruba has been subject to this Protocol since 18 January 2007).

- 2. The Council of Europe Convention on Action against Trafficking in Human Beings*

This Convention is specifically aimed at combating trafficking in human beings in all its forms and protecting the rights of victims of trafficking in human beings. The Convention also contains provisions on the criminal prosecution of offenders, including the identification of trafficking in human beings as a criminal offence, and provisions for the seizure and confiscation of the proceeds of trafficking in human beings, and provides opportunities for international cooperation in this context. This Convention also applies to Aruba since 1 May 2015.

- 3. The Universal Declaration of Human Rights*

This declaration establishes the fundamental rights and freedoms of all people. Although these declarations are not specifically about trafficking in human beings, they do provide a framework for protecting the rights of victims of trafficking.

4. *The Convention between the Kingdom of the Netherlands and the United States of America on Mutual Assistance in Criminal Matters. This Convention has applied to Aruba since 1 January 1986.*

5. *The Memorandum of Understanding of cooperation to prevent and combat human trafficking and smuggling, Aruba, Curaçao, Sint Maarten and the Netherlands. This MOU has applied to Aruba since 2009.*

6. *Memorandum of Understanding among the United States Department of Justice, the Ministry of Security and Justice of the Netherlands, the Ministry of Justice of Aruba, the Ministry of Justice of Curaçao and the Ministry of Justice of Sint Maarten regarding the enhancement of existing cooperation and strengthening of law enforcement and the criminal justice system in the Caribbean parts of the Kingdom of the Netherlands.*

- *Question 14:* What steps have been taken by your country to ensure that the requesting party is promptly informed of the final results of action taken in the framework of international co-operation on action against THB, as provided for in Article 34 of the Convention?
- *Question 15:* Do the relevant authorities of your country have the possibility to spontaneously provide information, without prior request, to authorities of another country if the disclosure of such information might assist the receiving country in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with the Convention? If so, please indicate how such information is transmitted and which authorities are involved.

Information sharing is possible with other countries. The Public Prosecutor's Office has meetings on a regular base with the other neighbour islands (Curaçao, Bonaire, and Sint Maarten) where information on the subject can and will be shared.

- *Question 16:* Do your police forces carry out joint actions, on a bilateral and/or a multilateral legal basis, with the police forces from other parties to fight THB? If so, please describe the action taken and provide an assessment of its impact. If not, please describe any plans for joint action or obstacles to joint action.

No joint actions are carried out at this moment in time. The Public Prosecutor's Office is in close contact with the neighbour islands Curaçao, Bonaire, Sint Maarten, and the Netherlands to look into trends of THB. If needed joint actions can easily be established.

Additional information requested as part of the 2nd evaluation round: Please provide examples of international co-operation initiatives with other states in preventing and combating THB, as well as an assessment of the impact of such initiatives, including any difficulties you have experienced in this area.

Based on the Memorandum of Understanding of cooperation to prevent and combat trafficking in human beings and smuggling, applicable to the Kingdom of the Netherlands since 2009, the Coordination Center on Human Trafficking and Migrant Smuggling (CMMA) has provided basic training on human trafficking and migrant smuggling to the governments of Curaçao and Sint Maarten.

The Coordination Center on Human Trafficking and Migrant Smuggling (CMMA) together with the National Central Bureau on Counter Terrorism, Security, and Interpol (NCTVI) participated in several Interpol International Operations. These operations were directed towards 1) identify networks dedicated to migrant smuggling or human trafficking, 2) arrest suspects and seizure their property, 3) identify possible victims of human trafficking and 4) assist identified victims of human trafficking. During these operations information was shared between local law enforcement agencies and foreign law enforcement units through NCB Oranjestad.

Section I.3. Definition of “THB” and of “victim” in the internal law of the parties

In accordance with Article 4a of the Convention, trafficking in human beings consists of a combination of three basic components, each to be found in a list given in the definition:

- the action of: “recruitment, transportation, transfer, harbouring or receipt of persons”;
- by means of: “the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”;
- for the purpose of exploitation, which includes “at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.

Article 4b of the Convention follows European Court of Human Rights case-law in that it states that the consent of a victim of THB to a form of exploitation listed in Article 4a is irrelevant if any of the means referred to in Article 4a has been used.

Under Article 4c recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation is to be regarded as trafficking in human beings even if it does not involve any of the means listed in Article 4a. It is also immaterial whether or not the child consents to be exploited. Under Article 4d the word “child” means any person under 18 years of age.

Article 4e defines “victim” as “any natural person who is subject to trafficking in human beings as defined in this article”. A victim is anyone subjected to a combination of components (action – means – purpose) specified in Article 4a of the Convention.

- *Question 17:* Are all the elements of the three components (action, means and purpose) contained in Article 4a of the Convention included in the legal definition of THB established by your internal law? Please describe how they have been integrated in your internal law.

Article 2:239 under 1a and 1c of the Aruba Penal Code¹ describe the actions and means as mentioned in article 4a of the Convention. Article 2:239 under 1a of the Aruba Penal Code states that 'guilty of human trafficking is he who any other by coercion, violence or another factuality, by the threat of violence or another factuality, by extortion, fraud, deception or by abuse of predominance, by abuse of a vulnerable position, or by the giving or receiving of payments or benefits to receive the consent of a person who has control over the other person, recruits, transports, transfers, harbours or shelters another person, with the purpose of exploitation of the other person or the removal of the other person organs. Article 2:239 under 1c of the Aruba Penal Code specifically mentions abduction with the purpose to sexually exploit another person in another country. Finally, article 2:239 under 2² of the Aruba Penal Code describes the purpose: exploitation includes at least exploitation of another in the prostitution, other forms of sexual exploitation, forced or mandatory labour or services including beggary, slavery and with similar slavery practices, servitude, and exploitation of criminal activities.

Additional information requested as part of the 2nd evaluation round:

¹ https://www.overheid.aw/bestuur-organisatie/16-strafrecht_3503/item/1601-wetboek-van-strafrecht_3705.html

² An amendment has been made in article 2:239 under 2 in 2023. The Aruba Penal Code and the National Ordinance 2023 no. 21, June 9th, 2023, that holds the amendment should be read together.

- How does your country's law define "abuse of a position of vulnerability" and what are the criteria for evaluating the vulnerability of a person subjected to THB? Please provide any relevant examples where the means used in THB offences involved an abuse of a position of vulnerability.

The National Ordinance 2023 no. 21 of June 6th, 2023, states in article 2:239 under 6 (amendment): A vulnerable position includes a situation in which a person has no actual or acceptable choice other than to suffer the abuse.

To evaluate the vulnerability of a person subjected to human trafficking, case law is used. The Supreme Court of the Netherlands is the highest court in the field of civil, criminal and tax law in the Netherlands and serves Aruba, Curacao, Saint Marten, Bonaire, Saba, and St. Eustasius as well. In the indictment of the Aruban public prosecutor for human trafficking and human smuggling cases, all the facts and charges found proven are discussed. The indictment follows the individual examples under 'means' and the prosecutor therefore always will say something about abuse of a vulnerable position. The prosecutor uses case law to prove this abuse.

Examples used in cases on Aruba: (I) an inequality in a relationship, (II) young of age, (III) residing in foster care or shelter, (IV) not having an education or a job, and (V) specifically for sexworkers: whenever a sexworker ends up in a situation in which he or she is not able anymore to decide where, when, with whom, under which circumstances and for what amount of money he or she will work.

- To what extent does your country's law recognise the relevance of forced marriage and illegal adoption to THB offences? Please provide any examples from case law where forced marriage and illegal adoption were considered in the context of THB.

The Aruba Penal Code does not specifically mention forced marriage and illegal adoption as a form of human trafficking. However, all acts are criminalized and all fall under article I.3 and/or I.5 of The Constitution of Aruba (see also question 4). There are no known cases where forced marriage and illegal adoption were considered in the context of human trafficking.

- Can forced begging be considered as a purpose of THB according to your country's law? Have there been any cases of child trafficking for forced begging with the involvement of the child's family or legal guardian?

Yes, 'forced begging' was added to article 2:239 under 2 (via amendment). Since it has just (explicitly) been criminalized via the amendment in June 2023, there have been no cases yet.

- Can the exploitation of criminal activities be considered as a purpose of THB according to your country's law? Please provide any examples from case law.

'Criminal exploitation' was added to article 2:239 under 2 (via amendment). Since it has just (explicitly) been criminalized via the amendment in June 2023, there have been no cases yet.

- **Question 18:** Please indicate which of the following forms of THB are recognised under your internal law:
 - national;
 - transnational;
 - linked to organised crime;
 - not linked to organised crime.

National and transnational are recognized forms of human trafficking under article 2:239 of the Aruba Penal Code. For transnational human trafficking specifically art. 2:239 under 1c is applicable. Art. 2:239

under 3a states that if human trafficking committed by two united persons or more, aggravating circumstances apply, and the punishment will be more severe.

Art. 2:79 of the Aruba Penal Code describes what (participation to) a criminal organisation means. The link to organised crime in the Aruba Penal Code is not connected to (certain) criminal acts but is an act on its own. It can be applied to anyone that is part of any criminal organization, including someone who is part of a criminal organization engaged in human trafficking.

- *Question 19:* Under your internal law, is a "victim of THB" any natural person who is subject to THB as defined in Article 4e of the Convention? Please provide the definition of a "victim of THB" under your internal law. Please provide (a translation of) the legal text(s) in English or in French.

There is no specific definition of 'victim of human trafficking' in the Aruba Penal Code or the Aruba Code of Criminal Procedure. According to article 206 of the Code of Criminal Procedure 'anyone who has suffered a financial loss or other disadvantage as a direct consequence of a criminal offence of another person can register as an injured party' and is considered to be a victim. This definition applies also to victims of human trafficking as defined under article 2:239 of the Aruba Penal Code.

- *Question 20:* Does your internal law recognise as victims of THB:
 - women;
 - men;
 - children?

In the Aruba Penal Code there are no distinctions in gender, only in age. Persons under 18 years old (children) and persons above 18 years old (adults) are the distinction made in Aruba Penal Code with regards to victims of human trafficking.

- *Question 21:* To what extent does the consent of a person to intended or actual exploitation determine if that person will be recognised as a victim of THB under your internal law? Please specify if your internal law contemplates the consent of the three categories of victims: women, men, children. Please provide examples.

The consent of a victim to the intended or actual exploitation is irrelevant if any of the means mentioned in art. 2:239 under 1a of the Aruba Penal Code have been used.

II. Implementation by the parties of measures aimed to prevent THB, protect and promote the rights of victims of THB and prosecute traffickers

Section II.1. Implementation of measures to prevent THB

Questions in this section aim to obtain information on the implementation by the parties of the preventive measures contained in Chapter II of the Convention (Articles 5 to 9). Implementation of preventive measures concerns all countries: countries of origin, transit and destination. Preventive measures to be implemented can vary depending on the type of country, but all countries should implement measures to prevent THB.

- *Question 22:* Has a national/regional/local campaign or programme to alert the potential victims of THB to the various forms of exploitation been carried out in your country during the last two years? If so, was it based on research for determining effective prevention methods? Was it

addressed to a particular group of potential victims? Which bodies, governmental or non-governmental, were in charge of implementing it? Please describe the material used for the campaign/programme and its dissemination. If possible, please provide an assessment of the impact of the campaign/programme. If more than one campaign or programme was carried out please provide the details for each of them. If there are currently plans for launching a new campaign or programme, please provide details.

Yes, the awareness campaign 'Open your eyes' (Habri bo wowo) started in 2021¹. This campaign was based on the realisation that the topic of human trafficking and migrant smuggling (and the differences) was not very well known to the inhabitants of Aruba. The campaign is targeted towards the general public, visitors, NGOs, and government entities to create the ability to recognize the indicators and/or possible instances of human trafficking and report this to the Coordination Center on Human Trafficking and Migrant Smuggling (CMMA). Education is one of the tasks of the Coordination Center on Human Trafficking and Migrant Smuggling (CMMA), who implemented the campaign.

The campaign started with the presentation of the short film 'The other side of the ocean' (Otro banda di lama) which explains the situation (and connection) of migrant smuggling and human trafficking in Aruba. The campaign was reenforced by a 'Walk of Freedom' in the city center of Oranjestad and live guerilla information activities with 'reality boxes' in several parts of Aruba. The 'reality box' was titled 'Take advantage now' (Probecha Awor) and had a person placed in it acting as a victim of human trafficking (construction worker, prostitute, domestic servant). Flyers on the status of human trafficking in Aruba were shared and posters were placed at bus stops in specific locations on Aruba. The website www.habribowowo.com was launched with all relevant information on human trafficking and migrant smuggling in Aruba, the website www.cmmaruba.com was launched with all relevant information on the Coordination Center on Human Trafficking and Migrant Smuggling (CMMA)². The campaign was further brought under the attention by using social media like Facebook, Instagram and Twitter. The effect of the campaign was that the target group was better informed on the topic, can make the distinction between human trafficking and migrant smuggling, can recognize the indicators and possible instance of human trafficking and is able to notify / report to the Coordination Center on Human Trafficking and Migrant Smuggling (CMMA).

The Coordination Center on Human Trafficking and Migrant Smuggling (CMMA) also developed an educational package for students in the age group 12-18 years old, that has been put available to all secondary schools in Aruba. The package concentrates on the risks of youngster to fall victim to human trafficking especially to criminal and sexual exploitation. It promotes the involvement of teachers, school social workers and parents in identifying situations of human trafficking. This educational package is currently being adapted for the age groups 8-12 years old and the age group 18+ for release in 2024. In connection with the vulnerability of young people to exploitation via the internet (grooming, sexting, sextorsion) the Coordination Center on Human Trafficking and Migrant Smuggling (CMMA) will launch a campaign on online safety with the title 'Don't fall for it' (No cay den trampa) in August 2023. On the National Day against Human Trafficking on October 18th, 2023, the sequel to the short film will be presented to the general public.

Additional information requested as part of the 2nd evaluation round: How does your country promote and fund research on THB and use its results in the development of anti-trafficking policy? Please provide examples of recent research.

¹ See www.habribowowo.com

² See www.cmmaruba.com

University students with an interest in the subject of human trafficking and migrant smuggling can apply to write their thesis or research project in coordination with the Coordination Center on Human Trafficking and Migrant Smuggling (CMMA). The synopsis of the thesis will become part of the CMMA's online library by publishing it on www.cmmaruba.com. In the past years, university students researched the applicability of the Dutch Barrier Model in Aruba and the most common profiles for traffickers and victims of trafficking in Aruba. Recently, two (2) students of the Faculty of Arts and Science (Organization, Governance and Management) of the University of Aruba wrote their thesis on 'Human trafficking in Aruba'. A group of three (3) students of the Christelijke Hogeschool Ede, studying nursing and following the minor human trafficking, researched the most used social media platforms by youths in the ages of 12-18 years old. They proposed and produced a WhatsApp infomercial, an Instagram post, and a flyer on safe online behaviour especially in connection with lover boys (ENG, PAP).

Research into the possible relation between human trafficking and the guarantor system used in Aruba, was commissioned by the government of Aruba. This research was financed as part of the budget within the 'Bestedingsplan Vreemdelingenketen', a grant for projects in connection with the mass migration threat from Venezuela in 2019-2022. The research is expected to identify possible gaps in procedures and regulations concerning the guarantor system that might lead to instances of exploitation. The research has been completed in 2023, giving clear direction into the next steps to be taken by the government.

By request of the Public Prosecutors Office (PPO), a student at the Dutch Erasmus University of the study Advanced Research in Criminology, conducted research on the topic of human trafficking and smuggling. The research question sees to coping mechanisms of possible victims in Aruba. The student conducted interviews with stakeholders and reviewed closed trafficking cases at the PPO to gain more insights. The research results will provide more information to tailor the current approach better to the reality of human trafficking on Aruba.

In a different project of the Aruban government, aimed at the administrative approach of subversive criminality (barrier model), a subproject is the development of a 'crime script analysis' for human trafficking. The crime script needs to visualize which steps / barriers a trafficker (and a victim) needs to take / tackle to get to the point of the factual exploitation. For the government, this crime script will be very valuable as it will identify who is able to raise a barrier at a certain time and place.

- *Question 23: Please describe the social and economic empowerment measures for disadvantaged groups vulnerable to THB which have been implemented or are planned.*

The undocumented migrants from Venezuela, who live and work in Aruba illegally, have a greater risk to fall victim to human trafficking. The fact that they are illegal in the country and can therefore be deported, can be used against them to exploit them. Recently the government of Aruba, including the Coordination Center on Human Trafficking and Migrant Smuggling, participated in a mini conference organized by HIAS with the title 'Unlocking opportunities in the Aruba labor market' in which possibilities were discussed for the economic inclusion of undocumented Venezuelans in Aruba. This will include a skills assessment, creation of a curriculum vitae, access to skills and vocational training, and access to decent work.

- *Question 24: What preventive measures to discourage demand leading to THB, as provided for in Article 6 of the Convention, has your country adopted or is considering adopting, particular in the areas of:*
 - a. educational programmes.

See the answer under question 22. The Coordination Center on Human Trafficking and Migrant Smuggling (CMMA) developed the educational package on human trafficking and migrant smuggling for the age group 12-18 years old in 2022 and is currently adapting it for the age group 8-12 years old and 18+.

- b. information campaigns and involvement of the media

See the answer under question 22. The media has been trained by an expert from the UNODC on the importance of correct and trustworthy reporting in cases of migrant smuggling and human trafficking. The Coordination Center on Human Trafficking and Migrant Smuggling (CMMA) has a good working relationship with the local, regional, and international press.

- c. legislation (including in the areas of public procurement, disclosure requirements and anti-corruption);

The aforementioned legislative amendment of June 9th, 2023 holds (inter alia) the amendment for the increase of the maximum prison sentences for human trafficking, the definition of a vulnerable position and the specification of criminal exploitation and begging.

- d. involvement of the private sector.

The Coordination Center on Human Trafficking and Migrant Smuggling (CMMA) gives awareness and skills training to the private sector like the airport, hotels, and banks, and supports efforts of the private sector to create barriers to prevent human trafficking.

Additional information requested as part of the 2nd evaluation round: Please describe the measures taken in your country to prevent trafficking for forced labour or services, *inter alia*, by means of labour inspection and labour administration, monitoring of recruitment and temporary work agencies, and monitoring of supply chains.

The Department of Labor's primary task is to ensure a fair and balanced labor market. The compliance of companies to the labor laws is being checked daily, based on monthly planning, complaints, or urgent inspection requests. Complaints or requests for inspections are received from government agencies, workers, companies, or citizens. The Labor Inspection is working on the administrative and operational aspects to ensure that enforcing the labor laws can be done more efficiently and with focus for those sectors of industry where noncompliance has been more prevalent. Labour inspectors have been trained in recognizing signals of human trafficking in the form of labour exploitation. In cases where these signals are identified, the CMMA is informed.

- Question 25: Please specify the measures taken by your country to ensure quality, security and integrity of travel and identity documents in order to prevent their unlawful creation and issuance as well as to ensure that they cannot easily be forged.

The Civil Status and Population Register Service (DBSB) is, under governor's mandate, charged with issuing Dutch passports to residents of Aruba. The Kingdom regulations apply to this issue, namely the Passport Act (Paspoortwet)¹ and the Passport Implementation Regulation Caribbean Countries (PUCAR)². The DBSB works according to these regulations, as well as the further implementation thereof as laid down in a so-called security manual. Audit takes place 1x per year.

There is a strict separation of duties in the system between the employee who processes the application and the employee who then issues the document. This can never be the same person. In addition, there is a check in the back office (on nationality, authority, etc.). The same separation of duties also applies to

¹ wetten.nl - Regulation - Passport Act - BWBR0005212 (overheid.nl)

² wetten.nl - Regulation - Passport Implementation Regulation Caribbean Countries - BWBR0012809 (overheid.nl)

application/issue ID and driver's license. There is a strict identification at the counter, both when applying and collecting the document.¹

With regard to the recognition of false/forged documents, almost all employees of the DBSB are trained in the recognition of false/forged documents (Doc1). If the use of a false/falsified document is established, a criminal report is always made to the Public Prosecution Service.

One of the biggest changes in 2023 is the introduction of the Expertise centrum identity fraud and documents (Falsidesk) at the Immigration Department Aruba. Within the Falsidesk, document experts of the Royal Dutch Military Police (KMar) and local authorities, carry out further (technical) research on documents and those who hold the documents. The Falsidesk organizes awareness training and walk-in sessions that strengthen the knowledge and skills of the border guards (and other services). In 2023 a class, consisting of colleagues from various services in the immigration chain, was trained in recognizing fraudulent travel and other documents (Doc1).

The tendering/procurement of modernized equipment for the Immigration Department Aruba has started to ensure that the most modern equipment will soon be available at each counter to identify false documents and/or to identify signals to start a second-line investigation. This gives the second-line investigation and the follow-up process a considerable professionalization. Both the physical set-up and process coordination have already been completed. The arrivals hall of the airport has been restructured, which means that the queues towards the passport desk are better suited for profiling.

For the purpose of opening the Venezuelan borders, concrete agreements (and a process design) have been made to prevent irregular maritime migration between the two countries and to ensure that travel must meet strict conditions in terms of documentation.

- *Question 26:* Please specify the measures taken by your country to detect cases of THB at its borders, *inter alia*, by means of border surveillance teams and intelligence measures.

The Inmigracion Aruba (IA) is responsible for the immigration process at the airport and assesses each passenger arriving in Aruba against the requirements for access. The aim is to monitor and control the borders of Aruba, by enforcing the National Ordinance on admission and expulsion and various implementing regulations.

Every arriving traveler must register the IA within 3 days before arrival by applying for an online ed card. In addition, each arriving passenger must provide information via the OEDC platform. This concerns personal data, flight details (arrival and departure), length of stay, place of stay, validity of travel document (passport, visa) or any other document approved by ministerial regulation. In addition, an administrative check is carried out with regard to overstay, removals / expulsions and asylum applications. This is followed by a formality process for customs clearance.

Once arrived at the airport, there will be a check at the border crossing point. Here, further research is carried out into the validity/authenticity of the travel document. This is done with a comparison with specimens of common travel documents, when deploying Falsidesk personnel, and consultation in computerized systems of, among others, the Civil Status and Population Register Service (DBSB) and the Department of Integration and Management of Foreigners (DIMAS).

¹ See also the information on our website: Passport | Civil Registry and Population Register Service – Oficina di Registro Civil y Censo Aruba

In addition, the traveler is questioned as part of the IA's supervisory task. The above is intended to establish and verify the identity of the passenger by using and consulting the aforementioned tools and systems. Here, it is checked whether the passenger meets the entry conditions.

The Investigative Unit on Human Trafficking and Migrant Smuggling (UMM) has been expanded with colleagues from the Royal Dutch Military Police (KMar). The current staffing has changed from temporary employment to colleagues working there for at least 3 years, which benefits continuity in the investigative unit. The colleagues have been hired through an application process and are specialized in investigation, file formation, human trafficking, migrant smuggling and linguistically well-versed in various 'foreign' languages. This ensures more effective detection. The Joint Intel Unit on Human Trafficking and Migrant Smuggling (JIUMM) also received an additional colleague to strengthen its performance.

Within the enforcement, multidisciplinary actions have been planned and executed at the airport to identify signals of criminal offences, with explicit attention being paid to possible indicators of human trafficking and indicators of migrant smuggling. Among other things, a multidisciplinary team formed of representatives from several immigration authorities (multiteam airport) has been set up to plan these actions.

Additional information requested as part of the 2nd evaluation round:

- Please describe the specific measures taken in your country to strengthen the capacities of border guards to prevent and combat THB, in particular as regards:
 - a. identification of possible victims of THB in the context of border control.

The Royal Dutch Military Police (KMar) supports the local authorities with capacity and extra expertise in the domain, both within enforcement, investigation and intelligence. The colleagues receive awareness training to recognize indicators of human trafficking. The arrivals hall has been redesigned to raise its profile. There are also more planned actions.

- b. identification of possible perpetrators of THB offences.

The colleagues at the Immigration Department and other relevant services received awareness and skills training to recognize indicators and profile possible traffickers. The growth in the size of the Investigative Unit on Human Trafficking and Migrant Smuggling (UMM) means that in addition to incident-oriented investigation, there is more room for project-based investigation.

- c. gathering of first-line information from victims and perpetrators.

For information sharing, the main focus was on expanding and intensifying the network. Because not everyone works in the same automated systems, the key is to have the necessary information available and to share this. The Joint Intelligence Unit on Human Trafficking and Migrant Smuggling (JIUMM) is the entity charged with the gathering of information and registering this information in the special register (themaregister).

- d. identification of vulnerable persons in need of international protection among possible victims of trafficking.

The Joint Intelligence Unit on Human Trafficking and Migrant Smuggling (JIUMM) received training in recognizing vulnerable persons in need of international protection among possible victims of human trafficking.

- What measures have been taken to ensure that the personnel employed by commercial carriers, including airline attendants and staff working on other means of transportation by land and sea, are able to detect possible victims of THB and inform relevant bodies in due course?

The Coordination Center on Human Trafficking and Migrant Smuggling (CMMA) has given extensive awareness and skills training to employees of the Aruba Airport Authority (AAA) like airport security, ground handlers, check-in staff, cleaning services etc.

- What measures have been taken to promote co-operation between border control agencies as regards the establishment and maintenance of direct channels of communication? How have these channels been used for detecting transnational THB? Please provide examples of cases in which these channels were used, and any difficulties encountered by border control agencies in this context.

A law enforcement consultation group has been established, in which the relevant services meet every two weeks to discuss intelligence, signals, and any operational issues and needs.

- *Question 27:* Please describe any measures taken to provide information, through consulates and embassies, about legal entry and stay on the territory of your country in order to ensure informed and legal immigration.

Additional information requested as part of the 2nd evaluation round: How do your country's migration legislation and policies seek to prevent THB by enabling lawful migration?

- *Question 28:* Please describe any measures taken to avoid issuing visas (tourist, working, student visas, etc.) when there are reasonable grounds to believe that a person may be a victim of THB or implicated in THB. In such cases, please describe any specific measures which your law enforcement authorities have instructions to apply.
- *Question 29:* Do any specific measures exist for preventing national THB, including THB taking place on the territory of parties with special agreements establishing common borders (Schengen Agreement for example)? If so, please specify.
- *Question 30:* What funds have been allocated to the above-mentioned preventive measures in the state budget (central and/or regional/local)? Please specify amounts in euros.
- *Question 31:* Has an assessment of the impact of the above-mentioned preventive measures taken by your country been carried out? If so, please specify the results of the assessment.

Section II.2. Implementation of measures to protect and promote the rights of victims of trafficking in human beings

Questions in this section aim to obtain information on the implementation by the parties of measures to protect and promote the rights of victims contained in Chapter III of the Convention (Articles 10 to 17). This part of the questionnaire concerns the ways and procedures to identify victims (Article 10), measures to assist victims (Article 12), the recovery and reflection period (Article 13) and residence permits (Article 14). In addition, some questions concerning repatriation and return of victims (Article 16) and reintegration of victims into society (Article 16-5) as well as questions about compensation (Article 15) are addressed.

- *Question 32:* At what moment and by whom is the process to identify a potential victim of THB initiated (for example, declaration of the potential victim, statement by a police officer, statement by a NGO etc.)? ¹

¹ For all measures to protect and promote the rights of victims of trafficking in human beings, see the Standard Operating Procedure (SOP) for the identification, screening, protection, assistance, return and reintegration of victims of human trafficking in Aruba, March 31st, 2023, available on www.cmmaruba.com

Indicators, suspicions, questions and notifications from the general public (including NGOs, international organizations and civil society) on a potential human trafficking case can be brought to the attention of the Coordination Center on Human Trafficking and Migrant Smuggling Aruba (CMMA) via telephone +297-5975223, email info@cmmaruba.com, website www.cmmaruba.com or social media (Facebook, Instagram, Twitter). All relevant information will then be sent to the Joint Intelligence Unit on Human Trafficking and Migrant Smuggling (JIUMM) for analysis and preliminary investigation. Government departments and entities can report indicators, suspicions, questions, and notifications connected to a potential human trafficking case directly to the Joint Intelligence Unit on Human Trafficking and Migrant Smuggling (JIUMM). The Joint Intelligence Unit on Human Trafficking and Migrant Smuggling (JIUMM) will inform the Coordination Center on Human Trafficking and Migrant Smuggling Aruba (CMMA) on the information received and the status of the preliminary investigation.

The Bureau for Victim Assistance (BSOH) oversees the human trafficking hotline +297-5923231 (24/7). The hotline can be called by anyone with questions about human trafficking or to inform on a suspicion but is mainly intended as a helpline for victims in immediate need of assistance. The Bureau for Victim Assistance (BSOH) will forward any relevant information to the Coordination Center on Human Trafficking and Migrant Smuggling Aruba (CMMA) and/or the Joint Intelligence Unit on Human Trafficking and Migrant Smuggling (JIUMM) for further action and if necessary, will start the process of assistance to the victim.

Some victims may be identified through a law enforcement operation. During the preparation for an operation, law enforcement can identify an active trafficking situation. The primary aim of the operation is to remove the potential victim(s) from the exploitative situation and providing emergency interventions regarding protection and safety. Not all potential victims removed during an operation will meet the definition of trafficking, especially in large group cases. Screenings should still be conducted following the Aruba SOP to everyone privately. A rescue operation will be coordinated by the Investigative Unit on human trafficking and migrant smuggling (UMM), with assistance of the police and other relevant departments.

Additional information requested as part of the 2nd evaluation round: What is considered as "reasonable grounds" to believe that a person is a victim of THB and which bodies have competence to identify victims upon "reasonable grounds"? Please provide examples from practice.

The most common indicators for human trafficking in Aruba are: (1) retention of identity documents, (2) withholding of wages, (3) debt bondage, (4) abusive living or working conditions, (5) excessive overtime, (6) abuse of vulnerability, (7) deception, (8) threats, (9) restriction of movement, (10) isolation, (11) physical and/or sexual violence and (12) intimidation.

The Joint Intelligence Unit on Human Trafficking and Migrant Smuggling (JIUMM) carries out initial screening interview with the potential victim, if possible, by staff of the same gender. Victims are screened through their own subjective version of their experience. If the victim was rescued from the trafficking situation, the screening can be carried out by the Investigative Unit on human trafficking and migrant smuggling (UMM). They will provide all the information received to the Joint Intelligence Unit on Human Trafficking and Migrant Smuggling (JIUMM) for registration and analysis, and to the Coordination Center on Human Trafficking and Migrant Smuggling Aruba (CMMA) for assistance to the victim.

- Question 33: Have any common criteria been defined in your internal law for granting the legal status of victim of THB? If so, please specify.

In Aruba a victim can be identified as a potential, presumed, or confirmed victim of human trafficking. A potential victim is a person who may be a victim of human trafficking but does not show clear indicators of human trafficking, a presumed victim is a person who manifests indicators of human trafficking but has

not yet formally been identified by the authorities as a victim of trafficking and a confirmed victim of human trafficking is a person who has been formally identified by the authorities as a victim of human trafficking. A potential victim can be identified by the Coordination Center on Human Trafficking and Migrant Smuggling Aruba (CMMA), a presumed victim by the Joint Intelligence Unit on Human Trafficking and Migrant Smuggling (JIUMM) or the investigative Unit on human trafficking and migrant smuggling (UMM), and a confirmed victim by the Investigative Unit on human trafficking and migrant smuggling (UMM). All presumed and confirmed victims are eligible for services regardless of their residence and/or migratory status and involvement in an investigation or prosecution process.

Additional information requested as part of the 2nd evaluation round: Are there any formalised indicators for the identification of victims of THB for different forms of exploitation and how is their use by different professionals ensured in practice in your country?

See answer to question 32. These indicators are part of the Quick Reference Card (QRC) that is provided to anyone who received training, and is currently available in Dutch, English and Spanish.

- *Question 34: Which national authority(ies) grant(s) the legal status of victim of THB (for example, police forces, public prosecutor, judge, etc.)? Can such a decision be appealed?*

After being identified as a victim of trafficking, victims will be given a reflection period of maximum two weeks (14 days) while living in a shelter or alternative housing and receiving assistance coordinated by the Coordination Center on Human Trafficking and Migrant Smuggling Aruba (CMMA) in cooperation with the Bureau for Victim Assistance (BSOH) and service providers and/or NGO's.

A foreign victim of human trafficking is often not in possession of a residency permit and therefore can be detained and deported from Aruba. To prevent deportation during the reflection period, the foreign victim of human trafficking can receive a document that declares him/her a presumed victim of human trafficking and states that he/she cannot be detained or deported during the reflection period. This stay of deportation is provided regardless of the victim's involvement and participation with law enforcement. The stay of deportation will be granted by the Ministry of Justice.

A foreign victim of human trafficking who does not have a permit to stay in Aruba may apply for a temporary residence permit as soon as he/she decides to make a report of the crime and to cooperate in the criminal investigation and/or prosecution. The temporary residence permit would be valid as long as there is an ongoing criminal investigation or prosecution or as long as the presumed or confirmed victim is receiving services that require the physical presence of the victim in Aruba. The victim can be granted permission to work during the period the temporary residence permit is valid. The temporary residency permit will be granted by the Ministry of Integration.

A foreign victim of human trafficking may apply for a residency permit to be able to stay and work in Aruba, while in possession of a temporary residence permit. The normal process for a residency permit is applicable and is managed by the Department of Integration and Management of Foreigners (DIMAS). The residency permit will be granted by the Ministry of Integration.

Additional information requested as part of the 2nd evaluation round: Is there a national referral mechanism (NRM) or an equivalent system for identification and referral to assistance of victims of trafficking, both nationals and foreigners, for any form of exploitation? If so, please specify the bodies involved in it and their responsibilities.

For all measures to protect and promote the rights of victims of trafficking in human beings, see the Standard Operating Procedure (SOP) for the identification, screening, protection, assistance, return and reintegration of victims of human trafficking in Aruba, March 31st, 2023, available on www.cmmaruba.com.

- *Question 35:* Can a person be removed from your country during the process of identification as a victim of THB (for example, if he/she is present illegally)?

See answer to question 34.

Additional information requested as part of the 2nd evaluation round: What measures are taken in your country to identify victims of THB during the examination of asylum applications and during return of persons whose applications are rejected? How is communication ensured between the authorities responsible for identification of victims of trafficking and immigration and asylum authorities when there are reasonable grounds to believe that a person who is irregularly staying in the country is a victim of trafficking?

The asylum committee of the Department of Integration and Management of Foreigners (DIMAS) has been trained in recognizing indicators of human trafficking and are able to identify victims of human trafficking during the examination of asylum applications. They have been screening asylum applicants using a standardized questionnaire on human trafficking, provided by the Joint Intelligence Unit on Human Trafficking and Migrant Smuggling (JIUMM), and the Quick Reference Card (QRC) with the most common indicators of human trafficking in Aruba. Personnel of the deportation center at Guarda Nos Costa (GNC) are using the QRC and the standardized questionnaire on human trafficking in their interview of detained illegal migrants or persons whose applications are rejected. All departments have been informed about the procedure for reporting these cases to the Joint Intelligence Unit on Human Trafficking and Migrant Smuggling (JIUMM) for further investigation. The questionnaire is available in Dutch, English and Spanish.

- *Question 36:* Does your country recognise the status of victim of THB granted by another party when the victim is on your territory?

The status of victim of human trafficking can in Aruba only be granted by the Aruba government based on the Aruba SOP. If the status of victim of human trafficking was granted by another party, a request can be made to recognize this status. An evaluation will be done to see if this specific victim would also be granted the status of victim of human trafficking based on the Aruba SOP.

Additional information requested as part of the 2nd evaluation round: What measures are taken in your country to encourage self-identification of victims of THB?

In Aruba self-identification is encouraged by creating awareness within the vulnerable groups, mostly with the help of NGOs and international organizations. Since fear of deportation is one of the main reasons potential victims will not self-identify, the Coordination Center on Human Trafficking and Migrant Smuggling Aruba (CMMA), created the possibility for a potential victim to report anonymously. Since the identity of the potential victim is not known to the authorities at that time, the information will only be analysed to see if there is a possible case of human trafficking or not. If the information does not lead to the conclusion that there is a potential case of human trafficking, the person will be informed and if possible, assisted in finding another form of help.

In the Perspective Project (Proyecto Perspectiva), the Coordination Center on Human Trafficking and Migrant Smuggling Aruba (CMMA) works together with the civil society group One San Nicolas, to create a safe space for women working in the sex industry in San Nicolas. This outreach project, in the form of a living room (La Sala) will give the women working in the sex industry a place where they can meet each other, feel at home, cared for, safe and accepted as a part of the community. In La Sala they can participate in various activities, receive information and assistance. The goal of this project is to reach the

women that work in the sex industry, inform them about human trafficking and offer assistance where needed.

- Question 37: Please indicate which types of assistance described in Article 12 of the Convention are provided to victims of THB in your country. Please specify who provides the different types of assistance.

For all assistance provided to victims of trafficking in human beings, see chapter 4 of the Standard Operating Procedure (SOP) for the identification, screening, protection, assistance, return and reintegration of victims of human trafficking in Aruba, March 31st, 2023, available on www.cmmaruba.com.

During the screening process the urgent needs of the victim regarding shelter, food, clothing, medical care, psychosocial support, legal assistance, and other services will be assessed. The level of needs can be determined to be immediate, medium term or long term. After the screening has been concluded, the Coordination Center on Human Trafficking and Migrant Smuggling Aruba (CMMA) will coordinate the services to the victim in cooperation with the Bureau for Victim Assistance (BSOH) and non-governmental organizations, other relevant organizations, and other elements of civil society to provide and guarantee assistance to cover all the needs of the victim. Next to protection, with special considerations for victims with disabilities and child victims, presumed and confirmed victims of human trafficking can access the following services: (1) basic needs, (2) medical services, (3) shelter, (4) psychosocial services, (5) legal assistance.

Additional information requested as part of the 2nd evaluation round: What accommodation is available for victims of THB (women, men and children) and how is it adapted to the victims' needs? What measures are taken to ensure that services are provided to victims on a consensual and informed basis?

The victim's informed consent needs to be obtained for any services, assistance and/or protection can be provided and before gathering information and evidence.

The presumed or confirmed victim can be placed in one of the facilities for short- of long-term care. These facilities are operated by local foundations, NGO's or international organizations that receive funding either from the government of Aruba (GOA) and/or from external parties. Facilities available for short- or long-term care are the emergency shelter at the Red Cross, the shelter at the Foundation against Domestic Violence (formally the women's shelter), government foster care facilities for minors and shelter for male victims via civil society or churches.

In 2023 the construction of the shelter for male victims of crimes was completed and realized a capacity of 16 beds. This shelter will be used for male victims of human trafficking, while female victims of trafficking will continue to be placed in the shelter at the Foundation against Domestic Violence. Child victims of trafficking will continue to be placed in foster care centers or foster homes. The construction of the specific shelter for victims of human trafficking (capacity 20 beds), the offices for the CMMA and a multifunctional space is planned for 2024. This shelter, when completed, will be used for female victims of human trafficking and their children.

- Question 38: Please describe the differences in the assistance and protection measures envisaged for victims of transnational trafficking and those envisaged for victims of national trafficking.

Once the victims has been identified as a presumed or confirmed victim of trafficking, based on the Aruba SOP, there is no difference is assistance and protection measures.

Additional information requested as part of the 2nd evaluation round: Is there any follow-up provided after the termination of assistance programmes? Can victims continue to receive assistance, where necessary and taking into account their specific needs resulting from the type of exploitation (including the removal of organs), after the termination of criminal proceedings, and if so what type of assistance?

The Aruba SOP was completed in March 2023 and currently an implementation plan is being developed. This question most likely can be answered in future reports.

- Question 39: Does your state budget allocate specific funding for these assistance and protection measures? Please indicate the amount (in euros), the criteria for receiving such funding and who receives it. Please specify the bodies/agencies/NGOs which actually cover the costs of the different types of assistance?

The Aruba SOP was completed in March 2023 and currently an implementation plan is being developed. Costs for assistance to victims of human trafficking will be carried by the state budget and NGOs. This question most likely can be answered in future reports.

Additional information requested as part of the 2nd evaluation round: When assistance to victims is provided by non-state actors, how do your country's authorities ensure compliance with the obligations under Article 12 of the Convention, in particular when it comes to:

- a. funding;
- b. victim's safety and protection;
- c. standards of assistance and their implementation in practice;
- d. access to medical treatment, psychological assistance, counselling and information;
- e. translation and interpretation, where appropriate?

The assistance to victims of human trafficking is coordinated by a case worker provided for by the Coordination Center on Human Trafficking and Migrant Smuggling Aruba (CMMA). This case worker is the point of contact for the victim, the investigative team and all NGOs, international organizations, and civil society, who have indicated which services they can provide or pay for to assist victims of human trafficking.

- Question 40: Please describe how the recovery and reflection period provided for in Article 13 of the Convention is defined in your internal law. Please indicate the minimum and maximum duration of the recovery and reflection period and how your internal law foresees it being adapted to the particular circumstances of victims.

After being identified as a presumed or confirmed victim of trafficking, the victim will have a recovery and reflection period of up to two weeks (14 days) while living in a shelter or alternative housing, receiving medical and psychological assistance, and initiating counselling, before deciding whether they wish to cooperate in investigation or prosecution.

Additional information requested as part of the 2nd evaluation round: Please specify in which cases a recovery and reflection period can be granted and who is entitled to it (nationals, foreign nationals). Please describe the procedure for granting a recovery and reflection period, the assistance and protection provided during this period, and any difficulties encountered in practice.

The recovery and reflection period are the same for national or foreign victims. This period can be granted as soon as the victim has been identified as a presumed or confirmed victim of trafficking. Based on a needs assessment by the case worker from the Coordination Center on Human Trafficking and Migrant Smuggling Aruba (CMMA), the victim will receive all necessary assistance.

- *Question 41:* What are the grounds (personal situation and/or co-operation with the law enforcement authorities) for issuing residence permits to victims of THB provided for in Article 14 of the Convention? Please indicate the different types of residence permits which can be issued to victims of THB, their minimum and maximum duration, if any, and the grounds for their renewal.

See the answer to question 34. A victim of human trafficking can access the following permits: (1) stay of deportation, duration 2 weeks, (2) temporary residency permit, duration 3 to 6 months, renewal is possible depending on the ongoing criminal investigation or the requirement for physical presence in Aruba, (3) residency permit, duration 12 months with option for renewal.

Additional information requested as part of the 2nd evaluation round:

- If there is a provision in your country's law that provides for the possibility of issuing a residence permit owing to the victim's personal situation, how is this interpreted in practice? Please provide examples.

Based on the Aruba SOP, a victim of human trafficking can be granted an extension to the temporary residence permit based on personal circumstances that require the physical presence of the victim in Aruba.

- When a residence permit is issued for the purpose of co-operation with the competent authorities, how is "co-operation" interpreted and what does it consist of in practice?

Based on the Aruba SOP, a victim of human trafficking can be granted a temporary residency permit for the duration of the criminal investigation. Co-operation with the authorities include at a minimum making one or more official statements to the investigative team and being available to act as a witness during the criminal proceedings.

- What measures are taken to ensure that a residence permit is provided to victims of THB in compliance with the obligation under Article 12.6, which states that the assistance to a victim of trafficking should not be made conditional on his or her willingness to act as a witness?

As stated in the Aruba SOP, assistance to a victim of trafficking is not conditional to their willingness to act as a witness.

- *Question 42:* Please describe how your internal law provides for the right of victims of THB to compensation. Please specify if your country has adopted any specific measures to guarantee compensation for victims of THB as provided for in Article 15 of the Convention, in particular when it comes to:
 - a. access to information on the relevant judicial and administrative proceedings in a language the victim can understand;
 - b. access to free legal assistance and legal aid during investigations and court proceedings;
 - c. compensation from the perpetrator;
 - d. compensation from the state;
 - e. compensation for unpaid wages to victims of trafficking.

Please provide examples of compensation awarded and effectively provided to victims of THB.

As part of the legal assistance under the Aruba SOP, victims of trafficking will be given information during the reflection period, about the applicable laws, their rights, their obligations, the risks and benefits of cooperating with law enforcement agencies, the possibility of pressing charges against the traffickers, and the possibility of protection during investigation and trial. For a victim that does not speak one of the locally used languages (Papiamentu/ Dutch/English/Spanish), an interpreter can be requested. Victims can claim compensation for the damage incurred (physical, emotional, psychological, or financial) during and after the exploitation, based on the rule that any person who has suffered direct injury as a result of a

punishable offence can join the criminal proceedings as injured party in order to claim damages. The judge can impose a compensation order on the person convicted, in which case the compensation is collected by the state and transferred to the victims as soon as the person convicted has paid part of or the full amount. Victims can also start civil proceedings to seek redress from the perpetrator for the damage suffered. If the court upholds the claim, the victim can instruct a bailiff to recover the civil damage from the perpetrator.

Additional information requested as part of the 2nd evaluation round:

- What specific measures are taken to make available the assets of traffickers to provide compensation (for example, effective financial investigations resulting in seizure of assets of perpetrators with the view to their confiscation)?

If possible, a detective from the financial investigation unit will be added to the investigation to seize the assets of the perpetrator and confiscate them.

- Is there a possibility for victims of THB to claim damages and compensation in the country of destination after their return to the country of origin? Please provide any relevant examples.
- Question 43: Please describe the procedure established under your internal law for the repatriation and return of victims of THB.

For the repatriation and return of victims of trafficking in human beings, see chapter 5 of the Standard Operating Procedure (SOP) for the identification, screening, protection, assistance, return and reintegration of victims of human trafficking in Aruba, March 31st, 2023, available on www.cmmaruba.com.

Additional information requested as part of the 2nd evaluation round: What steps are taken to ensure that the return of victims of THB from your country to another country is carried out preferably voluntarily and in full observance of the duty to ensure their rights, safety and dignity, including the obligation not to return a person to a country where his or her human rights are at risk of being violated (*non-refoulement* principle)? How is risk assessment carried out when deciding upon return and repatriation of victims of THB? What is the procedure and what are the modalities of co-operation with the authorities of the receiving state?

Based on the Aruba SOP, the status of the country and family tracing needs to be determined before the victim returns. The status of the country should be researched, including partnering with relevant stakeholders operating within the context. The goal of this investigative process is to gain a practical, real-time perspective regarding the level of conflict or instability that may be present. If the risks are found to be unacceptably high, the person is not required to return to his or her country of origin.

- Question 44: Does a person, repatriated to your country as a victim of THB, continue having victim status? If so, please specify on which grounds such recognition is made (for example, declaration of the victim). What assistance measures are envisaged for such persons after repatriation?

Additional information requested as part of the 2nd evaluation round: Has any victim of trafficking who is a citizen or permanent resident of your country been returned against their will? If yes, what steps, if any, were taken to assist them after their return?

- Question 45: What are the grounds for the victim status to come to an end:
 - victim status claimed improperly; yes
 - victim's refusal to co-operate with the authorities; no
 - return to the country of origin; yes

- request of the victim; yes
- other, please specify.

Section II.3. Implementation of measures concerning substantive criminal law, investigation, prosecution and procedural law

Questions in this section aim to obtain information on the implementation by parties of measures concerning substantive criminal law contained in Chapter IV of the Convention (Articles 18 to 26) as well as measures concerning investigation, prosecution and procedural law contained in Chapter V of the Convention (Articles 27 to 31).

- *Question 46:* Is THB subject to a single criminal offence in your internal law? If so, please provide (a translation of) the legal text(s) in English or French. If not, please specify the combination of criminal offences, covering as minimum all conducts falling within the definition of THB as contained in Article 4 of the Convention, used under your internal law to prosecute for THB.

Yes, human trafficking as described in art. 2:239 is the single criminal offence in Aruban Law.

- *Question 47:* Does your internal law establish as a criminal offence the use of services of a victim of THB with the knowledge that the person is a victim of THB as provided for in Article 19 of the Convention?¹

Yes, art. 2:240 of the Aruba Penal Code criminalizes the use of services of a victim of human trafficking (as described in art. 2:239) knowing that that person is a victim of human trafficking.

- *Question 48:* Does your internal law establish as a specific criminal offence retaining, removing, concealing, damaging or destroying a travel or identity document of another person committed intentionally and for the purpose of enabling THB as provided for in Article 20c of the Convention?

N/A

- *Question 49:* Does your internal law ensure that a legal person can be held liable for criminal offences established in accordance with the Convention as provided for in its Article 22? What types of legal persons are subject to corporate liability for such offences?

The Aruba Code of Criminal Procedure (art. 1) reads that the Aruban Law applies to both natural persons and legal persons. It is also possible for the government to impose fines or measures if a company breaks the law. Art. 1:127 of the Aruba Penal Code also reads that criminal offences can be committed by both natural persons and legal persons (a company without legal personality, a public company, a limited/silent partner, a shipping company, and the special-purpose assets). If a criminal offence is committed by a legal person, criminal prosecution is possible and relevant legal regulations, punishments and measures could be imposed upon: (I) the legal person, (II) those who instructed to commit the fact or those who were in charge of the execution of the criminal fact or (III) under I and II combined.

Additional information requested as part of the 2nd evaluation round: Does corporate liability apply to legal persons involved in THB for the purpose of forced labour or services, including by their sub-contractors throughout the supply chain? Please provide examples of any relevant cases and the sanctions imposed.

¹ Article 19 of the Convention does not concern using the services of a prostitute as such and the criminalisation of her/his client (see paragraphs 229 to 236 of the Explanatory Report of the Convention).

- *Question 50:* Which sanctions does your internal law provide for criminal offences established in accordance with the Convention? Please specify the criminal, civil and administrative sanctions.

Criminal sanctions: human trafficking is punishable with a maximum prison sentence of twelve (12) years or a fine of the fifth category (100.000 Aruban florin). A maximum prison sentence of fifteen (15) years can be imposed on those found guilty of human trafficking by two or more cooperating persons and/or if the victim is not yet eighteen years of age or if the victim was in a vulnerable position. When human trafficking caused severe physical injury or caused someone to be in mortal danger, a maximum prison sentence of eighteen (18) years can be imposed. If death is the result of the trafficking, a lifelong prison sentence or a temporary prison sentence of thirty (30) years can be imposed.

Additional information requested as part of the 2nd evaluation round: Have there been any prosecutions and convictions for THB with the aggravating circumstance of involvement of public officials in the exercise of their functions? Please provide any relevant examples.

No public officials have ever been investigated, prosecuted, or convicted for human trafficking.

- *Question 51:* Does your internal law provide for the possibility to take into account previous convictions in another party when determining the penalty in relation to offences established in accordance with the Convention?

The Public Prosecutors of the Public Prosecutors Office of Aruba and the judges of the Joint Court of Justice of Aruba, Curacao, Sint Maarten and of Bonaire, Saint Eustatius, and Saba, have the opportunity to discuss aggravating circumstances in their (respectively) indictment and verdict. Being convicted before could be an aggravating circumstance. Also, article 1:117 of the Aruba Penal Code states that if a person commits a similar crime within 5 years after release of a temporary prison sentence, the prison sentence shall be increased with a third (1/3).

- *Question 52:* Please describe how your internal law provides for the possibility of not imposing penalties on victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so, as provided for in Article 26 of the Convention.

Article 1:114 under 1a of the Aruba Penal Code reads that one is not punishable when, inter alia, one was forced to commit a criminal act in a state of emergency. Also, article 1:115 under 1b reads that one is not punishable when one was forced to commit a criminal act under psychological force majeure.

Additional information requested as part of the 2nd evaluation round: Is the non-punishment provision incorporated in law and/or prosecution guidelines? If so, please provide the relevant texts. Please give details, including references to case law where relevant, of cases where the non-punishment principle has been applied and the outcome of such cases.

See the answer on question 52. There are no cases known in Aruba, however the public prosecutor can use non-punishment provision in cases where one was forced to commit criminal offences (thefts or selling drugs).

- *Question 53:* Does your internal law provide for the initiation of legal proceedings by the victim and/or *ex officio* (for example, by the public prosecutor)?

The Public Prosecutor is the sole body in Aruba who can decide to start legal proceedings with regards to criminal law (National Ordinance on the Public Prosecutors Office). Victims could press charges that start

a procedure (in which the public prosecutor decides on persecution or not). Victims can also start legal proceedings in a civil case.

Additional information requested as part of the 2nd evaluation round:

- Does your country's law provide for the possibility of investigating a THB case in your country if the offence was committed on your territory, but the complaint was submitted in the country of residence of a foreign victim of THB? Please provide any relevant examples.

Yes, any offence that was committed in Aruba can be charged in Aruba, even if the charges were pressed elsewhere.

- Have any difficulties been experienced in your country in identifying and prosecuting cases on the ground of trafficking for the purpose of forced labour or services, slavery and practices similar to slavery or servitude? If so, please provide details.

Yes, there have been some difficulties in identifying or prosecution of case of human trafficking. Victims do not identify as victims of trafficking, victims do not want to make a statement, victims want to leave Aruba right away taking with them prove of the criminal act, inter alia phones.

- Please describe the measures taken in your country to ensure compliance with the obligation of effective investigation into THB cases, in particular as regards:
 - a. setting up specialised investigation units and the number of staff involved.

The Investigative Unit Human Trafficking and Migrant Smuggling (UMM), in existence since 2017, is specialised in human trafficking and migrant smuggling investigations. The capacity of the unit has expanded in 2022/2023 and at this moment there are six (6) detectives working at the unit.

- b. exchange of information with, and obtaining evidence from, other parties.

The exchange of information is regulated by law via art. 177kc of the Aruba Code of Criminal Procedure.

- c. use of special investigative techniques (such as informants, cover agents, wiretapping, controlled deliveries), with an indication of how their use is regulated and whether they can also be applied in cases not related to organised crime;

The use of these special investigative techniques is regulated by law in TITEL XVIII and TITEL XIX of the Aruba Code of Criminal Procedure.

- d. investigation of THB offences committed through the Internet, including the possibility of blocking websites which are used to facilitate the recruitment of trafficking victims or the dissemination of child pornography;
- e. financial investigations to disrupt criminal money flows and ensure asset recovery.

The internal policy of the Public Prosecutors Office is that the financial aspect (asset recovery) has to be part in every criminal investigation, not only cases of human trafficking.

- f. use of joint investigation teams (JITs).

The use of JIT's is regulated by law.

- Question 54: Please describe how your internal law allows for NGOs or associations/groups assisting or supporting victims to participate in legal proceedings (for example, as third parties)? Please specify the conditions for this participation as well as their legal status during these proceedings.

The new Aruba Code of Criminal Procedure will be implemented by January 1st, 2024, in which victims' rights will be extended. For example, the victim can then be assisted by third parties during the proceedings.

- *Question 55:* Please describe the measures taken in your internal law to protect the identity and safety of victims before, during and after investigations and legal proceedings.

Article 261 of the Aruba Code of Criminal Procedure states that where a witness is seriously threatened connected to giving evidence, the examining magistrate may, at the request of the public prosecutor or at the request of the witness, provide that the witness be examined in such a way that his identity is completely concealed.

Additional information requested as part of the 2nd evaluation round:

- What measures are taken to protect victims, witnesses and NGOs assisting victims during criminal proceedings from potential retaliation or intimidation during the investigation and during and after the criminal proceedings? In how many cases have special protection measures been used in respect of victims and witnesses of THB? Please specify any difficulties in providing victim/witness protection and creating a safe environment for their participation in investigations and court proceedings.

See the answer to question 55.

- What other measures are taken to promote the participation of victims and witnesses in criminal proceedings and to give testimonies which accurately reflect their experiences and assist courts in establishing the truth?

The new Aruba Code of Criminal Procedure will be implemented by January 1st, 2024. Victims' rights will be extended. The right to speak (for victims) becomes possible.

Additional questions from the 2nd evaluation round questionnaire

Gender equality

- *Question 56:* What specific measures are taken in your country to address the gender dimension of THB and incorporate gender equality into the policies to prevent and combat THB and to protect and promote the rights of victims, including through the empowerment of women and girls?

Aruba adopted several preventive measures to create gender equality and put attention to the unacceptable nature of discrimination based on sex, including in the educational programme on human trafficking and migrant smuggling for youths in the ages of 12-18 years old. To further promote gender equality, and combat gender-based violence and stereotypes, the government has supported the HIAS Aruba and UNHCR initiative 'GBV Response and Prevention: Case management and Positive Masculinities Training', directed towards empowerment of men within the community in June 2023. HIAS Aruba also presented the results of the program 'Engaging men and boys in preventing violence against women, girls and adolescents in Aruba' in July 2023. The Coordination Center on Human Trafficking and Migrant Smuggling participated in both events.

Non-discrimination

- *Question 57:* What measures are taken to ensure that trafficked persons who are members of ethnic minorities have access to the rights specified in the Convention?

All identified victims of trafficking have the same access to these rights.

- *Question 58:* What specific measures are taken to ensure that trafficked persons who are irregular migrants or migrant workers are identified as victims of THB and have access to the rights provided for in the Convention?

All identified victims of trafficking have the same access to these rights.

- *Question 59:* What measures exist to ensure that male victims of trafficking are identified and provided with assistance and protection, including safe accommodation, as provided by the Convention?

All identified victims of trafficking have the same access to these rights.

Protection of private life

- *Question 60:* What measures are taken by relevant professionals to protect the confidentiality of information and protect the personal life and identity of victims of THB, including as regards storing of their personal data? Are there any conflicts of interest between professional ethics, on the one hand, and the obligation to report an offence, on the other hand? If so, how are these conflicts resolved in practice?

With regards to the protection of personal data Aruba has its National Ordinance on Personal Registrations (AB 2011 no. 37). This National Ordinance is outdated, and the Caribbean countries of the Kingdom of the Netherlands are currently drafting a Mutual Data Protection Act law for Aruba, Curaçao and Sint Maarten as well as for the public entities Bonaire, Sint Eustatius, and Saba. Seeing the ever-increasing stringent international requirements with regard to the protection of personal data and our understanding of the importance of protecting the personal data of the victims we will, in anticipation of the above-mentioned law, implement as much as possible the principles of data protection on the new human trafficking and migrant smuggling register (themaregister). The register will for example be highly secured and internal access authorisations will be implemented.

Special measures concerning children

- *Question 61:* Please describe whether and how trafficking in children is specifically addressed in your country. If there are institutions responsible for taking the lead in combating trafficking in children and a specific national referral mechanism for child victims of trafficking, please provide details.

There is no specific institution for combatting trafficking in children or a specific referral mechanism. The Aruba SOP mentions several specific considerations for child victim, like the involvement in the investigation of the trained professionals from the Youth and Vices Unit. Labor inspectors always supervise whether children/youth (below the age of 18 years) are victims of labor exploitation. Any infractions regarding child labor, specifically according to articles 19 and 20 of the Labor ordinance are reported.

- *Question 62:* What practical measures are taken to reduce children's vulnerability to trafficking and create a protective environment¹ for them, including through:

¹ The concept of a protective environment, as promoted by UNICEF, has eight key components:

- protecting children's rights from adverse attitudes, traditions, customs, behaviour and practices;
- government commitment to and protection and realisation of children's rights;
- open discussion of, and engagement with, child protection issues;
- drawing up and enforcing protective legislation;

- a. ensuring registration of all children at birth, in particular from socially vulnerable groups.
- b. raising awareness of THB through education.
- c. training professionals working with children.

In 2001, the United Nations Universal Declaration of the Rights of the Child (1959) was also signed by the government of Aruba, guaranteeing the development of every child, such as personality, talent and emotional capacity, as well as mental and physical development.

Since April 1, 2021, the Protection Code for Children (Codigo di Proteccion) came into existence. The name contains the words protection and safety and that is exactly what this step-by-step plan is about. In other countries, this is called the 'child abuse reporting code'. The preparation and implementation of the protection code lies with a project group that is supported by UNICEF Netherlands, Augeo Foundation and the LVAK. The goal of the Protection Code is to secure a safe environment for children to grow up in, to enforce the structure of care and treatment for children, and to improve on the cooperation between relevant entities. The Protection Code is part of the Social Crisis Plan (SCP) which has the objective to strengthen the national system for the protection of children. To implement the Protection Code the 'Signs of Safety' method will be used to train all relevant (governmental) partners within the Social, Judicial, Educational and Health Services in Aruba.

Every child born in Aruba must be registered at the Civil Status and Population Register Service (DBSB) within five days after the delivery of the child. The DBSB then draws up a certificate of birth which is kept in the register of the DBSB. A child born in Aruba is not automatically registered in the population register, unless the child is a Dutch citizen born in Aruba (article 1 National Ordinance on Admission and Expulsion). Children born in Aruba of parents who do not have the Dutch nationality must first obtain a residence permit before the child can be registered in the populations register.

- *Question 63:* Please explain what methods are used to verify the age of a presumed victim of trafficking where the age is uncertain and there are reasons to believe that the person is a child. Would such a person be presumed to be a child until the age verification is completed?
- *Question 64:* What steps are taken in your country to ensure that the rights of the child and his/her best interests¹ are duly taken into consideration, in particular when it comes to:
 - a. identification of child victims of trafficking.
 - b. appointing a legal guardian, organization or authority which shall act in the best interest of unaccompanied minors identified as victims of trafficking;
 - c. locating the child's family.
 - d. ensuring that the identity or details allowing the identification of a child victim of trafficking are not made publicly known through the media or by any other means.
 - e. access to appropriate and secure accommodation, education, and health care.
 - f. issuing residence permits for child victims of trafficking.

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- the capacity of those dealing and in contact with children, families and communities to protect children;
 - children's life skills, knowledge and participation;
 - putting in place a system for monitoring and reporting abuse cases;
 - programmes and services to enable child victims of trafficking to recover and reintegrate.

¹ "The best interests of the child" means that any situation should be looked at from the child's own perspective, seeking to take the child's views into consideration and with the objective of ensuring that his/her rights are respected. Any decision concerning a child should therefore be guided by what is objectively best for that child, given her/his age and maturity.

- g. providing counselling and information in a language that the child can understand, legal assistance and free legal aid prior, during and after legal proceedings, including to claim compensation.
- h. carrying out best interests' determination, including risk assessment, prior to any decision on the return of child victims to their country of origin, and ensuring the child's safe return in accordance with the best interests of the child.
- i. special protection measures for children.

In the Aruba SOP special attention has been given to the rights of the child and his/her best interests.

- *Question 65:* What practical measures are taken in your country to identify victims of trafficking among unaccompanied foreign minors, including asylum seekers? What measures are taken to prevent their disappearance? Have there been cases of non-voluntary return of child victims of trafficking?
- *Question 66:* What programmes and services exist in your country for the (re)integration of child victims of trafficking? What solutions are provided if the reintegration of the child into his/her family is not in the child's best interests?

Trafficking for the purpose of organ removal

- *Question 67:* Please describe the measures taken in your country to prevent THB for the purpose of the removal of organs, and in particular:
 - a. the legislation and regulations on organ transplantation and removal of organs, including requirements for the living donation procedure (information/consent, evaluation/selection, follow-up and registry) and criteria for authorising centres for living donation.
 - b. the institution(s) in charge of overseeing and monitoring the medical care and recovery of donors and recipients and managing or supervising any waiting lists for organ transplantations.
 - c. the guidance and training provided to relevant professionals to prevent this form of THB, to report cases and to identify and assist victims.

Article 97 of the Civil Code of Aruba (AB 1989 no 100, adapted in AB 2016 no 51) states that organ donation is possible by a document written entirely by hand, dated and signed by the testator. Actual organ transplants are not possible in Aruba since Aruba does not have an academic hospital where these transplants may be performed.

- *Question 68:* Have you had any cases or suspected cases of THB for the purpose of the removal of organs? How did investigations take place in such cases and what special investigation techniques were used?

There are no cases known to the Aruban Public Prosecutors Office of human trafficking for the purpose of the removal of organs.

Jurisdiction

- *Question 69:* Please outline the measures taken by your country to establish and exercise jurisdiction over the offences set out in the Convention, in particular with regard to offences committed outside the jurisdiction of the state (including in cases where your national is a victim of THB committed abroad).

Please see the answers provided at question 53.

Measures related to endangered or missing persons

- *Question 70:* What measures are envisaged in your country to transmit information to another party concerning a victim, witness or collaborator with the judicial authorities in a THB case, who your authorities believe is in immediate danger on the territory of another party? What protection measures are envisaged for such persons, should another party to the Convention inform you about their presence on your territory? Please provide examples from practice.
- *Question 71:* Has an early warning system for missing children been introduced in your country and is the harmonised European telephone number for missing children available? What other measures are there for early signalling to other countries about endangered and/or missing children? Has your country concluded any agreements or taken any other measures to reinforce co-operation with other countries in the search for missing people, in particular children, where your authorities have reasonable grounds to believe that missing children may be victims of trafficking or are at risk of becoming victims of trafficking?

Relationship with other international instruments

- *Question 72:* Please indicate any agreements concluded by your country in accordance with Article 40.2 of the Convention.
- *Question 73:* Please provide details of cases where victims or possible victims of THB have been granted refugee status or subsidiary/complementary protection.

E. Statistics on THB (per year, starting with 2015)

Statistics have been kept by the Coordination Center on Human Trafficking and Migrant Smuggling (CMMA) since 2020. Therefore, the information provided in this report will cover the years 2020-2022.

In Aruba a victim can be identified as a potential, presumed, or confirmed victim of human trafficking. A potential victim is a person who may be a victim of human trafficking but does not show clear indicators of human trafficking, a presumed victim is a person who manifests indicators of human trafficking but has not yet formally been identified by the authorities as a victim of trafficking and a confirmed victim of human trafficking is a person who has been formally identified by the authorities as a victim of human trafficking. A potential victim can be identified by the Coordination Center on Human Trafficking and Migrant Smuggling Aruba (CMMA), a presumed victim by the Joint Intelligence Unit on Human Trafficking and Migrant Smuggling (JIUMM) or the investigative Unit on human trafficking and migrant smuggling (UMM), and a confirmed victim by the Investigative Unit on human trafficking and migrant smuggling (UMM). All presumed and confirmed victims are eligible for services regardless of their residence and/or migratory status and involvement in an investigation or prosecution process.

- Number of victims identified in the sense of having been recognised by a state institution or mandated NGO as deserving any of the rights or entitlements to services provided for by the Convention (with breakdown by sex, age, nationality, form of exploitation, internal or transnational trafficking, and body which identified them).

2020: 1 confirmed victim, 1 female, 1 adult, 1 Colombia, 1 labor exploitation

2021: 1 confirmed victim, 1 female, 1 adult, 1 Colombia, 1 labor exploitation

2022: 4 confirmed victims, 4 female, 4 adults, 4 Colombia, 4 sexual exploitation

- Number of presumed victims whom the competent authorities had “reasonable grounds” to believe were victims of THB (with breakdown by sex, age, nationality, form of exploitation, internal or transnational trafficking, and body which identified them). Please clarify whether this number includes victims who were formally identified or is an additional number.

2020: 10 presumed victims (including confirmed), 5 female + 5 male, 7 adults + 3 minors, 2 Venezuela + 5 Colombia + 2 Aruba + 1 unknown, 5 labor exploitation + 5 sexual exploitation

2021: 7 presumed victims (including confirmed), 5 female + 1 male + 1 unknown, 4 adults + 4 minors, 1 Finland + 1 Dominican Republic, 2 Venezuela, 3 Colombia, 4 sexual exploitation + 3 labor exploitation

2022: 5 presumed victims (including confirmed), 5 female, 5 adults, 4 Colombia + 1 Germany, 4 sexual exploitation + 1 labor exploitation

- Number of victims granted a recovery and reflection period (if possible, disaggregated by sex, age, nationality, form of exploitation).

The Aruba SOP was not in place in 2020-2022. As of 2023, presumed and confirmed victims can access services including recovery and reflection periods.

- Number of victims who received assistance (if possible, disaggregated by sex, age, nationality, form of exploitation, internal or transnational trafficking).

2021: 1 confirmed victim, 1 female, 1 adult, 1 Colombia, 1 labor exploitation

2022: 4 confirmed victims, 4 female, 4 adults, 4 Colombia, 4 sexual exploitation

- Number of shelters for victims of THB and total number of places in these shelters.

In Aruba there are several options for sheltering victims: Red Cross (emergency shelter 3x 24hrs), Fundación Violencia Relacional (female victims and their children), Casa Cuna (children < 6 years), Imeldahof (children < 12 years), Orthopedagogisch Centrum (children < 18 years) and Fundación Refugio Social (male victims). Shelter will be coordinated by the Coordination Center on Human Trafficking and Migrant Smuggling Aruba (CMMA) in cooperation with the Bureau for Victim Assistance (BSOH) and service providers and/or NGO's. The facilities used for shelter did not provide services specialized to trafficking victims but provided care for victims of other crimes or for people in need of temporary assistance connected to personal circumstances. These shelters have generally sufficient beds available to assist victims of trafficking.

- Number of victims who were granted a residence permit, with an indication of the type of the permit (owing to the victim's personal situation or for the purpose of co-operation with the competent authorities) and its duration, if possible, disaggregated by sex, age, nationality, form of exploitation.
- Number of victims given refugee status and subsidiary/complementary protection.
- Number of victims who claimed compensation and who received compensation (if possible, disaggregated by sex, age, nationality, form of exploitation), with an indication of whether the compensation was provided by the perpetrator or the state, and the amount awarded.
- Number of victims repatriated to your country (if possible, disaggregated by sex, age, country of destination, form of exploitation).
- Number of victims repatriated from your country to another country (if possible, disaggregated by sex, age, nationality, form of exploitation).
- Number of investigations into THB cases.

In the period 2020-2022 there were several notifications of possible human trafficking cases. Four (4) of them lead to an investigation. Two (2) of these cases weren't prosecuted because of lack of evidence.

- Number of prosecutions of THB cases.

At this moment there is one (1) ongoing case in court and another that will be brought into court soon. Both of these cases involve forced labor.

- Number of convictions for THB resulting in penalties involving deprivation of liberty, with an indication of the duration of the penalty and whether effectively enforced or suspended.

In the period 2020-2022 there were no convictions.

- Number of judgments resulting in the confiscation of assets.

In the period 2020-2022 there were no such judgments.

- Number of judgments resulting in the closure of a business or an establishment which was being used to carry out THB.

In the period 2020-2022 there were no such judgments.

- Number of convictions for the use of services of a victim of THB.

In the period 2020-2022 there were no such convictions.

- Number of victims of THB who benefited from the non-punishment provision.