



GRETA
GROUP OF EXPERTS
ON ACTION AGAINST
TRAFFICKING IN HUMAN BEINGS

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**Second report
on the compliance of Kosovo*
with the standards of the Council of Europe
Convention on Action against
Trafficking in Human Beings**

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Table of contents

| | |
|---|-----------|
| Executive summary | 4 |
| I. Introduction..... | 6 |
| II. Overview of the current situation in the area of trafficking in human beings in Kosovo* | 8 |
| 1. Emerging trends in trafficking in human beings..... | 8 |
| 2. Developments in the legal framework..... | 8 |
| 3. Developments in the institutional framework..... | 10 |
| 4. National Strategy and Action Plan | 10 |
| 5. Training of relevant professionals..... | 12 |
| 6. Data collection and research | 13 |
| III. Compliance of Kosovo* with the standards of the Convention | 14 |
| 1. Prevention of trafficking in human beings | 14 |
| a. Measures to raise awareness of THB (Article 5) | 14 |
| b. Measures to prevent THB for the purpose of labour exploitation (Article 5) | 15 |
| c. Measures to prevent trafficking in children (Article 5) | 17 |
| d. Social, economic and other initiatives for groups vulnerable to THB (Article 5)..... | 19 |
| e. Measures to prevent trafficking for the purpose of organ removal (Article 5) | 20 |
| f. Measures to discourage demand (Article 6) | 21 |
| g. Border measures (Article 7) | 21 |
| 2. Measures to protect and promote the rights of victims, guaranteeing gender equality | 22 |
| a. Identification of victims of THB (Article 10) | 22 |
| b. Assistance measures (Article 12) | 26 |
| c. Identification and assistance of child victims of THB (Articles 10 and 12)..... | 29 |
| d. Protection of private life (Article 11) | 32 |
| e. Recovery and reflection period (Article 13) | 32 |
| f. Residence permits (Article 14)..... | 33 |
| g. Legal assistance and free legal aid (Article 15) | 33 |
| h. Compensation (Article 15) | 34 |
| i. Repatriation and return of victims (Article 16) | 37 |
| 3. Substantive criminal law..... | 37 |
| a. Criminalisation of THB (Article 18)..... | 37 |
| b. Criminalisation of the use of services of a victim (Article 19)..... | 39 |
| c. Corporate liability (Article 22)..... | 39 |
| d. Non-punishment of victims of THB (Article 26) | 40 |
| 4. Investigation, prosecution and procedural law..... | 41 |
| a. Investigations, prosecutions, sanctions and measures (Articles 23 and 27) | 41 |
| b. Protection of witnesses and victims (Articles 28 and 30) | 45 |
| 5. International co-operation and co-operation with civil society | 47 |
| a. International co-operation (Article 32)..... | 47 |
| b. Co-operation with civil society (Article 35)..... | 48 |
| Appendix 1 - List of GRETA's conclusions and proposals for action..... | 50 |
| Appendix 2 List of public bodies, intergovernmental organisations, non-governmental organisations and other civil society actors with which GRETA held online consultations..... | 57 |
| Government's comments | 58 |

Executive summary

Since the first assessment by GRETA of the compliance of Kosovo* with the standards of the Council of Europe Convention on Action against Trafficking in Human Beings in 2015, progress has been made in amending the legislative framework and implementing measures related to GRETA's recommendations. In particular, a number of awareness raising and training activities have been organised, unified indicators for the identification of victims and potential victims of trafficking have been adopted, and human trafficking co-ordinators have been appointed at prosecutor's offices.

GRETA urges the authorities to take further steps to ensure timely identification of victims of trafficking, including by promoting multi-agency involvement in victim identification and ensuring that all professionals who may come into contact with victims receive systematic and continuous training. The authorities should also make efforts to increase the capacity of social workers to proactively identify victims of trafficking and strengthen measures to identify victims among irregular migrants and asylum seekers.

Identification of child victims of trafficking remains a problem, particularly with regard to children who are exploited for the purpose of begging and child labour. Many of those children come from Albania and are often deported back to their country of origin before a proper identification procedure can be carried out. The new Law on Child Protection specifically prohibits abuse and exploitation of children, including forced begging, and provides for an increased role of social workers in the multidisciplinary mechanism for case management. GRETA urges the authorities to reinforce the proactive identification of child victims of trafficking, review the application of the guardianship system, pay increased attention to children who are trafficked by their parents or family members, and introduce a procedure for identifying victims of THB among unaccompanied foreign children.

GRETA further identifies certain gaps in the provision of assistance to victims of trafficking. In particular, it stresses the need to develop a risk assessment methodology to be applied by shelter staff and increase the number of social workers within Centres for Social Work. Moreover, the authorities should ensure access to psychological assistance to victims and facilitate their reintegration into society by providing them with access to education, vocational training and the labour market. GRETA welcomes the co-operation established between the authorities and NGOs and urges the authorities to provide adequate funding in order to enable NGOs to comply with the standards of assistance.

While welcoming the joint inspections by law enforcement and labour inspectors, the report notes that additional steps should be taken to prevent trafficking for the purpose of labour exploitation and identify victims of this type of exploitation. GRETA considers that the authorities should increase the capacity of the Labour Inspectorate, strengthen the monitoring of private employment/recruitment agencies, and raise awareness of the risks of human trafficking for the purpose of labour exploitation. GRETA urges the authorities to provide training on human trafficking to labour inspectors and to ensure that they adopt a proactive approach to the identification of victims.

The number of prosecutions for human trafficking offences has declined during the period covered by the report, and the sanctions imposed by courts have been below the minimum provided under the law. GRETA urges the authorities to take further steps to strengthen the criminal justice response to human trafficking, including by ensuring that human trafficking cases are prosecuted as such and lead to effective, proportionate and dissuasive sanctions, as well as that plea bargaining is used only exceptionally in THB cases. The authorities should continue providing training and encourage the specialisation of prosecutors and judges to deal with THB cases.

* All references to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nation's Security Council Resolution 1244 and without prejudice to the status of Kosovo.

GRETA notes the near absence of compensation awarded to victims of trafficking and urges the authorities to adopt measures to facilitate and guarantee their access to compensation. Specifically, the authorities should ensure that victims are systematically informed of their right to compensation and the procedures to be followed, and strengthen the capacity of legal practitioners to assist victims to claim compensation. The criminal and civil procedures regarding the compensation from perpetrators and the criteria for granting state compensation should be reviewed. In this regard, the report notes that the Law on Crime Victim Compensation is currently undergoing revisions.

I. Introduction

1. The first assessment of the compliance of Kosovo* with the standards of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") took place in 2015, as part of the project VC/3036 "Reinforcing the fight against trafficking in human beings in Kosovo* through the application of GRETA's methodology and tools". Following the receipt of the reply of Kosovo* to GRETA's questionnaire on 16 January 2015, an evaluation visit was organised on 7-10 April 2015. The draft report was examined by GRETA at its meeting on 17 June 2015. Following the receipt of the authorities' comments, GRETA adopted a final report which was sent to the authorities on 22 December 2015. The report was published on 12 April 2016, together with the authorities' final comments.¹

2. In its first report, GRETA noted that the authorities should take further steps to ensure that action to combat trafficking in human beings (THB) is comprehensive, and that adequate funding is allocated for action against THB. GRETA considered that a full-fledged post of National Co-ordinator should be established, and invited the authorities to consider the designation of an independent National Rapporteur. GRETA welcomed the measures taken by the authorities vis-à-vis groups vulnerable to THB and considered that they should continue to develop prevention through social and economic empowerment measures for vulnerable persons and groups, as well as step up their efforts to counter risks related to the use of the internet. Further steps were also recommended with regard to detection of THB cases in the context of border control and through the visa application system. Moreover, GRETA considered that the authorities should take further steps to ensure that all victims are properly identified, paying particular attention to child victims of trafficking, and are provided with adequate assistance. GRETA welcomed the fact that assistance is not made conditional on the victim's co-operation in the investigation/prosecution, and that residence permits are granted to foreign victims both on humanitarian grounds and when cooperating with the competent authorities. GRETA further welcomed the adoption of the Law on Crime Victim Compensation and urged the authorities to make the state compensation scheme accessible to all victims, regardless of nationality and residence status. Finally, GRETA urged the authorities to ensure full implementation of the non-punishment provision, and to consider further amendments to the Criminal Code to bring it fully in line with the Convention.

3. As part of the project "Preventing and Combating Trafficking in Human Beings in Kosovo*",² GRETA launched a second assessment of the compliance of Kosovo* with the standards of the Convention on Action against Trafficking in Human Beings. A questionnaire was sent to the authorities in July 2020 and the consolidated reply was received on 28 October 2020. Due to the travel and sanitary restrictions related to the COVID-19 pandemic, GRETA could not carry out a physical visit to Kosovo.* In preparation of the present report, GRETA used the reply to the questionnaire by the authorities as well as information obtained through online meetings with relevant governmental and non-governmental actors, held from 9 to 11 December 2020. The assessment was carried out by a delegation composed of:

- Ms Ia Dadunashvili, member of GRETA;
- Mr Kevin Hyland, member of GRETA;
- Ms Petya Nestorova, Executive Secretary of the Convention;
- Ms Asja Zujo, Administrator in the Secretariat of the Convention.

¹ Available at:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806454cc>

² [Project on Preventing and Combating Trafficking in Human Beings in Kosovo* \(coe.int\)](https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806454cc)

4. Online meetings were held with representatives of the Ministry of Internal Affairs, the Ministry of Justice, the Ministry of Health, the Ministry of Labour and Social Welfare, the Ministry of Education, Science and Technology, the Police Directorate for Investigation of Trafficking in Human Beings, the Office of the Chief State Prosecutor, the Judicial Council, and the Institute of Forensic Medicine. Separate meetings were held with representatives of international organisations and civil society. The list of the national authorities, NGOs and other organisations with which the delegation held consultations is set out in Appendix 2 to this report. GRETA is grateful for the information provided by them.

5. The draft version of the present report was approved by GRETA at its 40th meeting (22-26 March 2021) and was submitted to the authorities for comments. The authorities' comments were received on 14 June 2021 and were taken into account by GRETA when adopting the final report at its 41st meeting (5-8 July 2021). The report covers the situation up to 8 July 2021; developments since that date are not taken into account in the following analysis and conclusions. GRETA's conclusions and proposals for action are summarised in Appendix 1.

II. Overview of the current situation in the area of trafficking in human beings in Kosovo*

1. Emerging trends in trafficking in human beings

6. According to statistics provided by the Kosovo Police, the number of identified victims of trafficking in human beings was 30 in 2015, 36 in 2016, 32 in 2017, 15 in 2018, 26 in 2019, and 17 in 2020 - a total of 156 persons, which represents a decrease compared to the 187 victims identified in the previous reporting period.³ The vast majority of the identified victims (135) were female,⁴ primarily victims of sexual exploitation, which takes place in private homes, nightclubs and massage parlours. As regards other forms of exploitation, there were 31 identified victims of THB for the purpose of forced labour, nine for the purpose of slavery, eight for the purpose of begging, and two for the purpose of forced marriage. The majority of the identified victims (132) originated from Kosovo.* The number of foreign victims of trafficking identified in the period 2015-2020 was 24 (of whom 16 from Albania, 3 from Serbia, 2 from Montenegro, 1 from the Republic of Moldova, 1 from the Philippines and 1 from the Czech Republic).

7. There were 92 children among the identified victims (59% of all victims). Many of these children come from marginalised communities and are forced to beg or commit unlawful acts. While most of the child victims are from Kosovo,* an increasing number originate from neighbouring countries, particularly Albania (see paragraphs 116-117).

8. There has been an increase in the number of migrants and asylum seekers in Kosovo* in recent years, due to the important migration flows in the region towards Western Europe. According to the authorities, the number of persons who applied for international protection was 350 in 2017, 600 in 2018, 2100 in 2019 and 1,409 in 2020. According to the authorities, 88% of migrants and asylum seekers who have come to Kosovo* in 2020 were male, and 81% were in their 30s. About half of them came from Syria, and the others originated from Algeria, Palestine, Iraq and Libya. On average, they stayed in Kosovo* for 30 days. There have been no victims of trafficking identified among asylum seekers.

2. Developments in the legal framework⁵

9. The new Criminal Code (CC) No. 06/L-074 of Kosovo was adopted in November 2018 and entered into force on 14 April 2019.⁶ The minimum punishment for child trafficking (Article 165(2) of the CC) was increased from three to five years' imprisonment. Further, amendments were made to Article 234 ("facilitating or compelling prostitution") and Article 228 ("using sexual services of a victim of trafficking") of the CC. Moreover, amendments were made to Article 166 ("withholding identity papers of victims of slavery or trafficking in persons") of the CC.

10. A new Law No. 06/L-036 on Amending and Supplementing Law No.04/L-219 on Foreigners came into force in May 2018,⁷ clarifying provisions on the temporary stay.

³ As noted in GRETA's first report, the number of identified victims was 39 in 2011, 54 in 2012, 52 in 2013 and 42 in 2014.

⁴ It is of note that, while the majority of victims were female in each previous year, there were more male victims in 2020 and most victims (10 out of 17) were exploited for the purpose of forced labour. Also, 15 out of the 17 victims identified in 2020 were children.

⁵ The information in this section is based on the official English translation of the relevant laws.

⁶ Official Gazette of the Republic of Kosovo, No. 02, 14 January 2019.

⁷ Official Gazette of the Republic of Kosovo, No. 06, 3 May 2018.

11. In addition, Law No. 06/L-084 on Child Protection was adopted in June 2019 and came into force in July 2020.⁸ It established the legal basis for guaranteeing and protecting children's rights, as well as establishing responsibilities for the municipalities to develop and maintain child protection services within their jurisdictions.

12. Law No. 05/L-036 on Crime Victim Compensation, which allows for state compensation to be awarded to victims of violent crimes, including victims of THB, was adopted in May 2015 and came into force in July 2015.⁹ Amendments to this law are being finalised and are expected to be submitted to the Parliament for adoption in September 2021. The amendments would introduce measures to make it easier for victims to obtain compensation, including by extending the deadline for applications from six months to two years (see also paragraph 150).

13. Law No. 06/L-087 on Extended Powers on Confiscation of Assets came into force in January 2019,¹⁰ allowing for verification and confiscation of assets of persons who have been convicted of certain criminal offences, including THB, when the procedures provided for under the Code of Criminal Procedure (CCP) are not sufficient. The confiscation can also be ordered under the law against property transferred to third persons. The law implements Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (EU).

14. A new draft Law on Social and Family Services, relevant to the protection of, and assistance to, victims of THB, and providing a legal framework for the registration and licensing of private sector employers, including foreign employment agencies, passed public consultation in March 2021 and is expected to be submitted to the Parliament for adoption soon.

15. A draft new CCP has been prepared by the Ministry of Justice and will be submitted to the parliamentary procedure for adoption.¹¹ It introduces a number of changes, such as an increase in the permitted length of investigations, the right of victims of criminal offences to file a complaint in case of termination of an investigation, and the addition of THB among the criminal offences for which the injured party is authorised to appeal the judgment with respect to the sanction imposed by the court. The draft CCP would also introduce the possibility of trials *in absentia* for all criminal offences.

16. In terms of secondary legislation and guidelines relevant to anti-trafficking action, the following were adopted since the first GRETA report:

- Administrative Instruction (GRK) No. 10/2017 on the List of Indicators for Formal Identification of Victims of Trafficking in Human Beings, adopted in November 2017;¹²
- Administrative Instruction (MIA) No. 09/2019 on the Procedure and Criteria for Issuing Residence Permits for Foreigners (replacing Administrative Instruction 01/2014), adopted in September 2019;¹³
- Special Operating Procedures for Conducting Investigation and Prosecution of Trafficking in Human Beings, adopted by the Kosovo Prosecutorial Council (KPC) in July 2020;
- New Sentencing Guidelines, adopted by the Kosovo Supreme Court in February 2018.

17. The above-mentioned legislative developments are discussed in greater detail in later parts of the report (see paragraphs 55, 150, 159-161, 163 and 181).

⁸ Official Gazette of the Republic of Kosovo, No. 14, 17 July 2019.

⁹ Official Gazette of the Republic of Kosovo, No. 17, 30 June 2015.

¹⁰ Official Gazette of the Republic of Kosovo, No. 23, 26 December 2018.

¹¹ A version of the draft CPC was submitted to the Venice Commission, which issued its opinion on 19 June 2020 (CDL-AD(2020)008).

¹² Published in the Official Gazette of the Republic of Kosovo on 29 December 2017.

¹³ Published in the Official Gazette of the Republic of Kosovo on 6 September 2019.

3. Developments in the institutional framework

18. In October 2015, one of the Deputy Ministers of Internal Affairs (Mr Milan Radojević) was appointed as the National Anti-Trafficking Co-ordinator. He was re-appointed as National Co-ordinator in July 2020, following a gap period without a National Co-ordinator due to the government crisis. In December 2020, he resigned following his election as Mayor of North Mitrovicë/Mitrovica. In the opinion of a number of interlocutors with whom GRETA held meetings, as well as respondents who provided input for the evaluation of the 2015-2019 Anti-Trafficking Strategy and Action Plan,¹⁴ the fact that the National Co-ordinator is a Deputy Minister of Internal Affairs risks creating a vacuum in the leadership and co-ordination of anti-trafficking action due to frequent changes of government. GRETA has been informed that the Minister of Internal Affairs is currently the National Anti-Trafficking Co-ordinator and will remain so until a Deputy Minister is appointed to this position. **GRETA considers that the authorities should reflect on creating a permanent position of National Co-ordinator, in order to bring stability to this role.**

19. The composition and functions of the National Authority against Trafficking in Human Beings ("National Authority"), which are defined in Law No. 04/L-218 on Preventing and Combating Trafficking in Human Beings and Protecting Victims of Trafficking ("Anti-THB Law") have remained the same. The National Authority meets once a month, but only one meeting was reportedly held in 2020 due to the COVID-19 pandemic.

20. The authorities have not yet designated an independent National Rapporteur or another independent mechanism for monitoring the anti-trafficking activities of State institutions, as recommended in GRETA's first evaluation report.

21. In addition to the special focal point appointed in 2012, the Office of the Chief State Prosecutor (OCSP) appointed regional focal points to follow human trafficking cases in the seven regions, in accordance with the SOPs mentioned in paragraph 16. The final list of these regional focal points was established in 2020. Further, in 2017, the Kosovo Police Directorate for Trafficking in Human Beings (DITHB) established a unit responsible for the four predominantly ethnic Serb municipalities.¹⁵

22. The Child Labour Unit within the Department for Social Policies at the Ministry of Labour and Social Welfare (MLSW), established in 2005, is currently being upgraded to become a Child Labour Division, in accordance with the new regulation approved by the Government for Systematisation of Institutions. The Committee for the Prevention and Elimination of Child Labour, established in 2005, continues to monitor child labour issues and oversees the work of the local committees within local municipalities charged to identify and report child labour cases within their jurisdiction.

4. National Strategy and Action Plan

23. The National Strategy and Action Plan against Trafficking in Human Beings for 2015-2019 had the following strategic objectives: 1) advancement of the prevention of human trafficking through information, awareness and education of society in general, and in particular vulnerable groups about the consequences of trafficking and involvement in trafficking activities; 2) continuous strengthening of the system of identification, protection, assistance and reintegration of victims of trafficking through sustainable programmes of social inclusion; 3) efficient prosecution of cases of human trafficking by improving the detecting and prosecuting of traffickers; and 4) strengthened international and local co-operation and partnerships against THB.

¹⁴ KMOP, Assessment of the Implementation of the Anti-Trafficking Strategy and Action Plan 2015-2019, pp. 11, 17-18.

¹⁵ It is of note that the number of police officers dealing with THB in different regions of Kosovo* has decreased in the recent period, especially since the police has been involved in the implementation of COVID-19 measures.

24. An assessment report of the implementation of the 2015-2019 Strategy and Action Plan was prepared in May 2019 in the framework of the EU-funded project "Moving forward - Promoting greater efficiency and effectiveness in the fight against trafficking in human beings in Kosovo*" implemented by the Centre for Family Care and Children (KMOP), in co-operation with the EPLO (GR) and the Centre for the Protection of Victims and Prevention of Trafficking in Human Beings (PVPT). The assessment found some internal discrepancies and a lack of a logical framework within the Strategy and the Action Plan, as well as the absence of a concrete monitoring and evaluation system.¹⁶ Nonetheless, the assessment, which was based on interviews with various stakeholders, found that the Action Plan had generally achieved the objectives and activities at a satisfactory level, particularly with regard to education and awareness raising, training, harmonisation of legislation, as well as co-ordination and accurate reporting by the responsible institutions. Among the weaknesses identified was the lack of budget allocation for the envisaged activities, insufficient implementation of activities related to international co-operation, and political impact on the work of the National Authority.¹⁷

25. A new Strategy against THB for 2020-2024, accompanied by an Action Plan for 2020-2021, is in the process of preparation, in consultation with civil society, and is expected to be approved at the latest by the end of September 2021. According to the authorities, the new strategy will address the problem of trafficking in children for the purpose of begging. Due to the ongoing review of the functioning of state institutions and their responsibilities, a transition period (2020-2021) is foreseen for the finalisation of the draft Action Plan and the first phase of its implementation. GRETA was informed that, at the end of this transition period, the new Strategy will be integrated into the new Strategy to Combat Organised Crime. However, in the opinion of a number of interlocutors, the Strategy against THB should remain separate. According to the authorities, the budget for the implementation of the new Strategy and Action Plan against THB will be determined after the Action Plan against THB has been finalised. GRETA stressed the importance of adopting, as a matter of priority, the Strategy and Action Plan in which concrete activities and stakeholders responsible for their implementation are clearly defined and budgetary resources allocated, accompanied by a mechanism for monitoring its implementation and evaluating its impact. **GRETA would like to be kept informed of developments in this respect.**

26. A new Children's Rights Strategy for the period 2019-2023, accompanied by an Action Plan for 2019-2021, was adopted in January 2019. The Strategy includes action against child labour under its strategic objective 5. Moreover, in co-operation with relevant institutions and non-governmental organisations (such as the NGO PVPT), the Committee for the Prevention and Elimination of Child Labour, established within the Ministry of Labour and Social Welfare, has designed an Action Plan for Prevention and Elimination of Child Labour. The Action Plan covers, *inter alia*, measures aimed at assisting children in street situation who are at risk of THB.

¹⁶ KMOP, Assessment of the Implementation of the Anti-Trafficking Strategy and Action Plan 2015-2019, pp. 7-8.

¹⁷ Ibid, p. 9.

5. Training of relevant professionals

27. GRETA was informed that all staff working in the Kosovo Police Directorate for Trafficking in Human Beings (DITHB) followed a 40-hour training course focusing on identification and treatment of victims, as well as courses/modules focused on specific issues. However, it appears from the information available that there are some police officers, particularly in the regional THB teams, who still have not received training after being assigned to their positions. The DITHB has conducted joint training with the Border Police and the asylum centre to ensure early identification of victims. In 2016 and 2017, the Kosovo Academy for Public Safety and the Kosovo Police Training Department provided 25 individual training sessions for 41 DITHB investigators and 31 collective workshops. According to information provided by the authorities, the Kosovo Police has planned three training sessions in 2021 on the investigation of cases of human trafficking, covering a total of 60 police officers. The Border Police has also participated in training on THB. Further, FRONTEX has provided training on countering THB, falsified documents and has trained trainers in the Border Police. The U.S. Embassy, DOJ and the FBI have also provided training on investigations related to the exploitation of children on the Internet, and training on this topic is also planned by the OSCE for 2021. As mentioned in paragraph 50, training has also been provided with regard to labour exploitation.

28. The Office of the Chief State Prosecutor (OCSP) and the Justice Academy train prosecutors, judges and victim advocates. In 2017, the OCSP trained prosecutors on best practices for prosecution and assisting victims in seeking compensation and trained judges and victim advocates on trafficking issues. In 2018 and 2019, a total of 92 training workshops were provided to judges and prosecutors. THB co-ordinators in prosecution offices undergo specialised training on interviewing victims and witnesses, including children. The Justice Academy implements a certification process and, in co-ordination with local experts, ensures that all training is completed and updated as needed. The Justice Academy's training framework programme for 2021-2022¹⁸ includes a two-day course on THB.¹⁹ Judges and prosecutors are also expected to undergo a two-day training on compensation of crime victims, while basic court and appellate court judges will also attend a two-day training on organised crime and corruption which, although not THB-specific, are of relevance for their work on THB cases. GRETA was informed that THB co-ordinators in prosecution offices may also attend specialised trainings abroad with the consent of the Chief Prosecutor, and joint training sessions, in which all stakeholders have an opportunity to provide training to each other on new strategies and techniques related to THB cases, are recommended. Although the relevant justice actors are provided with basic training on THB, the available information indicates that they could benefit from more targeted and advanced training on specific issues, such as a victim-centred approach of the justice sector, witness protection and financial investigations. Joint training for police, prosecutors and judges, covering practical aspects of THB cases, would also improve the capacity of and co-ordination between the relevant actors.

29. GRETA was informed that the Centre for Protection of Victims and Prevention of Trafficking in Human Beings (PVPT) provides training for relevant professionals within the framework of co-operation projects implemented with international partners. In 2018, the project "Moving Forward - Promoting Greater Efficiency and Effectiveness in the Fight against Trafficking in Human Beings in Kosovo*" funded by the EU Office in Kosovo, organised training on psychological treatment of victims of THB for social workers and staff of the shelters. In the framework of the same project, in 2019, information sessions were held with social workers and shelter staff to support social inclusion and reintegration programmes for victims of THB. Training sessions were also organised within the framework of the project "Increasing the autonomy and independence of women," in order to increase the capacity of the employees of Regional Vocational Centres and Employment Offices in relation to access to victims of trafficking.

¹⁸ https://ad.rks-gov.net/Uploads/Documents/PK21En_.pdf

¹⁹ The topics covered are: identification and distinction of elements of the criminal offence of THB; development of a plan for investigation and identification of victims of THB; rights of victims in criminal proceedings; compensation for victims of trafficking.

30. Within the education sector, training sessions are organised by municipalities, individual schools, as well as by the Ministry of Education, Science and Technology (MEST). A manual "JOIN US – Let's Prevent Trafficking in Human Beings," was distributed to teachers (see paragraph 56). The project "Capacity Building for Primary School Teachers", financed by the US Embassy, organised training for teachers to sensitize them about early symptoms of trafficking among children. Training was also organised for the Regional Vocational Training Centres and Employment Offices to improve access of victims to services.

31. In 2017 and 2018, the Ministry of Internal Affairs organised training for diplomatic staff and provided them with a manual on how to identify victims of THB. However, GRETA was informed that a number of training activities have had to be postponed due to the COVID-19 pandemic, as well as that there has not been any significant training for health-care staff who come in contact with migrants.

32. **GRETA welcomes the efforts of the authorities to provide training on THB to professionals with regard to the identification, investigation and prosecution of THB cases and support to victims of THB. GRETA considers that the authorities should ensure that such training is provided on a continuous basis and to all relevant professionals, including health-care staff working with migrants and asylum seekers.** As regards in particular training on THB for the purpose of labour exploitation, see paragraphs 51-52.

6. Data collection and research

33. In its first evaluation report, GRETA considered that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the authorities should develop and maintain a comprehensive and coherent statistical system on THB by compiling reliable statistical data on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of THB cases. Moreover, GRETA considered that the authorities should conduct and support research on THB-related issues as an important source of information for the evaluation of current programmes and for their improvement and development of future policy measures, with particular focus on trafficking within Kosovo,* trafficking in children and trafficking for the purpose of labour exploitation.

34. While the collection of data and research on human trafficking are among the tasks of the National Co-ordinator, in practice, data collection is performed by the Kosovo Police Directorate against Trafficking in Human Beings, which is responsible for drawing up regular reports with data on THB and trends.²⁰ With a view to improving data collection, an online meeting was organised by the Council of Europe and OSCE on 12 February 2021, with experts from Portugal and Hungary, who presented their data collection on THB procedures. The authorities are currently developing a database on victims of trafficking, which will compile information from all main actors and allow for disaggregation of data concerning sex, age, type of exploitation, country of origin and/or destination. In March 2021, a working group established pursuant to a decision of the Minister of Internal Affairs designed a form with data to be provided by the relevant actors, and it has also been tasked with preparing the necessary sub legal act/administrative instruction which will regulate the functioning of the database.

35. GRETA was provided with information on the number of criminal cases involving THB and related offences which were investigated and prosecuted during the period covered by this report (see paragraphs 185-186). However, it does not appear that any research or analysis has been conducted in relation to the relevant case law. GRETA understands that the identification of the relevant case law related to THB should be facilitated by the new court management system (CMIS) introduced by the Kosovo Judicial Council (KJC).

²⁰ See paragraph 73 of GRETA's first report on Kosovo.*

36. **For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA considers that the authorities should continue and strengthen their efforts to develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical data on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of THB cases. Statistics regarding victims should be collected from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national data collection.**

37. GRETA was informed that the MLSW is conducting research on street children and children at risk of severe forms of labour exploitation, which is expected to yield recommendations with regard to the protection and reintegration of these children. One of the issues already identified is the need for the creation of a national database of street children. Moreover, the above-mentioned assessment of the 2015-2019 Strategy and Action Plan against THB lists among the successes achieved the "completion of analyses, research and evaluations on trafficking issues undertaken by various responsible institutions," mentioning research conducted by OSCE and the NGO Terre des hommes in 2018 focusing on transnational issues related to the situation of children on the move, as well as information collected on school drop-outs, street children and children at risk of trafficking.²¹ The assessment noted that most of the studies are initiated, funded and managed by non-governmental organisations.²² It is of note that there is no specific budget line for research projects concerning THB. According to the authorities, the draft Action Plan against THB foresees the preparation of an annual analysis of human trafficking trends in Kosovo,* an annual analysis of the needs for reintegration of victims of trafficking, and research on children on the move, including trafficked and at-risk children.

38. **GRETA welcomes the plans to carry out research as part of the new Action Plan against THB and considers that the authorities should conduct and support further research on THB-related issues, particularly with regard to forms of THB which are on the rise such as internal trafficking, trafficking in children and trafficking for labour exploitation, as well as on THB-related case law, and ensure that adequate budgetary resources are allocated for such research.**

III. Compliance of Kosovo* with the standards of the Convention

1. Prevention of trafficking in human beings

a. Measures to raise awareness of THB (Article 5)

39. In its first assessment report, GRETA considered that future awareness-raising measures should be designed in light of the assessment of previous measures and be focused on the needs identified. Awareness raising should continue targeting vulnerable groups and inform the general public of forms of THB which are on the rise, such as labour exploitation, forced begging, forced commission of criminal offences and trafficking within Kosovo.*

²¹ KMOP, Assessment of the Implementation of the Anti-Trafficking Strategy and Action Plan 2015-2019, pp. 12, 14.

²² Ibid. p. 12.

40. The Ministry of Internal Affairs (MIA) has continued to implement an annual month-long awareness-raising campaign against human trafficking (in October), and has organised additional campaigns targeting vulnerable populations. A partnership was concluded with a local mobile operator to send text messages to all its subscribers with the text "Open your eyes, fight human trafficking" and the number to the National Help Line. The Victims' Advocacy and Assistance Office (VAAO), in co-operation with the prosecution, has continued to organise an annual week-long campaign on victims' rights, dedicating one day to victims of THB, which includes a panel discussion of all the relevant stakeholders (police, courts, prosecution offices, civil society and shelters). Particular focus was placed in 2020 on the protection of victims during the COVID-19 pandemic and the slogan of the campaign was "Awareness raising for seven days, but services provided 365 days a year."

41. Other awareness-raising activities included distribution of leaflets at border posts with Albania with information on how to seek assistance, broadcasting of a video to reduce demand for forced labour (2017), a film on how traffickers recruit victims (2018) and a series of awareness-raising activities to reduce demand for sexual exploitation (2019). In 2017 and 2018, 28 out of 38 municipalities allocated funds to participate in awareness-raising activities. In 2019, as part of raising awareness of human rights, municipalities organised 75 campaigns on the protection of children's rights, while 97 activities aimed at raising awareness of THB were carried out by municipalities during the anti-trafficking month of October, reaching 5,850 beneficiaries. In addition, most of these municipalities also organised media/local awareness-raising campaigns.

42. Civil society and international organisations also contribute to raising awareness of THB. The NGO Centre for Protection of Victims and Prevention of Trafficking in Human Beings (PVPT) organised sessions in different regions for a wide range of beneficiaries, including children aged 12-18, students at the University of Prishtinë/Prishtina and private universities, primary and secondary school teachers, governmental and non-governmental representatives. PVPT's campaigns have also targeted women in rural areas, mothers of girls who have dropped out of school and persons from different ethnic communities, namely, Albanian, Bosnian, Roma, Ashkali and Egyptian. The OSCE Mission in Kosovo has supported the DITHB in organising a THB awareness-raising campaign for over 600 university and secondary school students in seven municipalities, and has provided support for the design and publication of an information brochure (in Albanian, Serbian and English) titled "I am not for sale". In 2020, the OSCE Mission started developing an awareness-raising campaign on the misuse of the Internet for human trafficking purposes, which will include two videos and text messages related to the use of the Internet for child sexual abuse and recruitment of adult victims for the purpose of sexual and labour exploitation.

43. **GRETA welcomes the efforts to raise awareness of THB among the general public, as well as targeted groups, and considers that the authorities should:**

- **take further steps to ensure that the public, and particularly members of vulnerable groups, are properly informed of the phenomenon of THB and its different forms, including forced begging, forced commission of criminal offences, removal of organs and forced marriage;**
- **increase their efforts to raise awareness of THB for labour exploitation among the general public, the business sector and the authorities involved in the identification of THB.**

b. **Measures to prevent THB for the purpose of labour exploitation (Article 5)**

44. In its first evaluation report, GRETA considered that the authorities should strengthen action to combat trafficking for the purpose of labour exploitation by involving labour inspectors, trade unions, civil society and businesses in a joint platform and improving the identification of and assistance to victims of trafficking for the purpose of labour exploitation.

45. In 2019, the Ministry of Labour and Social Welfare (MLSW) developed a legal framework for the registration and licensing of private sector employers, including foreign employment agencies, through the draft Law on Social and Family Services. Employment/recruitment agencies fall under the competence of the Ministry of Internal Affairs, while the MLSW is responsible for drafting employment policies for foreign nationals. The draft Law on Social and Family services, which passed public consultations in March 2021, further provides for the licensing of organisations and legal entities that provide social and family services to individuals, families and groups in need.

46. The Labour Inspectorate (LI), placed within the MLSW, is competent to conduct inspections from the labour relations and labour safety perspective. Based on their competencies under the Law on the Labour Inspectorate,²³ inspectors can impose sanctions for violations of employment relations and safety at work. GRETA was informed that the LI follows ILO directives regarding safety conditions and protection at work.

47. According to the authorities, there is a total of 35 labour inspectors throughout Kosovo,* located in seven regions, as follows: Prishtinë/Priština - 14, Pejë/Peć - 3, Mitrovicë/Mitrovica - 4, Gjakovë/Đakovica - 2, Gjilan/Gnjilane - 4, Prizren - 4, Ferizaj/Uroševac - 4. Labour inspectors have the authority to conduct inspections in all formal sectors of the economy, as well as in the informal economy, in relation to the implementation of labour relations, occupational safety, health legislation and protection of workers in general. The authorities have indicated that labour inspectors also operate in the north of Kosovo,* which has a majority Serb population.

48. According to the authorities, the LI regularly conducts joint inspections with the DITHB and the Unit for Employment of Foreign Nationals of the Kosovo Police. These inspections are carried out in accordance with the planning done by the Kosovo Police, since the LI only has a supporting role. The LI reports to the National Authority against THB on joint inspections with the Kosovo Police. According to the LI, there were no closures of premises based on its competence in the field of labour relations and safety at work, whereas many premises were closed following inspections by sanitary inspectors. Moreover, GRETA was informed by the DITHB that, in the period 2016-2019, 10 businesses were closed by court order due to their involvement in or enabling of trafficking in human beings. The information provided by the LI suggests that there were no victims of trafficking identified during labour inspections in the reporting period.

49. GRETA was informed that labour inspectors receive initial training, but they have not had any training on THB in the last four years. The LI has approved its strategic development plan for 2017-2021²⁴, which foresees training of labour inspectors on early identification of victims of THB. However, the LI relies on support from donors to conduct this training.

50. Prosecutors have faced difficulties in terms of identifying and prosecuting cases of trafficking for labour exploitation and forced labour, due to a lack of training on these issues. Such training was reportedly recently provided. According to the State Prosecutor's Office, there are not many cases of trafficking for the purpose of labour exploitation in Kosovo.* Some victims have been identified in massage parlours during inspections by the LI (see also paragraphs 88 and 167). However, GRETA was informed that, in the past four years, labour inspectors have not dealt with any cases of human trafficking.

51. Noting that there has been no training on THB for labour inspectors in the past four years, GRETA urges the authorities to take active steps to provide such training on a regular basis and to ensure its sustainability by integrating it in the training curricula for labour inspectors.

²³ Law No. 2002/09 on the Labour Inspectorate of Kosovo, as amended by the Law No. 03/L-017 on Amendment and Supplementation of the Law on Labour Inspectorate, Official Gazette of Kosovo, No. 37, 10 September 2008.

²⁴ <https://ip.rks-qov.net/wp-content/uploads/Plani-zhvillimor-strategjik-i-IP-2017-2021.pdf> (in Albanian only).

52. Further, while welcoming the practice of joint inspections by law enforcement and labour inspectors, **GRETA considers that the authorities should take further measures to prevent trafficking for the purpose of labour exploitation, in particular by:**

- **increasing the capacity of the Labour Inspectorate, through addressing the lack of human resources, to adequately cover all sectors and regions;**
- **strengthening the monitoring of private employment/recruitment agencies;**
- **raising awareness of the risks of human trafficking for the purpose of labour exploitation in Kosovo* and abroad, aimed in particular at vulnerable groups;**
- **providing systematic and continuous training to law enforcement officials and prosecutors on THB for the purposes of labour exploitation, including identification of victims and their referral to assistance;**
- **working closely with the private sector, in line with the Guiding Principles on Business and Human Rights²⁵.**

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

53. In GRETA's first report, GRETA considered that the authorities should pay increased attention to prevention and protection measures to address the vulnerability of children to trafficking, especially those coming from socially vulnerable groups and displaced children. Moreover, GRETA invited the authorities to step up their efforts to counter risks related to the use of Internet.

54. Based on the information available (see paragraphs 7 and 115-117), child trafficking presents a serious problem in Kosovo,* with a growing trend of using children for begging and vulnerability to online abuse.

55. The Law No. 06/L-084 on Child Protection,²⁶ adopted in June 2020, prohibits violence, abuse, exploitation, and neglect of children, including using a child in begging or for other illicit activities, and it provides additional penalties for using or involving children in the production of child pornography. GRETA welcomes this development. GRETA was also informed that the MLSW, which provides services to child victims of trafficking, has undertaken certain legal initiatives in co-operation with the MIA and the Ministry of Justice (MoJ) aimed at providing greater protection to unaccompanied children (see paragraph 119).

56. GRETA was also informed that the Ministry of Education, Science, and Technology (MEST) had organised awareness-raising activities on THB, including conferences, round tables and art contests for youth, students and the general public. The Ministry organised in October 2018 the campaign "Do not be silent!" which was implemented in eight schools. Round tables were also held with teachers and educators and a special manual "THB and the role of the schools" was distributed among teachers. Awareness raising of THB is provided on a continuous basis as part of the educational curricula, as part of classes on civic education and life skills. THB is also addressed with cross-curricular topics through training sessions and various awareness-raising projects in schools or universities.

57. The MEST has also prepared materials for the protection of children on the Internet, "Navigating Internet", which includes instructions for students, teachers and parents, which cover the topic of prevention of online trafficking of children. Furthermore, GRETA was informed that the Kosovo Police conducts awareness campaigns in schools to make sure that young people know the risks of using the social media, and that the DITHB regularly co-operates with the Cyber Crime Unit in their investigations of online abuse (see paragraph 184).

²⁵ www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

²⁶ Official Gazette of the Republic of Kosovo, No. 14, 17 July 2019.

58. Representatives from several state agencies regretted the limited capacity of Centres for Social Work to address cases of child labour exploitation due to limited human resources, lack of knowledge of child labour exploitation issues, and insufficient coordination. The Committee on the Prevention and Elimination of Child Labour was established in 2005 under the MLSW and involved representatives of other relevant ministries. Between January and September 2020, the Committee conducted two meetings, which were held online due to the pandemic. In the first half of 2020, the Committee drafted an Action Plan on Prevention and Elimination of Child Labour,²⁷ that deals, *inter alia*, with children in street situations who are at risk of becoming victims of trafficking. The pandemic has prevented the MLSW from training social workers, so the Ministry reportedly designed an online tutorial²⁸ which was shared with relevant practitioners in order to build their capacities for working with children in street situations. The Ministry has launched research on children in street situations and children subject to severe forms of labour exploitation (see paragraph 37). The MLSW also has signed co-operation agreements with municipalities to establish local action committees, whose activities are aimed at the prevention and elimination of child labour. Such committees have been established in all municipalities except for northern municipalities. Further, in 2019, the government and World Vision conducted five regional workshops to create a regional agreement on a joint monitoring system for child labour exploitation cases.

59. According to the authorities, the measures aimed at countering trafficking of children for labour exploitation and other forms of severe exploitation also fall within the remit of law enforcement. The Ministry of Agriculture has also carried out awareness raising campaigns for parents and children, focusing primarily on health-related risks of child labour.

60. Further, the US-funded (USDOL) global project implemented by the ILO aims to: (1) improve the knowledge base on child labour, forced labour, and human trafficking; (2) improve awareness of these issues through the use of data-driven techniques; (3) strengthen policies and improve the capacity of governments and other stakeholders to combat child labour, forced labour, and human trafficking through national, regional, and global initiatives; and (4) strengthen partnerships to accelerate progress in combating child labour, forced labour, and human trafficking.

61. The draft Action Plan against THB for 2020-2021 envisages "drafting an action plan for the identification and treatment of children in street situations, beggars, children leaving school, including children at risk of trafficking."²⁹

62. GRETA considers that the authorities should strengthen their efforts in the area of prevention of child trafficking, in particular by:

- **sensitising and training child protection and education professionals across the country of the risks and manifestations of child trafficking, including for the purpose of child/forced marriages;**
- **continuing to raise awareness of children about the risks of THB, including those related to the use of the Internet;**
- **reinforcing the human resource capacity of Centres for Social Work to address cases of child labour exploitation.**

²⁷ The main objectives outlined in the action plan are: 1) Empowering/renewing the institutional mechanisms to monitor and implement relevant laws and policies for eliminating child labour; 2) Improving the legal and regulatory framework on child protection, child labour prevention and elimination; 3) Developing the institutional capacities of relevant institutions to address child labour; 4) Preventing child labour and supporting school reintegration through educational services; 5) Protecting children through the provision of social services and economic support; and 6) Raising awareness among the public and vulnerable groups about the consequences of child labour.

²⁸ The tutorial is based on the MLSW's Guide for Case Management of Child Labour (2020).

²⁹ Action Plan 2020-2021, pp. 12-13. As noted in paragraphs 26 and 57, such a plan has been drafted by the Committee for the Prevention and Elimination of Child Labour.

d. **Social, economic and other initiatives for groups vulnerable to THB (Article 5)**

63. In its first evaluation report, GRETA urged the authorities to include in the Strategy for Integration of Roma, Ashkali and Egyptian (RAE) communities measures to prevent human trafficking and to provide victims with assistance and protection, paying particular attention to IDPs, especially women and children. Further, GRETA urged the authorities to take steps to secure the birth registration and issuing of personal documentation to all persons, both as a prevention measure and in order to avoid re-trafficking.

64. As mentioned in the first evaluation report, members of certain minority communities, in particular RAE, are especially vulnerable to the risk of human trafficking due to their socio-economic status, marginalisation, discrimination and segregation. This problem persists, as many of the victims of THB identified in recent years are Roma children who have been forced into begging. The Strategy against THB for 2015-2019 and the relevant Action Plans contained activities for vulnerable groups, such as facilitating their access to education and capacity building for civil society to work with minorities on issues of THB. According to the KMOP assessment on the implementation of this Strategy, these objectives were considered fulfilled.³⁰

65. The 2017-2021 "Strategy for Integration of RAE Communities in Kosovo" covers prevention of school drop-out, improving the level of employment of RAE persons, providing vocational training, improving access to health care and housing, as well as use of increasing participation in social welfare schemes; however, there is no specific mention of measures aimed at reducing risks of THB and preventing trafficking of persons from RAE communities and IDPs.

66. GRETA was informed of a number of activities carried out by the Ministry of Local Government Administration (MLGA) which address the root causes of THB through social and economic empowerment measures. The Government has signed an agreement with the World Bank for the implementation of the project "Municipalities for Youth in Kosovo" worth 2.7 million dollars, aimed at improving the socio-economic inclusion of at least 3000 young people (ages 15-29) from the most vulnerable communities through developing soft skills and increasing voluntary opportunities, increasing youth-driven community initiatives and access to youth community infrastructure and services. The project will last until January 2023. A complementary project titled "Youth Interconnection – Youth Involvement and Entrepreneurship" is envisaged for the inclusion of youth at the local level through developing their critical thinking and technical skills, as well as providing financial resources in order to support start-up businesses. This project will be implemented by all 38 municipalities and will cover at least 7500 young people aged 19-29 who will benefit from entrepreneurial support, as well as provide access to community and municipal facilities through inclusion in decision-making of 30 000 young women and men. The project will end in 2026.

67. GRETA welcomes the above-mentioned activities and considers that the authorities should further strengthen their efforts towards prevention of human trafficking through development of social and economic measures aimed at members of vulnerable communities. Measures to prevent THB should be implemented as part of the Strategy for Integration of RAE Communities, paying particular attention to IDPs, especially women and children.

³⁰ Namely, the objective related to the involvement of vulnerable groups in informal education is considered fully achieved, since the legal framework for the integration of victims into schools and non-formal education (regular and vocational) has been finalized. The same is said in relation to capacity building of civil society for the prevention of trafficking, where the report refers to a government grant scheme (MLSW, MoH) and non-governmental sector grants, namely small grants for civil society organisations provided by KMOP and Save the Children, with the support of the EU, and trainings for employees of the social services sectors which included THB issues. KMOP report, p. 13.

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

68. GRETA notes that while human trafficking for the purpose of organ removal and organ trafficking are two distinct crimes, they bear certain similarities and share similar root causes, e.g. shortage of organs to meet demand for transplantation and poor economic and other conditions that put persons in a vulnerable position. Therefore, measures to prevent organ trafficking can help prevent trafficking for the purpose of organ removal and the reverse is also true.³¹

69. Trafficking in human beings for the purpose of organ removal is penalised under Article 165 of the CC ("trafficking in persons"), while unlawful transplantation and trafficking of human organs and tissues is prohibited under Article 259 of the CC. Pursuant to Article 6 (1.4) of Law No. 05/L-060 on Forensic Medicine, the Institute of Forensic Medicine provides expertise in the investigation and prosecution of suspected cases of illegal transplantation of organs, tissues and human cells.³²

70. Transplantation of organs is not regulated under the legal framework of Kosovo.* GRETA was informed of plans to draft a concept document on organ transplantation which would pave the way for drafting a law in 2021. In the meantime, in the absence of a law, there is no institution 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 to be carried out in Kosovo.* Consequently, persons in need of organ transplants have to apply to the Ministry of Health in order to be sent to undergo the necessary procedures outside of Kosovo.* This is regulated by Administrative Instruction No. 03/2016 on Medical Treatment Outside the Public Health Institutions.³³ **GRETA considers that the authorities should strengthen the legal and policy framework in order to prevent THB for the purpose of organ removal.**

71. GRETA was informed that, in 2019, the DITHB investigated six cases involving private clinics under suspicion of having committed unlawful transplantation and trafficking of organs and cells, which is criminalised under Article 259 of the CC, and submitted criminal reports to the competent prosecution offices, namely the Special Prosecution Office of Kosovo in relation to four of the cases and the Basic Prosecution Office in Prizren in relation to two of the cases. Since these cases are still under investigation by the prosecution offices, no other information is available at the moment. **GRETA would like to be kept informed of the outcome of these cases.**

72. In its first report, GRETA considered that as part of their training, medical staff should be sensitised about THB for the purpose of organ removal. GRETA was informed that the Ministry of Health, in co-operation with the DITHB, the VAAO and Caritas Kosovo, had organised a training for health-care staff entitled "Trafficking in human organs is a criminal offence," with the participation of 26 health-care professionals, including psychiatrists, urologists, surgeons, emergency physicians, general practitioners and nurses. The Ministry of Health is currently considering ways in which this training can be integrated in the regular training curricula of health-care professionals. The draft Action Plan against THB further foresees four training sessions for at least 80 health-care professionals on working with victims of trafficking. **GRETA welcomes the organised and planned training on trafficking in organs, and considers that it should be integrated in the regular training curricula of health-care professionals, together with relevant training on trafficking in human beings for the purpose of organ removal.**

³¹ See Council of Europe/United Nations, *Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs*, 2009, in particular pages 55-56; OSCE, *Trafficking in human beings for the purpose of organ removal in the OSCE region*, OSCE Occasional Paper No. 6, 2013.

³² GRETA was informed that the only case in which the Institute of Forensic Medicine provided such expertise was the Medicus Clinic case, see paragraphs 179 and 180 of GRETA's first report on Kosovo.*

³³ Adopted by the Ministry of Health in April 2016.

f. **Measures to discourage demand (Article 6)**

73. In its first evaluation report, GRETA considered that the authorities should take steps to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with the private sector and civil society.

74. The new CC adopted at the end of 2018 introduced harsher sentences for the use of sexual services of victims of trafficking (see paragraph 163). GRETA has not received any indication as to whether or not this may have led to a decrease in the demand for such services in the period since the adoption of the CC. It would, however, be very useful to look into any possible impact of these amendments on the demand for sexual services in Kosovo* in the future and over a longer period of time. It is of note that knowingly using the services of victims of labour exploitation is still not criminalised in Kosovo.*

75. GRETA was informed that the authorities had produced TV video clips and information leaflets aimed at discouraging demand for the services of victims of trafficking in human beings (see paragraphs 40-42). **GRETA welcomes these information campaigns and considers that the authorities should continue and strengthen their efforts to discourage demand for the services of THB victims, for all forms of exploitation and in partnership with the private sector and civil society.**

g. **Border measures (Article 7)**

76. In its first assessment report, GRETA considered that the authorities should make further efforts to detect cases of THB in the context of border control, strengthen the operational cooperation between the relevant authorities and introduce a checklist to identify potential THB-related risks during the visa application system.

77. As explained in the first report, Administrative Instruction No. 01/2014 for Early Identification of Victims of Trafficking in Human Beings by Consular Services, Border Police and the Labour Inspectorate, adopted in March 2014, provides guidance to border police officers on early identification of potential victims of THB and further procedures to be followed with regard to collection of information and cooperation with other relevant bodies. This administrative instruction, and the related SOPs adopted in April 2014, are supplemented by Administrative Instruction No. 10/2017 on the List of Indicators for Formal Identification of Victims of Trafficking in Human Beings, approved by the Government on 27 October 2017, which provides a detailed and unified list of indicators for each element of THB to be applied by all authorities, including the police, who interact with potential victims of THB.

78. GRETA was informed that the Kosovo Border Police co-operates closely with the DITHB and the Ministry of the Internal Affairs' Department for Citizenship, Asylum and Migration (DCAM), as appropriate, in all cases where there is indication that a person may be a victim of THB. Pursuant to Administrative Instruction No. 01/2014, DITHB has created information cards containing indicators related to the identification of possible victims of THB at border crossings, as well as information on the difference between human trafficking and migrant smuggling, which are used by the Border Police. Information forms outlining the rights of victims of THB, available in seven languages,³⁴ are provided to potential victims of THB who are identified at border crossings (see paragraph 86).

³⁴ English, Albanian, Serbian, Bulgarian, Russian, Romanian, and Polish.

79. DITHB has organised training for the Border Police and the asylum centre on the use of indicators for the identification of victims of THB. The DCAM is part of a regional project on sensible management of trafficking in human beings run by Frontex, UNHCR and IOM, and it has developed specific policies for the management of migration during the COVID-19 pandemic. Moreover, it has organised a number of training sessions for officials in order to improve the process of identification of THB victims, although many of those trainings have had to be postponed due to the COVID-19 pandemic. According to the authorities, UNHCR, which represents asylum seekers in the proceedings, has also provided training and is involved in the drafting of the contingency plan for dealing with migration, developed and updated by the DCAM on an annual basis, as well as the new Strategy on Migration for 2021-2024 which is currently being drafted. GRETA was informed that the draft Strategy on Migration for 2021-2024 contains a specific objective on the protection of migrants from trafficking in human beings (Objective 2.4). The draft Action Plan against THB also foresees five activities in this area.³⁵

80. In light of the increased migration flows in the Western Balkans, and the fact that Kosovo* is used for transit of migrants, it is important that authorities who first come into contact with migrants and asylum seekers receive targeted and continued training on the identification of THB victims. Of particular concern is the identification of victims among unaccompanied children and children who are brought to Kosovo* from neighbouring countries to beg.

81. GRETA welcomes the adoption of indicators for the identification of victims and potential victims of THB, and considers that the authorities should ensure that the relevant authorities, including Border Police and consular staff, are provided with targeted and continued training on the application of these indicators, in order to improve the identification of potential victims of THB among migrants and asylum seekers.

2. Measures to protect and promote the rights of victims, guaranteeing gender equality

a. Identification of victims of THB (Article 10)

82. In the first evaluation report, GRETA considered that the authorities should take further steps to ensure that all victims of trafficking are properly and promptly identified and can benefit from all the assistance and protection measures provided for under the Convention, by promoting multi-agency involvement in victim identification, ensuring that all professionals who may come into contact with victims of THB are fully aware of the SOPs and receive periodic training to enable them to identify victims of THB, and strengthening the capacity of social workers to proactively identify victims of trafficking.

83. As noted in GRETA's first report, the identification of victims of THB in Kosovo* is regulated by the Anti-Trafficking Law No. 04/L-218, Administrative Instruction No. 01/2014 on the Early Identification of Victims of Trafficking in Human Beings by Consular Services, Border Police, and the Labour Inspectorate, and the SOPs for trafficked persons.³⁶ Pursuant to Article 12 of the Anti-Trafficking Law, the official identification of victims of THB is performed by the respective police units, prosecution, victim advocates from the Victims Advocacy and Assistance Office (see paragraph 138) and centres for social work, when they have grounds to believe that a person is a victim of THB, in line with the SOPs, which constitute the National Referral Mechanism (NRM).

³⁵ (1) Early identification and referral of potential victims of trafficking during the migrant treatment procedure; (2) joint trainings of the Border Police and DITHB for identification and protection of migrants from trafficking and smuggling; (3) joint inspections of the DITHB with the Directorate of Migration and Foreigners (DMF) in the early identification of potential victims of trafficking; (4) joint operational plans based on intelligence information from DITHB and DMF; and (5) strengthening of regional and international cooperation in the exchange of information and specialized training in the early identification of potential victims of trafficking among migrants.

³⁶ See paragraph 106 and following of GRETA's first report on Kosovo.*

84. The SOPs, first developed in 2004 and amended in 2008 and 2013, are currently undergoing another revision with a view to improving the process of victim identification and assistance.³⁷ Each SOP section outlines the different measures to be taken at the stage of identification, first assistance and protection, further assistance and social inclusion, assisted voluntary return or resettlement, criminal and civil proceedings. According to the SOPs, all professionals who come into contact with presumed victims of THB must refer such persons to the specialised Police Directorate against THB (DITHB). The next step is the convening of a team composed of a police officer on duty from the DITHB, a victim advocate from the competent regional office, or a social worker in case the presumed victim is a child. If the presumed victim is a foreigner, an interpreter is also recruited. The registration of the referral of the presumed victim is performed by the police, using a standard form. GRETA was informed that the authorities were not aware of any cases in which the presumed victim did not wish to have contact with the police. However, if such a case were to occur, the victim would be granted a reflection period and provided with accommodation, and he/she would be referred to the relevant institutions for other services. According to the authorities, the provision of services is not conditioned on the victim's co-operation with law enforcement agencies.

85. A new development since GRETA's first evaluation is Administrative Instruction No. 10/2017 on the List of Indicators for Formal Identification of Victims of Trafficking in Human Beings,³⁸ which provides for unified indicators for the identification of victims of THB which are to be applied by every agency. The indicators provide for a victim-centred approach and take into account particular vulnerabilities to trafficking of members of disadvantaged groups, such as that they may have been exposed to discrimination in society based on a specific characteristic (race, ethnicity, gender, gender identity, sexual orientation, religion, etc.).³⁹ As mentioned in paragraph 78, the Border Police uses forms developed by the DITHB which include indicators to be applied from the initial identification of the victim at the border, including those related to potential victims of sexual exploitation and forced begging. According to the authorities, police officers have been trained to use these indicators in their work.

86. The previously mentioned form served to victims entitled "Information on the Rights of Victims of Trafficking" details a series of rights available to victims and asks victims six questions based on indicators of trafficking. GRETA welcomes the provision of information to victims at an early stage as a crucial element in building trust and making victims understand the options available to them. However, GRETA notes that the form has very technical explanations, asking a victim to select from six examples that contain different indicators of THB. It is well established that many victims do not identify as trafficked, therefore they may not be able to navigate the form and contextualise it to their own personal circumstances. Further, section 4 of the form instructs victims to inform police officers, but there is no alternative means of reporting, for instance to NGOs. According to the authorities, there have been cases in which the victim did not identify with any of the indicators in the form, but they still received services as victims of trafficking based on their personal circumstances. GRETA was also informed that the issuing of the form is registered and monitored by case managers providing services, as well as that the forms are currently under review.

87. GRETA was informed that there are toll-free helplines and anonymity options, as well as an email address (antitrafikimi@kosovopolice.com) which victims of THB can use to report or receive information/advice. In the period of 2017-2019, the government-operated hotline for victims of domestic violence and other crimes received calls concerning 24 possible trafficking cases, which led to two investigations. There is also a toll-free hotline operated by the Victims' Advocacy and Assistance Office (VAAO) at the central level where any citizen can provide information on possible cases of trafficking. The VAAO also operates separate regional phone lines for victims of different types of crime. Victims who call from one of the regions will be referred to the regional office. The victims advocate would attend the police station where a possible victim is to be interviewed and meet with the victim prior to the interview in order to inform him/her on their rights. For foreign victims, basic information can be provided in English.

³⁷ The process to revise the SOPs is supported through the ongoing Council of Europe project mentioned in paragraph 3.

³⁸ <https://qzk.rks-gov.net/ActDetail.aspx?ActID=15850>.

³⁹ Administrative Instruction 10/2017, Article 12 (Indicators of abuse of power, authority or position of vulnerability).

88. According to the authorities, exploitation mostly takes place in massage parlours which are legally registered with the Business Registration Agency and are subject to labour inspections. Labour inspectors have a role in detecting and referring potential cases of trafficking for labour exploitation and, as noted in paragraph 48, they organise joint inspections with the police. Over the past year the DITHB and the Labour Inspectorate have carried out several joint inspections in these establishments and they have identified a number of victims of trafficking. However, as noted in paragraph 49, labour inspectors have not had any training on THB in the last three years.

89. Research has revealed a number of weaknesses regarding the institutional approach to victim identification. According to GIZ, the authorities still lack the capacities to follow the changing trends in human trafficking, especially having in mind the migration flows and the situation created by the COVID-19 pandemic. Pro-active identification of victims of trafficking is still very weak and the indicators have not been properly developed.

90. Applications for international protection are submitted to the Department of Citizenship, Asylum and Migration (DCAM), but the application forms are only available in Albanian, Serbian and English.⁴⁰ Upon submission of the application for asylum at the border crossing, the applicant is informed of his/her rights and obligations through a written guide or orally, in the language he/she understands.⁴¹ GRETA was also informed that police officers of the Directorate of Migration and Foreigners (DMF) at the central level, as well as those at the Regional Migration Units, fill out the initial reception form for international protection and the registration form for children/unaccompanied and separated children, as applicable. In accordance with the Law on Asylum and the Law on Foreigners, migrants must decide within 72 hours from their arrival in Kosovo* whether they wish to apply for asylum, be returned to their home country, or continue elsewhere. In case they do not apply for asylum within this period, they are subject to deportation. IOM is advocating that migrants who do not wish to apply for asylum should be granted humanitarian protection, especially considering the fact that Kosovo* does not have readmission agreements with many of the countries from which migrants originate and there are difficulties in organising the issuing of their travel documents. Although foreigners who are identified as victims of THB would be entitled to receive a temporary residence permit (see paragraphs 134-136), GRETA is concerned that 72 hours may not be sufficient for a proper identification of a victim of trafficking among migrants and that those potential victims who do not choose to apply for asylum could be deported before they can receive the necessary assistance.

91. The DCAM operates a centre for asylum seekers and a detention centre for foreigners (in Vranidoll). It is noteworthy that Regulation No. 03/2014 on the Operation of the Detention Centre for Foreigners stipulates in Article 16 that persons detained at the centre who are victims of trafficking are to be provided with the necessary psycho-social and medical treatment, and immediate measures are to be undertaken pursuant to the Anti-Trafficking Law. GRETA was informed that posters raising awareness of THB and providing specific phone numbers to be called in case of need were displayed in the detention centre for foreigners. GRETA was also informed that the DCAM has translated a number of relevant documents into different languages in order to provide migrants and asylum seekers with relevant information. Due to the increase in the number of migrants and asylum seekers in 2020, the DCAM has had to increase accommodation capacities and other services. GRETA notes that no training on trafficking in human beings for DCAM staff is planned for 2021.

⁴⁰ The forms are appended to Administrative Instruction (MIA) No. 01/2019 on Procedures and Standards of Reception and Initial Treatment of Applicants for International Protection.

⁴¹ The Centre for Asylum will also provide the applicant with information regarding organisations or groups which provide specific legal assistance and those which may assist or inform them about the available services, including health care. See Administrative Instruction (MIA) No. 01/2009 on the Procedures and Standards of Admission and Initial Treatment of Applicants for International Protection, Articles 3.3 and 6.

92. If a migrant is identified as a potential victim of trafficking in human beings, the border police and DCAM will contact the DITHB. According to the authorities, migrants are provided with all the available services, including accommodation at the centre for asylum seekers, and within three days of their arrival they are issued with ID cards which allow them to move freely on the territory of Kosovo.* The asylum procedure can take from six to nine months, depending on the complexity of the case. About 108 individuals have been granted asylum/refugee status in Kosovo* to date, including eight persons in 2021. GRETA was informed by the DCAM that no victims of THB had been identified among asylum seekers.

93. IOM has implemented a three-year project with the main objective of enhancing the capacity for identification and screening of vulnerable migrants, including victims of THB. As part of this project, IOM has deployed staff who speak the languages spoken by migrants to the centres for asylum seekers and foreigners, in order to provide information and basic psychosocial support, as well as referral to existing services. IOM is also running the second regional project with FRONTEX and UNHCR. Based on IOM's initial assessment, one of the biggest problems concerning vulnerable groups in Kosovo* is lack of proper identification, including by social services, the Border Police, and the DITHB. According to the IOM, the problem is the lack of knowledge on how to identify and properly refer these cases, which results in many cases remaining unidentified. The OSCE has also provided training to improve victim identification. Further, the NGO Terre des hommes had also planned some training on identification, which had to be postponed due to the pandemic.

94. Furthermore, GRETA was informed that, with the support of the EU, IOM is in the process of establishing a temporary registration centre in Magure, Lipjan/Lipjjan municipality, in which all newly arrived migrants will be registered and provided with all the necessary support and information on the legal framework and their rights within the first three days of their arrival. According to the IOM, the centre has very good conditions and it has the capacity to receive 100 asylum seekers. The centre will be able to accommodate all the needs of migrants, especially those who are vulnerable, including unaccompanied children.

95. In its first report, GRETA stressed that specialised NGOs should be involved in victim identification. This still does not appear to be the case. Social workers and health-care staff also lack capacity to identify victims of trafficking.

96. **While welcoming the adoption of unified indicators for the identification of victims of THB, GRETA urges the authorities to take further steps to ensure the timely identification of victims of THB, in particular by:**

- **promoting multi-agency involvement in victim identification by formalising the role and input of specialised NGOs and involving other relevant actors, such as labour inspectors, social workers and medical staff;**
- **ensuring that all professionals who may come into contact with victims of THB are fully aware of the SOPs and receive systematic and continuous training to enable them to identify victims of THB;**
- **pursuing a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by encouraging labour inspections in sectors most at risk, and strengthening the capacity of labour inspectors to proactively identify victims of trafficking;**
- **strengthening the capacity of social workers to proactively identify victims of trafficking;**
- **strengthening measures to identify victims among irregular migrants and asylum seekers, particularly by raising awareness of and providing training to staff working at the detention centre for irregular migrants and the centre for asylum seekers.**

97. **Further, as part of the process of reviewing the SOPs, GRETA considers that the authorities should revise the form "Information on the Rights of Victims of Trafficking", to make it more accessible and easier for victims to understand.**

b. Assistance measures (Article 12)

98. In its first evaluation report, GRETA welcomed the fact that the legislation of Kosovo* expressly specifies that assistance is not made conditional on the victim's willingness to co-operate in the investigation/prosecution and the availability of safe accommodation for women, men and children victims of THB. However, GRETA considered that the authorities should ensure that all assistance measures provided for in the law are guaranteed in practice, including access to health care, and that conditions provided in shelters for victims of trafficking are adapted to their special needs. Further, GRETA urged the authorities to facilitate the reintegration of victims of trafficking into society by providing them with access to education, vocational training and the labour market.

99. The new Regulation (GRK) No. 06/2020 on the Areas of Administrative Responsibility of the Office of the Prime Minister and Ministries, Appendix 8, point 13, determines that the Ministry of Justice "provides assistance to crime victims, in particular victims of domestic violence and trafficking in human beings". Consequently, the state shelter for victims of THB (referred to as "Interim Security Facility") was transferred from the Ministry of Labour and Social Welfare (MLSW) to the Ministry of Justice. At the same time, Law No. 07/L-001 on the Budget Appropriations of the Republic of Kosovo for the year 2020 has established budgetary independence for the State shelter by allocating the annual budget of EUR 100 000 for its operation. Other than this transfer of competence for the State shelter, the relevant legal framework for the provision of assistance to victims of THB remains unchanged (Anti-Trafficking Law, the Minimum Standards of Care for Victims of Trafficking developed by the Ministries of Labour and Social Welfare, Justice, Finance, and Education, Science and Technology, and the Kosovo Police).⁴²

100. As described in GRETA's first evaluation report,⁴³ the state shelter accommodates victims of trafficking who are considered to be at a "high" or "medium" level of risk, and all victims who are involved in criminal proceedings stay at this shelter. The shelter was visited by GRETA during the first evaluation and according to its Director, who was met by GRETA online during the second evaluation, it has not changed in terms of location, physical conditions and staff. According to the latest information provided by the authorities, the shelter has the capacity to accommodate 40 persons. There is separate accommodation for female and for male victims, for 25 and 5 persons respectively, as well as two apartments, with 10 beds, for mothers with children. There continue to be 11 staff members in the shelter, including the Director, victim advocates, nurses and an educator. The shelter employs other professionals for relevant areas, however, it still does not have an in-house psychologist. There is an agreement with the Ministry of Health to provide such services. GRETA was informed that the shelter communicates and co-operates with all the relevant institutions, based on the internal rules and regulations, and it is responsible for initiating meetings with the relevant agencies to discuss the sheltered victims.

101. If the police have reasonable grounds to believe that a person has been trafficked, he/she is brought to the state shelter. According to the Director, risk assessment is conducted at the identification stage by the police or prosecution who will consider the vulnerability of the victim and various other relevant factors, in accordance with the SOPs. The police fill out a form when they bring the victim to the shelter and are responsible for performing the risk assessment. Although the shelter staff could in principle be involved in the risk assessment, together with other relevant stakeholders, there are no applicable guidelines or policy documents at the moment. Victims who are considered to be at medium/high risk are referred to the state shelter and those considered to be at low risk are referred to the PVPT rehabilitation centre (see paragraph 104).

⁴² See paragraphs 122-123 of GRETA's first evaluation report on Kosovo.*

⁴³ See paragraphs 126-128 of GRETA's first evaluation report on Kosovo.*

102. From 2016 to August 2020, the state shelter received 114 victims, including 74 child victims, almost all of whom were from Kosovo,* and they had two cases of mothers with children. The average period of stay was 30 days. In 2020, eight children and two adults were accommodated at the shelter, and this drop in numbers was attributed to the COVID-19 pandemic. According to the Director of the shelter, there have been no cases of children who were re-trafficked and returned to the shelter. In the case of the two child victims from Montenegro referred to in paragraph 183, they stayed at the shelter from December 2019 until May 2020, when they were returned to Montenegro. The boy was treated for drug addiction and had reportedly almost recovered at the time of his repatriation. Criminal proceedings in this case are underway in Montenegro.⁴⁴

103. During their stay at the state shelter victims are informed of their rights and of court and administrative proceedings they may engage with. The shelter has a policy of communicating with victims in their own language and interpreters would be made available, but to date there has reportedly never been the need for interpretation services. The shelter has good informal co-operation with foreign embassies, however there is no Memorandum of Understanding (MoU) or SOP in place for these relationships or services. **GRETA considers that the authorities should ensure that MoUs or SOPs are put in place to facilitate co-operation with foreign embassies and ensure that adequate protections and access to shelters are guaranteed to foreign victims.**

104. The NGO Centre for Protection of Victims and Prevention of Trafficking in Human Beings (PVPT) is the only nationally licensed centre to provide direct assistance to low and medium-risk victims and potential victims, both child and adult, domestic and foreign, who are referred to the PVPT from all regions of Kosovo.* The rehabilitation centre run by the PVPT was visited by GRETA during the first evaluation visit and described in the first evaluation report.⁴⁵ The PVPT runs a rehabilitation programme which includes occupational and art therapy. After the reflection period, the case manager compiles an individual plan for each beneficiary together with him/her and with a social worker where applicable. The plan is updated on a monthly basis. Beneficiaries are asked to fill out pre- and post- evaluation forms with regard to each implemented activity, while staff report regularly (daily, weekly, and monthly) on the implementation of each activity. After the completion of the rehabilitation programme, the beneficiaries have an opportunity to return to the PVPT on an occasional basis or to continue to receive the services available at the centre, upon their request. GRETA was informed that between 2015 and 2020, the PVPT provided rehabilitation to 187 beneficiaries (40 adults and 147 children), of whom 101 were residents in the centre and 86 attended the centre on a daily basis without being resident there.⁴⁶

105. In terms of long-term sheltering, rehabilitation and reintegration, the MLSW, through subsidies, has supported assistance services for victims of trafficking through the NGO PVPT.⁴⁷ The MLSW has also supported the NGO Hope and Homes for Children (SDSF) in Prishtinë/Prishtina (see paragraph 123).⁴⁸

106. As noted in GRETA's first report, Centres for Social Work have an important role in the process of assisting victims of trafficking. Following decentralisation, social services are funded by the municipalities, while the MLSW exercises quality control and guarantees minimum standards. Centres for social work appoint case managers who assess the needs of victims and prepare care plans in co-operation with shelter staff and the beneficiaries. In the case of child victims, centres for social work also act as legal guardians. However, GRETA was informed that centres for social work still do not have enough staff to deal with all the tasks falling under their mandate.

⁴⁴ According to available information, the proceedings in Montenegro concern THB for an unlawful (arranged) marriage and forced begging. See paragraph 90 of GRETA's third evaluation report on Montenegro.

⁴⁵ See paragraph 129 of GRETA's first evaluation report.

⁴⁶ According to the information provided in the authorities' reply to the third-round questionnaire, all but two persons assisted by the PVPT in the period 2016-2020 were from Kosovo.*

⁴⁷ The MLSW reportedly provided the following financial support to the PVPT: 2016 – 35 000 euro; 2017 – 25 000 euro; 2018 – 27 000 euro; 2019 – 32 000 euro; 2020 – 50 000 euro.

⁴⁸ MLSW's support for the SDSF was as follows: 2016 – 50 400 euro; 2017 – 35 000 euro; 2018 – 34 000 euro; 2019 – 35 000 euro; 2020 – 55 000 euro.

107. The Anti-Trafficking Law provides that victims and presumed victims of trafficking are entitled to receive medical services free of charge.⁴⁹ GRETA was informed that when there is a need for specialised medical services which cannot be provided at the shelters, due to a lack of funding to employ relevant medical staff, victims can be referred to a public medical institution. According to the Ministry of Health, there have been no cases so far where victims of THB assisted by NGOs have not been able to receive medical services.

108. Victims of trafficking over the age of 16 are entitled to receive vocational training, as part of the process of their social reintegration.⁵⁰ GRETA was informed that the NGOs PVPT and Hope and Homes for Children (SDSF) provide vocational training to victims of trafficking as part of the process of their reintegration into society. According to the PVPT, they refer THB victims to regional vocational training centres where they receive vocational training free of charge. However, the centres are not able to offer a wide variety of courses, and most are focused on male-dominated professions. The NGOs face difficulties in providing vocational training in other areas due to a lack of funding. GRETA was not informed of any concrete efforts on the part of the authorities to establish partnerships with local businesses in order to provide employment opportunities for THB victims.

109. Stressing that the authorities have an obligation to provide adequate funding and ensure the quality of the services delivered by NGOs, GRETA urges the authorities to provide adequate funding for the assistance to victims of trafficking in order to enable NGOs to comply with the standards of assistance.

110. Further, GRETA urges the authorities to take steps to further improve the provision of assistance to victims of trafficking, for as long as they need it, and in particular to:

- **develop a risk assessment methodology which is applied by shelter staff and recorded for each victim;**
- **ensure access to psychological assistance to victims staying at the State shelter, by employing an in-house psychologist or concluding a contract with a visiting psychologist;**
- **facilitate the reintegration of victims of trafficking into society by providing them with access to education, a wide range of vocational training and the labour market. In this context, the authorities should consider adopting incentives for companies employing people from disadvantaged groups and promote micro-businesses, social enterprises and public-private partnerships, including through state-supported employment programmes, with a view to creating appropriate work opportunities for victims of trafficking, including foreign nationals and persons with disadvantaged socio-economic backgrounds.**
- **increase the number of social workers within Centres for Social Work to enable them to deal effectively with the number of cases under their mandate.**

111. GRETA also considers that the authorities should ensure that access to health-care is facilitated in practice, including by raising awareness among health-care staff.

⁴⁹ Article 31(2) of the Anti-Trafficking Law.

⁵⁰ Articles 22 and 24 of the Anti-Trafficking Law.

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

112. In its first assessment report, GRETA considered that the authorities should pay increased attention to the identification of child victims of trafficking, including for the purpose of forced begging.

113. In addition to the legal framework outlined above with regard to identification of victims in general, the authorities adopted in 2020 a new Law on Child Protection which specifically prohibits abuse and exploitation of children, including forced begging, and the main features of the law include the role for municipalities and Social Work Centres. The MLSW is in the process of drafting secondary legislation related to this law, and it has drafted an Action Plan on Prevention and Elimination of Child Labour (see paragraphs 26 and 58).

114. The first evaluation of presumed child victims is made by the police. Case managers from the SWCs then follow up on the needs of child victims and refer them to the relevant services. According to the authorities, the education sector carries out the process of identifying victims of trafficking in human beings through the early school drop-out system. Identified victims are informed of all their rights and can access all of the services. If they have a complaint, they can avail themselves of the complaint mechanisms provided for under the relevant legislation.

115. According to the information provided by the authorities, the majority of the identified child victims are girls unofficially employed in massage parlours and sexually exploited in these parlours. With regard to child trafficking for the purpose of labour exploitation, GRETA was informed that it mostly occurs in the agriculture, forestry and construction sectors, as well as in relation to forced begging. According to the authorities, 119 victims of child labour were identified in 2020.

116. The situation of children in the street, who are exploited for the purpose of begging and child labour, continues to be critical. The children usually come from difficult socio-economic backgrounds, marked by poverty and unemployment, as well as domestic violence. Since their parents do not exercise well their parenting role, they are neglected, vulnerable, and at risk of being trafficked. In 2018, Terre des hommes carried out a two-day outreach activity in Prishtinë/Prština and Prizren municipalities, during which 185 children in street situations were identified. Although not all of these children are necessarily victims of THB, it is of note that the total number of THB victims under the age of 18 identified by the authorities in the same year was 12. According to information provided by the Kosovo Police, based on statistics from 2019 and 2020, the number of street children in Kosovo* is around 200.

117. The issue of street children of Roma origin coming from Albania also remains a concern. These children are trafficked by organised groups or by their own families, and they are forced to spend days in the street. GRETA has received somewhat contradicting information with regard to how these cases are dealt with in practice. According to some interlocutors, such children, when found by the police, are immediately deported together with their families, based on orders issued by the courts. The deportations are dealt with by the Ministry of Internal Affairs and the DCAM who inform the Border Police, and the Centres for Social Work do not have sufficient time to carry out a risk assessment and identify any victims of trafficking among these children. In May 2020, Terre des hommes raised with the authorities a concern regarding the swift deportation of 36 Albanian nationals, 17 of whom were children, before a proper assessment of the cases could be conducted and coordination between the relevant governmental and non-governmental actors in both countries could be established to provide crucial assistance.⁵¹ It is not clear whether the failure to take appropriate steps to conduct due diligence on the relationship between the child and adult and identify potential victims among the street children, in accordance with the existing unified SOPs applied together with neighbouring countries (see paragraph 205), is due to a lack of knowledge or problems in procedures. According to the authorities, in such cases the Border Police assess whether any of the children are victims of trafficking and if this is not the case, the Albanian authorities are notified and the children are returned to Albania by the Kosovo Police, without the involvement of the DCAM. If there are any concerns as to the

⁵¹ The situation was aggravated by the pandemic. Terre des hommes managed to secure funding for the accommodation of the deported individuals while they stayed in quarantine in Albania.

wellbeing of the children, the Centre for Social Work is immediately contacted. The consequence of the failure to carry out the proper procedure to identify possible victims of THB is that children are often sent home with their parents/traffickers, which could have a detrimental effect on the child and expose them to re-trafficking. GRETA is concerned with this practice due to the high risk to the child and the impunity from prosecution for traffickers.

118. According to the authorities, they are still trying to learn how to deal with children coming to Kosovo* to beg. The new Strategy against THB will reportedly cover child begging. The DITHB has undertaken special operations to identify children in street situations and have co-operated with the Asylum Office in order to identify potential victims of THB among the children seeking asylum in Kosovo.*

119. Kosovo* has experienced a wave of migration of families from Syria, and there are many unaccompanied children among migrants and asylum seekers. The MLSW provides services for such children. According to the authorities, legal initiatives have been taken in relation to the unaccompanied children, including developing guidelines for the provision of services for migrant children, asylum seekers and refugees, as well as a plan to manage the flow of migrants and asylum seekers. An instruction on re-admission of unaccompanied children in Kosovo* has been developed. According to the authorities, the MLSW co-ordinates organising the acceptance of children at the Prishtinë/Prishtina Airport or other border points, where competent officers of Centres for Social Work and officers of the MIA accept the child. After repatriation of unaccompanied children, the Social Work Centre from where the unaccompanied child has been returned conducts the professional assessment and provides the appropriate protection forms.

120. The new Law on Child Protection foresees a multidisciplinary mechanism for case management. GRETA was informed that the case management system had been piloted by Terre des hommes for the past 10 years before being institutionalised. The purpose of the mechanism is to co-ordinate efforts, especially on the municipal level, to protect children, including victims of THB, and prevent children from being re-trafficked. Terre des hommes are working with the MLSW to draft an administrative instruction on establishing this mechanism, which is expected to be approved next year. While the role of social workers, who act as case managers responsible for monitoring the cases, has increased under the new law, their number remains the same as before, in accordance with the existing system of social work governed by the Law No. 02/L-17 on Family and Social Services.⁵² Thus, they lack the capacity to cover the caseload and there is an absence of appropriate management and monitoring of cases by the social workers during the pandemic.

121. Child victims of trafficking must have a case-manager and be appointed a legal guardian. The Centres for Social Work co-ordinate services provided by a professional group composed of a social worker, a representative of the DITHB, and an NGO representative. Based on an assessment, a decision is taken as to whether the child can go back to his/her biological family or has to be returned to the country of origin for further reintegration. When it comes to local children, it is the social services who are carrying out the assessment, and when doubt arises that families may be involved in trafficking, these children are placed in a foster family programme covered by the MLSW. The MLSW also supports a community-based house, which deals with children who are not under family care, as well as children who have been victims of trafficking.

⁵² Official Gazette of the Republic of Kosovo, No. 12, 1 May 2007. The Law was amended by Law No. 04/L-81 on Amending and Supplementing the Law No. 02/L-17 on Family and Social Services, Official Gazette of the Republic of Kosovo, No. 5, 5 April 2012.

122. According to the Director of the state shelter, which accommodates child victims of THB considered to be at high or medium risk, the provision of education to children staying at the shelter is problematic. Following the transfer of the shelter under the authority of the Ministry of Justice, GRETA was assured that steps would be taken to enable child victims to receive education at the shelter until they attain 18 years of age, as is mandatory in Kosovo.* According to information provided by the authorities, the state shelter has requested from the MoJ that the children housed in the shelter attend school at the Educational-Correctional Centre in Lipjan/Lipljan, located next to the shelter. A memorandum of co-operation between the MoJ (Correctional Service), the Municipality of Lipjan/Lipljan and MEST is currently being prepared to this end. **GRETA is concerned by the practice of child victims of THB attending school at a correctional centre for juveniles rather than at a regular school.**

123. The NGO Hope and Homes for Children (SDSF) runs a shelter providing accommodation and assistance to children who are victims or potential victims of human trafficking, sexual abuse or violence.⁵³ It is the only shelter licensed to provide services to child victims of trafficking who have been assessed to be at a "low risk" and it receives funding from the MLSW.

124. GRETA was informed that Terre des hommes and the municipality of Prishtinë/Prishtina had opened an anti-trafficking drop-in centre. They provide services to children in street situations, such as education, psychological counselling, working with the community, as well as organising awareness-raising initiatives, to prevent THB and minimise the risk of exposure in the street. They are facing problems when it comes to the covering their costs. Terre des hommes have an MoU with the Prishtinë/Prishtina municipality, who could not meet their financial obligation this year, and they had to find other sources of funding for the drop-in centre.

125. The Ministry of Education, Science and Technology (MEST) is involved in the implementation of anti-trafficking action and the SOPs referred to in paragraphs 83 and 84. GRETA was informed that identified child victims of THB are referred to the MEST which provides them with education opportunities. However, the MEST was not aware of any child victim of trafficking accommodated in shelters and receiving education in schools. GRETA was informed that if the shelters make a request on providing education within the shelter, the MEST would provide textbooks. According to the representative of the MEST, they have not received any requests from shelters to provide access to education for children.

126. **GRETA urges the authorities to:**

- **reinforce the proactive identification of child victims of trafficking, particularly among children in street situations and involved in begging;**
- **urgently initiate consultations with destination countries and countries of origin with a view to putting into place effective mechanisms for identifying children at risk to be re-trafficked, effective reporting on such cases to the consular or diplomatic missions of Kosovo,* and the provision of adequate assistance and protection in accordance with the Convention;**
- **review the application of the guardianship system for child victims of trafficking and pay increased attention to children who are trafficked by their parents or other family members, ensuring that proper risk assessment is conducted before deporting or returning such children to their parents;**
- **introduce a procedure for identifying victims of THB among unaccompanied foreign children and ensure that they are offered a recovery and reflection period;**
- **take steps to ensure that children housed in the shelters are provided with access to education in the mainstream school system, irrespective of the time they will be present.**

⁵³ See paragraph 130 of GRETA's first evaluation report.

d. Protection of private life (Article 11)

127. Protection of personal data and privacy of victims of THB is covered by Article 18 of the Anti-Trafficking Law, which sets out certain rules for the use of such data by the relevant authorities. Moreover, pursuant to the CCP, injured parties and witnesses, including victims of THB, can be granted protective measures including the assignment of a pseudonym, testimony in sessions closed to the public, as well as, in exceptional circumstances, anonymity from the defendant and the public, if this is necessary to prevent a serious risk to them or their families.⁵⁴ In such cases, the court shall prohibit all questions which can elicit answers that could reveal the identity of the injured party. Any disclosure, without authorisation, of information pertaining to the identity or personal data of a person who has been granted protective measures in the criminal proceedings or is in a special program of protection, is punishable by imprisonment of up to three years, while the aggravated forms of the offence where the disclosure results in serious consequences for or death of the person under protection carry the punishment of between six months and five years and at least ten years' or life-long imprisonment, respectively.⁵⁵

128. GRETA was informed that the Kosovo Prosecutorial Council (KPC) had adopted secondary legislation pertaining to confidentiality,⁵⁶ and that every prosecutor is obliged to sign a declaration stating that he/she will respect the confidentiality of information. Any information the disclosure of which could hurt the victim is considered confidential according to the authorities, and revealing such information is a criminal offence.⁵⁷

129. The draft Action Plan against THB for 2020-2021 envisages training for journalists on issues related to reporting on THB and victim protection, and journalists are subject to criminal responsibility for revealing any confidential data under the above-mentioned criminal provisions.

e. Recovery and reflection period (Article 13)

130. As noted in GRETA's first report, the recovery and reflection period is regulated by Article 26 of the Anti-Trafficking Law No. 04/L-218, as well as Article 61 of the Law on Foreigners No. 04/L-219.⁵⁸ There have been no legislative changes in this respect. The SOPs provide details on the manner in which the recovery and reflection period is to be issued to victims of trafficking. It is specified that this period is to be issued regardless of the person's willingness to co-operate as a witness in criminal proceedings. The reflection period lasts a minimum of 30 days, starting from the moment of initial referral, and can be extended up to three months. During this period, the presumed victim of THB is not interrogated and is provided with time to recover, secure accommodation, protection, psychological counselling, detailed information on rights, and temporary authorisation to stay if he/she is a foreigner. The SOPs make it clear that the recovery period is to be offered to all victims of THB, whether foreign or national.

131. The information sheet on the rights of victims of THB (see paragraph 86) refers to the reflection period of between 30 and 90 days. However, the form does not specify what the reflection period entails, and it is not clear at what further point and to what extent this right is explained to victims of THB.

⁵⁴ Articles 220-228 of the CCP.

⁵⁵ Article 392(2)-(4) of the CC.

⁵⁶ By way of example, Section 3.1 of the Code of Ethics and Professional Conduct for Prosecutors, provides, "The prosecutor is subject to the obligation of confidentiality. This obligation means that he does not provide any information, either directly or indirectly, that would reveal official secrets, that would jeopardize a pending investigation or criminal proceeding, that would undermine the integrity, dignity, security and privacy rights of any person, or that would violate the rights of juveniles."

⁵⁷ Article 200 of the CC (Unauthorised disclosure of confidential information) provides, "An attorney, a defence counsel, physician or any other person who, without authorisation, discloses confidential information that he or she became aware of while exercising his or her profession and that he or she is under legal duty to maintain as confidential, shall be punished by a fine or by imprisonment of up to one year."

⁵⁸ See paragraph 137 and following of GRETA's first report on Kosovo.*

132. Although the authorities could not provide the number of persons granted a recovery and reflection period, they have indicated that there were such cases, citing the example of two children from Montenegro who were given a period of reflection in 2019 and were provided with the necessary services prior to being returned to their country of origin. On the other hand, as noted in paragraph 117, GRETA was informed that Albanian children found begging were immediately deported, without an attempt being made to identify any victims of trafficking amongst them and apply the recovery and reflection period. GRETA notes that the planned data collection system on victims of trafficking (see paragraph 34) will include information on the granting of the recovery and reflection period, which should enable the authorities to monitor its application in practice.

133. GRETA considers that the authorities should ensure that the recovery and reflection period is observed in practice and that the victims of human trafficking are systematically informed of their rights in this regard.

f. Residence permits (Article 14)

134. As noted in GRETA's first report, Article 41, paragraph 1.4 of the Law on Foreigners, as amended in May 2018 by Law No. 06/L-036 on Amending and Supplementing Law No.04/L-219 on Foreigners, provides that a temporary residence permit may be issued for humanitarian reasons, *inter alia*, to persons who are victims of THB.⁵⁹ Article 59 elaborates the conditions for the issuance of a temporary residence permit on humanitarian grounds, including in cases in which the person is a victim of THB and has accepted the assistance and protection programme, as well as in cases in which the person co-operates with the authorities, including when his/her participation is required in criminal proceedings against an employer who employed him/her illegally. Further, pursuant to Article 62, victims of THB who have been granted a temporary residence permit are given the right to safe housing, health care, financial assistance, education and employment. Unaccompanied children can also be granted a temporary residence permit, and Article 63 of the law imposes the obligation to consider the best interests of the child in cases of child victims of THB. The form, content and procedure for issuance of residence permits are regulated by by-laws adopted by the Ministry of Internal Affairs, specifically Administrative Instruction No. 09/2019 on the Procedure and Criteria for Issuing Residence Permits for Foreigners⁶⁰ and Administrative Instruction No. 02/2014 on Foreigners' Travel Documents.

135. GRETA was informed that, in accordance with the above-mentioned regulations, the Division for Foreigners within the Department for Citizenship and Migration issues residence permits to victims of THB, upon written request from the DITHB which must specify the reasons for the issuance of the permit. The information sheet on the rights of victims of THB refers to the possibility to "return to your country of origin or temporarily stay in Kosovo."

136. GRETA was informed that in 2016-2019, a total of eight victims of THB whose stay in Kosovo* was irregular were granted residence permits before being repatriated to their countries of origin. No residence permits were issued to victims of THB in 2020.

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

137. Pursuant to the Anti-Trafficking Law, all victims of trafficking in human beings, regardless of their nationality, are entitled to legal assistance, including in criminal proceedings.⁶¹ Legal assistance is provided from the first contact of the victim with the competent authorities and throughout all procedural stages and court proceedings.⁶² Moreover, the law stipulates that the government ensures support for specialised centres and shelters in order to enable them to provide support for victims of trafficking, including legal aid.⁶³

⁵⁹ See paragraph 143 and following of GRETA's first report on Kosovo.*

⁶⁰ Which replaced the previous instruction No. 01-2014.

⁶¹ Anti-Trafficking Law, Articles 1(1.2), 20(2.7) and 31(1).

⁶² Ibid., Article 20(8).

⁶³ Ibid., Article 23(1).

138. The Victims Advocacy and Assistance Office (VAAO), situated within the Office of the State Prosecutor, provides free legal aid to all victims of crime. This includes representation in criminal proceedings in which victims appear as injured parties or witnesses,⁶⁴ as well as assistance in filing claims for state compensation (see paragraphs 146-148). Victims will not be interviewed by the police without the presence of a VAAO representative and until the victim advocate has had an opportunity to inform the victim about all of his/her rights. The VAAO has seen an increase in requests for assistance with filing claims for state compensation in 2020 after the Crime Victim Compensation Committee became operational again. The authorities have provided the following statistics with regard to the number of victims/potential victims of THB who have received legal aid from the VAAO during the period covered by this report: 70 in 2016, 60 in 2017, 40 in 2018, 34 in 2019, 14 in 2020, and 8 in 2021. GRETA was informed that it is presently not possible to provide disaggregated data for victims of THB, but that the VAAO has installed a new advanced database, with the support of GIZ, which will allow for such data to be provided in the future.

139. Legal assistance is also provided by the Agency for Free Legal Aid which has an agreement with the Kosovo Bar Association as well as by NGOs, pursuant to the Law No. 04/L-017 on Free Legal Aid in force since March 2012. Since the VAAO only provides legal representation in criminal proceedings and in relation to state compensation, victims are usually referred to the Agency for Free Legal Aid or specialised NGOs when assistance is required in civil or administrative proceedings. The Agency for Free Legal Aid has seven regional offices, namely in Prishtinë/Priština, Mitrovicë/Mitrovica, Pejë/Peć, Piszren, Gjakova/Đakovica, Ferizaj/Uroševac, and Gjiļan/Gnjilane. Mobile offices for free legal aid are also operational in 14 of the 38 municipalities.⁶⁵

140. GRETA was informed that none of the legal aid providers has lawyers specialised in the area of trafficking in human beings and THB-related training is not provided to members of the Kosovo Bar Association.

141. According to the authorities, victims of THB are informed of their right to legal assistance and free legal aid by the bodies with which they first come into contact, and such assistance is provided to foreign victims with the help of translators. GRETA was informed that the Kosovo Police will contact the VAAO the moment a person is suspected of being a victim of trafficking, and a victim advocate will instruct the person of his/her rights and the services available to them upon arrival to the police station. Victims are also informed of their rights through the helpline. GRETA notes that the information sheet on the rights of victims of THB does not mention the right to legal assistance and free legal aid, only the right of referral to the victim advocate/helpline for any information on their case, which may not be sufficiently clear. An indicator regarding the information provided to victims on their right to access services, including legal assistance, has been included in the database for victims of THB which is being developed.

142. GRETA considers that the authorities should strengthen their efforts to ensure that all victims are promptly informed of their right to legal assistance, that legal assistance is provided effectively and in a language the victim understands, as well as that the lawyers providing legal assistance and free legal aid to victims receive appropriate training on the topic of trafficking in human beings.

h. Compensation (Article 15)

143. In its first report, GRETA urged the authorities to adopt measures to facilitate and guarantee access to compensation for victims of trafficking from the perpetrators. GRETA also welcomed the adoption of the Law on Crime Victim Compensation and urged the authorities to make the state compensation scheme accessible to victims of THB, regardless of their nationality and residence status, and without any requirement of first seeking to obtain compensation directly from the perpetrator.

⁶⁴ Articles 62 and 63 of the CCP.

⁶⁵ Fushë Kosovë/Kosovo Polje, Deçan/Dečani, Istog/Istok, Suharekë/Suva Reka, Leposaviq/Leposavić, Zubin Potok, Malishevë/Mališevo, Graçanicë/Gračanica, Skënderaj/Srbica, Kamenicë/Kamenica, Zveçan/Zvečan, Dragash/Dragaš, Glogoc/Glogovac, North Mitrovicë/Mitrovica.

144. There have been no changes to the legal framework for compensation of victims of THB in Kosovo.*⁶⁶ Pursuant to the Anti-Trafficking Law (Articles 39-43), victims of THB, including children, can seek compensation from the perpetrators through criminal proceedings (pursuant to the CCP), civil proceedings, and/or from the State. Pursuant to Article 40 of the Anti-Trafficking Law, courts ensure that orders for compensation are implemented efficiently and prioritise them over other penalty payments such as fines. Article 41 of the Anti-Trafficking Law indicates that victims of trafficking in human beings have the right to initiate civil proceedings to claim compensation for material, physical and emotional harms caused as a result of the actions defined as offences by this Law, if they do not exercise this right in criminal proceedings. The absence of the victim during the procedure does not impede the court to order compensation.

145. Victims have the right to claim compensation from perpetrators at any time until the end of the criminal proceedings, and the prosecutor has the obligation to collect and present evidence related to such claims. An expert may be called to evaluate the amount of damages incurred. In case the court does not grant the compensation claim, the injured party can pursue the claim in civil proceedings. GRETA was informed that seizure and confiscation of defendant's assets is done in practice (see paragraph 180), and that these assets can be sold in order to provide compensation to the victims. Nonetheless, victims of trafficking have very rarely been able to secure compensation from traffickers in criminal proceedings. The authorities attribute this to the victims' failure to file compensation claims, either because they are not properly informed of this right or their reluctance to participate in the proceedings. No information is available as to the number of victims of THB who have claimed compensation from perpetrators. It is planned to start collecting such information when the new court management system (CMIS) is set up (see paragraph 35).

146. Under the current Law on Crime Victim Compensation, the Crime Victim Compensation Committee examines whether the criteria and conditions are met, based on which state compensation might be granted. The Committee is chaired by a judge of the Supreme Court of Kosovo and includes among its members a State Prosecutor, a member of the Kosovo Assembly, a representative of the MoJ, two medical experts licensed in the field of traumatology and psychiatry, and one representative from civil society. The Committee was not functional until recently, as it was missing two members. Access to state compensation is provided in two situations. Immediate access is granted to child victims and foreign victims of trafficking in cases where the perpetrator remains unknown for three months from the discovery of the offence, provided that the victim co-operates in the investigation and prosecution. In all other cases, access to state compensation is conditioned on the obligation to first seek compensation from the perpetrator in criminal proceedings. In case the victim cannot obtain compensation from the defendant, or the defendant only partially compensates the victim, the victim has the right to apply for state compensation.

147. As mentioned in GRETA's first evaluation report, under the Law on Crime Victim Compensation, foreign victims are eligible to obtain state compensation if they are permanent residents of Kosovo* or if they are citizens of an EU country or a country with which Kosovo* has reciprocity. GRETA stresses that this may result in victims from certain countries not being eligible for state compensation. GRETA was informed that foreign victims who are present in Kosovo* can apply for compensation directly to the Crime Victim Compensation Committee, while those who have returned to their country of origin have to apply through the relevant authority in that country, which submits the claim to the Ministry of Justice of Kosovo.

⁶⁶ See paragraph 149 and following of GRETA's first report on Kosovo.*

148. The amount of compensation granted by the Crime Victim Compensation Committee depends on evidence presented of the damages caused.⁶⁷ GRETA was informed that the maximum amount of compensation that can be awarded is 5 000 euros. The amount of compensation received by the victim is not subject to state taxes and the receipt of compensation does not affect access to social assistance. Lawyer's costs and fees for filing the claim for compensation are not reimbursed by the compensation programme, since the victim has other sources of free legal aid and assistance available (see paragraphs 137-141).

149. GRETA was informed by the authorities that, during 2020, four requests for state compensation in relation to human trafficking were received, of which three were rejected because they did not meet the legal requirements and one was approved in the amount of 3 000 euros. No requests for compensation were submitted to the Committee for Compensation of Crime Victims by victims of THB in the part of 2021 covered by the authorities' comments to the draft report (i.e. until June). GRETA reiterates its concern expressed in its first report regarding the fact that the information form for victims of THB does not mention the victims' right to seek compensation.

150. As noted in paragraph 12, a working group established by the Ministry of Justice has prepared amendments to Law No. 05/L-036 on Crime Victim Compensation in order to, *inter alia*, increase the deadline for filing compensation claims from six months to two years. According to information provided by the authorities, the working group is expected to meet soon in order to address certain issues related to the conditions, deadlines, compensation amounts and the composition of the relevant committee. In addition to extending the deadline for submission of the application for state compensation, the proposed amendments redefine the types of compensable damages (physical and psychological), set new limits for all types of compensation and provide for fixed amounts for certain types of compensation, extend the category of victims who can have immediate access to compensation, and revise the composition of the Compensation Committee.

151. The VAAO provides legal representation to victims/injured parties in criminal proceedings, which includes the filing of property claims, and it helps them file claims for state compensation. GRETA was informed that victim advocates have received training on victim compensation and are well-informed about compensation procedures. The VAAO and NGOs providing assistance to victims, such as the PVPT, help victims fill out the necessary forms in order to obtain compensation from the state.

152. GRETA is concerned by the near absence of compensation awarded to victims of THB in Kosovo* and **urges the authorities to adopt measures to facilitate and guarantee access to compensation for victims of THB, in particular by:**

- **ensuring that victims of THB are systematically informed of their right to claim compensation and the procedures to be followed;**
- **strengthening the capacity of legal practitioners to help victims claim compensation and incorporating the issue of compensation in the training programmes aimed at members of the law enforcement agencies and the judiciary;**
- **reviewing the criminal and civil procedures regarding compensation from perpetrators with a view to improving their effectiveness;**

⁶⁷ The calculation of the amount of compensation will always depend on the type of damage and the provisions of the Law. The Crime Victim Compensation Committee reviews the accompanying documentation, such as medical reports regarding the nature and extent of physical and psychological damage, medical or funeral expenses, and determines the amount of compensation based thereon. Regarding compensation for medical expenses and hospitalisation, the victim will be compensated in the amount he/she has paid as proved through medical certificates. Services that are covered by public funds are not compensated.

- **reviewing the criteria for granting state compensation, in particular the requirement of first seeking to obtain compensation directly from the perpetrator, and making state compensation available to all victims of trafficking when the offence was committed in Kosovo,* regardless of their nationality and residence status.**

153. **Further, GRETA considers that, where a conviction is secured against a trafficker and the court does not award the victim compensation, the judicial panel should explain its decision not to award compensation, rather than simply refer the victim to present their claim in civil proceedings.**

i. Repatriation and return of victims (Article 16)

154. As noted in GRETA's first report, the return of victims of THB from Kosovo* is regulated by Article 29 of the Anti-Trafficking Law, as well as Article 64 of the Law on Foreigners, which stipulates that the return of foreign victims of THB should be voluntary and the principle of *non-refoulement* should always be taken into account, as well as the best interests of the child.⁶⁸

155. According to the DCAM, the return of THB victims to their country of origin is the last stage in the treatment of a foreigner who has been a victim of trafficking, and it takes place after the completion of all national institutional procedures/actions for the identification, assistance to, and protection of victims of THB. At that stage the DCAM, at the request of the DTHB, initiates the procedure for the victim's safe return to their country of origin. The process is carried out based on international readmission agreements between the Government of Kosovo and other states. In cases of citizens from states with which the Government of Kosovo does not have such an agreement, the Law on Foreigners and the Administrative Instruction on the Return of Foreigners apply. According to the authorities, the return of victims of THB to their countries of origin has so far always taken place on a voluntary basis. However, as noted in paragraph 117, concerns have been raised about cases in which potential child victims of trafficking were returned to their country of origin before they could be identified as victims.

156. IOM facilitates the assisted voluntary return of migrants, but there have been no cases of victims of THB. When it comes to the determination of the best interests of the child, IOM closely collaborates with UNICEF and UNHCR, and they are currently finalising draft SOPs on the best interests determination.

157. **GRETA considers that the authorities should take further steps to develop international co-operation in order to ensure proper risk assessment prior to returning victims of THB to other countries, and ensure that the return of victims of THB is conducted with due regard to their rights, safety and dignity, including the right to *non-refoulement* (Article 40(4) of the Convention), and in the case of children, by fully respecting the principle of the best interests of the child.**

3. Substantive criminal law

a. Criminalisation of THB (Article 18)⁶⁹

158. Trafficking in human beings is criminalised both under the CC and the Anti-Trafficking Law No. 04/L-218.⁷⁰ In its first report, GRETA considered that the authorities should examine certain aspects of the CC provisions concerning THB and related criminal offences, in order to bring them fully in line with the Convention and remove any internal discrepancies.

⁶⁸ See paragraph 158 and following of GRETA's first report on Kosovo.*

⁶⁹ The following analysis is based on the official English text of the relevant legal provisions.

⁷⁰ See paragraphs 47-49 and 161-162 of GRETA's first report on Kosovo.*

159. As noted in paragraph 9, the new CC adopted in 2018 addressed some of the recommendations made by GRETA. Namely, the lower threshold of the penalty in the case of trafficking in children was increased from three to five years, thus making it equal to the lower threshold of the penalty in the case of trafficking in adults (Article 165 of the new CC). However, no changes were made in relation to the last aggravating circumstance listed in paragraph 5 of Article 165, namely the situation where the offence results in the death of one or more persons. As noted in GRETA's first report, this aggravating circumstance does not fully correspond to the aggravating circumstance of "the offence deliberately or by gross negligence endangering the life of the victim" provided for in Article 24 of the Convention. **GRETA once again urges the authorities to ensure that all the aggravating circumstances provided for in the Convention are duly reflected in domestic law.**

160. In its first evaluation report, GRETA urged the authorities to amend Article 172 of the CC ("withholding identity papers of victims of slavery or trafficking in persons"), in order to include all of the actions listed in Article 20 of the Convention, namely removing, concealing, damaging or destroying a travel or identity document of another person committed intentionally and for the purpose of enabling THB. **GRETA welcomes the inclusion of the above-mentioned actions in Article 166 of the new CC.**

161. In its first report, GRETA considered that the authorities should examine the relationship between Article 171 ("trafficking in persons") and Article 241 ("facilitating or compelling prostitution") of the CC, with a view to clarifying the scope of application of these two provisions. In the new CC, these provisions are, respectively, Articles 165 and 234 of the CC. Paragraph 3 of the old Article 241, which read "whoever, by force or serious threat, or by holding another person in a situation of personal or economic dependency compels such person to engage in prostitution...", was deleted from Article 234 of the new CC. GRETA was informed that this change makes it easier to prosecute offences as THB, which had previously often been reclassified as the lesser offence of facilitating or compelling prostitution.⁷¹

162. While GRETA welcomes the above-mentioned development, which reflects its previous recommendation, it should be noted that there appears to be some remaining overlap between the two provisions. Namely, the words "holds" and "hides" have been added to paragraph 1 of Article 234, in addition to the word "controls" which was left unchanged by the amendments.⁷² The actions described by these terms contain an implicit element of coercion, thus leaving room for the possibility of further incorrect classification of THB cases under Article 234(1). It is also of note that one of the aggravated forms of the offence of facilitating or compelling prostitution (paragraph 5 of Article 234),⁷³ in case the victim is under the age of fourteen, provides for a minimum punishment of 10 years' imprisonment, which is higher than the lower threshold of penalty prescribed in case of trafficking in children, namely five years' imprisonment. Moreover, the maximum punishment under Article 234 in cases where the offence is committed against persons under the age of 16 is 10 years' imprisonment, and for persons under the age of 14, it is 25 years' imprisonment,⁷⁴ while the maximum penalty for trafficking in children under Article 165(2) is 15 years' imprisonment. **GRETA considers that the authorities should take further steps to remove the remaining discrepancies between the provisions on trafficking in persons and facilitating or compelling prostitution and ensure that the sentences prescribed for each criminal offence properly reflect the gravity of the offence.**

⁷¹ According to information provided by the authorities, in the period 2015-2020, 163 cases were processed under Article 234, of which 66 were closed (53 indictments were filed) and 97 cases were transferred to 2021.

⁷² Article 234(1) reads in full, "Whoever recruits, organises, assists, holds, hides, or controls another person for the purpose of prostitution shall be punished by a fine and imprisonment of six (6) months to four (4) years." It should be noted that punishment provided for in the amended provision is harsher as compared to that of a fine and imprisonment of up to three years prescribed by previous Article 241(1).

⁷³ The same punishment was provided in previous Article 241(5). In fact, the new Article 234 left unchanged the range of punishment for the aggravating forms of the offence, with the exception of when the offence is committed within a 350 meter radius of a school or other locality which is used by children, for which the minimum punishment was increased from six months to one year (Article 234(2)), and the situation in which the victim is between the ages of 16 and 18, for which the lower threshold of penalty was increased from one to two years of imprisonment.

⁷⁴ See Article 42(1) of the 2019 CC.

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

163. The use of sexual services of trafficked persons is criminalised under Article 228 of the new CC (Article 231 in the previous CC). The minimum punishment for the use or procurement of sexual services was increased from three to six months' imprisonment, and the commission of the offence against a person who is "exceptionally vulnerable because of age, diminished mental or physical capacity, physical or mental disorder or disability, or pregnancy" was introduced as an aggravated form of the offence carrying the punishment of between five and twenty years of imprisonment. Moreover, paragraphs 6 and 7 of Article 228 provide for harsher punishment in case the victim is under the age of 16 (between five and 20 years' imprisonment) or under the age of 14 (at least 10 years' imprisonment), compared to the punishment of between two and 10 years' imprisonment provided in Article 231(2) of the old CC in all cases where the victim was under the age of 18. Similarly, paragraph 8 of Article 228 was included to provide for a higher minimum punishment, that of 15 years' imprisonment, in case the offence is committed against a person under the age of 16 and results in death. While this is a positive development, GRETA notes the discrepancy in the punishments for certain aggravated forms of this criminal offence described above and those prescribed for the offence of THB,⁷⁵ potentially resulting in harsher punishment being imposed on persons who use sexual services of THB victims than on traffickers themselves. **GRETA invites the authorities to consider harmonising the sentencing policy for THB and related offences.**

164. Pursuant to Article 19 of the Convention, Parties must consider making it a criminal offence to knowingly use the services of a victim of trafficking. This provision targets the client whether of a victim of trafficking for sexual exploitation or of a victim of forced labour or services, slavery or practices similar to slavery, servitude or organ removal. **GRETA considers that the authorities should envisage establishing as a criminal offence the use of services from victims of trafficking which are the object of exploitation other than sexual exploitation, with the knowledge that the person is a victim of human trafficking.**

c. Corporate liability (Article 22)

165. As described in the first evaluation report, pursuant to Article 14 of the Anti-Trafficking Law, legal persons are liable for THB offences committed for their gain by a person who acts either individually or as part of a body of the legal person, and who has a leading position in the legal person, based on the competence to represent the legal person, authority to take decisions on behalf of the legal person, or authority to exercise control within the legal person. Legal persons are also held liable in the case when the lack of oversight or control by a person mentioned in paragraph 1 of this Article has made the act of trafficking in human beings possible, for the benefit of that legal person by the part of a person under his/her authority. Liability of a legal person shall not prevent criminal proceedings against natural persons who committed, incited or aided the trafficking in human beings. Legal sanctions against legal persons in cases of THB will be applied in accordance with the Law on liability of legal persons' actions for offences. Criminal liability of legal persons in general is provided for under Article 37 of the new CC.

⁷⁵ Article 228(6) provides for a maximum punishment of 20 years' imprisonment for the offence committed against a person under the age of 16, and the minimum punishment for the same offence against a person under the age of 14 is at least 10 years' imprisonment, under Article 228(7). On the other hand, the minimum punishment for THB when the victim is under the age of 18 is five years' imprisonment, and the maximum penalty is fifteen years' imprisonment, according to Article 165(2). Moreover, the minimum punishment for THB resulting in the death of a child is 10 years of imprisonment (same as for adults) under Article 165(5).

166. Article 17 of the Anti-Trafficking Law further provides that, in cases where there is grounded suspicion that a premise or business, acting legally or illegally, is involved in THB, the prosecutor demands from the judge to order the immediate closure of the premises or the business, in accordance with this law and the relevant provisions of the CCP. As mentioned in paragraph 48, the DITHB, the Labour Inspectorate and other relevant bodies, such as the tax administration, conduct joint inspections of businesses where there exist risks of trafficking and exploitation, such as massage parlours. GRETA was informed that, in the period 2016-2019, 10 businesses (bars, night clubs, massage parlours) were closed due to their involvement in or enabling of trafficking in human beings.⁷⁶ No information is available as to how many, if any, legal persons were prosecuted for these offences under the above-mentioned provisions.

167. GRETA notes with concern the increasing trend of employing girls under the age of 18 in massage parlours in Kosovo.* According to the information provided, the massage parlours are legally registered with the Kosovo Business Registration Agency, while the girls are employed unofficially due to the fact that it is illegal to employ persons under the age of 18. GRETA was informed that a number of inspections in these parlours resulted in the identification of employed under-age girls as victims of trafficking. However, the problem still persists and should be addressed by the relevant authorities in a more systematic way.

168. GRETA welcomes the efforts of the authorities to close businesses involved in trafficking in human beings and invites the authorities to make full use of the legal provisions on corporate liability for THB, in order to ensure full accountability of business entities for labour exploitation and exploitation of children carried out on their premises.

d. Non-punishment of victims of THB (Article 26)

169. As noted in GRETA's first report, the Anti-Trafficking Law No.04/L-218 contains a specific provision concerning the non-punishment of victims of trafficking, Article 13, which reads as follows:

"1. Victims of trafficking should not be arrested and cannot be prosecuted for crimes and offences committed by them as a direct result of the offence of trafficking, including:

1.1. Unlawful entry and exit of the trafficked person to/from the state;

1.2. Purchase or possession of forged travel documents or identification which he/she has obtained, or that was given to him/her, with the purpose of entry or exit from the state in connection with the offence of trafficking;

1.3. Involvement in other illegal activities to the extent that such involvement is a direct consequence of their situation of being trafficked;

2. Children who are victims of trafficking are not subject to proceedings or criminal sanctions for offences related to their situation as trafficked victims."⁷⁷

170. GRETA welcomed the inclusion in law of this provision and considered that the authorities should keep under review its implementation in practice, include it in the training provided to law enforcement officials, prosecutors and judges, as well as issue guidance to prosecutors on the implementation of the non-punishment provision.

⁷⁶ In 2018, the DITHB conducted joint inspections resulting in the temporary closure of 91 out of 214 inspected bars, nightclubs, restaurants, and massage parlours. In 2019, the DITHB conducted inspections resulting in the temporary closure of 54 out of 174 inspected bars, nightclubs, restaurants, and massage parlours. The DITHB also conducted joint operations with the Ministry of Trade and Industry, Tax Administration, and Labour Inspectorate to screen 171 businesses, such as massage parlours and bars, and 272 hotels, which led to the temporary closure of 78 massage parlours and hotels.

⁷⁷ Unofficial translation.

171. GRETA notes positively the good understanding of the non-punishment principle displayed by the representatives of the Office of the State Prosecutor and the DITHB with whom GRETA held online meetings. GRETA was informed that Article 13 of the Anti-Trafficking Law had been used in practice, namely in eight cases involving seven women from Albania and one woman from the Republic of Moldova who had been trafficked in Kosovo.* The women were not prosecuted for illegal stay in Kosovo* and were granted residence permits. No information was provided with regard to any other cases in which the non-punishment principle was applied, and no information is available with regard to whether or not Article 13 has been applied in cases involving domestic victims and/or cases which involved labour exploitation, begging or other types of forced criminality. The Kosovo Judicial Council confirmed the courts are aware of the non-punishment principle, however, there is no specific training for the judiciary covering THB.

172. **GRETA welcomes the inclusion of the non-punishment principle in the relevant legislation and the positive attitude the prosecutorial and investigative agencies have towards this principle. GRETA considers that information on incidents where the non-punishment principle is used should be included in the annual reporting of the National Co-ordinator/National Rapporteur to Government.**

4. Investigation, prosecution and procedural law

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

173. In its first evaluation report, GRETA urged the authorities to make full use of the possibility of seizure and confiscation of criminal assets linked to human trafficking, and it considered that the authorities should strengthen efforts to investigate, prosecute and convict traffickers for labour exploitation, as well as develop further the training and specialisation of investigators, prosecutors and judges with a view to ensuring that human trafficking offences are effectively investigated and prosecuted, leading to proportionate and dissuasive sanctions.

174. The Kosovo Police Directorate for Investigation of Trafficking in Human Beings (DITHB) has a central unit and regional staff operating throughout the territory of Kosovo,* totalling some 49 staff, as well as a separate Unit for Investigation of Juvenile Trafficking. The Director and Chief of Central Investigations believed the resources they had allocated to this area put them in a "good position". GRETA was informed that the DITHB had a "ringfenced" budget for operational investigations, and that financial investigation unit resources were also allocated where necessary.

175. The Kosovo Police also has a division, the Victim Assistance and Protection Sector, dedicated to assistance to victims which, *inter alia*, provides victims of trafficking with information on their rights once they are identified. It is part of the organisational structure of the DITHB, operating on the central level and reporting to the director of the DITHB. It comprises three officials who are trained in working with victims, knowledge of applicable laws, indicators for early identification of victims of THB, and victims' rights and services. Special responsibility is placed on this unit for the care and assistance provided to children.

176. With the goal of increasing efficiency in the fight against trafficking in human beings, the State Prosecutor has appointed a Co-ordinator for Combating Trafficking in Human Beings, who is part of the National Authority against Trafficking in Human Beings. Further, as mentioned in paragraph 21, in 2020, THB co-ordinators were appointed in each regional prosecutor's office, to work on the prosecution of THB cases within their jurisdiction and liaise and co-ordinate with relevant actors. GRETA was informed that these co-ordinators undergo THB-related training on a continuous basis. **GRETA welcomes this development, which is expected to improve co-ordination between relevant actors and increase the efficiency and effectiveness of authorities with regard to the prosecution of THB cases.**

177. It is also of note that sentencing guidelines have been introduced in Kosovo* which prosecutors refer to and judges utilise in determining sanctions.

178. The judiciary have limits on the time they can take to adjudicate a case once it is indicted, 90 days if the case is adjudicated by a single judge, 120 days if the case is heard by a three-judge panel. This can place pressure on prosecutors, victims, witnesses and investigators, however the President of the Court can approve a longer period in exceptional circumstances. The length of the investigation in any criminal case is currently two years with the possibility of extension for an additional six months in complex cases. There is no information available on the effect, if any, of these time limits on the completion of THB cases. The new draft CCP would allow for an extension of the length of investigation to a maximum of four years, which would have a positive impact on the investigation of complex cases such as those involving trafficking in human beings. GRETA was informed that the average time for the resolution of a THB case ranges from three to four years. As noted in paragraph 35, in 2019 the Kosovo Judicial Council installed a new court management system (CMIS), which is linked to the prosecution offices and the police and is expected to contribute to increased efficiency in the processing of cases.

179. GRETA's first report provided an overview of the special investigative measures available to the prosecution under the CCP, including covert interception of communication and the use of secret surveillance and recording. There have not been any relevant legislative changes since then. GRETA was informed that special investigative techniques, including wire-tapping and under-cover deployments, were used whilst investigating cases of THB.

180. As described in GRETA's first report, the temporary freezing of assets is provided for under Chapter XVII of the CCP, while Chapter XVIII regulates the confiscation and forfeiture of assets. GRETA was informed by the Office of the State Prosecutor of the practice of seizing a perpetrator's assets as a means of confiscation. According to information provided by the authorities, in the period 2013-2020, assets were temporarily frozen/seized and confiscated in eight THB cases which were jointly investigated by the Sector for Integrated Financial Investigations, within the Directorate for Investigation of Organised Crime, and the DITHB. In one of those cases, 612 896.42 Euros were confiscated by a court decision.⁷⁸

181. In addition to the above-mentioned legal provisions, Law No. 06/L-087 on Extended Powers of Confiscation of Assets, which came into force in January 2019 (see paragraph 13), provides that a procedure for confiscation can be conducted even after completion of criminal proceedings, which allows for confiscation of assets belonging to perpetrators or third parties that do not constitute direct proceeds of a criminal offence. GRETA was informed that the Chief Prosecutor has issued Instruction No. 216/2020 on the implementation of the Law on Extended Powers of Confiscation of Assets, as well as that there is a simplified Guide for Confiscation which is used by prosecutors. According to the authorities, there is still no final decision on confiscation of assets under this law, but there is one case in which the law has been applied. The authorities explained that confiscated assets could contribute to a fund for victims, as the seized property can be sold by the state and the proceeds used to compensate the victim. In this regard, GRETA notes that the SOP on the appointment of specialised THB prosecutors (see paragraphs 16 and 21) imposes, *inter alia*, the obligation of "aggressively pursuing a declaration of damage in all human trafficking cases to ensure that the victims seek restitution."

⁷⁸ The remaining seven cases concerned the following assets: 1) 75 966 Euros frozen/seized; 2) 43 200 Euros frozen/seized; 3) 769 000 Euros frozen/seized; 4) 22 000 Euros frozen/seized; 5) 100 000 Euros frozen/seized; 6) one car seized; 7) property/villa seized.

182. According to the authorities, in December 2020, there were 17 ongoing joint investigations on THB, dealt with by the DITHB and other entities, namely the financial investigations unit within the Kosovo Police and the Financial Intelligence Unit. Moreover, the police stated that they exchanged intelligence with other jurisdictions but evidential requests under mutual legal assistance was a matter for the prosecutor. According to information provided by the authorities, in the period 2016-2020, the authorities sent a total of 59 requests for international legal assistance in trafficking cases to foreign jurisdictions, including requests sent to Interpol, and received answers with regard to 24 such requests. During the same period, the authorities received 27 requests from foreign jurisdictions and provided answers with regard to 21 requests. As regards requests dealt with by the prosecution authorities alone, in the period 2015-2020, the authorities received 16 requests for international legal assistance from other jurisdictions, of which 10 were completed and six remain pending. During the same period, the prosecution authorities submitted six requests for international legal assistance, four of which were completed, while the responses to the remaining two requests are expected to be received in the course of 2021.

183. GRETA was provided with an example of collaboration between the Kosovo Police and the authorities of Montenegro, in a case of trafficking of two children from Montenegro (a girl aged 12 and a boy aged nine) by their father, for the purpose of forced marriage and begging. The police located and rescued the victims, in collaboration with the Montenegrin authorities, and a plan was put in place to rehabilitate and return the children to safety, and there was additional co-operation with the Serbian authorities to locate one of the suspected perpetrators. Moreover, the working arrangement signed between the Minister of the Interior of Kosovo and Europol in July 2020 (see paragraph 207)⁷⁹ paves the way for closer collaboration and the forming of joint investigations between EU member states and the Kosovo authorities. **GRETA welcomes this development and considers that a guidance and policy document should be prepared to inform and instruct prosecutors, law enforcement and government agencies of this agreement and the services available through Europol.**

184. The Kosovo Police and law enforcement agencies are aware of the use of technology to aid, abet, counsel or procure the commission of THB along with the expanding phenomenon of online sexual exploitation. The Kosovo Police has a cybercrime unit that has provided support in THB investigations. The authorities provided details of a case where a child was sexually exploited, and the video was distributed on the internet generating money for criminals. The child was rescued and was placed in a shelter where it received support, while the offender was convicted with the imagery removed by the social media platform provider. Whilst the authorities stated these cases are rare, GRETA welcomes this type of investigation and would like to know of any other case(s) in which the cyber unit has provided assistance.

185. Based on the data provided by the Kosovo Police, in 2019, 131 cases were investigated, 205 arrests carried out, and 77 criminal charges were filed. In the first six-month period of 2020, 40 arrests were made, 44 cases were processed, and 14 criminal charges were filed. The total 18-month period results are: 245 arrests, 29 confirmed victims and 23 potential victims. This means arrests run at over four per victim which seems inconsistent with the experience of GRETA in other jurisdictions. The authorities have clarified that this data covers THB and other related offences, while in relation to THB only, 23 criminal charges were filed, 38 suspects arrested and 29 victims of trafficking identified during the 18-month period.⁸⁰

186. According to the 2019 Annual Report of the State Prosecutor, in 2019, the State Prosecutor had at work 126 cases of THB and related offences involving 222 adults, of which 37 cases involving 58 persons had been completed.⁸¹

⁷⁹ [Kosovo: ICITAP Participates in EUROPOL Signing Ceremony for Greater Police Cooperation | CRIMINAL-ICITAP | Department of Justice](#)

⁸⁰ The figures provided in the authorities' reply, covering the entire reporting period, are as follows: 2016: 31 criminal reports, charges filed against 72 persons; 2017: 21 criminal reports, charges filed against 39 persons; 2018: 12 criminal reports, charges filed against 22 persons; 2019: 21 criminal reports, charges filed against 37 persons. These statistics cover THB and other related criminal offences ("sexual services by trafficking victims", "other criminal offences related to trafficking" and "engaging in prostitution (misdemeanour offence).")

⁸¹ <https://prokuroria-rks.org/en/psh/dokumente-publikime/108/165/321/321/>

187. GRETA was provided with statistics regarding the number of cases processed by basic courts in relation to the criminal offence of THB during the period 2015-2020. No information is available as to the type of exploitation involved. The statistics indicate that a relatively small number of cases were resolved each year, compared to the significant backlog of existing cases which is carried over to the next year.⁸² Moreover, the number of new cases steadily declined during the 2015-2020 period (20 in 2015, 27 in 2016, 21 in 2017, 5 in 2018, 12 in 2019 and 3 in 2020). The particularly low number of new cases in 2020 was, at least in part, attributed by the authorities to the situation created by the pandemic.

188. GRETA was informed that the majority of cases in the years 2015-2019⁸³ resulted in a conviction and most of the persons convicted were sentenced to imprisonment, although the length of the sentence is not specified. Specifically, 18 out of 30 persons tried in 2015 received sentences of imprisonment, in 2016 that number was 16 (out of 31), in 2017 19 (out of 61), in 2018 14 persons (out of 33) were sentenced to imprisonment, in 2019 that number was 9 (out of 27). GRETA notes that the statistics on THB cases for the above-mentioned period include cases which were "solved in a different manner." The authorities have clarified that this designation refers to cases which were transferred to another court due to a conflict of competence, cases in which the indictment was dismissed or the procedure was terminated, or cases in which the statute of limitations expired.

189. GRETA was informed that sanctions imposed for THB convictions by the courts have been below the minimum provided under the law as well as the minimum levels of the sentencing guidelines. Prosecutors have the right to appeal and have done so, but without any change to the finding. The Kosovo Judicial Council informed GRETA that sentences may be reduced for early guilty pleas or other mitigating circumstances.⁸⁴ GRETA was informed that plea bargaining is available in cases of THB, under Articles 233 and 247 of the CCP, but can only be entered if it does not restrict the ability of a victim to claim compensation. According to data from the Kosovo Judicial Council, no plea agreements were concluded in THB cases in 2020, while six plea agreements were concluded in 2019 and three in 2018 in THB cases.

190. In its first report, GRETA referred to two ongoing criminal cases. The first one was a case of THB for the purpose of sexual exploitation, dating back to 2012, which involved 23 Moldovan women.⁸⁵ GRETA was informed that, at the conclusion of the retrial proceedings in March 2016, eight of the defendants were found guilty of trafficking in human beings and sentenced to imprisonment ranging from one year and three months to two years, while another defendant was convicted of human trafficking and sentenced to one year of imprisonment in May 2019.

⁸² In 2015, courts started out with a backlog of 88 THB cases (against 175 individuals) and received 20 new cases (against 57 individuals). Thirteen cases against 30 persons were resolved in that year. In 2016, the number of resolved cases was 20 (against 32 persons), leaving 99 cases (against 221 persons) unresolved. In 2017, 26 cases (against 61 persons) were resolved, leaving 87 cases (against 198 persons) to be carried over to the next year. In 2018, 14 cases (against 33 persons) were resolved, leaving 78 cases (against 171 persons) unresolved. In 2019, the number of resolved cases was 16 (against 27 persons), leaving 74 cases (against 174 persons) to be carried over to 2020. In this last year, eight cases were resolved (against 10 persons) while 73 cases (against 174 persons) remain pending.

⁸³ 61% in 2015, 80% in 2016, 61% in 2017, 57% in 2018, and 62% in 2019.

⁸⁴ Article 71(2) in the 2019 Criminal Code provides the main legal basis for imposing a sentence below the statutory minimum, namely, in case the court finds that there are "particularly mitigating circumstances which indicate that the purpose of punishment can be achieved by imposing a lesser punishment" or in case of a plea bargaining agreement. The general problem of courts' frequently departing from the minimum sentence provided in the law "citing mitigating factors that were not supported by any evidence in the record" was specifically noted in the Sentencing Guidelines (see p. 9).

⁸⁵ See paragraph 178 of GRETA's first report on Kosovo.*

191. The second case is the Medicus Clinic case, which dates back to 2008.⁸⁶ GRETA was informed that the main trial is still ongoing in relation to two of the defendants, who are charged with the criminal offences of organised crime and trafficking in human beings for the purpose of organ removal. According to the authorities, in October 2020, the court approved the request of the defendants to hear protected witnesses who reside abroad. The continuation of the main trial has not been scheduled yet as the authorities are waiting to receive responses to requests for international legal co-operation sent to other states, and are trying to secure the testimony of witnesses from Russia through other means due to the fact that this country did not accept co-operation. GRETA notes that this is the second re-trial with regard to one of the defendants in the case, against whom the initial first-instance judgment was issued in April 2013.

192. **GRETA urges the authorities to strengthen the criminal justice response to human trafficking, and in particular to:**

- **ensure that THB cases are prosecuted as such and lead to effective, proportionate and dissuasive sanctions for those convicted. The plea-bargaining procedure should be used only exceptionally in human trafficking cases, subject to appropriate safeguards, where the reduction of a sentence is clearly outweighed by the advantages offered by the plea agreement (these advantages being indicated in the judicial decision approving the agreement) and the agreement is not in any way detrimental to the rights of the victims, including their access to compensation;**
- **monitor all sentences imposed for human trafficking offences and the levels of assets seized or confiscated and report these annually to the Kosovo Assembly. Where any case falls below the minimum tariff set in the sentencing guidelines the courts should publicly state the rationale and include this in the annual reporting;**
- **continue providing training, and encourage the specialisation of prosecutors and judges to deal with human trafficking cases and to ensure that they are not re-qualified as other offences which carry lighter penalties and deprive victims of THB of access to protection, support and compensation;**
- **ensuring that the length of court proceedings in cases of trafficking of human beings is reasonable, in line with the case-law of the European Court of Human Rights (related to Article 6, paragraph 1 of the ECHR) and the standards set by the European Commission for the Efficiency of Justice (CEPEJ).⁸⁷**

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

193. In its first evaluation report, GRETA urged the authorities to make full use of the available measure to protect victims and witnesses of THB and to prevent intimidation during the investigation as well as during and after court proceedings.

⁸⁶ See paragraphs 179-180 of GRETA's first report on Kosovo.*

⁸⁷ <https://rm.coe.int/cepej-2018-26-en-rapport-calvez-regis-en-length-of-court-proceedings-e/16808ffc7b>.

194. As explained in detail in GRETA's first evaluation report, the protection of witnesses and victims in Kosovo* is regulated by Chapter XIII of the CCP on the protection of victims and witnesses and the Law on Witness Protection No. 04/L-015. The protective measures envisaged under Article 222 of the CCP, which are ordered by the competent judge, include anonymity, assignment of a pseudonym, concealing a victim or witness behind an opaque shield or through image or voice-altering devices, video-taped examination prior to the court hearing with the defence counsel present, closed sessions to the public, and temporary removal of the defendant from the courtroom. In addition, Article 149 of the CCP (special investigative opportunity) allows the taking of witness testimony by a pre-trial judge for the purpose of preserving evidence, where there is a unique opportunity to collect important evidence or there is a significant danger that such evidence may not be subsequently available at the main trial. The testimony is audio- or audio-video recorded, with the recording filed in the case file. Protection of victims and witnesses is also guaranteed by Article 19 of the Anti-Trafficking Law. The Anti-Trafficking Law (Article 15) also provides for the application of special investigative opportunity to victims of trafficking, with a view to avoiding unnecessary repetition of interviews, visual contact between victims and defendants, or giving testimony in public sessions.

195. The applicable legislation further stipulates that child victims cannot be interviewed more than twice during the proceedings. GRETA was informed that special rooms exist for interviews with children, funded by the US Embassy in Kosovo.

196. Further, the Law on Witness Protection envisages a range of protection measures which can be implemented only with the consent of the endangered person, including physical protection, temporary relocation to a secure place, change of the place of residence, work or study, change of identity, and change of appearance, including plastic surgery. There is a special directorate for the protection of witnesses within the Police which has jurisdiction under the Law on Witness Protection.

197. According to the authorities, there has been only one occasion, in 2005, where witness protection measures have been applied to safeguard a victim of THB, under the Law on Witness Protection.

198. As noted in paragraph 101, all victims of THB who appear as witnesses in criminal proceedings are deemed high-risk and are accommodated at the state shelter ("Interim Security Facility") for the duration of proceedings. They are not free to leave the shelter without informing the police who assess the risk to each resident. If the victim is a child, they are normally escorted when outside of the shelter. The shelter has a network for co-operation with other relevant authorities with whom they discuss a strategy for the care of a victim. The assessment of risk to a victim is conducted by the police but there is no process in the shelter that is used to determine risk or monitor and update the assessment. The shelter employs professional security, but so far they have not had any security-related incidents. GRETA notes that apart from the initial assessment conducted by the police, continuous re-assessment of risk should be conducted for victims of trafficking and it should involve staff of the shelters where the victims are accommodated.

199. The courts have a system of keeping victims informed of progress and developments in their case and when a victim is not in attendance this information is provided to other agencies for onward communication. According to the Judicial Council, interviews with judges who dealt with THB cases and statistical data suggest that there have not been cases in which victims were not informed of the progress of the cases and decisions concerning them. Sometimes their address may not be known, but they make sure the victim's address is found and that the notification reaches them.

200. The Ministry of Justice was unable to provide any specific victim protection measures that were gender specific. Apart from the fact that interviews with victims are conducted by persons of the same sex, there was no other information available of support or policy considerations for women and girls at any stage of their engagement with the criminal justice system including in their safeguarding or whilst in safehouses.⁸⁸

⁸⁸ It should be noted that the representatives with whom GRETA met referred to the application of the Law on Gender Equality, without providing any details as to how this affects cases involving THB specifically. It is also of note that the Programme of Gender Equality adopted in 2020 does not appear to directly address THB.

201. **While welcoming the range of protection measures available in law, GRETA is concerned that, in practice, they are not applied to victims and witnesses of THB. GRETA urges the authorities to make full use of the available measures to protect victims and witnesses of THB and to prevent intimidation during the investigation, as well as during and after court proceedings, in a gender-sensitive manner, and to ensure that victims are provided with adequate and understandable information with regard to their rights and protections available to them.**

202. **Further, GRETA considers that continuous re-assessment of risk should be conducted for all victims whether in state or NGO shelters and that staff of the shelters should be involved in this procedure. Formal guidance should be issued in this regard and the authorities should ensure that the personal liberty of victims is not negatively affected.**

5. International co-operation and co-operation with civil society

a. International co-operation (Article 32)

203. GRETA's first evaluation report described the legal framework for Kosovo's* co-operation with other countries and referred to a number of bilateral agreements which allowed for such co-operation.⁸⁹ It is of note that the above-mentioned assessment of the implementation of the 2015-2019 Strategy and Action Plan against THB lists international co-operation as one of the areas which require further improvement.⁹⁰

204. GRETA was informed that the Kosovo authorities have not conducted any joint investigations with authorities of other countries in relation to THB. However, they mentioned the recent example of co-operation with the authorities of Montenegro, which included operational meetings, in relation to the assisted return of two children of Roma ethnicity who had been trafficked to Kosovo.* GRETA was also informed that Kosovo* has good co-operation with the Albanian authorities.

205. Co-operation agreements were concluded with Albania and Montenegro in 2016. Co-operation protocols with neighbouring countries and unified standard operating procedures are used to ensure protection and return of victims. These instruments are part of the transnational co-operation mechanism established through a project led by the NGO Terre des hommes, which includes Albania, Kosovo,* Montenegro and North Macedonia, and which addresses, *inter alia*, the identification and protection of victims and potential victims of THB, as well as their return to the country of origin. This international co-operation includes cases investigated by the Kosovo Police Cyber Crime Unit, although there have not been any cases of sexual exploitation through online streaming where the perpetrator was a resident of Kosovo* and elements of crime occurred there.

206. DITHB has a toll-free confidential helpline as well as the 192 emergency line and an email address (antitrafikimi@kosovopolic.com) at which cases of trafficking can be reported, and information is shared with the authorities of neighbouring countries with regard to children who may be at risk of being trafficked.

207. Kosovo* concluded a working arrangement with Europol in July 2020, which will allow for exchange of intelligence and strategic and technical information. Moreover, the arrangement will facilitate an exchange of specialist knowledge, general situation reports, results of strategic analysis, information on criminal investigation procedures and crime prevention methods, participation in training activities, receiving advice and support in individual criminal investigations and other forms of co-operation. However, it does not provide for transfer of personal data, except when exceptionally allowed.

⁸⁹ See paragraphs 78-80 of GRETA's first report on Kosovo.*

⁹⁰ KMOP, Assessment of the Implementation of the Anti-Trafficking Strategy and Action Plan 2015-2019, pp. 10, 16 and 18.

208. GRETA considers that the authorities should continue their efforts in the area of international co-operation with a view to preventing human trafficking, assisting victims of trafficking, and investigating and prosecuting human trafficking offences, including those involving child victims.

b. Co-operation with civil society (Article 35)

209. There are a number of NGOs active in the area of combating THB in Kosovo.* These NGOs co-operate with the relevant governmental institutions in providing assistance and support to victims of THB. The Hope and Homes for Children Kosovo (SDSF) is a member of the National Authority and actively takes part in the drafting of laws and related regulations, as well as strategic and other documents that affect the field of child protection. The Centre for Protecting Victims and Preventing Trafficking in Human Beings (PVPT), also a member of the National Authority, has concluded memoranda of understanding with ministries, including the MLSW, the MES, the MOH, and the Department of Psychology of the University of Prishtinë/Prishtina. GRETA was informed that the NGO has also taken part in the drafting of the strategy and action plan on THB as well as on the prevention and elimination of severe forms of child labour, and has contributed to the establishment of the Trans-National Referral Mechanism for trafficked persons in South East Europe. The PVPT is also an active member of the Direct Assistance Group for Victims of Trafficking, which has built an effective referral system detailed in the SOPs for victims of trafficking. The Coalition of NGOs for Child Protection (KOMF) is also involved in providing support to child victims of THB. Further, the NGO Terre des hommes runs a project on "Improving provision of services and awareness to combat trafficking in Persons in the Balkans (Albania, Macedonia, Montenegro, Kosovo*)" as part of which a transnational co-operation mechanism to identify and protect victims of THB, using unified SOPs, is applied across the four countries.

210. As noted in paragraph 105, both the SDSF and the PVPT are partly funded by the Government of Kosovo. Although the overall funds allocated to victim support have increased during the period covered by this report, the information provided to GRETA suggests that the amount of funds allocated to NGO-run shelters have consistently declined until 2020.⁹¹ Namely, the NGO-run shelters have seen a reduction of over 37% in funding from 2015 to 2019. In 2020 PVPT and SDSF were able to secure more funding from the Government compared to the previous five years, namely 50 000 and 55 000 euros respectively. However, GRETA was informed by the PVPT that this amount is only sufficient to cover the basic services (mostly rent of the premises) and does not extend to specialised services (medical care, psychological counselling, and legal services) which are needed to ensure long-term reintegration of victims. The OSCE Mission assisted the PVPT in lobbying with the Government for funding and proposed to provide the NGO with training on how to develop projects to obtain funding. In their comments to the draft report, the authorities informed GRETA that the funding provided to shelters by the MLSW, in accordance with Regulation No. 04/2017, had consistently increased over the years. However, the figures provided cover all shelters⁹² and offer little insight into how the allocation of budgets is determined and the reasons for the reduction in the funding for the shelters accommodating THB victims.

211. From 2015 until 2019, the MLG and the German Agency for International Development Co-operation (GIZ) implemented a regional project with representatives of several municipalities,⁹³ Centres for Social Work and NGOs,⁹⁴ which aimed at providing social services at local level. According to the authorities, the project led to an improvement in social outreach for services available by introducing new methodologies and a social approach on the ground. Further, GRETA was informed that the Ministry of Local Government Administration drafts policies for the development and advancement of local self-government, including the Strategy for Local Self-Government which sets out a priority policy framework over a period of 10 years (2016-2026).

⁹¹ The funding provided by the MLSW to the PVPT and SDSF was 101 930 euro in 2015, 91 010 euro in 2016, 72 870 euro in 2017, 70 680 euro in 2018, and 67 000 euro in 2019.

⁹² The authorities provided the following figures: 250 000 euro allocated to nine shelters in 2015, 252 383 euro to eight shelters in 2016, 290 000 euro to nine shelters in 2017, 193 000 euro to nine shelters in 2018, 324 000 euro to 10 shelters in 2019, and 495 000 euro to 10 shelters in 2020.

⁹³ Prishtinë/Prishtina, Prizren, Gjiilan/Gnjilane, Glogoc/Glogovac, Ferizaj/Uroševac, and Mitrovicë/Mitrovica.

⁹⁴ The NGO AKTI in Prishtinë/Prishtina, South Mitrovicë/Mitrovica and Drenas, NGO Nevikoncepti in Prizren, and NGO INPO Gjiilan/Gnjilane and Ferizaj/Uroševac.

212. **GRETA welcomes the co-operation established between the authorities and NGOs and considers that the authorities should continue their efforts to build strategic partnerships with civil society, ensuring that NGOs offering support to victims are provided with adequate funding.**

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

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

Developments in the institutional framework

- GRETA considers that the authorities should reflect on creating a permanent position of National Co-ordinator, in order to bring stability to this role (paragraph 18).

Training of relevant professionals

- GRETA welcomes the efforts of the authorities to provide training on THB to professionals with regard to the identification, investigation and prosecution of THB cases and support to victims of THB. GRETA considers that the authorities should ensure that such training is provided on a continuous basis and to all relevant professionals, including health-care staff working with migrants and asylum seekers (paragraph 32).

Data collection and research

- For the purpose of preparing, monitoring and evaluating anti-trafficking policies, GRETA considers that the authorities should continue and strengthen their efforts to develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical data on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of THB cases. Statistics regarding victims should be collected from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims of trafficking are asked to provide information for the national data collection (paragraph 36);
- GRETA welcomes the plans to carry out research as part of the new Action Plan against THB and considers that the authorities should conduct and support further research on THB-related issues, particularly with regard to forms of THB which are on the rise such as internal trafficking, trafficking in children and trafficking for labour exploitation, as well as on THB-related case law, and ensure that adequate budgetary resources are allocated for such research (paragraph 38).

Measures to raise awareness of THB

- GRETA welcomes the efforts to raise awareness of THB among the general public, as well as targeted groups, and considers that authorities should:
 - take further steps to ensure that the public, and particularly members of vulnerable groups, are properly informed of the phenomenon of THB and its different forms, including forced begging, forced commission of criminal offences, removal of organs and forced marriage;
 - increase their efforts to raise awareness of THB for labour exploitation among the general public, the business sector and the authorities involved in the identification of THB (paragraph 43).

Measures to prevent THB for the purpose of labour exploitation

- Noting that there has been no training on THB for labour inspectors in the past four years, GRETA urges the authorities to take active steps to provide such training on a regular basis and to ensure its sustainability by integrating it in the training curricula for labour inspectors (paragraph 51).
- GRETA considers that the authorities should take further measures to prevent trafficking for the purpose of labour exploitation, in particular by:
 - increasing the capacity of the Labour Inspectorate, through addressing the lack of human resources, to adequately cover all sectors and regions;
 - strengthening the monitoring of private employment/recruitment agencies;
 - raising awareness of the risks of human trafficking for the purpose of labour exploitation in Kosovo* and abroad, aimed in particular at vulnerable groups;
 - providing systematic and continuous training to law enforcement officials and prosecutors on THB for the purposes of labour exploitation, including identification of victims and their referral to assistance;
 - working closely with the private sector, in line with the Guiding Principles on Business and Human Rights (paragraph 52).

Measures to prevent trafficking in children

- GRETA considers that the authorities should strengthen their efforts in the area of prevention of child trafficking, in particular by:
 - sensitising and training child protection and education professionals across the country of the risks and manifestations of child trafficking, including for the purpose of child/forced marriages;
 - continuing to raise awareness of children about the risks of THB, including those related to the use of the Internet;
 - reinforcing the human resource capacity of Centres for Social Work to address cases of child labour exploitation (paragraph 62).

Social, economic and other initiatives for groups vulnerable to THB

- GRETA considers that the authorities should further strengthen their efforts towards prevention of human trafficking through development of social and economic measures aimed at members of vulnerable communities. Measures to prevent THB should be implemented as part of the Strategy for Integration of RAE Communities, paying particular attention to IDPs, especially women and children (paragraph 67).

Measures to prevent trafficking for the purpose of organ removal

- GRETA considers that the authorities should strengthen the legal and policy framework in order to prevent THB for the purpose of organ removal (paragraph 70).
- GRETA welcomes the organised and planned training on trafficking in organs, and considers that it should be integrated in the regular training curricula of health-care professionals, together with relevant training on trafficking in human beings for the purpose of organ removal (paragraph 72).

Measures to discourage demand

- GRETA welcomes the information campaigns and considers that the authorities should continue and strengthen their efforts to discourage demand for the services of THB victims, for all forms of exploitation and in partnership with the private sector and civil society (paragraph 75).

Border measures

- GRETA welcomes the adoption of indicators for the identification of victims and potential victims of THB, and considers that the authorities should ensure that the relevant authorities, including Border Police and consular staff, are provided with targeted and continued training on the application of these indicators, in order to improve the identification of potential victims of THB among migrants and asylum seekers (paragraph 81).

Identification of victims of THB

- While welcoming the adoption of unified indicators for the identification of victims of THB, GRETA urges the authorities to take further steps to ensure the timely identification of victims of THB, in particular by:
 - promoting multi-agency involvement in victim identification by formalising the role and input of specialised NGOs and involving other relevant actors, such as labour inspectors, social workers and medical staff;
 - ensuring that all professionals who may come into contact with victims of THB are fully aware of the SOPs and receive systematic and continuous training to enable them to identify victims of THB;
 - pursuing a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by encouraging labour inspections in sectors most at risk, and strengthening the capacity of labour inspectors to proactively identify victims of trafficking;
 - strengthening the capacity of social workers to proactively identify victims of trafficking;
 - strengthening measures to identify victims among irregular migrants and asylum seekers, particularly by raising awareness of and providing training to staff working at the detention centre for irregular migrants and the centre for asylum seekers (paragraph 96).
- As part of the process of reviewing the SOPs, GRETA considers that the authorities should revise the form "Information on the Rights of Victims of Trafficking", to make it more accessible and easier for victims to understand (paragraph 97).

Assistance measures

- GRETA considers that the authorities should ensure that MoUs or SOPs are put in place to facilitate co-operation with foreign embassies and ensure that adequate protections and access to shelters are guaranteed to foreign victims (paragraph 103).
- Stressing that the authorities have an obligation to provide adequate funding and ensure the quality of the services delivered by NGOs, GRETA urges the authorities to provide adequate funding for the assistance to victims of trafficking in order to enable NGOs to comply with the standards of assistance (paragraph 109).

- GRETA urges the authorities to take steps to further improve the provision of assistance to victims of trafficking, for as long as they need it, and in particular to:
 - develop a risk assessment methodology which is applied by shelter staff and recorded for each victim;
 - ensure access to psychological assistance to victims staying at the State shelter, by employing an in-house psychologist or concluding a contract with a visiting psychologist;
 - facilitate the reintegration of victims of trafficking into society by providing them with access to education, a wide range of vocational training and the labour market. In this context, the authorities should consider adopting incentives for companies employing people from disadvantaged groups and promote micro-businesses, social enterprises and public-private partnerships, including through state-supported employment programmes, with a view to creating appropriate work opportunities for victims of trafficking, including foreign nationals and persons with disadvantaged socio-economic backgrounds.
 - increase the number of social workers within Centres for Social Work to enable them to deal effectively with the number of cases under their mandate. (paragraph 110).
- GRETA considers that the authorities should ensure that access to health-care is facilitated in practice, including by raising awareness among health-care staff (paragraph 111).

Identification and assistance of child victims of THB

- GRETA urges the authorities to:
 - reinforce the proactive identification of child victims of trafficking, particularly among children in street situations and involved in begging;
 - urgently initiate consultations with destination countries and countries of origin with a view to putting into place effective mechanisms for identifying children at risk to be re-trafficked, effective reporting on such cases to the consular or diplomatic missions of Kosovo,* and the provision of adequate assistance and protection in accordance with the Convention;
 - review the application of the guardianship system for child victims of trafficking and pay increased attention to children who are trafficked by their parents or other family members, ensuring that proper risk assessment is conducted before deporting or returning such children to their parents;
 - introduce a procedure for identifying victims of THB among unaccompanied foreign children and ensure that they are offered a recovery and reflection period;
 - take steps to ensure that children housed in the shelters are provided with access to education in the mainstream school system, irrespective of the time they will be present (paragraph 126).

Recovery and reflection period

- GRETA considers that the authorities should ensure that the recovery and reflection period is observed in practice and that the victims of human trafficking are systematically informed of their rights in this regard (paragraph 133).

Legal assistance and free legal aid

- GRETA considers that the authorities should strengthen their efforts to ensure that all victims are promptly informed of their right to legal assistance, that legal assistance is provided effectively and in a language the victim understands, as well as that the lawyers providing legal assistance and free legal aid to victims receive appropriate training on the topic of trafficking in human beings (paragraph 142).

Compensation

- GRETA urges the authorities to adopt measures to facilitate and guarantee access to compensation for victims of THB, in particular by:
 - ensuring that victims of THB are systematically informed of their right to claim compensation and the procedures to be followed;
 - strengthening the capacity of legal practitioners to help victims claim compensation and incorporating the issue of compensation in the training programmes aimed at members of the law enforcement agencies and the judiciary;
 - reviewing the criminal and civil procedures regarding compensation from perpetrators with a view to improving their effectiveness;
 - reviewing the criteria for granting state compensation, in particular the requirement of first seeking to obtain compensation directly from the perpetrator, and making state compensation available to all victims of trafficking when the offence was committed in Kosovo,* regardless of their nationality and residence status (paragraph 152).
- GRETA considers that, where a conviction is secured against a trafficker and the court does not award the victim compensation, the judicial panel should explain its decision not to award compensation, rather than simply refer the victim to present their claim in civil proceedings (paragraph 153).

Repatriation and return of victims

- GRETA considers that the authorities should take further steps to develop international co-operation in order to ensure proper risk assessment prior to returning victims of THB to other countries, and ensure that the return of victims of THB is conducted with due regard to their rights, safety and dignity, including the right to *non-refoulement* (Article 40(4) of the Convention), and in the case of children, by fully respecting the principle of the best interests of the child (paragraph 157).

Criminalisation of THB

- GRETA once again urges the authorities to ensure that all the aggravating circumstances provided for in the Convention are duly reflected in domestic law (paragraph 159).
- GRETA considers that the authorities should take further steps to remove the remaining discrepancies between the provisions on trafficking in persons and facilitating or compelling prostitution and ensure that the sentences prescribed for each criminal offence properly reflect the gravity of the offence (paragraph 162).

Criminalisation of the use of services of a victim

- GRETA invites the authorities to consider harmonising the sentencing policy for THB and related offences (paragraph 163).
- GRETA considers that the authorities should envisage establishing as a criminal offence the use of services from victims of trafficking which are the object of exploitation other than sexual exploitation, with the knowledge that the person is a victim of human trafficking (paragraph 164).

Corporate liability

- GRETA welcomes the efforts of the authorities to close businesses involved in trafficking in human beings and invites the authorities to make full use of the legal provisions on corporate liability for THB, in order to ensure full accountability of business entities for labour exploitation and exploitation of children carried out on their premises (paragraph 168).

Non-punishment of victims of THB

- GRETA welcomes the inclusion of the non-punishment principle in the relevant legislation and the positive attitude the prosecutorial and investigative agencies have towards this principle. GRETA considers that information on incidents where the non-punishment principle is used should be included in the annual reporting of the National Co-ordinator/National Rapporteur to Government (paragraph 172).

Investigations, prosecutions, sanctions and measures

- GRETA considers that a guidance and policy document should be prepared to inform and instruct prosecutors, law enforcement and government agencies of the agreement with Europol and the services available through it (paragraph 183);
- GRETA urges the authorities to strengthen the criminal justice response to human trafficking, and in particular to:
 - ensure that THB cases are prosecuted as such and lead to effective, proportionate and dissuasive sanctions for those convicted. The plea-bargaining procedure should be used only exceptionally in human trafficking cases, subject to appropriate safeguards, where the reduction of a sentence is clearly outweighed by the advantages offered by the plea agreement (these advantages being indicated in the judicial decision approving the agreement) and the agreement is not in any way detrimental to the rights of the victims, including their access to compensation;
 - monitor all sentences imposed for human trafficking offences and the levels of assets seized or confiscated and report these annually to the Kosovo Assembly. Where any case falls below the minimum tariff set in the sentencing guidelines the courts should publicly state the rationale and include this in the annual reporting;
 - continue providing training, and encourage the specialisation of prosecutors and judges to deal with human trafficking cases and to ensure that they are not re-qualified as other offences which carry lighter penalties and deprive victims of THB of access to protection, support and compensation;
 - ensuring that the length of court proceedings in cases of trafficking of human beings is reasonable, in line with the case-law of the European Court of Human Rights (related to Article 6, paragraph 1 of the ECHR) and the standards set by the European Commission for the Efficiency of Justice (CEPEJ) (paragraph 192).

Protection of witnesses and victims

- While welcoming the range of protection measures available in law, GRETA is concerned that, in practice, they are not applied to victims and witnesses of THB. GRETA urges the authorities to make full use of the available measures to protect victims and witnesses of THB and to prevent intimidation during the investigation, as well as during and after court proceedings, in a gender-sensitive manner, and to ensure that victims are provided with adequate and understandable information with regard to their rights and protections available to them (paragraph 201).
- GRETA considers that continuous re-assessment of risk should be conducted for all victims whether in state or NGO shelters and that staff of the shelters should be involved in this procedure. Formal guidance should be issued in this regard and the authorities should ensure that the personal liberty of victims is not negatively affected (paragraph 202).

International co-operation

- GRETA considers that the authorities should continue their efforts in the area of international co-operation with a view to preventing human trafficking, assisting victims of trafficking, and investigating and prosecuting human trafficking offences, including those involving child victims (paragraph 208).

Co-operation with civil society

- GRETA welcomes the co-operation established between the authorities and NGOs and considers that the authorities should continue their efforts to build strategic partnerships with civil society, ensuring that NGOs offering support to victims are provided with adequate funding (paragraph 212).

Appendix 2

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

Public bodies

- National Anti-Trafficking Coordinator
- Office of the Chief State Prosecutor
- Kosovo Police Directorate for Investigation of Trafficking in Human Beings
- Ministry of Justice
- Ministry of Health
- Ministry of Education, Science and Technology
- Ministry of Labour and Social Welfare
- Labour Inspectorate (information provided in writing)
- Institute of Forensic Medicine
- State Shelter for Protection and Rehabilitation of Victims of Trafficking

Intergovernmental organisations

- Organization for Security and Co-operation in Europe (OSCE)
- International Organization for Migration (IOM)

Non-governmental organisations

- Terre des hommes
- Centre for Protection of Victims and Prevention of THB (PVPT)
- Hope and Homes for Children (SDSF)
- Coalition of NGOs for Child Protection (KOMF)

Government's comments

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



Republika e Kosovës
Republika Kosovo-Republic of Kosovo
Qeveria - Vlada-Government

Ministria e Punëve të Brendshme - Ministarstvo unutrašnjih poslova - Ministry of Internal Affairs

Final Comments by the Ministry of Internal Affairs on GRETA Report on the compliance of Kosovo with the standards of the Council of Europe Convention on Action against Trafficking in Human Beings

General Comment: If the report is going to use the footnote, we would urge you to use the European Union's practice of referring to Kosovo which uses the footnote/ asterisk only once, and only at the first instance when it appears, just like with all other explanatory footnotes. We believe it is unnecessary to use the asterisk every time Kosovo is mentioned. Therefore, we urge you to delete the asterisk throughout the text.

Specific comments:

104. The NGO Centre for Protection of Victims and Prevention of Trafficking in Human Beings (PVPT) is the only nationally licensed centre to provide direct assistance to low and medium-risk victims and potential victims, both child and adult, domestic and foreign, who are referred to the PVPT from all regions of Kosovo.* The rehabilitation centre run by the PVPT was visited by GRETA during the first evaluation visit and described in the first evaluation report.⁴⁵ The PVPT runs a rehabilitation programme which includes occupational and art therapy. After the reflection period, the case manager compiles an individual plan for each beneficiary together with him/her and with a social worker where applicable. The plan is updated on a monthly basis. Beneficiaries are asked to fill out pre- and post- evaluation forms with regard to each implemented activity, while staff report regularly (daily, weekly, and monthly) on the implementation of each activity. After the completion of the rehabilitation programme, the beneficiaries have an opportunity to return to the PVPT on an occasional basis or to continue to receive the services available at the centre, upon their request. GRETA was informed that between 2015 and 2020, the PVPT provided rehabilitation to 187 beneficiaries (40 adults and 147 children), of whom 101 were residents in the centre and 86 attended the centre on a daily basis without being resident there.

In their comments to the MIA, PVPT has emphasized that occupational and art therapy are only two of the many activities provided by the Centre. According to PVPT, the Rehabilitation & Reintegration Program includes a package of services and activities such as: safe and comfortable housing, food, clothing, basic and specialized medical care and assistance, legal aid, psychosocial assistance and professional psychological counselling, educational and vocational training, awareness raising, empowerment, recreational activities, family mediation, income generation programs and mediation in the employment process.

122. According to the Director of the state shelter, which accommodates child victims of THB considered to be at high or medium risk, the provision of education to children staying at the shelter is problematic. Following the transfer of the shelter under the authority of the Ministry of Justice, GRETA was assured that steps would be taken to enable child victims to receive education at the shelter until they attain 18

years of age, as is mandatory in Kosovo.* According to information provided by the authorities, the state shelter has requested from the MoJ that the children housed in the shelter attend school at the Educational-Correctional Centre in Lipjan/Lipljan, located next to the shelter. A memorandum of co-operation between the MoJ (Correctional Service), the Municipality of Lipjan/Lipljan and MEST is currently being prepared to this end. **GRETA is concerned by the practice of child victims of THB attending school at a correctional centre for juveniles rather than at a regular school.**

Due to a translation error it was mistakenly reported that the children housed in the shelter will attend school at the Educational-Correctional Centre in Lipjan/Lipljan, located next to the shelter. The children from the shelter will not leave the shelter, the memorandum of co-operation instead foresees that the teaching staff from the Educational-Correctional Centre will also teach trafficked children inside the shelter.

125. The Ministry of Education, Science and Technology (MEST) is involved in the implementation of anti-trafficking action and the SOPs referred to in paragraphs 83 and 84. GRETA was informed that identified child victims of THB are referred to MEST which provides them with education opportunities. However, the MEST was not aware of any child victim of trafficking accommodated in shelters and receiving education in schools. GRETA was informed that if the shelters make a request on providing education within the shelter, the MEST would provide textbooks. According to the representative of the MEST, they have not received any requests from shelters to provide access to education for children.

In their comments to MIA, PVPT has noted that their cooperation agreement with MEST also foresees the facilitation of the return of children to formal and non-formal education in their respective municipalities.

190. In its first report, GRETA referred to two ongoing criminal cases. The first one was a case of THB for the purpose of sexual exploitation, dating back to 2012, which involved 23 Moldovan women.⁸⁵ GRETA was informed that, at the conclusion of the retrial proceedings in March 2016, eight of the defendants were found guilty of trafficking in human beings and sentenced to imprisonment ranging from one year and three months to two years, while another defendant was convicted of human trafficking and sentenced to one year of imprisonment in May 2019. **GRETA would like to be informed if the sentences were effective or suspended.**

According to the Kosovo Judicial Council, these sentences were final and effective.

210. As noted in paragraph 105, both the SDSF and the PVPT are partly funded by the Government of Kosovo. Although the overall funds allocated to victim support have increased during the period covered by this report, the information provided to GRETA suggests that the amount of funds allocated to NGO-run shelters have consistently declined until 2020.⁹¹ Namely, the NGO-run shelters have seen a reduction of over 37% in funding from 2015 to 2019. In 2020 PVPT and SDSF were able to secure more funding from the Government compared to the previous five years, namely 50,000 and 55,000 euros respectively. However, GRETA was informed by the PVPT that this amount is only sufficient to cover the basic services (mostly rent of the premises) and does not extend to specialised services (medical care, psychological counselling, and legal services) which are needed to ensure long-term reintegration of victims. The OSCE Mission assisted the PVPT in lobbying with the Government for funding and proposed to provide the NGO with training on how to develop projects to obtain funding. In their comments to the draft report, the authorities informed GRETA that the funding provided to shelters by the MLSW, in accordance with Regulation No. 04/2017, had consistently increased over the years. However, the figures provided cover all shelters⁹² and offer little insight into how the allocation of budgets is determined and the reasons for the reduction in the funding for the shelters accommodating THB victims.

The Report has correctly stated that in 2017, 2018 and 2019 the support for the two NGOs-shelters was of lower monetary value.

In the area of human trafficking, the Ministry of Labor and Social Welfare has supported NGO Center for Victim Protection and Trafficking Prevention "(QMVPT) from 2016 to 2020 as follows:

2016 with 35,000.00 Euro;
2017 with 25,000.00 Euro;
2018 with 27,000.00 Euro;
2019 with 32,000.00 Euro;
2020 with 50,000.00 Euro.

Further, the Ministry of Labor and Social Welfare has supported SDSF from 2016 to 2020 as follows:

2016 with 50,405.00 Euro;
2017 with 35,000.00 Euro;
2018 with 34,000.00 Euro;
2019 with 35,000.00 Euro;
2020 with 55,000.00 Euro.

However, this reduction of funds was done in the framework of cooperation and partnership agreed between the Ministry of Labor and Social Welfare with Save the Children in Kosovo and the Office of the European Union to harmonize funds which support NGOs for projects of the same nature. In this case these two NGOs received grants from the project "*Providing quality social services for children in need of housing*" funded by the European Union Office in Kosovo for the period May 2018 September 2019. More specifically, SDSF received support in the form of a sub-grant in the monetary value of 60,000.00 Euro, while PVPT received support in the form of a sub-grant in the amount of 59,550.00 Euro. Consequently, after the project was finished, the Ministry increased their funding in 2020.