



GRETA
GROUP OF EXPERTS
ON ACTION AGAINST
TRAFFICKING IN HUMAN BEINGS

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

SECOND EVALUATION ROUND

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Preamble

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

GRETA is composed of 15 independent and impartial experts coming from a variety of backgrounds, who have been selected on the basis of their professional experience in the areas covered by the Convention. The term of office of GRETA members is four years, renewable once.

GRETA's country-by-country monitoring deals with all parties to the Convention on an equal footing. In accordance with Article 38, paragraph 1, of the Convention, GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions on which the evaluation procedure is to be based and defines the most appropriate means to carry out the evaluation. GRETA adopts a questionnaire for each evaluation round which serves as the basis for the evaluation and is addressed to all parties.

The first evaluation round was launched in February 2010 and the questionnaire for this round was sent to all parties according to a timetable adopted by GRETA, which reflected the time of entry into force of the Convention for each party. GRETA organised country visits to all parties in order to collect additional information and have direct meetings with relevant actors, both governmental and non-governmental. By the beginning of 2014, most of the parties had been or were being evaluated for the first time, whilst the number of parties to the Convention continues to grow.

GRETA decided to launch the second evaluation round of the Convention on 15 May 2014. Following the first round of monitoring, which provided an overview of the implementation of the Convention by each party, GRETA has decided to examine during this new evaluation round the impact of legislative, policy and practical measures on the prevention of trafficking, the protection of the rights of victims of trafficking, and the prosecution of traffickers. The adoption of a human rights-based approach to action against trafficking in human beings remains at the centre of the second evaluation round. In addition, particular attention is paid to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking. For the second evaluation round, GRETA has adopted a questionnaire to be sent to all states parties which have undergone the first round of evaluation, following a timetable approved by GRETA.

GRETA's reports are based on information gathered from a variety of sources and contain recommendations intended to strengthen the implementation of the Convention by the party concerned. In its recommendations, GRETA has adopted the use of three different verbs - "urge", "consider" and "invite" - which correspond to different levels of urgency of the recommended action for bringing the party's legislation and/or practice into compliance with the Convention. GRETA uses the verb "urge" when it assesses that the country's legislation or policy are not in compliance with the Convention, or when it finds that despite the existence of legal provisions and other measures, the implementation of an obligation of the Convention is lacking. In other situations, GRETA "considers" that it is necessary to make improvements in order to fully comply with an obligation of the Convention. By "inviting" a country to pursue its efforts in a given area, GRETA acknowledges that the authorities are on the right track.

As regards the procedure for the preparation of reports, GRETA examines a draft report on each party in a plenary session. The process of confidential dialogue with the national authorities allows the latter to provide, within two months, comments on GRETA's draft report with a view to providing additional information or correcting any possible factual errors. These comments are taken into account by GRETA when establishing its final report. The final report is adopted by GRETA in a plenary session and transmitted to the party concerned, which is invited to submit any final comments. At the expiry of the time-limit of one month GRETA's report, together with eventual final comments made by the national authorities, is made public and sent to the Committee of the Parties to the Convention.

I. Introduction

1. The first evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") by the Slovak Republic took place in 2010-2011. Following the receipt of Slovak authorities' reply to GRETA's first questionnaire on 31 August 2010, an evaluation visit was organised on 9-12 November 2010. The draft report on the Slovak Republic was examined at GRETA's 9th meeting (15-18 March 2011) and the final report was adopted at GRETA's 10th meeting (21-24 June 2011). Following the receipt of the comments of the Slovak authorities, GRETA's final report was published on 19 September 2011.¹

2. On the basis of GRETA's report, on 26 September 2011 the Committee of the Parties to the Convention adopted a recommendation to the Slovak authorities, requesting them to report back on the measures taken to comply with this recommendation by 26 September 2013.² The report submitted by the Slovak authorities was considered at the 12th meeting of the Committee of the Parties (7 October 2013). The Committee of the Parties decided to transmit the authorities' report to GRETA for consideration and to make it public.³

3. In its first evaluation report, GRETA noted that the Slovak authorities passed adopted legislation, set up multidisciplinary co-ordination and adopted national action plans to combat trafficking in human being (THB). However, GRETA considered that the institutional framework for action against THB needed to be strengthened and the national legislation reviewed with a view to ensuring that all aspects of action against THB were reflected in a comprehensive manner. As regards prevention, GRETA recommended the development of targeted awareness-raising measures as well as economic and social measures for groups vulnerable to THB. Further, GRETA urged the authorities to improve the identification of victims of trafficking, including among children, to set up of a coherent national referral mechanism, and to adopt a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation. GRETA also called upon the authorities to introduce a recovery and reflection period as provided for in Article 13 of the Convention, and to take legislative and practical measures to ensure that compensation is made available to all victims of THB, irrespective of their nationality and residence status. Moreover, GRETA urged the Slovak authorities to introduce in law a provision concerning the non-punishment of victims of THB who have been compelled to be involved in unlawful activities due to their trafficking situation, and to adopt all necessary legislative and practical measures to ensure that victims of THB and witnesses are given the necessary protection.

4. On 15 May 2014, GRETA launched the second round of evaluation of the Convention in respect of the Slovak Republic by sending the questionnaire for this round to the Slovak authorities. The deadline for submitting the reply to the questionnaire was 15 October 2014 and the Slovak authorities submitted their reply on this date.⁴

¹ Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Slovak Republic, first evaluation round:

http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Reports/GRETA_2011_9_FGR_SVK_en.pdf

² Recommendation CP(2011)3 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Slovak Republic, adopted at the 6th meeting of the Committee of the Parties on 26 September 2011:

http://www.coe.int/t/dghl/monitoring/trafficking/Docs/CommitteeParties/Recommendations/CP_2011_3_en.pdf

³ Report submitted by the Slovak authorities on measures taken to comply with Committee of the Parties Recommendation CP(2011)3 on the implementation of the Convention on Action against Trafficking in Human Beings:

http://www.coe.int/t/dghl/monitoring/trafficking/Docs/CommitteeParties/Reply_REC/CP_2013_13_SVK_RR_en.pdf

⁴ Reply from the Slovak Republic to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties, second evaluation round:

http://www.coe.int/t/dghl/monitoring/trafficking/Source/Public_R_O/GRETA_2015_2_RQ_SVK.pdf

5. In preparation of the present report, GRETA used the reply to the questionnaire by the Slovak Republic, other information collected by GRETA and information received from civil society. An evaluation visit to Slovakia took place on 25-28 November 2014. It was carried out by a delegation composed of:

- Ms Gulnara Shahinian, member of GRETA;
- Mr Mihai Şerban, member of GRETA;
- Mr David Dolidze, Administrator in the Secretariat of the Convention.

6. During the visit, the GRETA delegation met officials from the Ministry of the Interior, the Ministry of Labour, Social Affairs and Family, the Ministry of Education, Science, Research and Sport, the Ministry of Health Care, the Ministry of Justice, the Ministry of Finance, the Ministry of Foreign and European Affairs, the Government Office, the Prosecutor General's Office, the National Labour Inspectorate and the National Transplant Organisation. The delegation also held meetings with members of the Slovak National Council (Parliament), judges and representatives of the Ombudsman's Office and the Office of Plenipotentiary for Roma Communities.

7. Separate meetings were held with representatives of non-governmental organisations (NGOs), lawyers and officials from the International Organization for Migration (IOM) in Bratislava.

8. In the course of the visit, the GRETA delegation visited two shelters run by NGOs: one in Bratislava, providing assistance to victims of domestic violence and victims of human trafficking, and another one in Beckov, specialised in assisting victims of trafficking.

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

10. GRETA is grateful for the assistance provided by the Slovak authorities in the organisation of the second evaluation visit and in particular by the contact person appointed to liaise with GRETA, Mr Vladimir Koman of the Information Centre for Combating Trafficking in Human Beings and Crime Prevention of the Ministry of the Interior.

11. The draft version of the present report was approved by GRETA at its 22nd meeting (16-20 March 2015) and was submitted to the Slovak authorities for comments. The authorities' comments were received on 24 June 2015 and have been taken into account by GRETA when adopting the final report at its 23rd meeting (29 June - 3 July 2015). GRETA notes that in respect of a number of issues, the Slovak authorities have failed to provide information or clarifications requested by GRETA in the draft report. Further, in their comments on the draft report, the Slovak authorities have on a number of occasions questioned the veracity of information provided by NGOs. GRETA recalls that pursuant to Article 38 (2) of the Convention, Parties are obliged to co-operate with GRETA in the provision of the requested information. GRETA's assessment is based on information collected from a variety of sources, including civil society. The evaluation report is drawn up in a co-operative spirit and is intended to assist the authorities to strengthen the implementation of the Convention.

12. The final report covers the situation up to 3 July 2015; developments since that date are not taken into account in the following analysis and conclusions. The conclusions summarise the progress made since the first report, the issues which require immediate action and the other areas where further action is needed (see pages 43-46).

II. Main developments in the implementation of the Convention by the Slovak Republic

1. Emerging trends in trafficking in human beings

13. The Slovak Republic is a country of origin and transit of victims of trafficking in human beings (THB) and to a lesser extent a country of destination. Most of the victims identified since 2010 have been Slovak nationals exploited abroad, the main countries of destination being the United Kingdom, Austria, Germany, Belgium, Italy and the Czech Republic. According to data provided by the Slovak authorities, 28 victims of THB were identified in 2010, 31 in 2011, 22 in 2012, 30 in 2013, and 19 in the first half of 2014. The majority of the victims (62%) were female. Only six child victims of THB were identified in the period 2010-2013, all of them girls. The prevalent form of exploitation during this period was sexual exploitation (53 victims), followed by forced labour (35 victims). The Slovak authorities have observed a trend towards increasing the number of cases of trafficking for the purpose of forced begging (11) and forced marriage (11). There have also been eight cases of THB for the purpose of committing criminal activities. No cases of trafficking for the purpose of removal of organs have been reported.

14. In 2014, 34 persons were included into the programme for protection and support of victims of trafficking (22 women and 12 men). According to the forms of exploitation, 13 of them were subjected to sexual exploitation, 12 to forced labour, nine to forced marriage, six to forced begging, one to slavery-like exploitation, and one to forced criminal activities.

15. Only five foreign victims of THB, all of whom were women, were identified in the period 2011-2014 (one each from Bulgaria, Cameroon, Kenya, the Republic of Moldova and Ukraine). The authorities acknowledge that among citizens of Ukraine, the Republic of Moldova and Vietnam transiting the Slovak Republic on their way to Western Europe some might be victims of THB.

16. GRETA notes that according to some officials and NGO representatives met during the second evaluation visit the identification of victims of THB among foreign nationals, unaccompanied minors and Slovak nationals trafficking within the Slovak Republic remains a challenge and the above statistics on identified victims do not reflect the actual scale of this phenomenon in the country. Socially disadvantaged persons, in particular from the Roma community, are vulnerable to THB, including children who are exploited in begging or in criminal activities.

2. Developments in the legal framework

17. In its report of the first evaluation round, GRETA urged the Slovak authorities to review the national legislation with a view to ensuring that all aspects of action against THB, including the key definitions and measures established by the Convention, are included in a comprehensive manner.

18. Since the first evaluation visit, a number of amendments have been made to the country's legislation relevant to combating THB. On 25 June 2013, the National Council of the Slovak Republic amended Article 179 of the Criminal Code (CC), which criminalises THB, to include forced begging, forced marriage and the exploitation of criminal activities among the forms of exploitation. Article 179(2) of the CC, which criminalises trafficking in children, was also amended to reflect these additional forms of exploitation (see paragraph 144).

19. Further, on 25 June 2013, the non-punishment provision included in Article 26 of the Convention was introduced by adding a new sub-paragraph 2(d) to Article 215 of the Criminal Procedure Code (CPC), which allows the prosecution to terminate a criminal case for a minor offence committed by a person in direct relation to him/her being a victim of THB, sexual abuse or child pornography, as well as adding Article 40 (1b) of the CC (see paragraph 152).

20. Following an amendment to Article 58 of the CC, Slovak legislation allows courts to impose a forfeiture of the property of an offender for the commission, *inter alia*, of the offence of THB, if it was acquired by this criminal activity.

21. On 1 January 2014, the new Social Services Act entered into force. It defines a new group of social services whose purpose is to provide crisis intervention to persons endangered by the behaviour of other persons, including victims of THB. The law regulates the provision of emergency housing to victims of domestic violence, gender-based violence and human trafficking. Victims of THB may be granted emergency assistance, in accordance with Article 53 of the Social Services Act.

22. Further, the Act on Compensation for Victims of Violent Crimes was amended in 2013 (for more details, see the reply of the Slovak authorities to GRETA's second questionnaire, pp. 5-6).⁵

23. **GRETA welcomes the developments in the legal framework for combating THB in the Slovak Republic which are aimed at making anti-trafficking measures more effective.**

3. Developments in the institutional framework

24. In its first evaluation report, GRETA urged the Slovak authorities to develop the institutional framework for action against THB in order to achieve a more active and effective involvement of all governmental bodies with responsibilities relevant to the prevention of THB and the protection of the rights of victims of THB. GRETA also urged the authorities to review the organisational and administrative arrangements for the functioning of the Expert Group for the Area of the Fight against Trafficking in Human Beings, with a view to ensuring that it has sufficient authority to implement its decisions and the necessary financial and human resources to ensure its effective functioning.

25. The State Secretary of the Ministry of the Interior continues to act as National Co-ordinator for Combating Trafficking in Human Beings. As of 1 July 2013, the competences for combating THB have been transferred from the Criminal Police Bureau to the National Unit for Combating Illegal Migration of the Border and Alien Police of the Police Corps Presidium, which detects and investigates THB offences. Within the National Unit for Combating Illegal Migration, a Department for Combating THB was established, which provides assistance to and co-ordinates the anti-trafficking action of other police departments, the Office of the Police Corps Presidium and the Ministry of the Interior. It is also involved in international police co-operation in the detection and investigation of THB cases with the support of Europol and Interpol, as well as in direct co-operation with counterparts in other countries.

⁵ http://www.coe.int/t/dghl/monitoring/trafficking/Source/Public_R_Q/GRETA_2015_2_RO_SVK.pdf

26. The new terms of reference of the Expert Group for the Area of Combatting Trafficking in Human Beings⁶ ("the Expert Group") were approved by Order No. 126 of the Minister of the Interior of 24 September 2012. The Expert Group is an advisory body to the National Co-ordinator, who chairs its sessions. The composition of the Expert Group has not changed.⁷ However, a new feature of the Statute of the Expert Group, appended to Order No. 126, is the procedure for selection of NGOs, which is set out in Article 3(7) as follows: "Three representatives of selected NGOs are annually nominated as members of the Expert Group on the basis of a selection procedure, provided they satisfy the following criteria: a) high moral standing; b) recognised expertise in the fight against human trafficking and assistance and protection of victims of trafficking, or professional experience in the field of human rights; c) membership of an NGO established in the Slovak Republic and focussing on combating THB or in human rights; d) Slovak citizenship; e) full legal capacity." **GRETA welcomes the adoption of criteria for the selection of NGO representatives for participation in the Expert Group.**

27. The Expert Group co-ordinates the activities related to the implementation of the National Programme on Combating Human Trafficking, reports annually on their implementation, commissions research, proposes policy measures, develops awareness-raising campaigns and training, initiates new legislation, and promotes international co-operation. As the Expert Group is an advisory body to the National Co-ordinator on combating human trafficking, its budget is provided through the Department of Crime Prevention, which has a budget dedicated to fighting human trafficking under a separate item.

28. According to the Statute of the Expert Group, its meetings should be convened at least four times a year. A meeting may also be convened upon request of at least eight members of the Expert Group. However, GRETA was informed that in 2014 the Expert Group met only twice, on 15 July and 15 October. The Expert Group may set up multidisciplinary working groups on specific issues related to THB, depending on the issues that must be resolved. The multidisciplinary group with competences related to the provision of assistance to victims of THB met five times in 2011 and once in 2012. To GRETA's knowledge, no working groups meetings have been convened since.

29. Resolutions of the Expert Group are taken on the basis of paragraph 7 of its Statute, by an absolute majority of the members present. In the case of equity of the votes, the President of the Expert Group or the Vice-President, when representing the President, has the definitive right to adjudge. Resolutions of the Expert Group are submitted to the Council on Crime Prevention of the Government Office of the Slovak Republic.

30. The Information Centre for Combating Trafficking in Human Beings and Crime Prevention, set up by the Ministry of the Interior in 2009, has been relocated from Kosice to Bratislava. The centre is staffed by four persons whose tasks include collecting statistical information on victims of THB, providing an analysis of crime prevention work, preparing and participating in training activities on THB, disseminating materials for awareness-raising campaigns, and sharing information at international level. The Information Centre also processes applications of potential victims of THB and presents conclusions to the National Co-ordinator, who takes a final decision concerning the identification of victims and their access to assistance (see paragraph 84).

⁶ Initially established by Order No. 22 of 30 June 2008 of the Minister of the Interior.

⁷ The Expert Group is composed of representatives of: units of the Ministry of the Interior; the Ministry of Finance; the Ministry of Justice; the Ministry of Labour, Social Affairs and Family; the Ministry of Health; the Ministry of Foreign Affairs; the Ministry of Education; the Office of the Government of the Slovak Republic; the Office of the Plenipotentiary of the Government for Roma Communities; the General Prosecutor's Office; the Association of Towns and Communities of Slovakia; the International Organization for Migration (IOM); three representatives of selected NGOs.

31. The Information Centre has been assigned the function of National Rapporteur on trafficking in human beings in the sense of Article 19 of EU Directive 2011/36/EU.⁸ In this respect, GRETA would like to stress that Article 29 of the Convention makes a clear distinction between National Co-ordination and National Rapporteur. In GRETA's view, the key features of National Rapporteurs' mechanisms in the sense of Article 29, paragraph 4, of the Convention⁹ should be the ability to critically monitor the efforts and effectiveness of all state institutions, including national co-ordinators, and to that end maintain a constant exchange with civil society, the research community and other relevant stakeholders. The human rights-based approach to anti-trafficking policies advocated by the Convention requires adequate monitoring and evaluation. A structural separation between monitoring and executive functions enables an objective evaluation of the implementation of anti-human trafficking legislation, policy and activities, identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations¹⁰. **GRETA considers that the Slovak authorities should keep under review the effectiveness of the Information Centre in fulfilling the role of a National Rapporteur, and examine the possibility of designating as a National Rapporteur a separate organisational entity or another independent mechanism for monitoring the anti-trafficking activities of State institutions.**

32. In GRETA's view, bearing in mind the variety and the volume of tasks entrusted to the Expert Group, the current human and financial resources of its secretariat and the secretariat of the National Co-ordinator remain insufficient. **GRETA considers that the Slovak authorities should take further steps to maximise the potential of the Expert Group to co-ordinate the implementation of anti-trafficking action and fulfil the other tasks assigned to, in particular by:**

- **ensuring that the Expert Group is convened regularly and that decisions taken by it are effectively implemented, if necessary by reviewing the procedure for their adoption and enforcement;**
- **exploring the possibility of setting up thematic working groups within the Expert Group which deal with specific priority issues;**
- **reinforcing the human resources of the secretariat of the National Co-ordinator and the Expert Group;**
- **providing a dedicated budget for the work of the Expert Group.**

⁸ "Member States shall take the necessary measures to establish national rapporteurs or equivalent mechanisms. The tasks of such mechanisms shall include the carrying out of assessments of trends in trafficking in human beings, the measuring of results of anti-trafficking actions, including the gathering of statistics in close cooperation with relevant civil society organisations active in this field, and reporting."

⁹ "Each Party shall consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements."

¹⁰ In this context, see also the Summary report on the Consultative Meeting on Strengthening Partnerships with National Rapporteurs on Trafficking in Persons and Equivalent Mechanisms organised by the UN Special Rapporteur on trafficking in persons in Berlin, 23-24 May 2013.

4. National Programme

33. The National Programme on the Fight against Human Trafficking for 2011-2014 was adopted by the Slovak Government on 16 February 2011.¹¹ It aimed to provide a comprehensive national strategy for preventing and combating human trafficking, to facilitate the co-ordination of activities of relevant public bodies and NGOs working in the anti-trafficking area, and to establish a sustainable framework for assistance to victims of THB. The National Programme contained, in the appendix, a National Action Plan listing specific activities, bodies responsible for their implementation, and deadlines.

34. The Expert Group adopts annual reports on the implementation of activities carried out under the National Programme and submits them to the National Co-ordinator. The information concerning the implementation of the National Programme for 2011-2014 was approved by the Government of the Slovak Republic at its 156th plenary session on 15 April 2015. No independent evaluation of the implementation of the National Programme has been carried out so far.

35. A new National Programme for Combating THB for 2015-2018 was adopted by the Slovak Government on 4 February 2015. Before its adoption, an evaluation of the National Programme for 2011-2014 was commissioned by the Expert Group and its members were invited to provide their comments by e-mail. The new National Programme was sent to all members of the Expert Group for comments on 4 August 2014, with a deadline for sending comments by 28 August 2014. Not all members of the expert could send their comments on time and the deadline was subsequently extended to 15 October 2014. The Government of the Slovak Republic approved the new National Programme at its 145th plenary session on 4 February 2015.¹²

36. As regards other policy documents relevant to THB, the Slovak Government approved on 31 August 2011 the Migration Policy of the Slovak Republic, which includes measures against THB as part of combating irregular migration. Activities in the area of combating THB focus on strengthening control over employment agencies offering jobs abroad, including through licencing; improving international co-operation in combating irregular migration and trafficking; increasing awareness among the general public on illegal work, smuggling of people and human trafficking; reintegration of victims of THB into society; and identification of child victims of trafficking transiting Slovakia.

37. On 15 January 2014, the Slovak Government approved the National Strategy for Protection of Children against Violence, which is based on General Comment No. 13 (2011) of the United Nations' Committee on the Rights of the Child¹³ and the Council of Europe Policy guidelines on integrated national strategies for the protection of children from violence.¹⁴ This strategy aims at improving the protective environment for children and decreasing their vulnerability to trafficking.

38. Further, on 29 January 2014 the Slovak Government approved the Integration Policy of the Slovak Republic, which recognises that vulnerable foreigners, including unaccompanied minors and victims of THB, require increased attention, and envisages special measures for these vulnerable groups. Among the measures envisaged is the provision of suitable accommodation to vulnerable foreigners, especially victims of THB, persons who were granted asylum or supplementary protection, and unaccompanied minors.

¹¹ The National Programme, in English, can be accessed at:

https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/national_programme_to_fight_human_trafficking_on_2011-2014_1.pdf

¹² <http://www.rokovania.sk/Rokovanie.aspx/BodRokovaniaDetail?idMaterial=24248>

¹³ http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.13_en.pdf

¹⁴ http://www.coe.int/t/dg3/children/News/Guidelines/Recommendation%20CM%20A4%20protection%20of%20children%20_E NG BD.pdf

5. Training of relevant professionals

39. One of the objectives of the National Programme for 2011-2014 was to increase the capacity and competences of representatives of public bodies working with at-risk groups. Training was provided to police officers, employees of other relevant departments of the Ministry of the Interior, health-care professionals, staff of the education sector, employees of offices of labour, social affairs and family, labour inspectors, social workers, staff of foster homes and crisis centres, and staff of the Ministry of Foreign and European Affairs.¹⁵

40. In 2011-2012 an official from the Border and Alien Police was involved in the drawing up of a Frontex manual on the identification of victims of trafficking and traffickers in the context of inspections at external borders of states parties to the Schengen Agreement and this official subsequently trained Frontex national trainers. There are two trainers in the Border and Alien Police who provide training to other police officers. In February 2013, 25 border police officers were trained on the basis of the Frontex manual. In 2014, 60 more officers working at border control points received training. The training module entitled "Identification of THB" covered the provision of information about institutions co-operating in the implementation of the programme for support and protection of victims of trafficking, indicators of THB, detecting and distinguishing trafficking offences from other crimes, and interviewing victims. Further, training of employees of the Migration Office and staff of detention centres and asylum facilities took place in 2013 and further training is planned in 2015.

41. In 2011, a total of 151 different professionals were trained on THB-related issues, including representatives of the Ministry of Education, Science, Research and Sport, prosecutors, judges and police officers. In 2012, some 508 persons received training, including police officers, specialists working in Roma communities, employees of children homes, staff of offices of labour, social affairs and family, labour inspectors, social workers, as well as staff of the Ministry of Foreign and European Affairs. In the course of 2013 training was provided to a total of 380 persons, including representatives of religious communities, municipal officials, municipal police officers, social workers, employees of the Migration Office of the Ministry of the Interior, health-care professionals, police officers working in Roma communities and police officers trained to participate in international missions.

42. Representatives of the Labour Inspectorate informed GRETA that in April 2014 training on THB was provided to 16 inspectors, with the aim of disseminating the acquired knowledge to their colleagues at the regional level. While this is a welcome development, GRETA notes that so far no victims of trafficking have been detected by labour inspectors (see paragraph 94). Labour inspectors still lack skills and instructions on how to proceed once a potential victim of trafficking is discovered.

43. In its first evaluation report, GRETA stressed the importance of providing adequate training to prosecutors and judges to raise their awareness of the situation of victims of THB. The Judicial Academy under the Ministry of Justice, which is responsible for the training of judges and prosecutors, prepares annual training modules on the basis of training requests received from the Ministry of Justice and the Prosecutor's Office. The Ministry of the Interior informed GRETA of discussions with the Judicial Academy to include THB in the training plan for 2015. Representatives of NGOs expressed the view that judges and prosecutors needed more knowledge about human trafficking and emerging trends.

¹⁵ For more details, see replies to questions 6 and 24 of the Reply of the Slovak Republic to GRETA's Questionnaire for the 2nd Evaluation Round: http://www.coe.int/t/dghl/monitoring/trafficking/Source/Public_R_Q/GRETA_2015_2_RQ_SVK.pdf

44. In their comments to the draft GRETA report, the Slovak authorities indicated that representatives of the General Prosecutor's Office had recently participated in several trainings on combating human trafficking, such as the workshop organised in Strasbourg by the Council of Europe and the OSCE on the implementation of the non-punishment provision (27-28 April 2015), and a seminar organised by Europol on 29-30 April 2015 with a special focus on searching, capturing and confiscation of income obtained through THB. Further, on 9 October 2015, a seminar for judges and prosecutors focusing on THB issues, organised by the Judicial Academy, is scheduled to take place.

45. GRETA considers that the Slovak authorities should continue to improve the knowledge and sensitivity of judges, prosecutors, police investigators and lawyers about THB, the rights of victims, the applicable legislation and the case law, including the need to apply a human rights-based approach to action against THB on the basis of the Convention and the case-law of the European Court of Human Rights, through systematic training included in their respective curricula. Future training programmes for labour inspectors, social workers, and professionals working with children should be designed with a view to improving their knowledge and skills to enable them to identify victims of trafficking and provide them with assistance.

6. Data collection and research

46. In its first evaluation report, GRETA urged the Slovak authorities to introduce a comprehensive and coherent data collection mechanism that would make it possible to share information among the main actors in the fight against THB, while respecting the rights of data subjects to personal data protection. Statistical data should be disaggregated (into gender, age, type of exploitation, etc.) and its collection should be designed in a way that enables the authorities to determine the scale of THB and to identify the most appropriate measures to be taken with regard to groups affected by THB and types of exploitation.

47. In 2011-2013 the Ministry of the Interior implemented an EU-funded project entitled "Prevention and Extended Harmonised Data Collection System of Trafficking in Human Beings". Based on this project, on 22 April 2013 the Minister of the Interior issued Regulation No. 66/2013, which sets out the modalities for the operation of an information system on trafficking in human beings. The system became operational on 1 May 2013 and is accessible round the clock. The application for accessing the information system is located in the Ministry of the Interior and only authorised users may connect to it via the Intranet of the Ministry. Police officers who investigate cases of THB have secured access to the integrated data collection system on THB and insert information on offenders and victims after bringing charges, including on victims who were not included in the protection programme.

48. The statistical data collected by the Information Centre is disaggregated according to a number of criteria, including by sex, age, country of origin and/or destination, and type of exploitation. Data is collected also on offenders and criminal cases initiated for THB, with the possibility of comparing data on victims and traffickers.

49. As regards the protection of data concerning victims of trafficking, GRETA has received reports according to which in some instances personal information concerning victims had allegedly become available to unauthorised persons. In their comments to the draft GRETA report, the Slovak authorities have indicated that the authorities for child protection, social protection of children and social guardianship fully comply with the legal obligation to preserve the confidentiality of personal data, despite the fact that they are under pressure from the media to disclose information. The authorities have stressed that personal data is processed only to the extent provided in the Law on Personal Data Protection (No. 122/2013) and the disclosure of information is covered by the Law on Free Access to information.

50. While welcoming the setting up of an integrated data collection system on THB, GRETA stresses the importance of collecting statistical information regarding victims of THB not only from the police, but also from a range of relevant actors, including NGOs, social workers and labour inspectors. **GRETA considers that the Slovak authorities should 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 human trafficking cases. Statistics regarding victims should be collected from all main actors, allowing disaggregation concerning sex, age, type of exploitation, country of origin and/or destination of the victims. 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 database.**

51. As far as research into THB is concerned, since 2013 the Ministry of the Interior has been involved in a project under the programme "Strengthening of joint measures in the prevention of forced labour in the Roma community and the development of a reference mechanism". Under this project, in May-August 2013 research was carried out to map the THB phenomenon and its causes, with the focus on segregated Roma communities in Slovakia.¹⁶ The Slovak authorities have also referred to research carried out in 2012 by the Police Academy, entitled "Analysis of the situation of prostitution and related demand for sexual services", which was funded from the budget of the Ministry of the Interior and the European Commission (see also paragraph 74).

52. **GRETA considers that the Slovak authorities should conduct and support further research on THB as an important source of information for future policy measures. Areas where research is needed in order to shed more light on the extent of human trafficking in the Slovak Republic include trafficking for the purpose of labour exploitation and internal trafficking within the country.**

¹⁶

<http://www.minv.sk/?informacne-centrum-na-boj-proti-obchodovaniu-s-ludmi-a-prevenciu-kriminality>

III. Article-by-article findings and recommendations

1. Prevention of trafficking in human beings

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

53. Since the first evaluation by GRETA, the Slovak authorities have continued their efforts to raise general awareness of THB, through the organisation of public awareness campaigns, the issuing and distribution of materials, lectures, the organisation of discussions and media interviews. By way of example, in 2011 the Ministry of the Interior carried out a media campaign "Without information you become a slave" which focussed on prevention of forced labour and the promotion of the National Helpline for assistance to victims of THB (see paragraph 88). Further, a video entitled "It will never happen to me" was broadcast in different towns in the course of 2011, and information materials were distributed in the offices of labour, social affairs and family across the country. In 2012, an exhibition entitled "Do you know what your child is doing now?" was organised and a theatrical performance on the topic of THB for the purpose of sexual exploitation entitled "Little bird" was conducted.

54. Another awareness-raising campaign entitled "Not all trips to the world are from fairy tales" was conducted with the use of radio and TV spots. In addition, every year the Slovak authorities organise awareness-raising events on the occasion of the European Anti-Trafficking Day (18 October).

55. In 2013 the Slovak Catholic Charity, in collaboration with the Ministry of the Interior, initiated a campaign entitled "People are not for sale – GIFT box Slovakia", which was part of the global anti-trafficking initiative "STOP THE TRAFFIK" under the United Nations Global Initiative to Fight Human Trafficking (UN.GIFT). The campaign aimed at informing the public about measures they should take before agreeing to accept an employment offer abroad in order to avoid being trafficked and exploited.

56. Further, as part of the project on mapping out the THB phenomenon in segregated Roma communities referred to in paragraph 51, a promotional video clip and other materials were distributed to target potential victims of THB, as well as in the United Kingdom to draw the attention of potential users of services of victims of THB.

57. The Ministry of the Interior is taking part in the international project HESTIA "Preventing human trafficking and sham marriages: A multidisciplinary solution", which is being implemented since January 2015 by six countries (Latvia, Estonia, Lithuania, Ireland, Finland and Slovak Republic).¹⁷

58. GRETA invites the Slovak authorities to continue their efforts to raise awareness of THB and new forms of exploitation, and to design future actions in the light of impact assessment of previous measures, focussing on identified needs and target groups.

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

59. As mentioned in paragraph 53, a number of awareness-raising activities have been organised in the Slovak Republic, some of which have focused on the prevention of forced labour. In the period of 2011 to 2014, preventive activities about the risks of work abroad were carried out by employees of the Ministry of the Interior at schools throughout the country.

60. Within the project "Strengthening of joint measures in the prevention of forced labour of Roma community and the development of reference mechanism", a film, information materials and a booklet for employers were produced in 2013 in order to increase the awareness about forced labour and the consequences of the use of services of victims of THB.

¹⁷ <http://www.iem.gov.lv/eng/?doc=29933>

61. In the Slovak Republic there are two types of private employment agencies: job intermediaries, who provide assistance to job seekers in finding employment for a fee payable by potential employers and are registered as small businesses, and temporary employment agencies, which conclude contracts directly with potential employees and then sub-contract them to employers. Both of these agencies are licenced and registered. In 2013, the National Labour Inspectorate carried out an inspection of agencies of temporary employment across the country, focusing on the observance of labour law, temporary assignment to work for an employer and illegal employment. The inspection did not lead to the identification of any victims of THB.

62. On 13 April 2012, an agreement between the Ministry of the Interior and the National Labour Inspectorate on co-operation in the performance of inspections of entrepreneurs allowing illegal work came into effect. According to this agreement, police officers from the Department for combating THB unit participate in inspections alongside labour inspectors. The Slovak authorities have indicated that during inspections, police officers focus on detection and identification of victims of THB as well as foreigners in an irregular situation (see also paragraph 36). Following an amendment to Act No. 82/2005 Coll. on Illegal Work and Illegal Employment, the bodies performing inspections (Labour inspectorates and Offices of Labour, Social Affairs and Family) have acquired an additional competence of assessing risks of illegal employment and identifying economic sectors with elevated illegal employment. The National Labour Inspectorate submits on an annual basis information about the number of inspections in individual risk sectors, percentage of inspected entities of the number of employers in each risky sector, and results of the inspections.

63. **GRETA considers that the Slovak authorities should strengthen their efforts to prevent trafficking for the purpose of labour exploitation, in particular by:**

- **further sensitising relevant officials, in particular labour inspectors, prosecutors and judges, about THB for the purpose of labour exploitation and the rights of victims;**
- **expanding the mandate of labour inspectors so that they can be actively engaged in the prevention of THB;**
- **strengthening the monitoring of job intermediaries and temporary employment agencies and reviewing the legislative framework for any loopholes that may limit protection or preventive measures;**
- **working closely with the private sector, in line with the Guiding Principles on Business and Human Rights.¹⁸**

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

64. In the course of the evaluation visit, the GRETA delegation was informed that the legislation on family and social protection of children was being amended to incorporate into Slovak law the principle of the best interests of the child, as interpreted in the commentary to the United Nations Convention on the Rights of the Child. Amendments to the Family Act, the Law on Social Protection of Children and Social Guardianship and the Civil Procedure Code are expected to enter into force on 1 January 2016. Legislation has also been drafted introducing the institution of Children's Commissioner responsible for supervising the observance of and respect for children's rights.

¹⁸

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

65. Since 2011, the Ministry of Education, Science, Research and Sport has been including in the pedagogical-organisational directions and instructions for schools recommendations on raising awareness on human trafficking in primary and secondary schools. In the period 2011-2014, staff of the Information Centre and NGOs gave lectures and distributed information leaflets concerning risks of employment abroad and prevention of trafficking to school children throughout Slovakia. The Ministry of Education, Science, Research and Sport has supported a project of Prešov Methodical pedagogic centre, consisting of sharing good practices in preventing risky behaviour and supporting security at schools, as well as the setting up of a website offering information on the prevention of risky behaviour of children, including trafficking in human beings.¹⁹

66. The National Strategy for the Protection of Children from Violence considers trafficking in human beings as a form of violence against children. As one of the problems previously identified was the weakness in co-ordinating the bodies at local level, an integrated model of co-ordination of protection of children from violence at the local level was created and launched in May 2015. In terms of reducing the vulnerability of children to trafficking, it is a key objective as stated in point 5 of the National Strategy. The implementation of a campaign is currently being prepared, which will include raising awareness of violence against children in all its forms among relevant professionals, the general public and children, as well as information about the help available. Activities of the campaign will be implemented in co-operation with other government entities and the non-governmental sector.

67. GRETA refers to the Concluding Observations of the Committee on the Rights of the Child on the initial report of Slovakia submitted under article 12 of the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography, where the Committee "regrets the absence of measures and programmes targeting more particularly girls, children in street situations, children in residential care, and children of refugees and asylum seekers" and urges the authorities "to put in place measures and programmes to support children in vulnerable and disadvantaged situations."²⁰ In their comments to the draft GRETA report, the Slovak authorities have indicated that special attention is paid to children leaving institutional care and steps are being taken to prepare and empower them.

68. GRETA considers that the Slovak authorities should strengthen the prevention of trafficking in children through the implementation of measures and programmes aimed at supporting children in vulnerable situations, including Roma children, street children, and children in residential care.

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

69. Trafficking for the purpose of the removal of organs is punishable under Article 179 of the CC of the Slovak Republic. The donation of organs is regulated under the Act on Health Care and Services Related to the Provision of Health Care (No. 576/2004 Coll.) and the Act on Providers of Health Care, Health Care Professionals and Chambers of Health Care (No. 578/2004 Coll.) The procedures for donating and receiving organs, tissues and cells are further set out in Government Decree No. 20/2007 on "Details on sampling, donors of tissues and cells, criteria of selection of donors of tissues and cells, laboratory tests required for donors of tissues and cells, and procedures of taking cells or tissues and of receipt thereof by health-care providers", and Decree of the Ministry of Health No. S09229-OL-2012 of 17 December 2012, defining "Details on organ and donor characteristic, making of transport containers, records of organs taken and records of organs transplanted".

¹⁹ www.bezpre.sk

²⁰ Concluding observations on the initial report of Slovakia submitted under article 12 of the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography, adopted by the Committee at its sixty-second session (14 January -1 February 2013):
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/OPSC/SVK/CO/1&Lang=En

70. The National Transplant Organisation (NTO), set up by the Ministry of Health, is in charge of overseeing and monitoring the medical care and recovery of donors and recipients. The NTO maintains a national transplant register, including waiting lists for transplants of all organs, register of donors, records on activities of authorised clinics and transplant centres, including numbers of donors (live and deceased), types and numbers of organs, tissues and cells removed, organs transplanted, tissues and cells transferred and organs, tissues and cells liquidated. The NTO also administers, at a national level, a transplant information system, supervises exchanges of organs with other member states of the European Union and third countries, and prepares annual reports on these activities, which are made public. The NTO maintains an updated list of clinics and transplant centres authorised to remove and transplant organs, tissues and cells and supervises a tracing system of all organs removed, assigned, and transplanted in Slovak Republic, which enables to identify each donation and related recipient, while ensuring confidentiality and security of data.

71. According to the Slovak authorities, the topic of prevention of THB for the purpose of the removal of organs is among the subjects included in the training of health-care professionals. In 2013, training on this topic took place in collaboration with the Ministry of the Interior.

72. GRETA was informed that there have been no known cases of THB for the purpose of organ removal.

e. Measures to discourage demand (Article 6)

73. In its first evaluation report, GRETA urged the Slovak authorities to start implementing measures to discourage demand for services that may be the result of any form of exploitation for which THB is taking place. The Slovak authorities have indicated that many of the awareness-raising campaigns mentioned above (see paragraphs 53-57) have had as an aim to discourage demand.

74. In 2012 the Police Academy of the Ministry of the Interior published a research entitled "Analysis of the situation of prostitution and of the related demand for sexual services". The research compared legislation regarding prostitution and human trafficking for the purpose of exploitation of prostitution in Slovakia and in a number of other European countries and also explored the issue of demand for sexual services in the Slovak Republic.²¹

75. GRETA considers that the Slovak authorities should strengthen their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society and the private sector.

f. Border measures (Article 7)

76. During border checks police officers of the Border and Alien Police aim at identifying potential victims of THB and vulnerable persons needing international protection. To GRETA's knowledge, these efforts have not led to the identification of victims of THB. Reference is made to paragraphs 40 and 89 concerning the training provided to policemen of the Border and Alien Police in the field of combating trafficking in human beings.

²¹

<http://www.minv.sk/?informacne-centrum-na-boj-proti-obchodovaniu-s-ludmi-a-prevenciu-kriminality>

g. Social and economic initiatives for groups vulnerable to THB (Article 5)

77. In the first evaluation report, GRETA considered that more systematic and robust economic, social and educational measures should be taken by the Slovak authorities vis-à-vis groups vulnerable to THB, based on the identified structural causes of THB (poverty, inadequate education, absence of employment opportunities) and consisting of actions aiming to eliminate these causes.

78. In January 2012 the Slovak Government adopted the Strategy for the Integration of Roma for the period until 2020, which focuses on four main areas: education, employment, healthcare and housing. Among the goals set forth in the strategy are prevention through educational activities of violence against women, domestic violence, sexual abuse and human trafficking, and increasing awareness about these phenomena by establishing specialised consultancy services.

79. In spite of various projects carried out in Roma communities to facilitate their integration and decrease vulnerability to THB, Roma in the Slovak Republic remain highly susceptible to THB. GRETA refers to the latest report of the European Commission against Racism and Intolerance (ECRI) according to which "... a negative factor for Roma integration is their limited access to employment. Poor access to education resulting in lower qualifications of Roma can only partially explain this situation. The high rate of unemployment of Roma is also the result of: poor support in job search by labour offices; programmes of vocational training not suited for long-term unemployed persons like the Roma; and the reluctance of employers to employ Roma despite initial wage subsidies. Finally, there have been no concrete measures addressing the multiple discrimination of Roma women in the labour market".²²

80. The Slovak authorities have stressed that the legislative and practical measures which are being taken vis-à-vis people affected by poverty and social exclusion are also relevant for victims of THB. Apart from introducing a new category of social assistance in 2013 (see paragraph 21), the Ministry of Labour, Social Affairs and Family initiated amendments to the Law on Assistance in Material Need, which entered into force on 1 January 2014, and aim to eliminate shortcomings in parental care and encourage a more responsible approach by parents to the needs of their children. The measures envisaged include making access to child benefits conditional on the child's school attendance, cancellation of child benefits if a child has committed a minor offence or has been subject to a disciplinary educational measure, and supervision of the manner in which child benefits are spent to ensure that they are spent in the interest of the child. The legislation allows the provision of family benefits through a specific recipient, usually the municipality. In the cases of repeated offences committed by a child, the benefit can be withdrawn. The law provides for possible checks of child care by employees of the Labour, Social Affairs and Family Office. The impact of these measures on decreasing the vulnerability of children to THB has not yet been assessed.

81. GRETA considers that the Slovak authorities should ensure that as part of the implementation of the Strategy for the Integration of Roma and the Integration Policy of the Slovak Republic, concrete social and economic initiatives are taken vis-à-vis groups vulnerable to THB with a view to their empowerment and preventing them from falling victim to traffickers.

²² Adopted on 19 June 2014, published on 16 September 2014: <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Slovakia/SVK-CbC-V-2014-037-ENG.pdf>

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

a. Identification of victims of THB (Article 10)

82. Identification of victims of trafficking was one of the areas of main concern in GRETA's first evaluation report. GRETA urged the Slovak authorities to set up a coherent national mechanism for the identification and referral of victims of THB and to designate a competent authority responsible for collecting information and ensuring the uniformity and accuracy of the identification of victims of THB. GRETA further urged the authorities to set out procedures for the identification of child victims of THB, both among Slovak and foreign children. GRETA also asked the Slovak authorities to adopt a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by stepping up visits by labour inspectors and the police to work sites commonly employing migrant workers and by developing and using indicators to identify victims of THB, as well as to secure the identification of foreign victims of THB held in detention centres prior to their deportation.

83. Following GRETA's recommendations, on 19 December 2013 the Ministry of the Interior adopted Regulation No. 180/2013, replacing an earlier regulation issued by the Ministry in 2008 and amended in 2010, which sets out the procedure for the formal identification of victims of THB, with a view to enabling their access to state-funded assistance under the programme for support and protection of victims of trafficking ("protection programme") and contains indicators for assessing if a person might have been trafficked.²³ According to this regulation, if on the basis of available information it may be concluded that a person is a victim of THB, the body having detected the victim should inform him/her about the protection programme and propose the inclusion of the victim therein.

84. According to the Slovak authorities, any governmental or non-governmental structure in the Slovak Republic or abroad may initiate the identification of a possible victim of human trafficking. These include: police forces, prosecutors, employees of the Migration Office, employees of the offices for labour, social affairs and family, teaching and professional staff of the education sector, social workers, medical staff, employees of consulates and diplomatic missions, NGOs and international organisations. The Information Centre for Combating THB should be immediately informed about the detection of a possible victim. The body which has detected the possible victim completes an identification form and an application form for the person's admission to the protection programme and sends them to the Information Centre, which processes all forms and makes proposals to the National Co-ordinator concerning the inclusion of persons in the protection programme. A possible victim of THB is identified as such if he/she agrees to enter the protection programme by signing an application form and ceases all contacts with the criminal environment. The final decision concerning identification is taken by the National Co-ordinator and is communicated to the victim by the body which initiated the identification.

85. GRETA notes that the formal identification of a person as a victim of THB is linked to his/her admission to the protection programme. The Slovak authorities have stressed that admission of victims of THB to the protection programme is not conditional on their co-operation with the investigation and prosecution. In their comments on the draft GRETA report, the Slovak authorities have indicated that while there have been possible victims of THB who did not wish to join the protection programme, the programme was made available to all persons for whom there were reasonable grounds to believe that they were victims of THB, even though later on it was proven that they were not victims of human trafficking.

²³ These include keeping a person a location against his/her will, making a person to provide services at much lower prices than market prices, not having control over his/her earnings, being under threat of corporal punishment, not being in possession of personal identity documents, etc.

86. According to some of the interlocutors met during the second evaluation visit, following the adoption of Regulation No. 180/2013, the identification of victims has become an administratively burdensome procedure. Possible victims are required to sign several forms, while not all frontline officials are adequately trained on how to process files and proceed with the referral of applicants. Further, the Information Centre reviews files and makes recommendations to the National Co-ordinator concerning admission or refusal to admit a possible victim to the protection programme without any contact with the victim. GRETA was informed that there had apparently been cases where applications from possible victims were returned due to certain documents missing from the file or an incorrectly completed form. In their comments on the draft GRETA report, the Slovak authorities have indicated that the Information Centre is not aware of any cases where applications from possible victims were returned due to missing documents or an incorrectly completed form.

87. Manuals and internal instructions have been issued for the Border and Alien police, staff of detention centres for irregular migrants, and staff of the Migration Office, with a view to facilitating interviews with potential victims and enabling their identification. These instructions and manuals are applicable to a broad range of professionals, including social workers, health-care staff and staff processing asylum applications. According to the Slovak authorities, the internal instructions issued by the Director of the Migration Office in 2012 on the identification of possible victims of trafficking are fully harmonised with Regulation No. 180/2013 and its content has been brought to the attention of all relevant frontline professionals.

88. The identification of victims of human trafficking may be initiated through the National Helpline for Victims of Human Trafficking (0800 800 818). The helpline was operated by the Ministry of the Interior in co-operation with the IOM from 1 July 2008 to 31 December 2014, and was subsequently assigned to the Slovak Crisis Centre DOTYK through a public procurement procedure. The helpline provides information to persons seeking advice before travelling abroad and makes first contact with possible victims of THB. Calls are free of charge within Slovakia. In the course of 2013, a total of 2305 calls were received on the National Helpline, 410 of which were not answered; 180 of the received calls were by persons who called by mistake or were misusing the telephone line. A total of 1715 telephone consultations were provided. Five persons were identified as potential victims of THB, of whom three decided to apply for admission to the protection programme and were included in it.

89. In its first evaluation report, GRETA urged the Slovak authorities to take practical measures to strengthen the capacity of the Border and Alien Police and other competent authorities to identify possible victims of THB upon their entry on the territory of the Slovak Republic and refer them to the relevant services for protection and assistance to victims of THB. The Slovak authorities have indicated that the refugee facility in Humenné has an official specialised in the identification of possible victims of THB among asylum seekers and refugees. Training for employees of the Border and Alien Police is being provided on an ad hoc basis whenever there are changes of staff. In this context, reference is made to paragraph 40 concerning the training provided to Border and Alien Police.

90. The Slovak authorities have indicated that leaflets and brochures in several languages with information about the rights of victims of THB and questions to encourage self-reporting have been distributed in asylum facilities and other locations where possible victims of THB might be detected, such as the Migration Office and police stations where irregular migrants may be brought. Anti-trafficking specialists from IOM and the Slovak Catholic Charity regularly visit facilities for asylum seekers to provide information about human trafficking, its prevention and the assistance available to victims. Further, representatives of the NGOs Slovak Humanitarian Council and Human Rights League visit detention centres for irregular migrants, including at the border and airports. According to representatives of these organisations, in several cases they have referred information concerning possible victims of THB among irregular migrants to the Information Centre, but none of these reports resulted in the identification of victims of THB.

91. According to representatives of NGOs, the screening for possible victims of THB among irregular migrants who are undergoing procedures for administrative deportation is not systematic and there is a risk that some of the deported persons may be victims of THB. The Slovak authorities have indicated that the manual of the Director of the Migration Office No. 13/2012, which provides guidelines for decision makers of the Procedural Department of the Migration Office and social workers in asylum facilities of the Migration Office, contains safeguards against the deportation of irregular migrants who might be victims of THB until their identification is completed. However, GRETA notes that according to the 2013 report of the Ombudsman of the Slovak Republic, the current measures to provide information and legal representation to irregular migrants held in police detention centres are insufficient due to a number of factors, including lack of time to screen all persons subject to deportation or repatriation, language barriers and a 15-day period to appeal against decisions, which does not suffice to have effective access to legal assistance.

92. GRETA refers to a recent judgment of the Supreme Court of the Slovak Republic in the case 10Sža/27/2015, whereby the cancellation of a third-country national's residence permit by the Border and Alien Police was considered excessive and disproportionate due to failure of the competent authorities to investigate the individual circumstances of the person concerned. The person concerned, a Vietnamese woman married to a Slovak national, had been referred for identification as a possible victim of THB for the purpose of domestic servitude, but the Information Centre had decided against admitting her to the protection programme and she was not formally identified as a victim of THB.

93. In its first evaluation report, GRETA urged the Slovak authorities to adopt a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by stepping up visits by labour inspectors and the police to work sites (e.g. agricultural and construction sites) commonly employing migrant workers and developing indicators to identify victims of THB. On 13 April 2012, the Ministry of the Interior concluded a co-operation agreement with the National Labour Inspectorate on carrying out inspections of businesses which might employ illegal workers, which on 30 December 2013 was replaced by the Agreement on implementation of collaborative inspections of business entities. The inspections aim at detecting cases of illegal employment and illegal residence of third-country nationals and identifying victims of THB among them. The inspections are conducted jointly by police officers from the anti-trafficking unit, the Border and Alien Police, and labour inspectors. In 2013, 27 inspections were carried out, during which 202 employees were inspected, including 37 foreigners (from Vietnam, the Czech Republic, Bulgaria, Romania, Lithuania, Ukraine and South Korea). Among them, 22 persons were employed illegally, including two foreigners (from Vietnam and South Korea). In 2014, the authorities checked 124 people during a total of 18 joint inspections of business entities. As a result it was established that 29 people, including three Chinese and one Vietnamese citizens, were illegally employed. In addition, the Border and Alien Police identified seven Ukrainians illegally residing in the Slovak Republic during the performance of inspections, who were subject to administrative expulsion.

94. Regardless of these inspections, GRETA is concerned that no victims of THB have been identified as a result of joint inspections. It would appear that, despite training being provided, labour inspectors do not have clear instructions on how to proceed when possible victims of THB are detected. GRETA was informed of a case of alleged exploitation of Vietnamese workers at a meat producing factory, where the employee turnover was high, and at the time of the inspections the workers were interrogated in groups, which significantly limited the likelihood of identifying any trafficking victims. In their comments on the draft GRETA report, the Slovak authorities have stated that during the inspection of the factory in question, 11 foreign nationals from Vietnam and Romania were interviewed individually, all the elements pertaining to their stay in the Slovak Republic as well as their employment were reportedly in order and they were apparently satisfied with their working and payment conditions. No further information has been provided to GRETA as regards any other steps taken to verify if these foreign nationals might have been victims of THB. Further, GRETA was informed about a case of possible trafficking for labour exploitation of some 200 Ukrainian nationals, dating back to 2007, who were treated as irregular migrants and deported. Criminal proceedings relating to this case, initiated in 2009, are still on-going (for more details, see paragraph 160).

95. **While welcoming the measures taken by the Slovak Republic to introduce a formalised procedure for the identification of victims of THB, GRETA considers that the authorities should take further steps to ensure that victims of THB are identified as such and can benefit from the assistance and protection measures provided for under the Convention, in particular by:**

- **ensuring that all relevant professionals who are likely to come into contact with possible victims of THB are aware of the victim identification procedure and receive periodic training to enable them to identify victims of THB;**
- **strengthening multi-agency involvement in the decision-making process leading to the identification of victims of trafficking;**
- **providing frontline staff with operational indicators, manuals and instructions which are regularly updated in order to reflect the identification procedure and the changing nature of human trafficking and types of exploitation;**
- **enhancing the role of labour inspectors in the detection of THB for the purpose of labour exploitation and providing them with clear instructions on how to proceed when detecting possible victims of THB;**
- **paying increased attention to detecting victims of THB among asylum seekers and persons placed in immigration detention centres.**

b. Assistance measures (Article 12)

96. Pursuant to Regulation No. 180/2013, once a decision to recognise a person as a victim of THB has been taken by the National Co-ordinator and the victim agrees in writing to be admitted to the protection programme, one of the three NGOs contracted by the Ministry of the Interior to provide assistance to victims of THB prepares a personalised assistance plan, together with the victim concerned. Specific assistance measures available to victims are described in the contracts concluded between the Ministry and the NGOs providing the services. If a person refuses to be included in the programme, there are possibilities for urgent medical care or other social assistance, as well as inclusion in a witness protection programme. There is no possibility to appeal a refusal to be included in the protection programme because it is not an administrative decision.

97. GRETA notes that even though some legal acts contain piecemeal provisions relevant to victims of THB,²⁴ at present the right of THB victims to receive assistance is not prescribed in any law of the Slovak Republic. This means that there is no clear statutory basis on which victims of trafficking can invoke protection and assistance.

98. Members of the Slovak National Council (Parliament) met by the GRETA delegation during the evaluation visit noted that assistance to victims of THB in Slovakia was not provided in a systematic manner. The Ministry of Justice is preparing the transposition into Slovak legislation of European Parliament and Council Directive 2012/29/EU of 25 October 2012 laying down minimum standards on the rights, support and protection of victims of crime. GRETA draws attention to the need to take advantage of this legislative opportunity and ensure full conformity with the obligations under the Convention concerning support and assistance to victims of trafficking.

²⁴ Such as Act on Social Services, Act on Residence of Foreigners, Act on Subsidies in the Scope of Powers of the Ministry of Labour, Social Affairs and Family, Act on Residence of Foreigners, Criminal Procedure Code, Criminal Code, Civil Procedure Code.

99. Assistance provided to victims of THB under the protection programme is financed by the Ministry of the Interior. At the time of the evaluation visit, three organisations had contracts with the Ministry for the provision of assistance: the Slovak Catholic Charity, the Slovak Crisis Centre DOTYK and the IOM Office in Bratislava. The Slovak Catholic Charity operates several victims assistance facilities throughout Slovakia, with staff trained to provide help to victims of THB. There are two crisis apartments in Bratislava, one for men and another one for women, each capable of receiving two persons at a time. Victims of THB placed in crisis accommodation may leave the premises at any time, provided they agree not to disclose the location. As for long-term assistance, since 2011 the Slovak Catholic Charity has assisted about 10 victims per year, accommodating them in protected shelters with confidential addresses, and providing personal assistance, medical care, psychological support and psycho-therapeutic services.

100. The IOM Office in Bratislava provides assistance to victims of THB returned to Slovakia and organises the assisted voluntary return of foreign citizens. The services provided to victims include secure accommodation, food, essential health care and social assistance, interpretation, assessment of possible risks upon return, counselling about potential co-operation with the law enforcement bodies, arrangement of travel documents and travel tickets, as well as information about organisations and services available to victims in Slovakia. After the formal identification of a victim, the IOM transfers him/her to an NGO (Slovak Catholic Charity or Slovak Crisis Centre DOTYK) for long-term assistance under the protection programme.

101. In the course of the evaluation visit, GRETA visited an NGO-run shelter located in Bratislava for women victims of violence, which also provides accommodation and assistance to victims of THB referred by the IOM on the basis of an agreement concluded between the two organisations. The shelter provides long-term accommodation to victims of THB, usually for up to six months. Exceptionally, some victims have been accommodated for one year or even longer. The shelter's staff comprised a director, social co-ordinator, three social workers, three assistants and four other members.

102. The GRETA delegation also visited a specialised shelter for victims of THB in Beckov run by the Slovak Crisis Centre DOTYK, which can accommodate up to 18 persons. Victims are assisted by a social worker who accompanies them to interviews with the police and appointments with medical doctors or the local administration, and helps them to find employment or enrol in vocational training. Victims have access to a psychologist, a sociologist and a lawyer. At the time of the visit, six victims of THB were accommodated in this shelter under the protection programme. All victims assisted by this NGO have been Slovak nationals. In addition to the shelter, the Slovak Crisis Centre DOTYK rents two flats in a confidential location.

103. The duration of the victim's presence in the protection programme and the overall implementation of assistance measures are supervised by the Information Centre for Combating THB. Until the beginning of 2014, victims were admitted to the protection programme for an initial period of six months (three months of crisis intervention and a further three months of victim integration). As of January 2014, the presence of the victim in the protection programme is assessed by the Ministry every 30 days. NGOs providing assistance have indicated that they are not aware of the criteria for making these assessments and find it difficult to present a motivated explanation of the need for continuing the assistance to victims. In their comments on the draft GRETA report, the Slovak authorities have indicated that after the first 30 days, a second period of 30 days is automatically given to facilitate the victim's recovery. Further, when NGO providing assistance argue the need for an additional 30 days according to their assessment, the Ministry of the Interior will automatically provide it. Consequently, there is a possibility for 30 + 30 + 30 days for reintegration, the period depending on the individual plan of assistance drawn up by NGOs.

104. According to statistical information provided by the Slovak authorities, from 2008 to 2014, there were 186 applications for inclusion into the protection programme, of which only one was refused. According to the Ministry of the Interior, in the course of 2013, a total of 30 victims of trafficking (19 women, 9 men and 2 children) were admitted to the protection programme.²⁵ Only two of these victims were foreign nationals (one from Ukraine and one from Kenya). Most of the victims (15) had been trafficked to the United Kingdom. Three of the victims were exploited in Slovakia.

105. GRETA has received contradictory information concerning the funding of services provided by NGOs under contracts with the Ministry of the Interior. While NGO representatives recognised the positive effect of longer-term contracts with the Ministry and systematic announcements of tenders for the provision of services, they claimed that the payment for services provided was often significantly delayed. In some cases, this led the staff of NGOs to look for *ad hoc* solutions in order to meet the immediate needs of victims, including through private arrangements with doctors, obtaining of personal loans and using their own health insurance to cover urgent medical costs incurred for victims.

106. On the other hand, representatives of the Ministry of the Interior noted that the NGOs had been struggling with their absorption capacity of funding envisaged to cover the cost of services provided to victims of THB and in 2014 NGOs had to return to the Ministry € 80 000 envisaged for victim assistance. According to the authorities, € 875 123 of public funds were made available for combating THB in the period 2011-2013, including for assistance to victims. Contacts concluded with NGOs stipulate the number of victims which these organisations are able to accommodate and assist and therefore, according to the authorities, the financial limitations do not come from the lack of public funds, but from the limited capacity of NGOs. The authorities have also pointed out that the transfer of funds for the payment of services depends on receiving invoices for the services provided by NGO. GRETA stresses the importance of transferring funds to NGOs in a timely manner in order to ensure the sustainability of services provided by them to victims of THB.

107. According to NGO representatives, the costs of legal counselling are not covered by the protection programme. In their comments on the draft GRETA report, the Slovak authorities have indicated that legal counselling is included in the scope of assistance to which victims of THB are entitled and is paid for by the Ministry, given that the provision of legal counselling was one of the conditions of the public procurement procedure and NGOs had a legal obligation to prove that they were able to satisfy this condition. GRETA notes that legal counselling and legal representation are key for ensuring that victims of THB are informed about their rights and are assisted by qualified professionals in enjoying these rights, including the right to compensation.

108. **While welcoming the budgetary allocation to fund the provision of assistance to victims of THB and the co-operation established between the Ministry of the Interior, NGOs providing assistance and IOM, GRETA considers that the Slovak authorities should take further measures to ensure that all presumed and identified victims of THB receive adequate assistance, in particular by:**

- **enacting statutory rights to assistance for victims of THB, as specified in Articles 10 and 12 of the Convention, regardless of the victim's co-operation with the investigation and regardless of nationality or immigration status;**
- **ensuring that the duration of assistance provided to victims of THB is based on an assessment of their individual needs;**
- **taking additional measures to ensure that victims of THB have effective access to legal aid and legal counselling as part and parcel of the assistance measures;**
- **ensuring that the transfer of funds for victims assistance is made on time in order to ensure the sustainability of services provided by NGOs to victims of THB.**

²⁵ Report of the Ministry of the Interior on victims of THB entering the programme of support and protection in 2013: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/slovakia_2013_en_version_of_report.pdf

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

109. According to the Slovak authorities, the identification of a child victim of trafficking is carried out by Centres for Social Law Protection, in co-operation with NGOs working with victims of THB. As was the case at the time of the first evaluation by GRETA, the main guiding document for the identification of child victims of THB by employees is Regulation No. 068/2010 entitled "Performance of Measures of Social Law Protection of Children and Social Guardianship for Victims of Trafficking". GRETA notes that this regulation dates back to 2010 and does not reflect recent legislative developments. The Slovak authorities have indicated that it was planned to include re-training of relevant professionals in the National Action Plan for 2015-2018.

110. Pursuant to Article 7 of Regulation No. 180/2013, a child victim of trafficking admitted to the protection programme may be referred to service providers, upon the written agreement of the Information Centre, and in accordance with the best interests of the child. Child care as part of the programme is provided only in facilities for social protection of children and social guardianship, conditions in which are governed by law. Facilities established by NGOs are subject to accreditation pursuant to the Act on social and legal protection of children and social guardianship. Children are placed by a court decision and an individual plan is drawn up for each child, as well as a plan of social work with the child's family. The authority for social protection and social guardianship is required, at least once every six months, to visit and assess the situation of a child who is placed in a facility.

111. The Centres for Social Law Protection are responsible for providing social counselling and information on bodies and organisations that are active in the area and provide relevant services (health services, social services and other support) and mediate participation in programmes aimed at assisting victims of violence. They also develop a plan of social work with the child's family and measures of social protection and guardianship addressing the situation of the child. During the investigation, the authorities of social protection of children co-operate with the police, prosecution, court, school, municipality and other relevant bodies and take part in hearings. A guardian represents the child in criminal proceedings in cases which could lead to a conflict of interest (i.e. when a parent or sibling is the offender).

112. Assistance to Slovak children who are victims of trafficking can be provided in the children's home in Medzilaborce, as well as in the crisis centres in Liptovský Mikuláš and Banská Bystrica, operated by the Slovak Catholic Charity. The children's home in Topoľčany can provide assistance to identified foreign child victims of trafficking; however, to GRETA's knowledge, no such children have been placed there in the last four years.

113. Unaccompanied minors applying for asylum are interviewed by officials of the Migration Office in accordance with Instruction No. 13/2012 of the Director of the Migration Office, adopted on 31 May 2012. This instruction contains questions intended to facilitate the identification of victims of trafficking when interviewing unaccompanied minors seeking asylum. In their comments on the draft GRETA report, the Slovak authorities have indicated that no victims of THB have been identified among unaccompanied minors seeking international protection in the Slovak Republic in 2014 and so far in 2015.

114. In its report on the first evaluation round, GRETA expressed concern about the disappearance of unaccompanied minors from child care facilities, which makes them vulnerable to trafficking. According to information provided by the Slovak authorities, in 2014 some 10 unaccompanied minors were detected and placed in child care facilities, all of whom subsequently absconded; three of these minors were later found in the immediate vicinity of the children's home in Medzilaborce. A report by the NGO Human Rights League published in 2014 refers to data from the Border and Alien Police according to which 110 unaccompanied minors absconded from childcare facilities in 2011, 135 in 2012, and 35 in 2013.²⁶ In their comments on the draft GRETA report, the Slovak authorities have indicated that the Ministry of Labour, Social Affairs and Family is preparing a project supporting the integration of foreigners, which would include, *inter alia*, measures to prevent the disappearance of children and to strengthen the early identification of victims of THB. As regards the disappearance of children from facilities, the Slovak authorities have stressed that children's homes are open facilities which are not guarded and there are no plans to change these arrangements.

115. The representation of the children's interests by legal guardians remains highly problematic. If a child has no parent or legal representative, the court has to appoint a guardian, following an application by the Centre for Social Law Protection. According to representatives of public bodies and the judiciary, the procedure to appoint a guardian may take up to one month. During this period the interests of the child should be protected by the Centre for Social Law Protection, which designates one or more of its staff members to follow the case. Representatives of NGOs are critical of this approach due to the frequent turnover of staff of the Centres for Social Law Protection, resulting in changes in the personnel responsible for the same child or staff being sometimes absent during important procedural acts carried out in respect of children. In the case of unaccompanied foreign minors, the appointment of a guardian is essential for ensuring their access to asylum procedures (only a legal guardian may submit the asylum application or application for tolerated residence on behalf of the child) and other rights. Any delay in this respect undermines the effectiveness of their protection. Pending the appointment of a legal guardian by the court, age verification procedures are often conducted in the absence of the guardian. The report by the NGO Human Rights League refers to cases where there were delays of up to two months in submitting requests to courts for appointing legal guardians. In their comments on the draft GRETA report, the Slovak authorities have stated no delays in the appointment of legal guardians have been recorded as regards child victims of THB and that the statements made by NGOs are not related to THB cases. The authorities have also stressed that staff providing social protection and social guardianship are appropriately trained and qualified to represent the best interests of children before administrative and judicial authorities. Nevertheless, GRETA is concerned that an unaccompanied foreign minor may not necessarily be identified immediately as a victim of THB and in the absence of an appropriate legal guardian, the above-mentioned shortcomings may impede the process of identification and protection.

²⁶Human Rights League, *Miznuce Deti*, Bratislava, October 2014, p.19.

116. Pursuant to Article 111(6) of the Act on Residence of Foreigners, a foreigner who claims to be an unaccompanied minor must undergo a medical examination to determine his/her age, unless it is obvious that the person is a child. Article 127 of the Act on Residence of Foreigners states that if a person refuses to undergo a medical examination, he/she shall be considered to be an adult for the purposes of the proceedings under this Act, and if he/she agrees to the medical examination, he/she shall be considered to be an adult until the results of the examination prove the contrary. This appears to contradict Article 10(3) of the Convention, as well as the principle contained in Article 7 of Regulation No. 180/2013, which states that if the age of the victim is uncertain and there are reasons to believe that he/she may be a child, this person should be considered as a child, until proving the contrary. The Slovak authorities have argued that that the procedure under Article 127 of the Act on Residence of Foreigners applies only for the purposes of proceedings under alien's legislation, whereas the procedure under Regulation No. 180/2013 should be applied to victims of trafficking when granting tolerated stay. Nevertheless, GRETA notes that Article 10(3) of the Convention concerns the process of identification, which might take some time and in the meantime, pursuant to the provisions of the Act on Residence of Foreigners, possible foreign child victims of THB may be placed in facilities for adults.

117. The method used for age assessment is the ossification test (wrist X-Ray), which may also be complemented by dental analysis. GRETA notes that this method of age assessment does not take into account psychological, cognitive or behavioural factors. In the course of 2011 one NGO successfully challenged several decisions to move presumed children from children's homes to the temporary detention facility for adults with a view to their subsequent deportation on the grounds that they were adults, based on the ossification test. Apart from procedural irregularities, the Trnava District Court, which considered these cases, noted that the participation of an anthropologist in the age assessment examination would yield the outcome of the age assessment more credible. In their comments on the draft GRETA report, the Slovak authorities have pointed out that the cases in question did not concern identified victims of trafficking and that the Ministry of Health does not see any need to change for age assessment method. **Nevertheless, GRETA invites the Slovak authorities to review the age assessment procedures, ensuring that the best interests of the child are effectively protected, and taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child.**²⁷

118. GRETA notes that the efforts of different bodies involved in assisting child victims of trafficking in Slovakia are not sufficiently co-ordinated and there is no clear mechanism for referring child victims to assistance. Children's access to assistance is further impeded by the deficiencies in the identification of child victims, as well as by shortcomings in the practice of appointing legal guardians.

119. **GRETA urges the Slovak authorities to make efforts to improve the identification and assistance to child victims of trafficking, and in particular to:**

- **establish a clear and uniform procedure concerning the identification of child victims of THB, both Slovak and foreign, and disseminate information and guidance about the application of this procedure to relevant professionals;**
- **ensure that legal guardians are appointed without delay and are able to carry out their tasks in an efficient manner. This involves the provision of training on the assistance and protection of child victims of trafficking to persons who are likely to be appointed as legal guardians;**
- **take steps to address the problem of disappearance of unaccompanied minors from child care facilities, by providing suitable safe accommodation and adequately trained staff;**
- **review the legislation concerning the presumption of age with a view to bringing it in conformity with Article 10(3) of the Convention.**

²⁷ General Comment No. 6 Treatment of unaccompanied and separated children outside their country of origin, Committee on the Rights of the Child, Thirty-ninth session, 17 May - 3 June 2005.

120. GRETA also considers that the Slovak authorities should harmonise the existing structures for assistance to child victims of trafficking and ensure that assistance and protection measures are adapted to their specific needs. Minimum standards should be guaranteed when child victims of trafficking are accommodated in non-specialised facilities.

d. Recovery and reflection period (Article 13)

121. In its first evaluation report GRETA found that the tolerated residence granted by the police to foreign victims of THB could not be considered as equivalent to the recovery and reflection period under the Convention because the objective of the recovery and reflection period is to help victims to recover and stay free of the traffickers, entitling them to assistance and protection measures, while the tolerated residence is limited to legalising the stay of the person, without any rights to assistance and protection. Consequently, GRETA urged the authorities to take legislative and practical measures to introduce a recovery and reflection period for victims of THB, as provided for in Article 13 of the Convention.

122. The new Act on Residence of Foreigners,²⁸ which entered into force on 1 January 2012, continues to provide for "tolerated residence" which, according to the Slovak authorities, is equivalent to a recovery and reflection period for the purposes of the Convention. Pursuant to Article 58(2), point c, of this Act, a police department shall grant tolerated residence to a third-country national who is a victim of human trafficking, if he or she is at least 18 years old, and if there are no reasons for the refusal of an application as per Article 59, paragraph 12.²⁹ The police department or a person authorised by the Ministry of the Interior is responsible for informing the third-country national about the possibility and conditions for granting tolerated residence and the accompanying rights and duties. In relation to this provision, Article 59(1) states that "an application for the granting of tolerated residence as per Article 58(2), point c, shall be filed by the prosecuting authority on behalf of a third-country national." Pursuant to Article 58(4), point d, the duration of tolerated residence for victims of THB is up to 90 days, during which the person decides whether he/she would co-operate with the authorities in the investigation of the THB offence. This period can be extended by a further 30 days upon the request of a person authorised by the Ministry of the Interior.

123. GRETA notes that Article 5 of Regulation No. 180/2013 provides for a period of 60 days after admission to the protection programme, during which a formally identified victim of THB should decide on co-operation with the law enforcement authorities. This provision establishes a shorter period than the Act on Residence of Foreigners (i.e. up to 90 days). In their comments on the draft GRETA report, the Slovak authorities have indicated that the period of 60 days can be extended by a further 30 days.

124. As regards children, tolerated residence is granted without any further conditions to a foreign child found on the territory of the Slovak Republic. The Slovak authorities have indicated that over the period 2011-2014, tolerated residence was granted to a total of eight foreign children. It was not possible to indicate whether any of them were victims of THB, but none of them reportedly expressed willingness to be included into the protection programme.

²⁸ Act No. 404/2011 of 21 October 2011 on Residence of Aliens and Amendment and Supplementation of Certain Acts.

²⁹ Pursuant to Article 59, paragraph 13, of the Act on Residence of Foreigners, the grounds for refusing an application to grant tolerated residence are as follows: "a) a third-country national gives false or misleading data or submits falsified or counterfeited documents or a document of another person; b) does not fulfill the conditions for the granting of tolerated residence; c) a third-country national is an undesired person; d) s/he has not attached any document as per paragraph 3".

125. GRETA notes that Article 58 of the Act on the Residence of Foreigners applies only to third-country nationals. As regards EU citizens, the Slovak authorities have stated that assistance is provided to victims of trafficking included in the protection programme without discrimination in terms of the nationality. However, the authorities have not responded to GRETA's question as to whether EU citizens are entitled to a recovery and reflection period, i.e. tolerated residence as per Article 58(2), point c. Considering that after three months EU citizens can only stay legally in other EU countries provided they meet a number of requirements (e.g. economic activity, sufficient resources, being enrolled as a student), the possibility that they would be considered as being irregular cannot be excluded and they should logically be entitled to enjoy a recovery and reflection period.

126. GRETA stresses that according to the Convention, the recovery and reflection period should be provided when there are reasonable grounds to believe that a person is a victim of THB, i.e. prior to formal identification as a victim. Pursuant to Article 13(2) of the Convention, during this period, persons shall be entitled to the assistance measures contained in Article 12(1) and (2) of the Convention. Under Slovak legislation, such measures may only be accessible to formally identified victims of THB.

127. GRETA concludes that the existing legal provisions do not satisfy the requirements of Article 13 of the Convention regarding the recovery and reflection period. Given the fact that this is a legal obligation stemming from the Convention, GRETA strongly urges the Slovak authorities to provide in the national legislation for a recovery and reflection period when there are reasonable grounds to believe that a person is a victim of human trafficking, as provided for in Article 13 of the Convention, and to ensure that all possible victims of trafficking, including EU and EEA citizens, are offered an effective recovery and reflection period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.

e. Residence permit (Article 14)

128. The Slovak authorities consider that the tolerated residence provided under Article 58 of the Act on Residence of Foreigners (see paragraph 122) also serves the purpose of a residence permit for victims of THB. Article 59(6) of the Act on Residence of Foreigners states that a police department shall grant tolerated residence to victims of THB for at least 180 days if the presence of a third-country national in the Slovak Republic is necessary for the purpose of criminal proceedings. The residence permit can be renewed. Tolerated residence is not granted if it becomes evident that the applicant, on his/her one will, has not severed or has renewed contacts with persons suspected of committing THB offences. According to Article 88(10) of the Act on Residence of Foreigners, the decision on administrative detention should become null and void as soon as a victim of THB is admitted to the protection programme of the Ministry of the Interior. Article 4 of Regulation No. 180/2013 states that once a victim is admitted to the programme, he/she should be provided with tolerated residence by the department of the Border and Alien Police of the place of residence of the victim.

129. According to information provided by the Slovak authorities in their comments on the draft GRETA report, in the period 2011-2014, tolerated stay was granted only in one case, back in 2011, to a Moldovan citizen pursuant to Article 58(2), point c, of the Act on Residence of Foreigners. There have been no cases of tolerated stay granted pursuant to Article 58(4), point d, of the Act on Residence of Foreigners. This implies that the other third-country nationals identified as victims of THB (see paragraph 15) have not been granted tolerated stay.

130. GRETA has sought clarification as to whether a temporary residence permit may be granted to victims of THB due to their personal situation, but no information was provided by the Slovak authorities.

131. **GRETA considers that the Slovak authorities should keep under review the practical implementation of the legal provisions concerning the granting of renewable residence permits to victims of THB. Further, GRETA invites the Slovak authorities to consider introducing in law the possibility for victims of THB to be granted a residence permit on the basis of their personal situation.**

f. Compensation and legal remedies (Article 15)

132. In its report of the first evaluation round, GRETA urged the Slovak authorities to take the necessary legislative and practical measures to ensure that compensation is made available to all victims of THB, irrespective of their nationality and residence status.

133. Since the first evaluation report, the Ministry of the Interior, in co-operation with the Ministry of Justice, has drawn up a leaflet with information on possibilities to claim compensation by victims of THB.

134. According to Article 49 of the Criminal Procedure Code (CPC), the law enforcement authorities, upon first contact with an injured party, must provide him/her with information concerning his/her rights in criminal proceedings, including the right to claim compensation for damages from the offender. The request for compensation must be filed before the end of the investigation and should state the reasons for the request and the amount of compensation requested. Representatives of the judiciary and the prosecution, as well as lawyers representing victims of THB, informed GRETA that criminal courts do not consider adjudicating claims for compensation to be their primary task and systematically refer victims to claim compensation through civil proceedings, where victims have to face the offenders again and must substantiate their claims by proving the damage. Substantiating immaterial damages is particularly challenging, as the court may refuse applications if the calculation is not "just" and "right". There is no methodology in place for courts to determine the amount of compensation based on the damage sustained by victims. The Slovak authorities have informed GRETA that in the period 2011-2014, no compensation was awarded to victims of THB.

135. There is currently a lack of measures in Slovak law to enable the effective identification and seizure of criminal assets of traffickers with a view to their confiscation and compensation of victims. The Slovak authorities have referred to forthcoming amendments to the Criminal Procedure Code in this respect (see paragraph 157).

136. As noted in paragraph 22, the Act on Compensation to Victims of Violent Crime was amended in 2013. Representatives of the Ministry of Justice and the Prosecution confirmed that compensation under the amended Act is not accessible to victims who have not suffered physical injury. To claim damages on the basis of this Act, a victim can apply to the Ministry of Justice only after the final judgment on the criminal case has been delivered.³⁰ The claim must be substantiated by necessary documents, which include a medical certificate regarding physical harm or a testimony of a medical expert which would determine the grounds for the claim. The arrangements for claiming State compensation are therefore not adapted to victims of human trafficking, which in the opinion of representatives of the judiciary and prosecution is a regrettable omission.

137. According to information from the Ministry of Justice, only one application for compensation was received in August 2011 from a victim of THB exploited in forced prostitution in Austria and Germany in 2000-2001. This application had to be examined in accordance with the previous Act on Compensation to Victims of Violent Crimes, which stipulated that victims of crime were not eligible to claim compensation for damages occurring outside the territory of the Slovak Republic. Therefore, the Ministry decided not to award compensation to the victim.

³⁰ For detailed procedures see the reply of the Slovak authorities to Question 1, pages 5 and 6 via link: http://www.coe.int/t/dghl/monitoring/trafficking/Source/Public_R_O/GRETA_2015_2_RO_SVK.pdf

138. Pursuant to Article 7(1), point (a) and point (c) of Law No. 82/2005 Coll. on illegal work and illegal employment, a legal entity or a natural person who has been fined for a violation of the prohibition of illegal employment is obliged to pay the agreed salary to the person illegally employed and the costs associated with the delivery of outstanding salary to the country to which the illegally employed person was returned or deported. This would mean that any person who is not a citizen of the Slovak Republic or an EU Member State, if illegally employed, is covered by this provision.

139. Bearing in mind that no victims of THB have received compensation either from the perpetrators or from the State, **GRETA urges the Slovak authorities to adopt measures to facilitate and guarantee access to compensation for victims of trafficking, including by:**

- **ensuring that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;**
- **enabling victims of trafficking to exercise their right to compensation, by building the capacity of legal practitioners to support victims to claim compensation and including compensation into existing training programmes for law enforcement officials and the judiciary;**
- **encouraging prosecutors to request compensation orders to the largest possible extent;**
- **making full use of the legislation on the freezing and forfeiture of assets to secure compensation to victims of THB.**

140. **Moreover, given that obtaining of compensation from the offenders is particularly difficult, GRETA considers that the Slovak authorities should set up a State compensation scheme which is accessible to all victims of THB, regardless of their nationality and residence status.**

g. Repatriation and return of victims of THB (Article 16)

141. The modalities of repatriation and return of foreign victims of THB have not evolved since GRETA's first evaluation report and remain governed by the Act on Residence of Foreigners and the Act on Asylum. The organisation of voluntary return is provided by the IOM Office in Bratislava on the basis of an agreement with the Ministry of the Interior. The IOM assists victims of THB in their return to the country of origin and once the return is completed, refers them to local organisations providing assistance. Upon return, victims are escorted to the place of residence and handed over to the organisation providing further assistance and re-integration.

142. According to information provided by the Slovak authorities, 54 persons were returned from the Slovak republic as part of assisted voluntary return projects operated by the IOM in 2012, and 50 persons were returned under such projects in 2013. GRETA has not been provided with information as to whether any of the returnees were victims of THB.

143. **GRETA considers that the Slovak authorities should take additional steps to:**

- **ensure that the return of victims of trafficking is conducted with due regard for their rights, safety and dignity. This means informing victims about existing programmes, protecting them from re-victimisation and re-trafficking and, in the case of children, fully respecting the principle of the best interests of the child;**
- **develop international co-operation in order to ensure proper risk assessment and safe return, as well as effective reintegration of victims of THB;**
- **ensure compliance with the *non-refoulement* obligation under Article 40, paragraph 4, of the Convention.**

3. Substantive criminal law

a. Criminalisation of THB (Article 18)

144. As indicated in paragraph 18, Article 179 of the CC has been amended to include new types of exploitation, namely forced marriage, forced begging and exploitation of criminal activities. The current version of Article 179 of the CC reads as follows:

“(1) Whoever with the application of fraudulent conduct, deception, restriction of personal freedom, kidnapping, violence, threat of violence, threat of another grievous harm or other forms of coercion, or by accepting or providing monetary fulfilment or other benefits in order to gain a person’s consent on whom another person is dependent, or abuse of position of vulnerability or otherwise vulnerable position, entices, harbours, transmits or accepts another person, even with their consent, for the purpose of prostitution or another form of sexual exploitation, including pornography, forced labour or forced service including begging, slavery or slavery-like practices, servitude, forced marriage, exploitation of criminal activities, removal of organs, tissues or cells or other forms of exploitation, shall be punished by a prison sentence of four to ten years.

(2) As in paragraph 1, he/she shall be punished who deceives, transports, keeps, gives or takes a child, even with its consent, for the purpose of child prostitution or other forms of sexual exploitation, including child pornography, forced labour or forced services including begging, slavery or practices similar to slavery, servitude, forced marriage, exploitation of criminal activities, illegal adoption, removal of organs, tissues or cells, or other forms of exploitation.”

145. The penalties envisaged for the offence of THB remain as described in the first GRETA report, namely, the basic offence carries an imprisonment from four to 10 years, while in the presence of aggravating circumstances, the offence of THB carries imprisonment from seven to 12 years (paragraph 3 of Article 179 of the CC) from 12 to 20 years (paragraphs 4 of Article 179) or from 20 to 25 years or life imprisonment (paragraph 5 of Article 179 of the CC).

146. As indicated in paragraph 13, the Slovak authorities have observed a trend towards increasing the number of cases of THB for the purpose of forced marriage, sometimes referred to as "sham marriages", leading to the exploitation of Slovak women abroad. As already noted above, "forced marriage" has been included among the types of exploitation under Article 179 of the CC. "Sham marriage", on the other hand, is criminalised under Article 356 of the CC³¹ (smuggling) and is a breach of immigration law. In their comments on the draft GRETA report, the Slovak authorities have indicated that there is an element of compulsion in forced marriage, whereas in sham marriage this element is absent and is replaced by the purpose of material gain. Traffickers compel or force citizens of the Slovak Republic, under the threat of violence or with the promise of a better life abroad, to be married to third-country nationals, the main reasons for such marriages being to obtain a permanent residence in the Slovak Republic and financial gain for the perpetrators. A non-Slovak citizen who marries a Slovak national may apply for permanent residence in Slovakia for five years, while gaining unlimited access to the entire Schengen area. Additionally, the victims are often forced into prostitution. As noted in paragraph 57, a project addressing the problem of sham marriages is currently underway in six EU countries, including the Slovak Republic.

b. Criminalisation of the use of services of a victims of trafficking (Article 18)

147. Slovak legislation does not establish as a criminal offence the use of services of a victim of THB with the knowledge that a person is a victim and no consideration has been given to establishing such conduct as an offence. **GRETA invites the Slovak authorities to consider establishing as a criminal offence the use of services which are the object of exploitation, as defined in Article 4 of the Convention, with the knowledge that the person is a victim of trafficking in human beings. Apart from punishing those who play a part in exploiting the victim, this measure could have a general normative effect and increase public awareness of the problem of human trafficking.**

c. Criminalisation of acts relating to travel and identity documents (Article 20)

148. In the first evaluation report, GRETA urged the Slovak authorities to review the legislation in order to establish as criminal offences actions related to travel and identity document committed for the purpose of enabling THB. The Slovak authorities have deemed it unnecessary to introduce these acts into the CC as, in their view, other provisions criminalising "participants" in the offence (Article 21 of the CC), preparation of the offence (Article 13 of the CC) or the attempt to commit an offence (Article 14 of the CC) would cover actions relating to travel and identity documents.³²

149. **GRETA recalls that establishing the actions provided in Article 20 of the Convention as criminal offences is a legal obligation under the Convention and strongly urges the Slovak authorities to bring national legislation into full conformity with Article 20 of the Convention.**

³¹ Facilitating the illegal entry of a person into a country of which that person is not a national or does not have permanent residence.

³² See paragraph 22 of the Report submitted by the Slovak authorities on measures taken to comply with Committee of the Parties Recommendation CP(2011)3:

http://www.coe.int/t/dghl/monitoring/trafficking/Docs/CommitteeParties/Reply_REC/CP_2013_13_SVK_RR_en.pdf

d. Corporate liability (Article 22)

150. Articles 83(a) and 83(b) of the CC, in force since 1 September 2010, envisage forfeiture of a sum of money or property for the involvement of a legal entity in criminal offences, including THB. According to prosecutors met during the visit, no criminal cases of THB have been recorded where the liability of illegal persons was invoked. A new draft law on criminal liability of legal persons was submitted to the Government in August 2014 and at the time of the evaluation visit, the authorities expected that the draft law would be adopted without much delay, with the target date of its entry into force being 1 May 2015. However, in their comments on the draft GRETA report, the Slovak authorities have indicated that the consideration of the draft law on criminal liability of legal persons had for the time being been interrupted.

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

151. In its first evaluation report, GRETA urged the Slovak authorities to introduce a legal provision concerning the non-punishment of victims of THB who have been compelled to be involved in unlawful activities due to their trafficking situation.

152. As already mentioned in paragraph 19, on 25 June 2013 the National Council approved amendments to the Criminal Procedure Code (CPC), introducing Article 215(d) pursuant to which the prosecutor may terminate the criminal prosecution for a minor offence committed by a person in direct relation to being a victim of THB, sexual abuse or child pornography. "Minor offences" are defined in Article 10 of the CC as offences committed by negligence and offences carrying a maximum sentence of imprisonment of five years. This amendments was reflected in Article 40 (1b) of the CC, which states that "the punishment of an offender may be waived if the offence is minor and was committed by a person under duress due to the fact that he or she was the victim of THB, sexual abuse or child pornography." GRETA notes that these provisions do not foresee the possibility of withdrawing prosecution and punishment for serious offences. Similarly, the provisions do not concern the liability for administrative offences. In the opinion of representatives of the judiciary and prosecution, the non-punishment provision introduced in Slovak law strikes the right balance between the need to avoid punishing victims of THB for offences they were forced to commit due to their trafficking situation, while at the same time not allowing impunity for serious offences.

153. While welcoming the introduction of a specific legal provision concerning the non-punishment of victims of trafficking for offences they were forced to commit while being in trafficked situation, GRETA is concerned that Article 215(d) of the CC gives a rather narrow interpretation of the non-punishment clause. At present, there is no case-law to illustrate how this provision is applied in practice. **GRETA considers that the scope of the non-punishment provision should be extended to cover all offences which victims of THB were compelled to commit, including administrative and immigration-related offences. The Slovak authorities should develop guidance and training for police officer and prosecutors on the non-punishment provision.** Reference is made in this context to the recommendations on non-punishment for legislators and prosecutors contained in the paper issued by the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings in consultation with the Alliance against Trafficking in Persons Expert Co-ordination Team.³³

4. Investigation, prosecution and procedural law

a. Measures related to ensuring effective investigations (Articles 1, 27 and 29)

154. As of 1 July 2013, the investigation of human trafficking offences falls within the competence of the department for combating trafficking in human beings within the National Unit for combating illegal migration of the Office of the Border and Alien Police (see paragraph 25). The department has six staff members and is co-operating with three regional departments covering different parts of the country: department of operational actions and investigation "West", with 23 police officers, the department of operational actions and investigation "Centre" with 26 officers, and the department of operational actions and investigation "East" with 30 staff members.

155. According to information provided by the Slovak authorities, nine investigations for THB offences were initiated in 2010, 19 in 2011, 23 in 2012 and 11 in 2013. The number of persons prosecuted for this offence was 61 in 2011, 28 in 2012 and 23 in 2013. Concerning convictions under Article 179 of the CC, one person was convicted in 2011 and sentenced to 36 months of imprisonment, eight in 2012 (five effective sentences, ranging from 24 to 96 months, and three suspended sentences); four in 2013 (two effective sentences, respectively of 48 and 56 months, and two suspended sentences), and nine in 2014 (two effective sentences, of 48 months each, and seven suspended sentences).

156. The Slovak authorities have informed GRETA that the prosecution reached a plea bargaining agreement in five trafficking cases in 2011, nine cases in 2012 and four cases in 2013. There is no record of THB cases resulting in a plea bargaining agreement in 2014.

157. Slovak legislation provides for forfeiture of property in relation to certain serious offences, including THB. However, the Slovak authorities have indicated that the legislation does not enable the efficient identification of the property of offenders. Article 425 of the CPC ("ensuring forfeiture of property") considerably limits the efficient and timely seizure of property of the perpetrator, with the view to its subsequent confiscation. According to representative of the Ministry of Justice, for the court to grant the confiscation of assets, the prosecution must substantiate not only their connection to the crime, but also the risk that the offender will dispose of the assets, unless they are frozen before the decision on confiscation is taken. Up to 2012 no court decision had been made on confiscation of property under Article 425 of the CPC. Another shortcoming is the absence of clear rules or guidelines on the management and disposal of such property. GRETA was informed of amendments to the CPC, in force as of 1 January 2015, which enlarge the scope of collection of evidence to the property of the perpetrator and should enable the identification and confiscation of property.

158. The use of special investigation techniques is regulated by Article 39(2) of the Act on the Police No. 171/1993, which also defines technical means and means of investigative operational activities. Special investigation techniques may be used for the investigation of intentional criminal offences which are prosecuted pursuant to an international agreement binding for the Slovak Republic, including THB, and is not limited to organised crime. Special investigation techniques include interception and recording of private communications, surveillance of persons and objects, controlled delivery, the use of undercover documents, as well as the use of persons collaborating with the police. The use of special investigation techniques is subject to judge's written authorisation with the period of validity not exceeding six months. Such authorisation may be prolonged by a judge upon request of the investigating authority for another period of up to six months. Exceptionally, if an investigation cannot be delayed and the judge's consent could not be obtained in advance, the police may use special investigation techniques prior to such authorisation, but should aim to obtain it within 24 hours from using them.

159. As regards the investigation of THB offences committed through the Internet, the Slovak authorities have informed GRETA that there is no direct option to block websites by the police. In case the main criminal proceedings are underway, it is possible to block websites used to disseminate child pornography or recruit victims of THB by means of applying to the court through the prosecution.

160. GRETA was informed about an on-going case concerning trafficking and exploitation of over 200 Ukrainian nationals on construction sites in the Slovak Republic, which occurred in 2007 (Plechov et al.). The Ukrainian nationals were not identified as victims of trafficking and were returned to Ukraine mostly through administrative expulsion. A criminal investigation was initiated in 2009 and the specialised criminal court, while establishing that the persons in question were transported to the Slovak Republic illegally, worked for an extremely low pay and had constant supervision of their movement, did not consider that these elements amounted to human trafficking, but delivered a judgment for illegal smuggling of migrants. This judgment has been appealed by the prosecution and the case is now pending at the Supreme Court of Slovakia. In their comments on the draft GRETA report, the Slovak authorities indicated that the Supreme Court had not yet decided on the appeal.

161. GRETA stresses that failure to convict traffickers and the absence of effective sentences undermines efforts to combat THB and support victims' rehabilitation and reintegration. **GRETA urges the Slovak authorities to take additional legislative and practical measures to ensure that:**

- **THB cases are investigated proactively, prosecuted successfully and lead to effective, proportionate and dissuasive sanctions;**
- **financial investigations are systematically carried out to locate the proceeds of crime and other assets of the traffickers;**
- **the offence of THB is excluded from the plea bargaining procedure.**

162. **In this context, GRETA considers that the Slovak authorities should further develop the specialisation and training of investigators, prosecutors and judges, and provide training on the recently amended provisions of Article 179 of the CC.**

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

163. In its first evaluation report, GRETA urged the Slovak authorities to adopt all necessary legislative and practical measures to ensure that victims of THB and witnesses are given the necessary protection and assistance as required under Articles 28 and 30 of the Convention.

164. Victims of THB who agree to be admitted to the protection programme of the Ministry of the Interior are provided with protection and assistance under Regulation No. 180/2013, which includes accommodating such victims in secret or protected premises.

165. The procedures for examination of witnesses of criminal offenses are laid down in Article 136 of the CPC. These procedures include measures to protect the address, identity, physical appearance and voice of an endangered witness. Such witnesses may also be interviewed by the use of recording equipment and video transmission. Victims who have the status of an injured party in criminal proceedings may also be represented by a proxy, as provided for under Article 53 of the CPC.

166. According to representatives of NGOs, obtaining testimony from victims of THB is challenging, since they and their families often face threats and intimidation by traffickers. GRETA noted with concern that in some cases an investigator may decide to have a cross-examination of the victim and the accused ("direct confrontation"), with a view to eliminating discrepancies between their testimonies. Even though a prosecutor or a judge has the discretion to oppose such a cross-examination, it is reportedly often used in trafficking cases. The authorities have indicated that while considerable efforts were being made to avoid meetings between victims and offenders, they cannot be totally excluded, as cross-examination is provided under the CPC and may be demanded by the defence.

167. GRETA is seriously concerned by the practice of cross-examination of victims of THB and traffickers during police interrogations and court hearings. Reference is made to Recommendation No. R(97) 13 of the Committee of Ministers of the Council of Europe concerning intimidation of witnesses and the rights of the defence, which establishes a set of principles and provides a list of measures which could help protect the interests both of witnesses and of the criminal justice system, while guaranteeing the defence appropriate opportunities to exercise their rights in criminal proceedings.

168. GRETA notes with satisfaction that after the first evaluation report, Article 135 of the CPC (which concerns the examination of witnesses who are children) was amended and the upper age of persons who can benefit from the protection measures set out in it was increased from 15 to 18 years. When interviewing children, the presence of a social worker, pedagogue or psychologist is required. The number of times a child may be interviewed must be limited and a video recorded interview can be used to avoid repeated interrogation. However, according to a survey conducted by an NGO, the use of audio-visual equipment was reported only in one out of 100 hearings of child witnesses and most of the interviews with the children took place at police stations which do not offer a child-friendly setting.

169. **GRETA urges the Slovak authorities to:**

- **make full use of the measures available to protect victims and witnesses of THB and take additional measures to ensure that they are adequately protected from potential retaliation or intimidation in the course of judicial proceedings, including by reviewing the practice of direct confrontation of victims with suspected traffickers;**
- **ensure that child victims of THB are afforded special protection measures taking into account the best interests of the child. The police, prosecutors and judges, as well as social workers acting as legal guardians of children, should be trained and made aware of the particular vulnerability of child victims of trafficking.** In this context, GRETA refers to the Council of Europe Guidelines on child-friendly justice.³⁴

c. Jurisdiction (Article 31)

170. Article 3 of the CC of the Slovak Republic allows the establishment of jurisdiction over criminal offences committed on the country's territory, as long as the information about the crime becomes available to law enforcement authorities, regardless of whether a complaint was filed in another country or was not filed at all. Article 5 of the CC enables the Slovak authorities to exercise jurisdiction over offences committed outside the country against a Slovak national, if it does not fall under the criminal jurisdiction of another state. Article 7 of the CC makes jurisdiction applicable to offences prescribed in treaties to which the Slovak Republic is a Party.

³⁴ Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies.

Available at:

http://www.coe.int/t/dghl/standardsetting/childjustice/Guidelines%20on%20child-friendly%20justice%20and%20their%20explanatory%20memorandum%20_4_.pdf

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

a. International co-operation (Article 32)

171. At the international level, the agreements and multilateral treaties relevant to combating THB to which the Slovak Republic is a party are listed in the reply to question 60 of GRETA's questionnaire for the 2nd Evaluation round.³⁵ At the level of police co-operation, the exchange of information is carried out through Interpol and Europol headquarters and national offices, as well as through police attachés abroad.

172. The Slovak law enforcement authorities actively co-operate with their counterparts from countries where Slovak victims of trafficking are subjected to exploitation. Such co-operation includes requests to perform operative investigative actions in destination countries in relation to Slovak nationals identified as victims of THB or suspected of having committed a trafficking offence.

173. The Slovak authorities have provided an example of a joint investigation team set up on 26 September 2013 with the police in the United Kingdom to investigate a trafficking case involving a Slovak woman recruited through a promise of financial benefit by a Slovak couple in Kosice to marry a Pakistani national living in London. After her arrival in the UK, the woman in question was sexually exploited by her husband who also forced her to provide sexual services to other men. She was detected as a possible victim of THB by doctors who examined her and notified the police. An investigation was initiated by the UK police forces who contacted their colleagues in the Slovak Republic and a joint investigation team was set up. The case resulted in the conviction of the perpetrators, one of whom (the Pakistani national) was sentenced to 15 years' imprisonment for human trafficking and rape, while the three Slovak nationals received penalties of 10 years, 3 years and 16 months imprisonment respectively. In March 2014, another two suspects were arrested in Slovakia, with a third suspect detained in the UK.

174. The Slovak Republic is involved in a multidisciplinary platform to combat the threats of organised crime (EMPACT) where the Slovak Republic is co-leader of the working group to combat labour exploitation. The Slovak Republic also participates in the working group at CEPOL with the task of updating of common curricula in the field of trafficking for senior management.

175. Reference has already been made in paragraph 51 of the project implemented in 2013-2014 by the Ministry of the Interior, together with partners in the UK, under the title "Strengthening of joint measures for the prevention of forced labour of Roma communities and development of referral mechanism". The implementation of the project involved enhancing awareness among the general public and professionals, sharing of experience, the issuing of a guide, leaflets, posters, movie broadcasting, an international conference and research on the situation in the field of exploitation of Roma community through research.

176. As noted in paragraph 57, the Ministry of the Interior is also a partner in the project HESTIA – "Preventing human trafficking and sham marriages: A multidisciplinary solution" which will be implemented in 2015 and 2016. The project partners are public and non-governmental organisations in Latvia, Lithuania, Estonia, Finland, Slovakia and Ireland. Within the framework of the project a variety of activities are provided: discussions of legislators, policy planners and practitioners at national and regional level, a comprehensive research of the problem of sham marriages, learning methodology and training for social workers, staff of educational institutions, media representatives, police officers and NGO representatives, awareness-raising campaigns and a final conference.

³⁵

http://www.coe.int/t/dghl/monitoring/trafficking/Source/Public_R_Q/GRETA_2015_2_RQ_SVK.pdf

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

177. As noted in paragraph 26, NGOs are members of the Expert Group and two of them, as well as the IOM Office in Bratislava, have contracts with the Ministry of the Interior for the provision of assistance to victims of THB admitted to the protection programme pursuant to Regulation No. 180/2013.

178. Positive examples of co-operation with civil society have included the combined efforts of public authorities and NGOs to carry out a number of activities as regards prevention of trafficking and raising public awareness.

179. However, representatives of NGOs have noted that following a period of improvement of co-operation among stakeholders in 2010-2012, co-operation has become more difficult since. NGO representatives consider that their expertise is not duly taken into consideration by the Expert Group, whose meetings are reportedly reduced to the approval of decisions prepared by the Ministry of the Interior. Thus, while the draft text of Regulation No. 180/2013 was initially presented to members of the Expert Group at the end of 2013, it was reportedly not examined by the Expert Group prior to its adoption. In their comments on the draft GRETA report, the Slovak authorities have stated that Regulation No. 180/2013 was being prepared since 2012 and in February 2013, the draft of the regulation was presented at a meeting of the Expert Group which included members of NGOs, and they had the possibility to make comments. The comments were taken into account in the draft and even members of the Expert Group and representatives of the NGOs who did not actively participate in meetings or the provision of assistance were given the chance to comment.

180. GRETA considers that the Slovak authorities should take additional measures to strengthen partnerships with NGOs and representatives of civil society as regards the prevention of human trafficking and the protection of victims, including practical measures to ensure that the Expert Group allows a more inclusive participation of civil society representatives in its work, in particular when drafting policy documents and legislative proposals.

IV. Conclusions

181. Since the adoption of GRETA's first report on the Slovak Republic in 2011, progress has been made in a number of areas related to combating trafficking in human beings.

182. The Slovak authorities have further developed the legal and institutional framework for combating trafficking in human beings, in accordance with GRETA's recommendations. GRETA welcomes the expanded definition of THB, which corresponds to the need to address new trends in human trafficking. Other positive developments are the adoption of a legal provision concerning the non-punishment of victims of trafficking for certain offences committed in direct relation to being trafficked and the amendment of the Act on Compensation of Victims of Violent Crimes.

183. The new Social Services Act, in force since 1 January 2014, has introduced a new category of social services the purpose of which is to provide crisis intervention, emergency housing and other assistance to victims of THB and other groups of vulnerable persons.

184. To address GRETA's concerns raised in the first evaluation report, new terms of reference of the Expert Group for the Area of Combatting Trafficking in Human Beings have been adopted in September 2012, including a clear procedure and criteria for selecting representatives of NGOs to participate in it.

185. Following GRETA's recommendations, on 19 December 2013 the Ministry of the Interior adopted Regulation No. 180/2013, replacing an earlier regulation issued by the Ministry in 2008 and amended in 2010, which sets out the procedure for the formal identification of victims of THB, with a view to enabling their access to state-funded assistance under the programme for support and protection of victims of trafficking. GRETA welcomes the budgetary allocation to fund the provision of assistance to victims of THB and the co-operation established between the Ministry of the Interior, NGOs providing assistance and IOM.

186. When it comes to children, the adoption of the National Strategy for the Protection of Children and forthcoming amendments in the area of family and social protection law have the potential of strengthening the prevention of trafficking in children.

187. Efforts have been made to provide training to relevant professionals and to expand the categories of staff targeted. The training is often carried out in co-operation with civil society NGOs and, whenever possible, a multi-stakeholder approach is promoted.

188. GRETA also welcomes the progress made in the area of data collection thanks to the setting up of an integrated data collection system on THB.

189. Furthermore, the Slovak authorities have made welcome efforts in the area of international co-operation, both when it comes to co-operation in the investigation of THB cases and participation in international projects to address new forms of THB.

190. However, despite these positive developments, a number of issues give rise to concern, including several issues on which GRETA urged the Slovak authorities to take action in the first evaluation report. In this report, GRETA requests that the Slovak authorities take further action in a number of areas. The position of the recommendations in the text of the report is shown in parentheses.

Issues for immediate action

- **GRETA urges the Slovak authorities to make efforts to improve the identification and assistance to child victims of trafficking, and in particular to:**
 - **establish a clear and uniform procedure concerning the identification of child victims of THB, both Slovak and foreign, and disseminate information and guidance about the application of this procedure to relevant professionals;**
 - **ensure that legal guardians are appointed without delay and are able to carry out their tasks in an efficient manner. This involves the provision of training on the assistance and protection of child victims of trafficking to persons who are likely to be appointed as legal guardians;**
 - **take steps to address the problem of disappearance of unaccompanied minors from child care facilities;**
 - **review the legislation concerning the presumption of age with a view to bringing it in conformity with Article 10(3) of the Convention.**
- **GRETA strongly urges the Slovak authorities to provide in the national legislation for a recovery and reflection period when there are reasonable grounds to believe that a person is a victim of human trafficking, as provided for in Article 13 of the Convention, and to ensure that all possible victims of trafficking, including EU and EEA citizens, are offered an effective recovery and reflection period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.**
- **Bearing in mind that no victims of THB have received compensation either from the perpetrators or from the State, GRETA urges the Slovak authorities to adopt measures to facilitate and guarantee access to compensation for victims of trafficking, including by:**
 - **ensuring that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;**
 - **enabling victims of trafficking to exercise their right to compensation, by building the capacity of legal practitioners to support victims to claim compensation and including compensation into existing training programmes for law enforcement officials and the judiciary;**
 - **encouraging prosecutors to request compensation orders to the largest possible extent;**
 - **making full use of the legislation on the freezing and forfeiture of assets to secure compensation to victims of THB.**
- **GRETA recalls that establishing the actions provided in Article 20 of the Convention as criminal offences is a legal obligation under the Convention and strongly urges the Slovak authorities to bring national legislation into full conformity with Article 20 of the Convention.**

- **GRETA urges the Slovak authorities to take additional legislative and practical measures to ensure that:**
 - **THB cases are investigated proactively, prosecuted successfully and lead to effective, proportionate and dissuasive sanctions;**
 - **financial investigations are systematically carried out to locate the proceeds of crime and other assets of the traffickers;**
 - **the offence of THB is excluded from the plea bargaining procedure.**
- **GRETA urges the Slovak authorities to:**
 - **make full use of the measures available to protect victims and witnesses of THB and to take additional measures to ensure that they are adequately protected from potential retaliation or intimidation in the course of judicial proceedings, including by reviewing the practice of direct confrontation of victims with suspected traffickers;**
 - **ensure that child victims of THB are afforded special protection measures taking into account the best interests of the child. The police, prosecutors and judges, as well as social workers acting as legal guardians of children, should be trained and made aware of the particular vulnerability of child victims of trafficking.**

Further conclusions

- GRETA considers that the Slovak authorities should keep under review the effectiveness of the Information Centre in fulfilling the role of a National Rapporteur, and examine the possibility of designating as a National Rapporteur a separate organisational entity or another independent mechanism for monitoring the anti-trafficking activities of State institutions (paragraph 31).
- GRETA considers that the Slovak authorities should take further steps to maximise the potential of the Expert Group to co-ordinate the implementation of anti-trafficking action and fulfil the other tasks assigned to, in particular by:
 - ensuring that the Expert Group is convened regularly and that decisions taken by it are effectively implemented, if necessary by reviewing the procedure for their adoption and enforcement;
 - exploring the possibility of setting up thematic working groups within the Expert Group which deal with specific priority issues;
 - reinforcing the human resources of the secretariat of the National Co-ordinator and the Expert Group;
 - providing a dedicated budget for the work of the Expert Group (paragraph 32).
- GRETA considers that the Slovak authorities should continue to improve the knowledge and sensitivity of judges, prosecutors, police investigators and lawyers about THB, the rights of victims, the applicable legislation and the case law, including the need to apply a human rights-based approach to action against THB on the basis of the Convention and the case-law of the European Court of Human Rights, through systematic training included in their respective curricula. Future training programmes for labour inspectors, social workers, and professionals working with children should be designed with a view to improving their knowledge and skills to enable them to identify victims of trafficking and provide them with assistance (paragraph 45).

- GRETA considers that the Slovak authorities should 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 human trafficking cases. Statistics regarding victims should be collected from all main actors, allowing disaggregation concerning sex, age, type of exploitation, country of origin and/or destination of the victims. 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 database (paragraph 50).
- GRETA considers that the Slovak authorities should conduct and support further research on THB as an important source of information for future policy measures. Areas where research is needed in order to shed more light on the extent of human trafficking in the Slovak Republic include trafficking for the purpose of labour exploitation and internal trafficking within the country (paragraph 52).
- GRETA invites the Slovak authorities to continue their efforts to raise awareness of THB and new forms of exploitation, and to design future actions in the light of impact assessment of previous measures, focussing on identified needs and target groups (paragraph 58).
- GRETA considers that the Slovak authorities should strengthen their efforts to prevent trafficking for the purpose of labour exploitation, in particular by:
 - further sensitising relevant officials, in particular labour inspectors, prosecutors and judges, about THB for the purpose of labour exploitation and the rights of victims;
 - expanding the mandate of labour inspectors so that they can be actively engaged in the prevention of THB;
 - strengthening the monitoring of job intermediaries and temporary employment agencies and reviewing the legislative framework for any loopholes that may limit protection or preventive measures;
 - working closely with the private sector, in line with the Guiding Principles on Business and Human Rights (paragraph 63).
- GRETA considers that the Slovak authorities should strengthen the prevention of trafficking in children through the implementation of measures and programmes aimed at supporting children in vulnerable situations, including Roma children, street children, and children in residential care (paragraph 68).
- GRETA considers that the Slovak authorities should strengthen their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society and the private sector (paragraph 75).
- GRETA considers that the Slovak authorities should ensure that as part of the implementation of the Strategy for the Integration of Roma and the Integration Policy of the Slovak Republic, concrete social and economic initiatives are taken vis-à-vis groups vulnerable to THB with a view to their empowerment and preventing them from falling victim to traffickers (paragraph 81).

- While welcoming the measures taken in the Slovak Republic to introduce a formalised procedure for the identification of victims of THB, GRETA considers that the Slovak authorities should take further steps to ensure that victims of trafficking are identified as such and can benefit from the assistance and protection measures provided for under the Convention, in particular by:
 - ensuring that all relevant professionals who are likely to come into contact with possible victims of THB are aware of the victim identification procedure and receive periodic training to enable them to identify victims of THB;
 - strengthening multi-agency involvement in the decision-making process leading to the identification of victims of trafficking;
 - providing frontline staff with operational indicators, manuals and instructions which are regularly updated in order to reflect the identification procedure and the changing nature of human trafficking and types of exploitation;
 - enhancing the role of labour inspectors in the detection of THB for the purpose of labour exploitation and providing them with clear instructions on how to proceed when detecting possible victims of THB;
 - paying increased attention to detecting victims of THB among asylum seekers and persons placed in immigration detention centres (paragraph 95).
- GRETA considers that the Slovak authorities should take further measures to ensure that all presumed and identified victims of THB receive adequate assistance, in particular by:
 - enacting statutory rights to assistance for victims of THB, as specified in Articles 10 and 12 of the Convention, regardless of the victim's co-operation with the investigation and regardless of nationality or immigration status;
 - ensuring that the duration of assistance provided to victims of THB is based on an assessment of their individual needs;
 - taking additional measures to ensure that victims of THB have effective access to legal aid and legal counselling as part and parcel of the assistance measures;
 - ensuring that the transfer of funds for victims assistance is made on time in order to ensure the sustainability of services provided by NGOs to victims of THB (paragraph 108).
- GRETA invites the Slovak authorities to review the age assessment procedures, ensuring that the best interests of the child are effectively protected, and taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child (paragraph 117).
- GRETA also considers that the Slovak authorities should harmonise the existing structures for assistance to child victims of trafficking and ensure that assistance and protection measures are adapted to their specific needs. Minimum standards should be guaranteed when child victims of trafficking are accommodated in non-specialised facilities (paragraph 120).
- GRETA considers that the Slovak authorities should keep under review the practical implementation of the provisions concerning the granting of renewable residence permits to victims of THB. Further, GRETA invites the Slovak authorities to consider introducing in law the possibility for victims of THB to be granted a residence permit on the basis of their personal situation (paragraph 131).
- GRETA considers that the Slovak authorities should set up a State compensation scheme which is accessible to all victims of THB, regardless of their nationality and residence status (paragraph 140).

- GRETA considers that the Slovak authorities should take additional steps to:
 - ensure that the return of victims of trafficking is conducted with due regard for their rights, safety and dignity. This means informing victims about existing programmes, protecting them from re-victimisation and re-trafficking and, in the case of children, fully respecting the principle of the best interests of the child;
 - develop international co-operation in order to ensure proper risk assessment and safe return, as well as effective reintegration of victims of THB;
 - ensure compliance with the *non-refoulement* obligation under Article 40, paragraph 4, of the Convention (paragraph 143).
- GRETA invites the Slovak authorities to consider establishing as a criminal offence the use of services which are the object of exploitation, as defined in Article 4 of the Convention, with the knowledge that the person is a victim of trafficking in human beings. Apart from punishing those who play a part in exploiting the victim, this measure could have a general normative effect and increase public awareness of the problem of human trafficking (paragraph 147).
- GRETA considers that the scope of the non-punishment provision should be extended to cover all offences which victims of THB were compelled to commit, including administrative and immigration-related offences. The Slovak authorities should develop guidance and training for police officer and prosecutors on the non-punishment provision (paragraph 153).
- GRETA considers that the Slovak authorities should further develop the specialisation and training of investigators, prosecutors and judges, and provide training on the recently amended provisions of Article 179 of the CC (paragraph 162).
- GRETA considers that the Slovak authorities should take additional measures to strengthen partnerships with NGOs and representatives of civil society as regards the prevention of human trafficking and the protection of victims, including practical measures to ensure that the Expert Group allows a more inclusive participation of civil society representatives in its work, in particular when drafting policy documents and legislative proposals (paragraph 180).

Appendix

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

Public bodies

- Ministry of the Interior
- Ministry of Labour, Social Affairs and Family
- Ministry of Education, Science, Research and Sport
- Ministry of Health Care
- Ministry of Justice
- Ministry of Finance
- Ministry of Foreign and European Affairs
- Government Office
- Prosecutor General's Office
- National Labour Inspectorate
- National Transplant Organisation
- Representatives of Parliament
- Representatives of the judiciary
- Ombudsman's Office
- Office of Plenipotentiary for Roma Communities

Intergovernmental organisations

- International Organization for Migration (IOM)

NGOs and other civil society organisations

- Human Rights League
- Slovak Crisis Centre DOTYK
- People in Need
- Slovak Catholic Charity

GOVERNMENT'S COMMENTS

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

GRETA engaged in a dialogue with the Slovak authorities on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version.

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the Slovak authorities on 18 September 2015 and invited them to submit any final comments. The comments of the authorities of the Slovak Republic, submitted on 19 October 2015, are reproduced hereafter.

The State Secretary of the
Ministry of the Interior of the Slovak
Republic
and
National Co-ordinator for Combating
Trafficking in Human Beings

Jozef BUČEK

Bratislava 19th October 2015
Reg. No.: IC-48-025/2015
Annex: 1/ 11

Dear Executive Secretary,

In pursuance of Article 38, paragraph 5, of the Council of Europe Convention on Action against Trafficking in Human Beings, the draft report drawn up by the Group of Experts on Action against Trafficking in Human Beings (GRETA) in the context of the second evaluation round of the implementation of the Convention by the Slovak Republic was sent to the Slovak Republic to provide comments on the draft report. The report, as amended in the light of the comments received from the Slovak authorities, was adopted by GRETA at its 23rd meeting, held from 29 June to 3 July 2015.

Having regard to Article 38, paragraph 6, of the Convention and Rule 14 of GRETA's Rules of Procedure for evaluating implementation of the Convention, GRETA invites the Slovak authorities to submit any final comments on the report by 19 October 2015.

GRETA's report, together with eventual comments by the Slovak authorities, will subsequently be made public and sent to the Committee of the Parties to the Convention. At its 17th meeting on 30 November 2015, the Committee of the Parties will consider GRETA's second report on the Slovak Republic, with a view to adopting a recommendation to be addressed to the Slovak authorities.

As a National Co-ordinator for Combating Trafficking in Human Beings, I am sending the comments on the draft report drawn up by the Group of Experts on Action against Trafficking in Human Beings (GRETA) made by the Slovak Republic. Comments on the draft report attached hereto were prepared by the Ministry of the Interior of the Slovak Republic on the basis of documents obtained from the entities addressed in compliance with the workflow of the monitoring mechanism of the Council of Europe Convention on Action against Trafficking in Human Beings.

Yours sincerely,

Dear Ms.

Petya Nestorova
Executive Secretary
Council of Europe Convention on
Action Against Trafficking in Human Beings

S t r a s b o u r g

Comments on the draft GRETA report on Slovak republic

(25). The State Secretary of the Ministry of the Interior continues to act as National Coordinator for Combating Trafficking in Human Beings. Competencies were transferred to the National Unit to Combat Illegal Migration of the Border and Alien Police of the Police Corps Presidium, which detects and investigates crime of trafficking in human beings. As a part of the National Unit to Combat Illegal Migration the Department for Combating Trafficking in Human Beings was established, which provides, in the area of fighting against trafficking in human beings, cooperation, coordination and collaboration with other departments of the National Unit, the Office of the Presidium and the Ministry, cooperation with non-departmental institutions and organizations as well as police forces and partner agencies in other countries to the extent specified by the Director of the Office, moreover it directs methodically and within its competence coordinates the activities of all departments of the National Unit.

(27). According to the Statute of the Expert Group, its meetings should be convened at least four times a year. A meeting may also be convened upon request of at least eight members of the Expert Group. However, GRETA was informed that in 2014 the Expert Group met only twice, on 15 July and 15 October. The Expert Group may set up multidisciplinary working groups on specific issues related to THB, depending on the issues that must be resolved. The multidisciplinary group with competences related to the provision of assistance to victims of THB met five times in 2011 and once in 2012. To GRETA's knowledge, no working groups meetings have been convened since.

Working groups that are created on a multidisciplinary approach through different ministries and partners organisations may be set up according to the specific needs in particular situation taking into account the problem that needs to be solved. To follow effective approach the working groups are created upon on ad hoc bases and are composed of appropriate experts e.g. experts from Ministry of Labour and social affairs, Ministry of Health and deputy of service contractors. There were several working group meetings from 2012 until 2015. The meetings of the Expert Group may be convened on the basis of paragraph 7 of its Statute upon written request of at least 8 members of the Expert Group that is send to the President of the Expert Group. He is supposed to set up an extra meeting within 21 days from the delivery of the request. As far as we are informed this kind of request was never received.

(34). The Expert Group adopts annual reports on the implementation of activities carried out under the National Programme and submits them to the National Coordinator. The information concerning the implementation of the National Programme for 2011-2014 was approved by the Government of the Slovak Republic at its 156th plenary session on 15 April 2015. No independent evaluation of the implementation of the National Programme has been carried out so far.

All members of the Expert Group are strongly invited to comment each material that is provided to the Expert group. The President of the Expert Group encourage all members of the Expert Group to present their ideas, materials and proposals, although unfortunately almost all materials and drafts that are discussing in the Expert Group are provided by the Ministry of the Interior of the Slovak republic.

(40). Please change the name of the training module as follows. The training module entitled **“Anti-trafficking training for boarder guards”** covered the provision information about institutions co-operating in the implementation of the programme for support and protection of victims of trafficking, indicators of THB, detecting and distinguishing trafficking offences from other crimes, and interviewing victims.

(42). Representatives of the Labour Inspectorate informed GRETA that in April 2014 training on THB was provided to 16 inspectors, with the aim of disseminating the acquired knowledge to their colleagues at the regional level. While this is a welcome development, GRETA notes that so far no victims of trafficking have been detected by labour inspectors (see paragraph 94). Labour inspectors still lack skills and instructions on how to proceed once a potential victim of trafficking is discovered.

Please change the number of inspectors fro 16 to 14.

(67). GRETA refers to the Concluding Observations of the Committee on the Rights of the Child on the initial report of Slovakia submitted under article 12 of the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography, where the Committee “regrets the absence of measures and programmes targeting more particularly girls, children in street situations, children in residential care, and children of refugees and asylum seekers” and urges the authorities to put in place measures and programmes to support children in vulnerable and disadvantaged situations.”²⁰ In their comments to the draft GRETA report, the Slovak authorities have indicated that special attention is paid to children leaving institutional care and steps are being taken to prepare and empower them.

In Slovakia, we do not have the phenomenon of street children. If a child is left without any care authority for social protection and social guardianship placed such child to a crisis center or children home. We require deleting street children.

(68). GRETA considers that the Slovak authorities should strengthen the prevention of trafficking in children through the implementation of measures and programmes aimed at supporting children in vulnerable situations, including Roma children, street children, and children in residential care.

In Slovakia, we do not have the phenomenon of street children. If a child is left without any care authority for social protection and social guardianship placed such child to a crisis center or children home. We require deleting street children.

(87). Manuals and internal instructions have been issued for the Border and Alien police, staff of detention centres for irregular migrants, and staff of the Migration Office, with a view to facilitating interviews with potential victims and enabling their identification. These instructions and manuals are applicable to a broad range of professionals, including social workers, health-care staff and staff processing asylum applications. According to the Slovak authorities, the internal instructions issued by the Director of the Migration Office in 2012 on the identification of possible victims of trafficking are fully harmonised with Regulation No. 180/2013 and its content has been brought to the attention of all relevant frontline professionals.

Migration Office's expert participates in the EASO activity which aims to create a special training tool in the field of combating the trafficking of human beings among asylum seekers. (THB Network)

(90). The Slovak authorities have indicated that leaflets and brochures in several languages with information about the rights of victims of THB and questions to encourage self-reporting have been distributed in asylum facilities and other locations where possible victims of THB might be detected, such as the Migration Office and police stations where irregular migrants may be brought. Anti-trafficking specialists from IOM and the Slovak Catholic Charity regularly visit facilities for asylum seekers to provide information about human trafficking, its prevention and the assistance available to victims. Further, representatives of the NGOs Slovak Humanitarian Council and Human Rights League visit detention centres for irregular migrants, including at the border and airports. According to representatives of these organisations, in several cases they have referred information concerning possible victims of THB among irregular migrants to the Information Centre, but none of these reports resulted in the identification of victims of THB.

We demand deleting this sentence (According to representatives of these organisations, in several cases they have referred information concerning possible victims of THB among irregular migrants to the Information Centre, but none of these reports resulted in the identification of victims of THB.), we strongly oppose that the Information Centre was ever referred with this kind of information by those NGOs.

(92). GRETA refers to a recent judgment of the Supreme Court of the Slovak Republic in the case 10Sža/27/2015, whereby the cancellation of a third-country national's residence permit by the Border and Alien Police was considered excessive and disproportionate due to failure of the competent authorities to investigate the individual circumstances of the person concerned. The person concerned, a Vietnamese woman married to a Slovak national, had been referred for identification as a possible victim of THB for the purpose of domestic servitude, but the Information Centre had decided against admitting her to the protection programme and she was not formally identified as a victim of THB.

We would like to point that the judgement was not about the case of trafficking in human beings and the investigation was not being held in case of trafficking (there were no charges for trafficking against a specific person as referred to the judgement 2S/81/2014 of the County court in Bratislava from December 3, 2014) but criminal offence of maltreatment of a close and entrusted person which was terminated October 10, 2014 with the conclusion that no criminal offence happened. As the judgement 2S/81/2014 of the County court in Bratislava from December 3, 2014 states, Vietnamese woman declared that her marriage with the Slovak citizen was fictitious and for the purpose. The judgement 10Sža/27/2015 is about the termination of permanent residence permit and the termination according to the divorce. The marriage was divorced June 26, 2013 and the day later her former husband submitted a lawful judgement and the application for deregistration with the declaration of his former wife to the department of the Border and Alien police. July 4, 2013 charges were pressed against Vietnamese woman because of the suspicion of smuggling. During the investigation of the suspicion of smuggling, law enforcement were also investigating the possibility of THB since those crimes are in their responsibility. September 3, 2013 law

enforcement authorities terminated the investigation with the conclusion that no criminal offence happened, nor smuggling nor THB. At the time of the application for inclusion in the program September 6, 2013 the departments concerned has already decided that the matter is not human trafficking and that is why this Vietnamese woman can not be a victim of trafficking. According to the stated above it was clearly and sufficiently proven that Vietnamese woman was not a victim of trafficking in human beings.

(94). Regardless of these inspections, GRETA is concerned that no victims of THB have been identified as a result of joint inspections. It would appear that, despite training being provided, labour inspectors do not have clear instructions on how to proceed when possible victims of THB are detected. GRETA was informed of a case of alleged exploitation of Vietnamese workers at a meat producing factory, where the employee turnover was high, and at the time of the inspections the workers were interrogated in groups, which significantly limited the likelihood of identifying any trafficking victims. In their comments on the draft GRETA report, the Slovak authorities have stated that during the inspection of the factory in question, 11 foreign nationals from Vietnam and Romania were interviewed individually, all the elements pertaining to their stay in the Slovak Republic as well as their employment were reportedly in order and they were apparently satisfied with their working and payment conditions. No further information has been provided to GRETA as regards any other steps taken to verify if these foreign nationals might have been victims of THB. Further, GRETA was informed about a case of possible trafficking for labour exploitation of some 200 Ukrainian nationals, dating back to 2007, who were treated as irregular migrants and deported. Criminal proceedings relating to this case, initiated in 2009, are still on-going (for more details, see paragraph 160).

We would like to stress that 11 foreign nationals from Vietnam and Romania were interviewed individually. No victims were identified during these controls.

(104). According to statistical information provided by the Slovak authorities, from 2008 to 2014, there were 186 applications for inclusion into the protection programme, of which only one was refused. According to the Ministry of the Interior, in the course of 2013, a total of 30 victims of trafficking (19 women, 9 men and 2 children) were admitted to the protection programme.²⁵ Only two of these victims were foreign nationals (one from Ukraine and one from Kenya). Most of the victims (15) had been trafficked to the United Kingdom. Three of the victims were exploited in Slovakia.

(See please paragraph 92)

(112). Assistance to Slovak children who are victims of trafficking can be provided in the children's home in Medzilaborce, as well as in the crisis centres in Liptovský Mikuláš and Banská Bystrica, operated by the Slovak Catholic Charity. The children's home in Topoľčany can provide assistance to identified foreign child victims of trafficking; however, to GRETA's knowledge, no such children have been placed there in the last four years.

Assistance to Slovak children who are victims of trafficking can be provided in the children's home in Topoľčany, The children's home in Medzilaborce and Topoľčany can provide assistance to identified foreign child victims of trafficking; however, to GRETA's knowledge,

no such children have been placed there in the last four years. The crisis centers in Liptovsky Mikulas and Banska Bystrica are not allocated to assist child victims of trafficking.

(115). The representation of the children's interests by legal guardians remains highly problematic. If a child has no parent or legal representative, the court has to appoint a guardian, following an application by the Centre for Social Law Protection. According to representatives of public bodies and the judiciary, the procedure to appoint a guardian may take up to one month. During this period the interests of the child should be protected by the Centre for Social Law Protection, which designates one or more of its staff members to follow the case. Representatives of NGOs are critical of this approach due to the frequent turnover of staff of the Centres for Social Law Protection, resulting in changes in the personnel responsible for the same child or staff being sometimes absent during important procedural acts carried out in respect of children. In the case of unaccompanied foreign minors, the appointment of a guardian is essential for ensuring their access to asylum procedures (only a legal guardian may submit the asylum application or application for tolerated residence on behalf of the child) and other rights. Any delay in this respect undermines the effectiveness of their protection. Pending the appointment of a legal guardian by the court, age verification procedures are often conducted in the absence of the guardian. The report by the NGO Human Rights League refers to cases where there were delays of up to two months in submitting requests to courts for appointing legal guardians. In their comments on the draft GRETA report, the Slovak authorities have stated no delays in the appointment of legal guardians have been recorded as regards child victims of THB and that the statements made by NGOs are not related to THB cases. The authorities have also stressed that staff providing social protection and social guardianship are appropriately trained and qualified to represent the best interests of children before administrative and judicial authorities. Nevertheless, GRETA is concerned that an unaccompanied foreign minor may not necessarily be identified immediately as a victim of THB and in the absence of an appropriate legal guardian, the above-mentioned shortcomings may impede the process of identification and protection.

Essentially, the Slovak republic does not agree that the representation of the children's interests by legal guardians remains highly problematic. The child is always represented, for a time until there is a court appointed guardian performs this function by the bodies of social protection of children and social guardianship. The social protection of children and social guardianship is the most sophisticated system, which is built from 50 years of the last century. It is based on the application of the best interest of the child and protection of its welfare.

(116). Pursuant to Article 111(6) of the Act on Residence of Foreigners, a foreigner who claims to be an unaccompanied minor must undergo a medical examination to determine his/her age, unless it is obvious that the person is a child. Article 127 of the Act on Residence of Foreigners states that if a person refuses to undergo a medical examination, he/she shall be considered to be an adult for the purposes of the proceedings under this Act, and if he/she agrees to the medical examination, he/she shall be considered to be an adult until the results of the examination prove the contrary. This appears to contradict Article 10(3) of the Convention, as well as the principle contained in Article 7 of Regulation No. 180/2013, which states that if the age

of the victim is uncertain and there are reasons to believe that he/she may be a child, this person should be considered as a child, until proving the contrary. The Slovak authorities have argued that that the procedure under Article 127 of the Act on Residence of Foreigners applies only for the purposes of proceedings under alien's legislation, whereas the procedure under Regulation No. 180/2013 should be applied to victims of trafficking when granting tolerated stay. Nevertheless, GRETA notes that Article 10(3) of the Convention concerns the process of identification, which might take some time and in the meantime, pursuant to the provisions of the Act on Residence of Foreigners, possible foreign child victims of THB may be placed in facilities for adults.

Department of Alien Police of Bureau of Border and Alien Police strongly disagrees with this statement. According Art. 111 (6) of Act on Residence of Aliens, (6) third country national who claims to be an unaccompanied minor shall be obliged to undergo medical examination to specify his/her age, this shall not apply if the person is obviously minor. Art. 127 (1) stipulates that if third country national refuses to undergo medical examination to specify his/her age, he/she shall be, in terms of Act on residence of Aliens, considered an adult. Art. 127 (1) also sets out that if person undergoes the medical examination to specify his/her age, he/she shall be considered an adult until the result of such examination.

From the foregoing it is clear that abovementioned procedure applies solely for the purpose of Act on Residence of Aliens.

Following the above Department of Alien Police of Bureau of Border and Alien Police states that Art 111 (6) and Art. 127 are not contrary to Art. 10(3) of the Convention.

(117). The method used for age assessment is the ossification test (wrist X-Ray), which may also be complemented by dental analysis. GRETA notes that this method of age assessment does not take into account psychological, cognitive or behavioural factors. In the course of 2011 one NGO successfully challenged several decisions to move presumed children from children's homes to the temporary detention facility for adults with a view to their subsequent deportation on the grounds that they were adults, based on the ossification test. Apart from procedural irregularities, the Trnava District Court, which considered these cases, noted that the participation of an anthropologist in the age assessment examination would yield the outcome of the age assessment more credible. In their comments on the draft GRETA report, the Slovak authorities have pointed out that the cases in question did not concern identified victims of trafficking and that the Ministry of Health does not see any need to change for age assessment method. Nevertheless, GRETA invites the Slovak authorities to review the age assessment procedures, ensuring that the best interests of the child are effectively protected, and taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child.

The age assessment methods are mentioned several times in the report. As concerns asylum procedure, the age assessment is stipulated by the Article 23 par.7 of the Act on Asylum (Act 48/2002 Coll. On Asylum and Amendment of Some Acts (hereinafter only Act on Asylum). Carpal (hand/wrist) X ray, together with dental observation in some cases, is the only method for the age assessment currently applied. The age assessment is crucial due to the legal consequences - in line with the Slovak legislation a person who reached 18 years is

regarded as a full-aged (matured) person for the purpose of the procedure. Assessment techniques such as cognitive, behavioural appraisal and psychological assessment are not seen as sufficient; those tests can however be used for personality assessment although not for the purpose of age assessment, as the observed factors are not objective. In general, Carpal (hand/wrist) X ray is the most used and accepted method for the age assessment. Following the above Department of Alien Police of Bureau of Border and Alien Police does not consider using of other age assessment methods. On the contrary Department of Alien Police of Bureau of Border and Alien Police will not refuse using any of the new age assessment methods provided that they will contribute to accelerate the identification process. The competent authority in this field is Ministry of Health of Slovak Republic. (regarding the method of age assessment please see also a study held by experts from forensi.sk as an attachment, apologize that it is in Slovak)

Closing remark – none of the persons referred to above has been identified as victim of human trafficking.

(118). GRETA notes that the efforts of different bodies involved in assisting child victims of trafficking in Slovakia are not sufficiently co-ordinated and there is no clear mechanism for referring child victims to assistance. Children's access to assistance is further impeded by the deficiencies in the identification of child victims, as well as by shortcomings in the practice of appointing legal guardians.

It seems that it is a misunderstanding of the system of child protection and social guardianship. The authority for social protection and social guardianship who plays the role of coordinator if the implementation of measures of social custody for children and to help children who are abused, sexually abused, neglected, or are reasonable suspicion of abuse, sexual abuse or neglect or have been victims of trafficking or situation assessment unaccompanied minors and at selecting and applying arrangements for unaccompanied minor interaction of others (§73 paragraph. 2 point. e) Section 3 of the Act no. 305/2005).

Slovak children have a legal representative = parent. The measures for the victims shall be performed by authority for social protection and social guardianship (provisions of the Act no. 305/2005

(119). GRETA urges the Slovak authorities to make efforts to improve the identification and assistance to child victims of trafficking, and in particular to:

- establish a clear and uniform procedure concerning the identification of child victims of THB, both Slovak nationals and foreign minors, and disseminate information and guidance about the application of this procedure to relevant professionals;

- ensure that legal guardians are appointed without delay and are able to carry out their tasks in an efficient manner. This involves the provision of training on the assistance and protection of child victims of trafficking to persons who are likely to be appointed as legal guardians;

- take steps to address the problem of disappearance of unaccompanied minors from child care facilities, by providing suitable safe accommodation and adequately trained staff;

- review the legislation concerning the presumption of age with a view to bringing it in conformity with Article 10(3) of the Convention.

Please change the statement as follows:

- ensure that legal guardians for unaccompanied minor are appointed without delay. This involves the provision of training on the assistance and protection of child victims of trafficking to subjects who are working with child victims of trafficking;

(120). GRETA also considers that the Slovak authorities should harmonise the existing structures for assistance to child victims of trafficking and ensure that assistance and protection measures are adapted to their specific needs. Minimum standards should be guaranteed when child victims of trafficking are accommodated in non-specialised facilities.

There is no possibility that child can be placed into the equipment, which has been specifically designed to help children who are victims of trafficking.

(121). In its first evaluation report GRETA found that the tolerated residence granted by the police to foreign victims of THB could not be considered as equivalent to the recovery and reflection period under the Convention because the objective of the recovery and reflection period is to help victims to recover and stay free of the traffickers, entitling them to assistance and protection measures, while the tolerated residence is limited to legalising the stay of the person, without any rights to assistance and protection. Consequently, GRETA urged the authorities to take legislative and practical measures to introduce a recovery and reflection period for victims of THB, as provided for in Article 13 of the Convention.

Slovak republic has fully transposed the Directive of EP and Council 2011/36/EU into the Act on Residence of Aliens.

122. The new Act on Residence of Foreigners,²⁸ which entered into force on 1 January 2012, continues to provide for “tolerated residence” which according to the Slovak authorities is equivalent to a recovery and reflection period for the purposes of the Convention. Pursuant to Article 58(2), point c, of this Act, a police department shall grant tolerated residence to a third-country national who is a victim of human trafficking, if he or she is at least 18 years old, and if there are no reasons for the refusal of an application as per Article 59, paragraph 12.29 The police department or a person authorised by the Ministry of the Interior is responsible for informing the third-country national about the possibility and conditions for granting tolerated residence and the accompanying rights and duties. In relation to this provision, Article 59(1) states that “an application for the granting of tolerated residence as per Article 58(2), point c, shall be filed by the prosecuting authority on behalf of a third-country national.” Pursuant to Article 58(4), point d, the duration of tolerated residence for victims of THB is up to 90 days, during which the person decides whether he/she would co-operate with the authorities in the investigation of the THB offence. This period can be extended by a further 30 days upon the request of a person authorised by the Ministry of the Interior.

Recovery and reflection period is governed by Art. 58 (4) (d) of Act on Residence of Aliens which provides for the period of 90 days with the possibility of extension by 30 days. This is the period during which a third country national, who is the victim of human trafficking and at least 18 years old, decides whether he/she would cooperate with prosecuting authorities, when resolving criminal acts related to human trafficking.

According to Art. 58 (2) (c) of Act on Residence of Aliens police department shall grant the tolerated stay to third country national who is the victim of human trafficking, if he/she is at least 18 years old. The police department shall grant such tolerated stay upon the request of prosecuting authority for the period of at least 180 days, even repeatedly.

Pursuant to Art. 59 (10) of Act on Residence of Aliens the Ministry of Interior shall provide appropriate accommodation for a third country national, who has been granted tolerated stay as per Art. 58 (2) (c) provided that he/she cannot provide for it on his/her own.

(125). GRETA notes that Article 58 of the Act on the Residence of Foreigners applies only to third-country nationals. As regards EU citizens, the Slovak authorities have stated that assistance is provided to victims of trafficking included in the protection programme without discrimination in terms of the nationality. However, the authorities have not responded to GRETA's question as to whether EU citizens are entitled to a recovery and reflection period, i.e. tolerated residence as per Article 58(2), point c. Considering that after three months EU citizens can only stay legally in other EU countries provided they meet a number of requirements (e.g. economic activity, sufficient resources, being enrolled as a student), the possibility that they would be considered as being irregular cannot be excluded and they should logically be entitled to enjoy a recovery and reflection period.

Slovak republic has fully transposed the Directive of EP and Council 2004/38/EU into the Act on Residence of Aliens. Pursuant to internal Regulation of Ministry of Interior of Slovak Republic no. 180/2013 on providing the program of support and protection for victims of human trafficking the authority competent for deciding on getting a person included in the program of providing the assistance to victims of human trafficking, including EU citizens, is National Coordinator and in the absence of National Coordinator the Head of Department of Crime Prevention. Art. 6 (3) (b) of above mentioned regulation stipulates that following the expiration of necessary emergency care, such care shall be provided also for EU citizen provided that there is a reasonable suspicion that he/she became a victim of human trafficking within the territory of Slovak Republic.

(127). GRETA concludes that the existing legal provisions do not satisfy the requirements of Article 13 of the Convention regarding the recovery and reflection period. Given the fact that this is a legal obligation stemming from the Convention, GRETA strongly urges the Slovak authorities to provide in the country's internal law a recovery and reflection period when there are reasonable grounds to believe that the person concerned is a victim, as provided for in Article 13 of the Convention, and to ensure that all possible victims of trafficking, including EU and EEA citizens, are offered an effective recovery and reflection period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period.

Recovery and reflection period is set out in Art. 58 (4) (d) of Act on Residence of Aliens which stipulates that recovery and reflection period is the period during which a third country national, who is the victim of human trafficking and at least 18 years old, decides whether he/she would cooperate with prosecuting authorities, when resolving criminal acts related to human trafficking.

(130). GRETA has sought clarification as to whether a temporary residence permit may be granted to victims of THB due to their personal situation, but no information was provided by the Slovak authorities.

Police department shall grant a temporary residence providing that such third country national meets all the legal conditions. Police department shall not grant the temporary residence solely upon difficult life situation of third country national.

(138). Pursuant to Article 7 (1), point (a) and point (c) of Law No. 82/2005 Coll. on illegal work and illegal employment, a legal entity or a natural person who has been fined for a violation of the prohibition of illegal employment is obliged to pay the agreed salary to the person illegally employed and the costs associated with the delivery of outstanding salary to the country to which the illegally employed person was returned or deported. This would mean that any person who is not a citizen of the Slovak Republic or an EU Member State, if illegally employed, is covered by this provision.

Please change Pursuant to Article 7a (1),...

(139). Bearing in mind that no victims of THB have received compensation either from the perpetrators or from the State, GRETA urges the Slovak authorities to adopt measures to facilitate and guarantee access to compensation for victims of trafficking, including by:

- ensuring that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;
- enabling victims of trafficking to exercise their right to compensation, by building the capacity of legal practitioners to support victims to claim compensation and including compensation into existing training programmes for law enforcement officials and the judiciary;
- encouraging prosecutors to request compensation orders to the largest possible extent;
- making full use of the legislation on the freezing and forfeiture of assets to secure compensation to victims of THB.

Victims of THB who act as witness-damaged party are notified about their right for compensation for damage caused by the offense in the context of information during questioning of a witness-damaged party, and the notification is confirmed by his signature. The mentioned guidance is contained in Art. 46 of CCP, and the witness – damaged party is entitled to propose that the court in his judicial decision can impose an obligation of the defendant to pay the damages caused.

(142). According to information provided by the Slovak authorities, 54 persons were returned from the Slovak republic as part of assisted voluntary return projects operated by the IOM in 2012, and 50 persons were returned under such projects in 2013. GRETA has not been provided with information as to whether any of the returnees were victims of THB.

No victims of trafficking between returnees were identified.

(180). GRETA considers that the Slovak authorities should take additional measures to strengthen partnerships with NGOs and representatives of civil society as regards the prevention of human trafficking and the protection of victims, including practical measures to ensure that the Expert Group allows a more inclusive participation of civil society representatives in its work, in particular when drafting policy documents and legislative proposals.

All members of the Expert Group are strongly invited to comment each material that is provided to the Expert group. The President of the Expert Group encourage all members of the Expert Group to present their ideas, materials and proposals, although unfortunately almost all materials and drafts that are discussing in the Expert Group are provided by the Ministry of the Interior of the Slovak republic.

Issues for immediate action

- **GRETA urges the Slovak authorities to make efforts to improve the identification and assistance to child victims of trafficking, and in particular to:**
 - **establish a clear and uniform procedure concerning the identification of child victims of THB (both Slovak nationals and foreign minors) and disseminate information and guidance about the application of this procedure to relevant professionals;**
 - **ensure that legal guardians are appointed without delay and are able to carry out their tasks in an efficient manner. This involves the provision of training on the assistance and protection of child victims of trafficking to persons who are likely to be appointed as legal guardians;**
 - **take steps to address the problem of disappearance of unaccompanied minors from child care facilities;**
 - **review the legislation concerning the presumption of age with a view to bringing it in conformity with Article 10(3) of the Convention.**

According to the opinion of the Migration Office of the Slovak republic, Article 23 par.7 of the Act on Asylum is in line with the Article 10 par. 3 of the Convention. Consequently we would suggest deleting the note.