



# **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 Hungary**

First evaluation round

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## Preamble

As the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) and the monitoring mechanism to evaluate its implementation are relatively new, it is appropriate to set out their salient features at the beginning of the first report to each Party to the Convention.

The Convention was adopted by the Committee of Ministers of the Council of Europe on 3 May 2005, following a series of other initiatives by the Council of Europe in the field of combating trafficking in human beings. The Convention entered into force on 1 February 2008. It is a legally binding instrument which builds on already existing international instruments. At the same time, the Convention goes beyond the minimum standards agreed upon in other international instruments and aims at strengthening the protection afforded by them.

The main added value of the Convention is its human rights perspective and focus on victim protection. The Convention clearly defines trafficking as being first and foremost a violation of human rights and an offence to the dignity and integrity of the human being; greater protection is therefore needed for all of its victims. The Convention also has a comprehensive scope of application, encompassing all forms of trafficking (whether national or transnational, linked or not linked to organised crime) and taking in all persons who are victims of trafficking (women, men or children). The forms of exploitation covered by the Convention are, at a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.

As trafficking in human beings is a world-wide phenomenon, one of the express purposes of the Convention is to promote international co-operation in the efforts to combat trafficking. In this context, it is noteworthy that the Convention is not restricted to Council of Europe member states; non-member states and the European Union also have the possibility of becoming Parties.

To be effective, and given the nature of the phenomenon, a strategy for combating trafficking in human beings must adopt a co-ordinated and multidisciplinary approach, incorporating prevention, protection of victims’ rights and prosecution of traffickers. The Convention contains various provisions in each of these three areas, placing obligations on States to take appropriate measures, in partnership with civil society and in co-operation with other States.

The measures provided for by the Convention in the area of prevention include awareness-raising for persons vulnerable to trafficking; economic and social initiatives to tackle the underlying causes of trafficking; actions aimed at discouraging demand; and putting in place border control measures to prevent and detect trafficking in human beings.

The Convention also provides for a series of measures to protect and promote the rights of victims. Victims of trafficking must be identified and recognised as such in order to avoid police and public authorities treating them as “irregular migrants” or criminals. Victims should be granted physical and psychological assistance and support for their reintegration into society. Further, by virtue of the Convention, victims are entitled to a minimum of 30 days to recover and escape from the influence of the traffickers and to take a decision about their possible co-operation with the authorities. A renewable residence permit should be granted if their personal situation so requires and/or if their continued presence is needed in order to co-operate in a criminal investigation. In addition, the Convention establishes the right of victims to receive compensation and provides for measures for their repatriation and return with due regard to the rights, safety and dignity of the victims.

In the area of substantive and procedural criminal law, the Convention places on Parties a series of obligations aimed at enabling the effective prosecution of traffickers and ensuring that they are punished in a proportionate and dissuasive manner. Particular attention is paid to the issue of victim and witness protection during investigation and court proceedings. Parties should also provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities.

Another important added value of the Convention is the monitoring system set up to supervise the implementation of the obligations contained in it, which consists of two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.

GRETA is composed of 15 independent and impartial experts chosen for their recognised competence in the fields of human rights, assistance and protection of victims, and action against trafficking in human beings, or because of their professional experience in the areas covered by the Convention. The task of GRETA is to evaluate the implementation of the Convention by the Parties, following a procedure divided into rounds. At the beginning of each round, GRETA defines autonomously the provisions to be monitored and determines the most appropriate means to carry out the evaluation, being guided by the Rules of procedure for evaluating implementation of the Convention adopted at GRETA's 2nd meeting (16-19 June 2009). GRETA has decided that the duration of the first evaluation round shall be four years starting at the beginning of 2010 and finishing at the end of 2013.

In carrying out its monitoring work, GRETA has the right to avail itself of a variety of means for collecting information. As a first step, GRETA sends a detailed questionnaire to the authorities of the Party undergoing evaluation. It may also make additional requests for information. By virtue of the Convention, Parties are obliged to co-operate with GRETA in providing the requested information. Another important source of information is civil society and, indeed, GRETA maintains contacts with non-governmental organisations which can provide relevant information. In addition, GRETA may decide to carry out a visit to the country concerned in order to collect additional information or to evaluate the practical implementation of the adopted measures. This visit allows for direct meetings with the relevant bodies (governmental and non-governmental) and is also an occasion for GRETA to visit facilities where protection and assistance are provided to victims of trafficking and other related structures. Furthermore, GRETA may decide to organise hearings with various actors in the field of action against trafficking in human beings.

GRETA's evaluation reports are thus the result of information gathered from a variety of sources. They contain an analysis of the situation in each Party regarding action taken to combat trafficking in human beings and suggestions concerning the way in which the country may strengthen the implementation of the Convention and deal with any problems identified. In its assessment, GRETA is not bound by the case law of judicial and quasi-judicial bodies acting in the same field, but may use them as a point of departure or reference. The reports are drawn up in a co-operative spirit and are intended to assist States in their efforts; they can offer support for the changes on which the national authorities have already embarked, and lend legitimacy to the direction of national policies. Because of its multidisciplinary and multinational composition, and as a consequence of its independent approach, GRETA provides a professional and impartial international voice in this process.

As regards the procedure for the preparation of reports, GRETA examines a draft report on each Party in plenary session. The report is sent to the relevant government for comments, which are taken into account by GRETA when establishing its final report. This 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 for the Party to make comments, the report and conclusions by GRETA, together with eventual comments made by the national authorities, are made public and sent to the Committee of the Parties. In the context of the first evaluation round, this completes GRETA's task in respect of the Party concerned, but it is only the first stage in an on-going dialogue between GRETA and the authorities.

The second pillar of the monitoring mechanism, the Committee of the Parties, is composed of the representatives in the Committee of Ministers of the Parties to the Convention and of representatives of Parties non-members of the Council of Europe. On the basis of GRETA's reports, the Committee of the Parties may adopt recommendations addressed to a Party concerning the measures to be taken to implement GRETA's conclusions.

## Executive summary

The Hungarian authorities have taken a number of steps to prevent and combat trafficking in human beings. The national legal framework has evolved in recent years and human trafficking, as defined in the Convention, has been criminalised in Hungarian law. However, GRETA urges the authorities to include a provision criminalising slavery, practices similar to slavery, and servitude in relation to human trafficking.

Two national strategies have been adopted since 2008 and structures to ensure the co-ordination of their implementation have been set up. However, GRETA calls on the Hungarian authorities to allocate sufficient resources for the co-ordination structures to achieve the objectives set out in the national strategy and to ensure full participation of civil society in the development, implementation and evaluation of the anti-trafficking policy.

While there are indications that internal trafficking has been on the rise, GRETA notes there is still little knowledge of its scale. Not enough is known either about the prevalence of trafficking for the purpose of labour exploitation in Hungary.

Further action is needed to raise awareness of human trafficking, including internal trafficking, amongst groups at risk and the general public. Moreover, social and economic measures should be adopted for the most vulnerable and, in particular, to promote the integration of Roma. GRETA also asks the authorities to increase their efforts to address the root causes of human trafficking for sexual exploitation, such as stereotypes and prejudice against women and violence against women.

A national referral mechanism for victims of trafficking was introduced in 2013. GRETA considers that further steps need to be taken in order to ensure its proper implementation and guarantee that all victims, irrespective of sex, origin, place of exploitation or type of exploitation, are identified and have access to assistance. Particular efforts are needed when it comes to internal trafficking and labour exploitation. Practical training on identification for professionals working across the country (such as police officers and prosecutors) should be further developed. In addition, GRETA notes that this mechanism does not currently cover third-country nationals without legal residence, who should have access to adequate assistance and shelters. It also calls on the authorities to strengthen identification of victims amongst irregular migrants and asylum seekers, as groups particularly vulnerable to trafficking.

GRETA notes that the number of identified child victims is low and GRETA urges the authorities to increase their efforts to identify child victims and, for this purpose, to set up child-specific identification procedures and to develop appropriate age assessment tools. Given the high level of disappearances of unaccompanied minors, measures need to be taken to provide them with safe accommodation and, noting the current obstacles in promptly assigning legal guardians for unaccompanied minors, GRETA urges the authorities to ensure that adequately trained legal guardians are assigned without delay after the arrival of unaccompanied minors.

GRETA notes that very few foreign victims have been identified and that no recovery and reflection period or residence permit appear to have been granted. GRETA stresses that the recovery and reflection period needs to be granted not only to identified victims but where there are reasonable grounds to believe that a person is a victim. The authorities should also ensure that victims enjoy in practice the right to obtain renewable permits when they co-operate with the authorities or when their personal situation justifies it.

GRETA considers that state compensation should be available to third-country nationals who are victims of THB, irrespective of their immigration status. The possibility of obtaining compensation from the perpetrators does not appear to be used in practice by victims of trafficking and, for this reason, GRETA calls on the authorities to ensure that all victims are informed of this possibility and to train legal professionals on compensation for victims of trafficking.

In the absence of a specific provision on the non-punishment of victims of trafficking compelled by traffickers to commit offences in Hungarian law, GRETA deems it all the more important that this principle be included in the training organised for the police, prosecuting authorities and judiciary and that clear guidance be addressed to the prosecuting authorities.

GRETA welcomes the involvement of the Hungarian authorities in joint investigation teams for human trafficking cases prosecuted abroad. As regards investigations, prosecutions and convictions in Hungary, given the relatively low number of convictions and level of sanctions, GRETA considers that the authorities should identify any gaps in the investigation procedure and the presentation of cases in court with a view to ensuring that crimes relating to THB are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions.

Finally, GRETA calls on the authorities to assess whether measures available to protect victims of human trafficking, including children, are effectively used and take additional measures to ensure that they are adequately protected from potential retaliation or intimidation.



## I. Introduction

1. Hungary deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) on 4 April 2013. The Convention entered into force for Hungary on 1 August 2013.<sup>1</sup>

2. As established in Article 36(1) of the Convention, the Group of Experts on Action against Trafficking in Human Beings (“GRETA”) monitors the implementation of the Convention by the Parties. GRETA does so in conformity with the procedure laid down in Article 38 of the Convention and the Rules on the evaluation procedure of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties. For the first evaluation round, GRETA drew up a monitoring timetable according to which the Parties to the Convention were divided into groups, Hungary being in the fourth group of Parties to be evaluated.

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by Hungary to implement the provisions set out in the Convention. The “Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties – first evaluation round” was sent to Hungary on 27 January 2014. The deadline for replying to the questionnaire was 27 May 2014 and Hungary submitted its reply on time.

4. In preparation of the present report, GRETA used the reply to the questionnaire by Hungary, other information collected by GRETA and information received from civil society. In addition, an evaluation visit to Hungary took place from 8 to 11 July 2014, carried out by the following delegation:

- Ms Siobhán Mullally, member of GRETA;
- Mr Jan van Dijk, member of GRETA;
- Mr Gerald Dunn, Administrator at the Secretariat of the Convention on Action against Trafficking in Human Beings.

5. During the visit, the GRETA delegation held meetings with the National Anti-trafficking Co-ordinator, officials from relevant ministries and public agencies, as well as prosecutors and judges. The delegation also met officials of the Office of the Commissioner for Fundamental Rights. These meetings (see Appendix II) took place in a spirit of close co-operation.

6. The GRETA delegation held separate meetings with representatives of non-governmental organisations (NGOs), trade unions and other members of civil society, as well as with representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM). GRETA is grateful for the information provided by them.

7. Further, the GRETA delegation visited a shelter for victims of trafficking run by the NGO Chance for Families 2005 Foundation in Mosonmagyaróvár, a crisis centre providing emergency shelter to victims of trafficking run by the NGO Hungarian Baptist Aid in Budapest, and the unit for unaccompanied foreign minors of the István Károlyi Centre for Children in Fót.

8. GRETA is grateful for the valuable assistance provided by the contact person appointed by the authorities, Ms Eszter Gàl, Expert at the Department of European Cooperation, Ministry of the Interior.

9. The draft version of the present report was adopted by GRETA at its 21st meeting (17-21 November 2014) and was submitted to the Hungarian authorities for comments on 2 December 2014. The authorities’ comments were received on 13 February 2015 and were taken into account by GRETA when drawing up the final evaluation report, which was adopted at GRETA’s 22nd meeting (16-20 March 2015).

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<sup>1</sup> The Convention as such entered into force on 1 February 2008, following its 10th ratification.

## **II. National framework in the field of action against trafficking in human beings in Hungary**

### **1. Overview of the current situation in the area of trafficking in human beings in Hungary**

10. Hungary is primarily a country of origin and transit for victims of trafficking in human beings (THB). According to data provided by the Ministry of the Interior and collected from a variety of stakeholders (see paragraph 82), 58 victims were identified in 2011 (49 women, 3 men and 6 children), 68 in 2012 (58 women, 1 man and 9 children) and 43 in 2013 (41 women and 2 men).<sup>2</sup> Although this data is not broken down into categories, the great majority of identified victims are said to have been subjected to sexual exploitation. The number of victims exploited abroad and repatriated to Hungary was 15 in 2011, 10 in 2012 and 24 in 2013. According to the authorities, there are indications that Hungary is also to some extent a country of destination, but there is currently not sufficient data to substantiate this.<sup>3</sup> Only three foreign victims were identified from 2011 to 2013 (2 from Romania and 1 from Thailand). These figures do not reflect the extent of trafficking in Hungary, and this has been acknowledged by the Hungarians authorities.<sup>4</sup>

11. According to data collected from the Police,<sup>5</sup> the Office of Justice and the National Crisis Telephone Information Service (OKIT), there were 35 possible victims of THB in 2014 (26 women, 7 men and 2 children), all of whom were Hungarian; 15 of them had been subjected to sexual exploitation, 18 to labour exploitation and in some instances the type of exploitation was not specified. Internal trafficking is a growing phenomenon, which concerns especially the poorest areas of the country, such as the North-East. According to available data for 2014, 22 possible victims were exploited within Hungary. There have been several cases of elderly persons trafficked for the purpose of servitude and benefit fraud (see paragraph 132). Several interlocutors mentioned cases of trafficking for labour exploitation close to the borders with Romania, Serbia, the Slovak Republic and Ukraine, linked to the presence of Hungarian-speaking minorities in these neighbouring countries. Data provided for 2014 show 2 possible victims of labour exploitation in the industrial sector, 2 in the agricultural sector, as well as 9 possible victims of forced labour taking place in households. There have also been reported instances of transnational human trafficking for the purpose of forced marriage, for example, from Hungary to the United Kingdom and Austria.

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<sup>2</sup> However, according to Eurostat figures, the number of registered victims was 134 in 2011 and 57 in 2012. *Trafficking in human beings - 2015 edition*, Eurostat.

<sup>3</sup> National Anti-trafficking Strategy 2013-2016 (see paragraphs 16-18 of the report), page 12.

<sup>4</sup> *Ibid*, page 27.

<sup>5</sup> The statistics provided by the Police do not specify the age of victim, nor their origin or the type of exploitation.

## 2. Overview of the legal and policy framework in the field of action against trafficking in human beings

### a. Legal framework

12. At the international level, in addition to the Council of Europe Convention on Action against Trafficking in Human Beings, Hungary is Party to the United Nations Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (both of which ratified in 2006). Hungary is also Party to the UN Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (ratified in 1991 and 2010, respectively), the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol (Hungary ratified the former in 1980, and acceded to the latter in 2000), as well as conventions elaborated under the auspices of the International Labour Organisation (ILO).<sup>6</sup> Further, Hungary is Party to a number of Council of Europe conventions in the criminal field which are relevant to action against THB.<sup>7</sup>

13. As a member of the European Union (EU), Hungary is bound by Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, and who co-operate with the competent authorities, Directive 2004/80/EC relating to compensation to crime victims, and Directive 2012/29/EU of the European Parliament and the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings.

14. Trafficking in human beings was first introduced in the Hungarian Criminal Code in 1998 as a crime against personal freedom and human dignity. The definition of trafficking in human beings was subsequently revised in 2012 (former section 175/B of the Criminal Code) and was recently amended with the entry into force on 1 July 2013 of Act C of 2012 on the new Criminal Code (CC) (section 192 CC). Other provisions of the Criminal Code of relevance include labour exploitation (section 193), sexual exploitation (section 196), exploitation of child prostitution (section 203) and child labour (section 209) (see paragraphs 46-47).

15. Other domestic legislation relevant to THB includes:

- Act CXXXV of 2005 on Crime Victim Support and State Compensation, which provides for accommodation for Hungarian victims and victims with the right of free movement and residence as well as information to victims who are third-country nationals about the possibility of a reflection period and a residence permit;
- Government Decree No. 354/2012 (XII.13) on the Identification Order of Victims of Trafficking in Human Beings, which regulates the referral of victims of THB for assistance, as provided by Act CXXXV of 2005 on Crime Victim Support and State Compensation;
- Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals, which provides for a reflection period and residence permits for third-country nationals who are victims of trafficking;
- Government Decree No. 114/2007 (V.24) on the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals, which provides a framework for the assistance to third-country nationals who are victims of trafficking;
- Act XIX of 1998 on the Criminal Procedure.

<sup>6</sup> Convention concerning Forced or Compulsory Labour (No. 29), Convention concerning the Abolition of Forced Labour (No. 105) and Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182).

<sup>7</sup> In particular the European Convention on Mutual Assistance in Criminal Matters and its first Additional Protocol; the European Convention on Extradition and its first two Additional Protocols; and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism.

## b. National Strategies

16. On 29 May 2013 the Hungarian Government adopted a national strategy for the period 2013-2016 (“Four-Year Plan Document Related to the Directive against Human Trafficking and the European Strategy towards the Eradication of Trafficking in Human Beings and Replacing the National Strategy against Human Trafficking 2008-2012”).<sup>8</sup>

17. All relevant governmental, judicial and non-governmental actors were involved in preparing the new strategy. These included the members of the National Co-ordination Mechanism on Human Trafficking and the NGO Roundtable on Human Trafficking (see respectively paragraphs 22-23 and 24-25). In addition, a working group was set up for the preparation of the strategy, involving representatives from the Ministry of the Interior, the Ministry of Human Capacities, the Office of the Prosecutor General, the Metropolitan Court of Budapest, the National Bureau of Investigation, the Victim Support Service of the Office of Justice, the Ministry for Foreign Affairs, the National University of Public Service, the National Institute of Criminology, the National Crisis Telephone Information Service (OKIT), and the National Police Headquarters.

18. The strategy follows a comprehensive approach to combating human trafficking and includes 47 measures in the following five priority areas: (i) a victim identification, referral and protection system; (ii) prevention, awareness building and awareness raising programmes; (iii) detecting and prosecuting the perpetrators and protecting the rights and interests of victims; (iv) co-ordination between relevant government, public and non-governmental organisations; (v) the safe return and reintegration of victims.

19. The actors responsible for the strategy’s implementation include the competent ministries, the Office of the Prosecutor General, the judiciary, agencies involved in the identification, referral and protection of victims as well as institutions involved in training.

## 3. Overview of the institutional framework for action against trafficking in human beings

### a. National Anti-trafficking Co-ordinator

20. The Deputy State Secretary for EU and International Relations of the Ministry of the Interior has been appointed National Anti-trafficking Co-ordinator, alongside her other functions, in accordance with Government Decree No. 1018/2008 (III.26.) on the National Strategy against Human Trafficking for 2008-2012. The National Co-ordinator is responsible for ensuring co-ordination between the different actors involved in the fight against human trafficking and, consequently, chairs two bodies whose purpose is to improve such co-ordination and the flow of information amongst stakeholders. The first one, the National Co-ordination Mechanism, brings together public actors, whilst the second, the NGO Roundtable, gathers representatives of NGOs (see paragraphs 22-23 and 24-25).

21. The National Co-ordinator is assisted by the two full-time staff members of the Police Co-operation Unit coming under the Department of European Co-operation of the Ministry of the Interior.

### b. National Co-ordination Mechanism on Human Trafficking

22. As a result of the National Strategy against Human Trafficking 2008-2012, a National Co-ordination Mechanism was set up with a view to achieving a coherent approach to combatting trafficking. It meets three to four times a year.

<sup>8</sup> Government Resolution No. 1351/2013 (VI.19.) on the National Strategy against Trafficking in Human Beings for the period 2013-2016, published on 19 June 2013.

23. In its current composition the National Co-ordination Mechanism includes representatives from competent ministries (Department of European Co-operation of the Ministry of the Interior; Department for Consular Affairs and Department of the Americas of the Ministry of Foreign Affairs and Trade; Department for Equal Opportunities and Deputy State Secretariat for Social Inclusion of the Ministry of Human Capacities), the police (Trafficking in Human Beings Unit of the National Bureau of Investigation; National Police Headquarters), other public bodies (Office of Immigration and Nationality; Victim Support Department of the Office of Justice; Office of the Prosecutor General; National Office for the Judiciary; Metropolitan Court of Budapest; National Labour Office; European Employment Service Network; the National Crisis Telephone Information Service (OKIT) of the National Institute of Family and Social Policy), NGOs providing accommodation to victims of trafficking (Chance for Families 2005 Foundation and Hungarian Baptist Aid), the National Institute of Criminology as well as IOM. All have full membership. The US and Dutch Embassies as well as UNHCR also regularly participate in the National Co-ordination Mechanism's meetings, as observers. Furthermore, the editor and presenter of a television programme ("Stragglers") reporting on missing persons, from the Media Support and Asset Management Fund (MTVA), has observer status with the National Co-ordination Mechanism.

c. NGO Roundtable on Human Trafficking

24. Alongside the National Co-ordination Mechanism, a forum for NGOs involved in anti-trafficking activities has been set up to facilitate the flow of information between the authorities and NGOs. It also aims at ensuring co-ordination among NGOs, examining the possibility of joint activities between members, discussing practical issues and making proposals. Like the National Co-ordination Mechanism, the NGO Roundtable is chaired by the National Anti-trafficking Co-ordinator. It is usually convened the day following the National Co-ordination Mechanism's meetings, i.e. three to four times a year.

25. The NGO Roundtable currently has 22 members, including NGOs running shelters, undertaking outreach activities or advocacy work. The National Institute of Criminology and IOM are also full members, while UNHCR has an observer status. Additional participants can be invited to any given meeting by the National Co-ordinator or at least three NGOs. NGOs wishing to become full-time members must send a written application specifying how their activities relate to trafficking in human beings.

d. THB Unit of the National Bureau of Investigation

26. The Trafficking in Human Beings Unit was set up in 2004 as part of the Directorate for Combating Organised Crime, which was transferred to the National Bureau of Investigation after its creation in 2012.

27. This unit is competent for investigating trafficking cases with an international component. However, in practice, it can also investigate cases of internal trafficking of a large scale or complex nature and for which the local police do not possess the necessary resources or expertise. The unit has a staff of 11.

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e. Crime Prevention Units of the National Police

28. Each of Hungary's 20 counties and Budapest have a Crime Prevention Unit within their respective National Police Headquarters. These units are composed of three to six staff members whose role is to prevent crime, in particular by assessing crime trends and carrying out awareness-raising activities targeting vulnerable groups, to identify the needs of victims of crimes and to refer them to state institutions or NGOs for support. They act as co-ordinators to ensure that the rights of victims are respected throughout the criminal proceedings.

f. Victim Assistance Services

29. The Victim Assistance Services constitute a state-run network of offices present in all counties and Budapest that manage assistance, legal aid and state compensation for all victims of crimes, including victims of trafficking. It is operated by the Office of Justice.

g. National Crisis Telephone Information Services

30. The National Crisis Telephone Information Services (OKIT), under the Ministry for Human Resources, is a toll-free anonymous hotline. It receives calls from victims of domestic violence and trafficking, or any person with information on possible victims, and can directly refer victims of trafficking to a specialised shelter.

h. NGOs and international organisations

31. NGOs play an important role in the field of action against human trafficking in Hungary through awareness-raising activities, training of professionals and assistance to victims. The majority of them are part of the aforementioned NGO Roundtable (see paragraphs 24-25).

32. The only state-funded shelter for victims of trafficking is run by the NGO Chance for Families 2005 Foundation. The other NGO that also provides accommodation for victims of trafficking, the Hungarian Baptist Aid (HBA), uses funds for the main part from international donors. HBA runs several shelters where victims of trafficking can be accommodated.

33. Other NGOs carry out advocacy work and research on victims of trafficking in Hungary and in the region, such as Terre des Hommes (in particular as regards child victims) and the European Roma Rights Centre (ERRC). Organisations for the protection of women's rights also work on trafficking-related issues, in particular within the framework of the Hungarian Women's Lobby, which brings together some 20 NGOs, such as MONA Women Foundation, Women Together with Women against Violence (NANE) Association and the Association of Roma Women in Public Life. There are NGOs dealing more specifically with sexual exploitation, such as Anonymous Ways Foundation, and children's rights, for example Blue-Line Child Crisis Foundation and Helping Hands 2003 Social Association. Further, other NGOs deal with the rights of migrants, including domestic workers, such as Menedék Hungarian Association for Migrants and the rights of asylum seekers, as the Cordelia Foundation.

34. Both UNHCR and IOM have offices in Hungary and contribute to drawing attention to trafficking in human beings in respect of asylum seekers and irregular migrants being returned to their country of origin.

### III. Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Hungary

#### 1. Integration of the core concepts and definitions contained in the Convention in the internal law

##### a. Human rights-based approach to action against trafficking in human beings

35. Article 1(1)(b) of the Convention establishes as one of its purposes the protection of the human rights of the victims of trafficking. Further, Article 5(3) includes the obligation for Parties to promote a human rights-based approach in the development, implementation and assessment of the policies and programmes to prevent THB. The Explanatory Report on the Convention states that the main added value of the Convention is its human rights perspective and focus on victim protection. In the same vein, the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking emphasise that “the human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims”.<sup>9</sup>

36. THB constitutes an offence to the dignity and fundamental freedoms of the human being and thus a grave violation of human rights. GRETA emphasises the obligations of States to respect, fulfil and protect human rights, including by ensuring compliance by non-State actors, in accordance with the duty of due diligence. A State that fails to fulfil these obligations may, for instance, be held accountable for violations of the European Convention on Human Rights and Fundamental Freedoms (the ECHR). This has been confirmed by the European Court of Human Rights in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the European Convention on Human Rights<sup>10</sup> (which prohibits slavery, servitude and forced or compulsory labour). The Court further concluded that Article 4 entails a positive obligation to protect victims or potential victims, as well as a procedural obligation to investigate trafficking.<sup>11</sup>

37. The Convention on Action against Trafficking in Human Beings requires States to set up a comprehensive framework for the prevention of THB, the protection of trafficked persons as victims of a serious human rights violation, and the effective investigation and prosecution of traffickers. Such protection includes steps to secure that all victims of trafficking are properly identified. It also involves measures to empower trafficked persons by enhancing their rights to adequate protection, assistance and redress, including recovery and rehabilitation, in a participatory and non-discriminatory framework. Further, measures to prevent THB should be taken in the field of socio-economic, labour and migration policies.

38. GRETA wishes to stress the need for States to also address THB as a form of violence against women and to take account of gender-specific types of exploitation, as well as the particular situation of child victims of trafficking, in line with the relevant international legal instruments.<sup>12</sup>

<sup>9</sup> Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add.1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

<sup>10</sup> *Rantsev v. Cyprus and Russia*, application No. 25965/04, judgment of 7 January 2010, ECHR 2010, paragraph 282.

<sup>11</sup> See: *Siliadin v. France*, application No. 73316/01, judgment of 26 July 2005, ECHR 2005 VII; *C.N. and V. v. France*, application No. 67724/09, judgment of 11 October 2012, and *C.N. v. United Kingdom*, application No. 4239/08, judgment of 13 November 2012.

<sup>12</sup> Such as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the United Nations Convention on the Rights of the Child and the Optional Protocol thereto on the sale of children, child prostitution and child pornography, and the United Nations Convention on the Elimination of All Forms of Discrimination against Women.

39. The Hungarian Fundamental Law states under Article III (1) on Freedom and Responsibility that no one should be subjected to torture, inhuman or degrading treatment or punishment or slavery. It goes on to say that human trafficking is prohibited. The Hungarian authorities have underlined that according to Act XVIII of 2013 on the Convention of the Council of Europe on Action against Trafficking in Human Beings, which incorporates the Convention into internal law, human trafficking is one of the most serious violations of human rights.

40. The human rights-based approach to action against THB entails transparency and accountability on the part of the state through the adoption of a national policy and action plans for combating trafficking in human beings, the co-ordination of the efforts of all relevant actors, the regular training of relevant professionals, research and data collection, and the provision of adequate funding for the implementation of all these measures. The following sections of this report examine in detail the effectiveness of the policies and measures taken by the Hungarian authorities in these fields.

b. Definitions of “trafficking in human beings” and “victim of THB” in Hungarian law

i. *Definition of “trafficking in human beings”*

41. In accordance with Article 4(a) of the Convention, trafficking in human beings includes three components: an action (“the recruitment, transportation, transfer, harbouring or receipt of persons”); the use of certain means (“threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”); and the purpose of exploitation (“at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”). In the case of children, pursuant to Article 4(c) of the Convention, it is irrelevant whether the means referred to above have been used.

42. Under Hungarian law, THB is defined in section 192 CC as follows:

“(1) Any person who:

- a) sells, purchases, exchanges, or transfers or receives another person as consideration; or
  - b) transports, harbours, shelters or recruits another person for the purposes referred to in paragraph a), including transfer of control over such person;
- is guilty of a felony punishable by imprisonment not exceeding three years.

(2) Any person who – for the purpose of exploitation – sells, purchases, exchanges, supplies, receives, recruits, transports, harbours or shelters another person, including transfer of control over such person, is punishable by imprisonment between one to five years.

(3) The penalty shall be imprisonment between two to eight years if trafficking in human beings is committed:

- a) against a person held in captivity;
- b) by force or by threat of force;
- c) by deception;
- d) by tormenting the aggrieved party;
- e) against a person who is in the care, custody or supervision of or receives medical treatment from, the perpetrator, or if abuse is made of a recognised position of trust, authority or influence over the victim;
- f) for the unlawful use of the human body;
- g) by a public official, acting in an official capacity;
- h) in criminal association with accomplices; or
- i) on a commercial scale.

[subsections 4 to 6 concern other aggravating circumstances and are discussed in paragraphs 184-186 of the report]



(7) Any person who engages in preparations for trafficking in human beings is guilty of a misdemeanour punishable by imprisonment not exceeding two years.

(8) In the application of this section, ‘exploitation’ shall mean the abuse of power or of a position of vulnerability for the purpose of taking advantage of the victim forced into or kept in such situation.”<sup>13</sup>

43. The range of actions referred to in paragraphs 1 and 2 of section 192 CC cover as a whole those envisaged under Article 4 of the Convention. GRETA notes that paragraph 1 of section 192 refers to actions as the only constituent component of the criminal offence, whereas paragraph 2 makes reference to two constituent components of the international definition of trafficking, i.e. an action being carried out for the purpose of exploitation. GRETA will therefore focus on the offence as laid down under section 192, paragraph 2, which is closer to the definition under Article 4 of the Convention.

44. GRETA notes that, under paragraph 2 of section 192 CC, the offence of THB in Hungarian law hinges on two constituent components, namely an action and the purpose of exploitation, while the means are considered as aggravating circumstances pursuant to paragraph 3 of section 192 CC. Whilst recognising that this may facilitate the prosecution of traffickers in terms of evidential requirements, GRETA stresses the need for the Hungarian authorities to keep under review the possibility that this may lead to confusion with other criminal offences or difficulties when it comes to mutual assistance in the anti-trafficking field with countries which have incorporated the means in their own definition of THB, or to the interpretation of Article 4(b) on the consent of victims.

45. GRETA further notes that two of the means mentioned in the Convention, “fraud” and “receiving payment or benefits to achieve the consent of a person having control over another person”, are not reflected in section 192 CC. According to the Hungarian authorities, in the context of trafficking in human beings, “fraud” would be covered by “deception”, which is one of the means included in section 192, paragraph 3, CC. As regards “receiving payments or benefits to achieve the consent of a person having control over another person”, the authorities have stated that they consider this provision to be related to the transfer of control over a person to another by way of a transaction, which is expressed through the actions of selling, purchasing and exchanging in section 192, paragraph 2, CC. Moreover, GRETA notes that one of the means under the Convention, “abuse of power or of a position of vulnerability”, appears as a defining component of the notion of exploitation itself rather than a means to achieve exploitation (section 192, paragraph 8, CC). In this respect, the Hungarian authorities have referred to section 192, paragraph 3, CC and more specifically cases where trafficking would concern “a person who is in the care, custody or supervision of or receives medical treatment from, the perpetrator, or if abuse is made of a recognised position of trust, authority or influence over the victim” (subparagraph e) or the trafficker is “a public official, acting in an official capacity” (subparagraph e).

46. While exploitation is referred to as the purpose of trafficking in section 192 CC, the different forms of exploitation are not enumerated in the body of this provision. The Hungarian authorities have referred to the official commentary of the Criminal Code, which states that relevant international instruments, including the Council of European Anti-trafficking Convention, are meant to provide information on the different types of exploitation to be covered. As a result, section 192 must be read in conjunction with other provisions of the Criminal Code that criminalise different forms of exploitation. The Hungarian authorities have referred, *inter alia*, to the following provisions: section 143 on crimes against humanity,<sup>14</sup> section 193 on forced labour, section 194 on violation of personal freedom, section 195 on duress, section 196 on sexual exploitation, section 200 on pandering, section 201 on procuring for prostitution or sexual acts, section 202 on living on earnings of prostitution, section 203 on exploitation of child prostitution, section 204 on child pornography, section 209 on child labour, and section 356 on unlawful employment of third-country nationals.

<sup>13</sup> Unofficial translation provided by the Hungarian authorities.

<sup>14</sup> Section 143 – Crimes against humanity

“(1) Any persons who, being part of a widespread or systematic practice:  
[...]

47. The removal of organs from living persons is covered, according to the Hungarian authorities, by the expression “the unlawful use of the human body” in section 192, paragraph 3, subparagraph f, CC. The Hungarian authorities have stated that the Criminal Code’s official commentary relates this provision to the fact of using another person’s body for the purpose of organ trafficking. They have also stated that a separate provision, section 175, paragraph 1, CC criminalises the fact of illegally purchasing, selling or trading for financial gain, *inter alia*, human cells, organs and tissues.

48. GRETA notes that there are no provisions in the Criminal Code specifically covering slavery or practices similar to slavery and servitude. The Hungarian authorities have referred to the fact that Hungary is a party to international treaties defining slavery, which are incorporated into domestic law.<sup>15</sup> **In order to be fully consistent with the definition of THB in the Convention, GRETA urges the Hungarian authorities to include at a minimum the different types of exploitation mentioned in the Convention, including slavery, practices similar to slavery and servitude, in relation to the definition of trafficking in human beings of the Criminal Code.**

49. As regards forced begging and forced criminality in the context of human trafficking, the Hungarian authorities have referred to section 193 CC on forced labour, which would cover these types of exploitation. They have further added that by only defining exploitation without listing different types of exploitation in section 192 CC, any type of exploitation can come under the definition of trafficking in human beings, including forced criminality.

50. The irrelevance of the victim’s consent where one of the means has been used is not laid down in the Criminal Code. However, the Hungarian authorities have referred to a decision of the Supreme Court establishing that consent should be considered irrelevant in the case of victims of trafficking.<sup>16</sup>

51. For further analysis of the definition of THB and related offences from a substantive criminal law perspective, see paragraphs 183-190.

*ii. Definition of “victim of THB”*

52. The Convention defines “victim of THB” as “any natural person who is subjected to THB as defined in Article 4 of the Convention”. Recognition of victims of trafficking as such is essential as it gives rise to their entitlement to the broad range of protection and assistance measures set out in the Convention.

53. The Hungarian authorities have stated that a victim of trafficking in human beings is a person who has been subjected to an offence as defined under section 192 CC and that the status of victim and the provision of assistance are linked to the ongoing criminal proceedings. According to the authorities, the status of victim will remain in effect if trafficking was established but no conviction was imposed because of the death of the perpetrator or for reasons of insanity, statutory limitations or a grant of clemency.

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d) engages in the trafficking in human beings or in exploitation in the form of forced labour; is guilty of a felony punishable by imprisonment between ten to twenty years or with life imprisonment.

(2) Any person who engages in preparations for crimes against humanity is guilty of a felony punishable by imprisonment between two to eight years.

(3) In the application of this Section widespread or systematic assault on the civilian population shall include all conduct which covers the acts defined under Subsection (1) committed systematically against the civilian population aiming to implement or facilitate the policies of a State or organisation.” (unofficial translation provided by the authorities)

<sup>15</sup> Convention to Suppress the Slave Trade and Slavery (1926); Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956).

<sup>16</sup> Supreme Court of Hungary, judgment of 4 July 2001, Bf.III.1.881/2000/3.

54. Section 3 of Act CXXXV of 2005 on Crime Victims Support and State Compensation provides that “this Act shall not apply to persons who are prosecuted in criminal proceedings”. GRETA stresses the importance of providing for the possibility of not imposing penalties on victims for their involvement in unlawful activities to the extent that they have been compelled to do so (see paragraphs 191-193). Further restrictions are provided for in section 5 of Act CXXXV of 2005, according to which victims of crime cannot benefit from assistance services if, *inter alia*, they have provided false information in a previous application for victim support services, for a period of two years following the date of the resolution of the previous application or if a person obstructs the examination of the information given in support of his/her application for assistance. GRETA notes in this respect that victims of THB are often forced by traffickers to give incorrect information to the authorities and are not always able to give coherent accounts or may change or retract their testimony as a result of being psychologically fragile after escaping from traffickers. Therefore, the specific situation of victims of trafficking should be taken into account when it comes to applying these exclusion provisions. The Hungarian authorities have indicated that if victims of THB were to be forced to provide incorrect data, they would be exempted from criminal responsibility and would be entitled to victim support services (section 15, subsection c, CC).

55. The question of the definition of victim of THB will be further discussed in the sections of this report dealing with the identification of victims and the assistance measures provided to them, along with the related proposals made by GRETA.

- c. Comprehensive approach to action against THB, co-ordination of all actors and actions, and international co-operation

- i. *Comprehensive approach and co-ordination*

56. One of the aims of the Convention is to design a comprehensive framework for the protection of and assistance to victims and witnesses. To be effective, any national action to combat THB must be comprehensive and multi-sectoral, and take on board the required multidisciplinary expertise. Article 29(2) of the Convention requires Parties to take measures to ensure the co-ordination of national policies and actions against THB, including through the setting-up of specific co-ordinating bodies. Further, the Convention refers to the need to co-operate and build strategic partnership with civil society through co-operative frameworks that can help governments fulfil their obligations under the Convention (Article 35).

57. The Hungarian authorities have taken a number of steps towards the adoption of a comprehensive and co-ordinated approach to combat trafficking. The first National Strategy against Human Trafficking was adopted for the period 2008-2012 and it has been followed by a new National Strategy for the period 2013-2016 (see paragraphs 16-19). The current strategy takes stock of the situation after the expiry of the first one and highlights a number of weaknesses of the system. As a result, it includes a detailed, far-reaching set of objectives in order to improve the capacity to identify and assist victims, in particular through prevention, awareness-raising, training, and the setting up of a national referral mechanism. It also involves a whole range of stakeholders, both governmental and non-governmental, in achieving these objectives. However, GRETA notes that there is no specific budget line dedicated to the implementation of this strategy and financial resources come from various government funds, which are directly or indirectly allocated to anti-THB activities.

58. The current National Strategy highlights the need to improve data collection as a means of obtaining a clear picture of trafficking and taking efficient action to counter it. While the strategy points to the existence of internal trafficking and trafficking for the purposes of labour exploitation, no specific action is planned to research and address these forms of trafficking. Furthermore, while the particular vulnerability of children to trafficking is underlined in the strategy, in practice, GRETA notes that identification or assistance do not take into account the specific situation and rights of child victims of trafficking. GRETA is of the view that it would be advisable to have periodic review of the objectives contained in the current strategy, in particular where a deadline within the four-year period has been set.

59. As noted in paragraph 22, the National Co-ordination Mechanism was set up in order to increase the effectiveness of the fight against trafficking in human beings, strengthen co-operation and enhance dialogue between the national anti-trafficking co-ordinator and the competent authorities and other actors involved in the implementation of national strategies.<sup>17</sup> It contributes to mapping out areas of co-operation and helps avoid duplication.

60. The National Co-ordination Mechanism is tasked with a number of objectives under the strategy, including preparing and disseminating information materials to victims, preparing guidelines and recommendations, as well as developing a comprehensive programme for the social integration and reintegration of trafficking victims. In addition, it is responsible for the setting up and monitoring of a new victim identification referral system under the Ministry of the Interior, and the creation of an anonymous database with a view to helping identify trends in human trafficking and adapting action to be taken accordingly.

61. The National Co-ordination Mechanism is chaired by the Deputy State Secretariat for EU and International Relations of the Ministry of the Interior, as National Anti-trafficking Co-ordinator, and is composed of representatives of the relevant ministries, the police, other public bodies, NGOs and IOM, all with full membership (see paragraphs 22-23).

62. Alongside the National Co-ordination Mechanism, another structure, the NGO Roundtable, was created in December 2011 in order to bring together civil society organisations involved in the fight against trafficking (see paragraphs 24-25). Enhancing co-ordination between the relevant authorities and civil organisations is among the main objectives set out in the National Strategy.

63. According to its terms of reference, the NGO Roundtable is intended to provide a framework for effective co-operation between the National Co-ordinator and NGOs fighting against trafficking, to ensure regular contacts and better dissemination of information between its members, to improve co-ordination among NGOs in fighting trafficking, to examine potential areas of common action, to discuss technical issue and to make proposals (see paragraph 25). There appears to be growing interest amongst civil society in participating in the roundtable.

64. Given the little knowledge there is about the scale of human trafficking for the purpose of labour exploitation in Hungary, GRETA is of the view that including trade unions in the co-ordination structures would be beneficial, in particular to identify risk sectors and regions, to raise awareness of the risks of trafficking and the rights of victims, as well as to strengthen communication and outreach to victims of THB for labour exploitation.

65. GRETA was informed of plans to use an internal security fund of the Ministry of the Interior to set up a network of professionals within the police force, specialised in THB for prevention, investigation and intelligence in all counties.

66. GRETA considers that more involvement of the county authorities would be desirable with a view to ensuring a coherent approach to THB throughout the country. The Hungarian authorities have indicated that the National Strategy provides for the setting up of local co-ordination mechanisms. The authorities have however added that this hinges on financial resources being made available.

**67. GRETA urges the Hungarian authorities to allocate sufficient financial and human resources to ensure that the National Co-ordination Mechanism can achieve the objectives set out in the National Strategy and that the NGO Roundtable can function effectively, and to ensure full participation of civil society, including trade unions, in the implementation of the National Strategy.**

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<sup>17</sup> The basis for the setting up of the National Co-ordination Mechanism is Government Decree No. 1018/2008 (III.26.) on the National Strategy against Human Trafficking for 2008-2012.

68. GRETA also considers that the Hungarian authorities should take further steps to ensure that national action to combat THB is comprehensive and that action is taken to:

- research, identify and address effectively internal trafficking, in particular in the poorest areas of the country and among disadvantaged communities, such as Roma;
- strengthen action to combat THB for the purpose of labour exploitation by involving civil society, the labour inspectorate, businesses, trade unions and employment agencies;
- pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking, in particular children from socially vulnerable groups and unaccompanied foreign minors, and ensure that the best interests of the child are fully taken into account.

69. Further, GRETA invites the Hungarian authorities to consider the establishment of an independent National Rapporteur or other mechanism for monitoring the anti-trafficking activities of State institutions (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).

ii. *Training of relevant professionals*

70. The Hungarian authorities have indicated that training for police officers involved in prevention of THB as well as investigators working on THB cases is available once a year at county level and once every two years at national level. In December 2013, a training session was jointly organised by the National Police Headquarters, the Office of Justice and the Ministry of the Interior, with some 80 participants (including police officers, investigators, and victim assistance officials). The training addressed issues such as different forms of trafficking, the difference between trafficking and smuggling, victims of trafficking, indicators of labour exploitation, sexual exploitation, forced begging, the referral of victims and data collection. Recent examples of training at county level include a training session on identification of victims of trafficking and missing children, organised on 8 May 2014 by the Bács-Kiskun County Police Headquarters for 34 police officers, and training concerning Government Decree No. 354/2012. (XII.13) on the Identification Order of Victims of Trafficking in Human Beings organised on 22 May 2014 by the Pest County Police Headquarters for 20 police officers. In addition, a number of police officers have taken part over the last few years in training sessions at the international level, where trafficking was tackled. However, GRETA notes that the topic of THB does not form part of the initial training of police officers and underlines the importance of ensuring regular practical training for the police throughout the country on detecting and combatting different types of trafficking.

71. There is currently no specific training on trafficking for prosecutors and there are no specialised prosecutors dealing with this offence, although a small number of prosecutors within the Chief Prosecutor's Office have developed specialised skills, including on trafficking. Prosecutors in Public Prosecutor's Offices throughout the country have received written information on trafficking from the Chief Prosecutor's Office. Once a year, a training session is organised for the Deputy Prosecutor General of each of the 20 counties. In 2013, the first day of the annual training session, which brought together 31 prosecutors, addressed trafficking in Hungary, factors increasing risks of becoming a victim of trafficking, legislation on THB, the National Strategy, international co-operation, prevention and awareness raising. In 2014, a training session on the new Criminal Code, which focused, *inter alia*, on human trafficking, was organised for 34 deputy-chief prosecutors. However, GRETA notes that there is a need for further training and sensitisation of prosecutors at county level concerning THB and the rights of victims.

72. GRETA was informed that judges had received general training on the new Criminal Code, including on the provision on trafficking in human beings. In 2013, the National Office for the Judiciary also organised a training session for judges and court clerks on cross-border criminal proceedings, attended by 80 participants, with a presentation on national and international aspects of the fight against human trafficking by a senior investigator of the National Bureau of Investigations. In 2014, a training session was organised for judges dealing with criminal cases, which included a presentation on human trafficking, victim protection and the National Strategy; it was attended by 80 participants. A presentation on victims of human trafficking was also made at a conference on victim protection, also was held in 2014 and attended by 100 participants.

73. As part of their initial training, labour inspectors have a trial period of 4½ months during which they are taught about the rules and procedures to apply during inspections, which includes information on trafficking. The National Labour Office's EURES (European Employment Service) Unit organised training in 2013 for 25 EURES experts which covered the role of labour inspectors in the fight against illegal employment agencies, victim identification and referral, forms of human trafficking, indicators of labour exploitation, sexual exploitation and forced begging, legislation relating to human trafficking offences, and the National Strategy. Further, in November 2013, county labour inspectors were provided information on the identification of victims of trafficking in human beings.

74. The Hungarian authorities have also referred to several conferences and workshops organised by the Ministry of the Interior aimed at small groups of professionals from different backgrounds, which addressed human trafficking. By way of example, a seminar was also organised in 2013 by the Ministry of the Interior as part of an EU-supported project entitled "Integrated approach for prevention of labour exploitation in origin and destination countries" with an attendance of 22 participants.

75. A training course was organised in December 2012 for the heads of the county victim assistance services which deal with trafficking. A handbook on general knowledge about victims exists for the moment but an e-learning text book that will specifically address trafficked victims is being developed and was to be available in the second half of 2015.

76. As part of the training before being posted abroad, since 2014, consular staff follow a 1½-hour training session on human trafficking. There are also yearly training sessions on visa issuance at the regional level, and consular protection for trafficked victims is broached during these sessions. In addition, on 15 April 2014, training was provided by the Ministry of the Interior to 42 consuls posted abroad, during which information on trafficking, the identification of victims, the legal background and practical information were given.

77. The Hungarian authorities have stated that the Office of Immigration and Nationality provides training for all staff dealing with asylum on carrying out interviews of vulnerable persons, prepared by the European Asylum Support Office (EASO), which covers, *inter alia*, human trafficking. Social workers of reception/detention centres for asylum seekers and irregular migrants have attended training on the identification of vulnerable asylum seekers. The Office of Immigration and Nationality is planning a training programme on identification of and assistance to victims of THB and to extend the curriculum of the officials dealing with irregular migrants.

78. GRETA is not aware of any training on trafficking for child welfare staff. However, the staff of the two centres for unaccompanied minors have received basic training on trafficking from the NGO Terre des Hommes.

**79. GRETA considers that the Hungarian authorities should seek to implement regular practical training on human trafficking for police officers across the country, in particular on identifying victims, supporting them during criminal proceedings and protecting them.**

80. Further, GRETA considers that the Hungarian authorities should ensure that other professionals who are likely to come into contact with victims of trafficking, in particular prosecutors, judges, labour inspectors, border guards, victim assistance staff, officials dealing with asylum seekers and irregular migrants, child welfare staff, including those in centres for unaccompanied minors, consular staff, education staff and medical professionals receive periodic training on human trafficking. Training programmes should be designed with a view to improving the knowledge and skills of relevant professionals to enable them to identify victims of trafficking, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.

*iii. Data collection and research*

81. The human rights-based approach to anti-trafficking policies advocated by the Convention requires adequate monitoring and evaluation. An essential element is the regular availability of comprehensive statistical information on both trends in human trafficking and on the performance of the main actors in the fight against trafficking. The collation of data from different state institutions and NGOs raises concerns about data protection, especially when personal data are involved. International standards have been set for the collection, storage, transfer, compilation and dissemination of data. In order to ensure full compliance with these standards, Parties are expected to apply appropriate measures and techniques of data protection. An additional requirement for human rights-based anti-trafficking policies is the conduct of research and analysis with special attention to the rights and interests of victims.

82. Since 2012 the Ministry of the Interior has been collecting, on an informal basis, anonymised data on presumed victims of THB and suspected traffickers from the relevant members of the National Co-ordination Mechanism, including the Victims Support Department of the Office of Justice, the National Police Headquarters, the Anti-Human Trafficking Unit of the National Bureau of Investigation, the Chief Prosecutor's Office, the National Crisis Telephone Information Service (OKIT) and Chance for Families 2005 Foundation. Consular services provide data on trafficking cases separately.

83. Furthermore, the Unified Criminal Statistics of Investigation Authorities and Public Prosecution (ENYÜBS) gather data on criminal cases up until the decision of the investigation authorities and prosecutors is made on whether to prosecute. The Robotzsaru Neo system offers a separate module to register proceedings launched on suspicion of human trafficking, and victims involved in such proceedings. Data on final judgments are collected from court statistics which are handled by the National Office for the Judiciary. GRETA is of the view that the strict separation between, on the one hand, data linked to investigations and prosecutions and, on the other, data on convictions and judgments could hamper the proper assessment of the effectiveness of the system when it comes to securing convictions of traffickers. The Hungarian authorities have indicated that the two systems were to be connected in order to obtain continuous information from the moment the crime is reported to the perpetrators' conviction.

84. GRETA notes certain deficiencies in the available data such as information on the number of identified victims per type of exploitation. In addition, data disaggregated by country of origin of the victims should be systematised as the figures available currently do not correspond to the number of identified victims. GRETA also notes that there is no data regarding recovery and reflection periods, residence permits and victim compensation. The Hungarian authorities have indicated that, within the framework of the National Strategy, further efforts are being made to develop data collection, including the setting up of an anonymous database of victims of THB disaggregated by age, gender and form of exploitation, and establishing a set of criteria for annual, statistics-based assessments.

85. **GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Hungarian authorities should intensify their efforts to develop and maintain a comprehensive and coherent data collection system on trafficking in human beings by compiling reliable statistical information from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination). This should be accompanied by all the necessary measures required to respect the right of data subjects to personal data protection, including in situations where NGOs working with victims of trafficking are asked to provide information for the national database.**

86. Insofar as research is concerned, the National Institute of Criminology, which is a member of the National Co-ordination Mechanism, carries out research into trafficking issues and research was also undertaken within the framework of the RAVOT-EUR project (see paragraph 95). Some research reports have also been published by NGOs dealing with human trafficking of unaccompanied minors and Roma.<sup>18</sup> A comparative study on the perception of human trafficking among the general public in three countries, including Hungary, was recently published (see paragraph 109).<sup>19</sup> Nonetheless, civil society interlocutors have expressed some concern about the lack of available funds for the purpose of research. The authorities have acknowledged that research results needed to be made more readily available.

87. **GRETA considers that the Hungarian authorities should conduct and support further research on THB in Hungary 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 Hungary include internal trafficking, trafficking for the purpose of labour exploitation, child trafficking, trafficking for the purpose of forced marriage, trafficking among asylum seekers and irregular migrants.**

*iv. International co-operation*

88. The Convention requires Parties to co-operate with each other “to the widest extent possible” in order to prevent and combat THB, protect and assist victims, and investigate related criminal offences (Article 32).

89. The Hungarian authorities have indicated that international co-operation takes place on the basis of Act XXXVIII of 1996 on International Legal Assistance in Criminal Matters, Act LIV of 2002 on the International Co-operation of Law Enforcement Agencies, Act XCII of 2012 on the Promulgation of the Police Co-operation Convention for Southeast Europe, and Act CLXXX of 2012 on Co-operation in Criminal Matters with the Member States of the European Union.

90. When it comes to ensuring that the requesting party is promptly informed of the final results of action taken in the framework of international co-operation on action against THB, according to section 49(1) of Act CLXXX of 2012, the Hungarian judicial authorities may give direct information to the judicial authorities of other EU member states on on-going or completed criminal cases, or may ask for such information. Paragraph 2 of the same provision stipulates that the investigation authority or the prosecutor may give or ask for information to/from the judicial authority or law enforcement body in order to determine the identity, location of the suspect, or to prevent the suspect’s hiding, the completion of the crime, the committing of another crime, or for other reasons.

<sup>18</sup> *Breaking the silence – Trafficking in Romani communities, A report by the European Roma Rights Centre and People in Need*, March 2011; Cazenave P. and Savai R., *National background research on non-asylum seeking foreign unaccompanied minors in Hungary*, Project Mario, April 2012.

<sup>19</sup> Sharapov, K. (2014) *Understanding Public Knowledge and Attitudes towards Trafficking in Human Beings: Research Paper. Part 1*. Budapest: Center for Policy Studies, Central European University. This study covers Hungary, Ukraine and the United Kingdom.



91. As to the possibility to provide unsolicited information to authorities of another country if the disclosure of such information might assist the receiving country in initiating or carrying out investigations or proceedings on trafficking, the Hungarian judicial authorities can provide information on pending and completed criminal cases directly to judicial authorities of other member states. Section 16/C.(1) of Act LIV of 2002 stipulates that where law enforcement bodies receive information assumed to be necessary for the law enforcement body of another EU member state to prevent or detect trafficking, this information can be given without a specific request. Such information can also be provided in accordance with existing bilateral co-operation agreements.

92. The Hungarian authorities have reported that judicial co-operation has become more effective since 2013, in particular thanks to better knowledge of THB amongst staff of the Chief Prosecutor's Office and improved co-operation between the police and prosecutors. Good levels of co-operation has been developed especially with the Netherlands and the United Kingdom, two main countries of destination of Hungarian victims of trafficking for sexual exploitation. By way of example, Hungarian witnesses have appeared before foreign courts or have been heard through video-conference, and special investigation techniques such as wiretapping have been used by the Hungarian police in international cases.

93. In 2013 Joint Investigation Team (JIT) agreements around trafficking were signed with the United Kingdom, the Netherlands and Belgium. Joint operations and investigations have been taking place mainly with Austria, Germany, Switzerland, Belgium, the Netherlands and the United Kingdom. In 2014, two cases were concluded successfully with the United Kingdom. By way of example, reference is made by Eurojust to the crucial role played by the Hungarian authorities in one case in arresting one of the suspects and extraditing him to the United Kingdom as well as in tracing and identifying victims exploited in the United Kingdom who had returned to Hungary.<sup>20</sup>

94. In July 2013 the Hungarian and Dutch Police signed a Bilateral Operational Co-operation Action Plan specifically for the fight against human trafficking. It involves common investigations and sharing best practices. Guidelines will be produced as a practical, user-friendly manual in Hungarian, English and Dutch. The improvement of data transfer between intelligence services is also an objective.

95. Two projects aimed at improving the fight against trafficking have recently received financial support from the EU. The first one, "Operational co-operation for fighting sexual exploitation committed by Hungarian-based organised crime groups in Europe", aims at increasing the effectiveness of investigations, tracking assets deriving from illegal activities, and detecting crime groups. The Hungarian Riot Police and the National Bureau of Investigation are the beneficiaries. The project's span is January 2014 to December 2015. The second project, "Referral of and assistance for victims of human trafficking in Europe" (RAVOT-EUR), is implemented by the Dutch Ministry of Security and Justice, the Belgian NGO Payoke and the Hungarian Ministry of the Interior. The project aims to develop a transnational referral mechanism in Hungary, Belgium and the Netherlands, which will contribute to the assistance, safe return and referral of victims of human trafficking as well as facilitate transnational networking and confidence-building among professionals. The project's span is February 2014 to January 2016.

96. The Hungarian authorities have also referred to the ENPI (European Neighbourhood and Partnership Instrument) Cross-border Co-operation Programme, involving Hungary, the Slovak Republic, Romania and Ukraine, which is a joint effort to promote activities with the support of the EU with a view to improving social and economic co-operation between regions of Ukraine and those of EU Member States sharing a common border. In this framework, the NGO Helping Hands 2003 led a project from 2010 to 2012 to create the basis of cross-border co-operation in the fight against trafficking in the regions of Satu Mare (Romania), Szabolcs Szatmar Bereg Megyei (Hungary) and Berehovo (Ukraine). This included a media campaign, a website available in four languages, a handbook in three languages, a leaflet and posters distributed in 15 secondary schools.

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97. GRETA welcomes the efforts made by the Hungarian authorities in the area of international co-operation and invites them to continue to strengthen international co-operation with a view to preventing human trafficking, identifying and referring to assistance victims of trafficking, as well as investigating and prosecuting human trafficking offences.

## 2. Implementation by Hungary of measures aimed to prevent trafficking in human beings

98. According to Article 5 of the Convention, Parties must take co-ordinated action to prevent THB, with the involvement of relevant NGOs, other organisations and members of civil society, as appropriate. The Convention requires Parties in particular to take measures to discourage demand, strengthen border controls and ensure the integrity, security and validity of travel or identity documents (Articles 6 to 9).

99. In accordance with the Convention, measures to discourage demand for the services of victims of trafficking, especially women and children, should be understood as a positive obligation on Parties to adopt and reinforce such measures as regards THB for the purpose of any form of exploitation (see paragraph 108 of the Explanatory Report of the Convention). As it is stated in the Recommended Principles and Guidelines on Human Rights and Human Trafficking, strategies aimed at preventing THB shall address demand as a root cause of trafficking.<sup>21</sup>

### a. Measures to raise awareness and discourage demand

100. The Ministry of the Interior launched a website on anti-trafficking action in Hungary in 2011<sup>22</sup> and a Facebook page dedicated to anti-trafficking action.<sup>23</sup> The Hungarian Victim Assistance Services also launched a Facebook page in 2014, on which THB-related topics can be found.

101. In 2012 the EURES Unit (National Labour Office) and the Department for Crime Prevention and Witness Protection of the National Police Headquarters launched the campaign “Don’t become a victim abroad!”, to provide information on the rights and opportunities of jobseekers who want to work abroad. The Consular Service of the Ministry of Foreign Affairs and the National Crisis Telephone Information Service (OKIT) also took part in this campaign. This campaign was run again from June 2013 to December 2014. In 2013 a free EURES mobile application was created and had been downloaded by more than 21 000 users by May 2014. Leaflets in Hungarian and English were disseminated at the events organised by EURES and its partners as well as at consulates abroad (more than 30 000 copies had been distributed up until May 2014). Advertisements were published about safe employment abroad with advice on how to avoid labour exploitation and human trafficking and whom to turn to in case of trouble. EURES and the National Police Headquarters developed common recommendations on how to detect fraudulent job advertisements. EURES plans to develop a new poster and a new brochure concerning illegal private employment agencies with advice on how to recognise and avoid them. EURES is also planning to produce radio and online advertisements on safe work abroad and continue being present at job fairs.

<sup>21</sup> Principle 4 of Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), [www.ohchr.org/Documents/Publications/Traffickingen.pdf](http://www.ohchr.org/Documents/Publications/Traffickingen.pdf)

<sup>22</sup> <http://emberkereskedelem.kormany.hu/index> (Hungarian); <http://thb.kormany.hu/> (English).

<sup>23</sup> [www.facebook.com/thbHungary](http://www.facebook.com/thbHungary)

102. As indicated in paragraph 74, the Ministry of the Interior participated in the EU-supported project “Integrated approach for prevention of labour exploitation in origin and destination countries”. In the framework of the project, a campaign was implemented from 26 June 2013 to 14 July 2013. It aimed to improve general awareness about the risks of labour exploitation amongst people aged 18 to 40 who are interested in working abroad, high school students aged 14 to 18, and decision makers. The campaign included the dissemination of materials (890 brochures, 868 posters and 700 USB keys), TV broadcasts and radio spots. The public bodies which were involved in the campaign alongside the Ministry of the Interior included: the Office of Justice, the Ministry of Foreign Affairs, the Crime Prevention Department of the National Police Headquarters, and the National Labour Office. Further, as part of this campaign, the KÖZÉRT Youth Information and Counselling Office organised meetings with young people vulnerable to trafficking, during which video spots were shown, materials were distributed, and information was given on labour exploitation and the risks of working abroad.

103. The Ministry of the Interior has organised over the last three years an awareness-raising campaign during the Sziget Festival, one of the biggest European rock festivals taking place every summer in Budapest, involving different organisations active in the anti-trafficking field. In 2012, 940 people were provided with information on THB and in 2013 around 1 000 people received such information.

104. From December 2012 to September 2013 the Ministry of Human Capacities carried out a pilot project for children aged 14 to 18 aiming to prevent them from falling victim to human trafficking. In the framework of this activity, undertaken in co-operation with the NGO Hungarian Interchurch Aid, a total of 551 pupils participated in workshops and training sessions on the risks of trafficking. The objective was to develop a toolkit to be used throughout the country. The Ministry of Human Capacities is planning to approve the training programmes and train professionals working in crisis management centres so that every centre can make presentations based on this experience. The Ministry of the Interior and the National Police Headquarters have also disseminated information brochures on this project during other awareness-raising activities.

105. This nationwide awareness-raising campaign led by the Department for Equal Opportunities of the Ministry of Human Capacities cost 4 million forints (HUF) (approximately 12 922 euros) in 2014 and continues running in 2015. It involves the training of staff working in crisis care centres supporting victims and the production of information materials.

106. Crime prevention units of the National Police Headquarters, which exist in all counties, are also involved in awareness-raising activities. One of their priorities is to prevent children and women from falling victims to traffickers. Crime prevention units identify establishments where children are most at risk (such as orphanages and boarding schools) and target their awareness-raising activities accordingly. For example, the Crime Prevention Unit of the Pest County Police Headquarters held on 20 March 2014 a prevention event concerning THB and drugs for girls and young adult women in orphanages, as a target group particularly vulnerable to trafficking.

107. Activities at the local level are also organised as part of the EU Day against Trafficking in Human Beings. For instance, in 2013, the Crime Prevention Unit of the Somogy County Police Headquarters and the Roma Minority Self-government of Kaposvár organised an awareness-raising programme which dealt with human trafficking, labour exploitation abroad and where to ask for information. The same year, the Crime Prevention Unit of the Somogy County Police Headquarters made a presentation on the risks of trafficking in the Eötvös Lordánd Vocational Technical School and College of Kaposvár.

108. The NGO Hungarian Baptist Aid (HBA) has led a number of awareness-raising activities in recent years. An 18-month long project, launched in 2011, included an awareness-raising campaign, a camp for young people where a short film was screened, with the participation of victims and support organisation, as well as preventive activities in schools for pupils aged 12 to 19. The programme was prolonged in 2012-2013 and almost 1 500 students from different regions of Hungary participated. In 2013, a one-year Hungarian-Austrian cross-border project called LUCIA was launched. The aim of the project is the assistance of victims of THB and capacity-building in regions along the border. Research concerning labour exploitation, exchanges with relevant professionals, a new shelter and the exchange of experience between the two countries are also part of the project.

109. Despite the above-mentioned activities, a comparative study published in 2014 and covering three countries, including Hungary,<sup>24</sup> suggests that there is insufficient awareness of human trafficking amongst the general public and that it is seen as a policy matter with little relevance to Hungarian citizens' daily lives. GRETA notes that there has been no national campaign to raise awareness of trafficking for different types of exploitation.

110. **GRETA considers that the Hungarian authorities should:**

- **continue their efforts to raise awareness among groups vulnerable to trafficking abroad;**
- **design and implement preventive and awareness-raising activities concerning internal trafficking within Hungary;**
- **raise awareness of diverse forms of THB among the general public, for example through a national campaign.**

111. There is no specific provision establishing as a criminal offence the fact of knowingly using the services of a victim of trafficking. The Hungarian authorities have however indicated that existing provisions of the Criminal Code would be sufficient to prosecute a person knowingly using the labour of a victim of human trafficking (section 193), sexual services of an adult victim (section 174) or a child victim (section 203), or knowingly purchasing an organ obtained from a victim of human trafficking (section 175). GRETA has not been informed of other measures to address demand. **GRETA considers that the Hungarian 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.**

b. Social, economic and other initiatives for groups vulnerable to THB

112. The Hungarian authorities have referred to several programmes focusing on social inclusion and empowerment for disadvantaged groups vulnerable to trafficking, including the Roma. A National Social Inclusion Strategy has been adopted for the period 2011-2020, whose main target audience include Roma and children. The Action Plan for the implementation of the Strategy for the period 2012-2014 involved, *inter alia*, action for children's well-being, education, training, employment, health care, housing and citizen participation. A new Action Plan is being developed with a particular focus on protection and preventive measures against trafficking.

113. The Ministry of Human Capacities operates, with EU funding, 115 "safe houses" for children around the country where social and educational activities for Roma children are organised involving their families as an outreach strategy. Awareness-raising on human trafficking is included in activities carried out within the "safe houses". The objective is to improve the inclusion of Roma children in nursery schools from the age of three.

<sup>24</sup> Sharapov, K. (2014) *Understanding Public Knowledge and Attitudes towards Trafficking in Human Beings: Research Paper. Part 1*. Budapest: Center for Policy Studies, Central European University. This study covers Hungary, Ukraine and the United Kingdom.

114. Whilst there are no official statistics, according to estimates, Roma could represent at least 40% of victims of THB and the great majority of victims of trafficking for sexual exploitation.<sup>25</sup> The majority of people living in extreme poverty in Hungary are of Roma origin.<sup>26</sup> 80% of Roma only have primary school education.<sup>27</sup> The rate of employment among adult Roma is only of 40%, including 10% in the informal economy.<sup>28</sup> Roma children also appear to be overrepresented in child protection institutions,<sup>29</sup> where they are at particular risk. GRETA notes that the Council of Europe Commissioner for Human Rights stated in a recent report on Hungary that Roma communities continue to face segregation in both housing and education, and face continuing intolerance within the country.<sup>30</sup> The Hungarian authorities have indicated that the new Action Plan on the aforementioned National Social Inclusion Strategy will address these issues.

115. GRETA notes that in 2010 the National Strategy for the Promotion of Gender Equality (2010-2021) was adopted and a specific Action Plan on Gender Equality was adopted for the period 2010-2011. After its expiry, however, no assessment of its impact was carried out and no new action plan has been developed since.<sup>31</sup> GRETA notes that the Committee on the Elimination of Discrimination against Women (CEDAW Committee) recently expressed concern about the persistence of stereotyped division of gender roles in family and society and its particular negative impact for women belonging to disadvantaged groups, such as Roma women<sup>32</sup> who are disproportionately affected by poverty and have limited access to health services, education and employment, especially in rural areas. Furthermore, the CEDAW Committee has pointed to insufficient action to address violence against women, including domestic violence.<sup>33</sup>

116. **GRETA urges the Hungarian authorities to strengthen their efforts to prevent THB in:**

- **adopting social and economic empowerment measures to promote the integration of Roma, in particular through improved access to education, housing, public health services and the labour market, and combating discrimination against Roma communities;**
- **addressing the root causes of THB for sexual exploitation, such as stereotypes and prejudice against women, especially of Roma women, domestic violence and violence against women;**
- **ensuring that National Social Inclusion Strategy addresses root causes of THB.**

<sup>25</sup> *Breaking the silence – Trafficking in Romani communities, A report by the European Roma Rights Centre and People in Need* (March 2011).

<sup>26</sup> See National Anti-Trafficking Strategy (see paragraph 16 of the report).

<sup>27</sup> *Hungary - Promoting the Social Inclusion of Roma, A Study of National Policies*, Albert Fruzsina, Peer Review in Social Protection and Social Inclusion and Assessment in Social Inclusion, July 2011, European Commission.

<sup>28</sup> Ibid.

<sup>29</sup> *Life Sentence – Romani Children in State Care in Hungary, A report by the European Roma Rights Centre* (June 2011); Committee on the Rights of the Child, Concluding observations on the report submitted by Hungary under article 12, paragraph 1 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 3 November 2014, document CRC/C/OPSC/HUN/CO/1

<sup>30</sup> Report by Nils Muižnieks, Council of Europe Commissioner for Human Rights, following his visit to Hungary, from 1 to 4 July 2014, CommDH(2014)21.

<sup>31</sup> *The policy on gender equality in Hungary – Update 2013*, Eva Fodor Associate professor, Department of Gender Studies, Central European University (Hungary), Note published by the European Parliament's Committee on Women's Rights and Gender Equality.

<sup>32</sup> Committee on the Elimination of Discrimination against Women, Concluding observations on the combined seventh and eighth periodic reports of Hungary, adopted by the Committee at its fifty-fourth session (11 February–1 March 2013), document CEDAW/C/HUN/CO/7-8.

<sup>33</sup> Hungary signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence on 14 March 2014 but has yet to ratify it.

c. Border measures to prevent THB and measures to enable legal migration

117. According to the Hungarian authorities, the rules regulating the issuing of visas may help to prevent the issuing of visas to possible victims of human trafficking. Applicants are required to provide supporting documents regarding the purpose of their visit to Hungary as well as their financial background in their home country. As a rule they also have to appear in person at the consulate where they are interviewed. In the light of the documents produced and interviews, if there is any doubt as to the reality of the situation, the visa application is turned down. GRETA recalls the obligation under Article 7, paragraph 1, of the Convention to strengthen border controls as may be necessary to prevent and detect human trafficking without prejudice to international commitments in relation to the free movement of persons, and the obligation under Article 5, paragraph 4, of the Convention to take appropriate measures to enable migration to take place legally.

118. As noted in paragraph 77, staff of the Office of Immigration and Nationality have received some form of training on interviewing vulnerable persons among asylum seekers. The Hungarian authorities have indicated that a training session on human trafficking for 50 border guards is planned in 2015. It will provide practical and theoretical knowledge about the identification of possible victims of human trafficking amongst migrants.

119. The authorities have also referred to co-operation with neighbouring countries. By way of example, Hungary regularly co-operates with the Austrian and Romanian border agencies in order to carry out joint patrols. Furthermore, since October 2011, there have been regular meetings between the Ministers of the Interior of Hungary, Austria and Serbia with a view to fighting irregular migration, smuggling and human trafficking, strengthening co-operation regarding border controls, and identifying common measures.

120. Regarding Hungarian nationals contemplating work abroad, the website of the Consular Service of the Ministry of Foreign Affairs provides information in Hungarian and English on the conditions for working abroad and risks of trafficking.<sup>34</sup> It advises persons seeking employment abroad not to take up jobs where professional and language skills are said not to be necessary, underlines the importance of a legal employment contract and the possibility to turn to Hungarian consulates for help, even if the person's residence and employment are irregular. The website also provides information on how to apply for a visa. In addition, most Hungarian embassies and consulates have their own websites that also provide consular information and information on the Schengen Information System.

**121. GRETA considers that the Hungarian authorities should increase efforts to detect cases of THB in the context of border controls, including through further training of border guards on the identification of victims of THB.**

**122. GRETA invites the Hungarian authorities to pursue co-operation on border controls with neighbouring countries as a means to combat trans-border trafficking.**

d. Measures to ensure the quality, security and integrity of travel and identity documents

123. Hungary applies passport security requirements based on EU rules. Accordingly, biometric passports were introduced in Hungary in 2006 and second-generation passports, with a chip containing the person's data and fingerprints, have been issued as from 2009. The rules of the International Civil Aviation Organization are also followed. Documents certifying the right of residence for third-country national include biometric data and are issued by the Office of Immigration and Nationality.

### **3. Implementation by Hungary of measures to protect and promote the rights of victims of trafficking in human beings**

#### **a. Identification of victims of trafficking in human beings**

124. Article 10 of the Convention requires Parties to adopt measures to identify victims. In order to do so, Parties must provide their competent authorities with persons who are trained and qualified in preventing and combating THB and in identifying and helping victims, including children. Identifying a trafficking victim is a process which takes time, and therefore the Convention provides for the rights of potential victims by establishing that when the competent authorities have reasonable grounds to believe that a person has been a victim of trafficking, he/she must not be removed from the country until the identification process is completed and must receive the assistance required by the Convention.

125. A framework for the identification and referral to assistance of victims of human trafficking was provided through Government Decree No. 354/2012 (XII.13) on the Identification of Victims of Trafficking in Human Beings, which entered into force on 1 January 2013. It supplemented Act CXXXV of 2005 on Crime Victim Support and State Compensation (see paragraph 169). The new Decree is applicable to Hungarian citizens trafficked internationally or within the country and to foreign nationals who are EU citizens or have legal residence in Hungary. The Decree therefore does not cover third-country nationals with no residence permits.

126. Government Decree No. 354/2012 specifies the bodies that can carry out victim identification, i.e. health service providers, state health administration bodies, personal care providers, public educational establishments, the police, the labour inspectorate, consulates, border guards and the Office for Immigration and Nationality. Where there are indications that a person might be a victim of trafficking, an interview takes place on the basis of a list of indicators, in the form of a questionnaire reproduced in an appendix to the Decree. If the suspicions are confirmed after the interview and subject to the written consent of the presumed victim to be assisted and officially identified as a victim of trafficking, the body having identified the victims has to immediately refer them to the competent Victim Support Service and transfers the information obtained during the interview. If the victim needs a place in a shelter, he/she is referred to an NGO running shelters designed to accommodate victims of trafficking (Hungarian Baptist Aid and Chance for Families 2005 Foundation). However, it would appear that victims often refuse to give their written consent and consequently cannot be referred to a shelter. Furthermore, there is no possibility of appealing against a decision not to identify a person as victim of trafficking.

127. Before the entry into force of the new identification and referral system, a Memorandum of Understanding establishing a referral system had been signed in 2005 by the Ministry of the Interior, the Ministry of Foreign Affairs, the Ministry of Social Affairs, IOM and the NGO Hungarian Baptist Aid. A working group of the NGO Roundtable was set up in 2011 with other civil society actors being also involved, in particular the NGO Chance for Families 2005 Foundation, in order to provide an opportunity to discuss individual cases and referrals. Before Governmental Decree No. 354/2012, the identification and referral appear to have been relatively informal, victims being referred directly to NGOs in case of suspicion. The identification was first and foremost performed by the police and NGOs.

128. When it comes to Hungarian victims abroad, identification is performed by the authorities or NGOs of the country of destination or Hungarian consular staff; the victims may themselves contact the Hungarian consulates. In this context, reference should be made to the RAVOT-EUR project aiming at developing a transnational referral mechanism involving Hungary and two main countries of destination of Hungarian victims: Belgium and the Netherlands (see paragraph 95).

129. Hungary being considered primarily as a country of origin, little attention has been paid to date to foreign victims of trafficking who may be exploited in Hungary or transiting through the country. As noted in paragraphs 10 and 11, only three foreign victims have been identified from 2011 to 2014. GRETA is concerned that Government Decree No. 354/2012 excludes irregular migrants from the new identification framework.

130. GRETA is of the view that insufficient steps have been taken to detect possible victims of THB amongst asylum seekers as well as irregular migrants. Several interlocutors met by the GRETA delegation pointed to the clear possibility of victims amongst irregular migrant workers (in particular in counties along the border), unaccompanied minors (for the most part in transit towards other countries of destination)<sup>35</sup> and asylum seekers. In respect of the latter, there has been a sharp increase in the number of asylum seekers, who are usually considered among the groups vulnerable to trafficking.<sup>36</sup> Despite the training referred to in paragraph 77, staff of the Office of Immigration and Nationality, which is the authority responsible for overseeing the asylum procedure and the situation of foreigners, including when it comes to granting the recovery and reflection period and residence permits, does not appear to have followed sufficient practical training on detecting victims of trafficking.

131. GRETA notes that insufficient steps have been taken to detect victims of trafficking for the purpose of labour exploitation, in particular when it comes to internal trafficking. While Government Decree No. 354/2012 includes the labour inspectorate amongst the bodies identifying victims of THB and a list of indicators has been included in a circular addressed to labour inspectors, in practice it appears that the labour inspectorate does not have sufficient human and financial resources to be in a position to detect cases of human trafficking. In this respect, GRETA notes that the number of labour inspectors has decreased from 273 in 2011 to 242 in 2013 whilst the number of inspection visits has increased (18 500 inspection visits were carried in 2013). According to the authorities, in view of the number of visits undertaken and the number of labour inspectors, inspection visits are mainly focused on technical issues regarding health and safety regulations brought up in complaints. GRETA also notes that labour inspectors do not have a mandate to inspect private homes.

132. In view of the levels of poverty in certain parts of the country, such as the North-East, many interlocutors noted that internal trafficking was a growing phenomenon; however, little is known about its scale. GRETA was informed of recent cases of elderly people deprived of their freedom of movement and forced to work while their pension was collected by those holding them and of homeless people used for forced begging.

133. While the number of children identified as victims of THB in Hungary is low (17 in the period 2011-2014), children accommodated in child care homes appear to be vulnerable to traffickers<sup>37</sup> and there are suspected cases of forced marriage involving children that could be part of trafficking situations.

134. There are two centres for unaccompanied minors in the country: one state-run shelter for unaccompanied minors who have lodged an asylum application and one NGO-run and state-funded centre for unaccompanied minors who have not lodged any asylum application (see paragraph 150). There does not appear to be any specific screening amongst unaccompanied minors who arrive at the centre to detect possible victims of trafficking. Furthermore, in case of doubt about their age, an age assessment is made by the Office of Immigration and Nationality on the sole basis of X-rays.<sup>38</sup>

<sup>35</sup> See European Migration Network (EMN), *EMN Focussed Study 2013: Identification of victims of trafficking in human beings in international protection and forced return procedures - Hungary*, 2013, available at: [http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/docs/emn-studies/12a.hungary\\_trafficking\\_final\\_en\\_version\\_november\\_2013.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/12a.hungary_trafficking_final_en_version_november_2013.pdf)

<sup>36</sup> There were 18 900 asylum applications in Hungary in 2013, compared to 2 156 in 2012 and 1 693 in 2011.

<sup>37</sup> See EMN Focussed Study, *ibid.*

<sup>38</sup> See also, Committee on the Rights of the Child, Concluding observations on the combined third, fourth and fifth periodic reports of Hungary, 14 October 2014, paragraph 54, document CRC/C/HUN/CO/3-5.



135. GRETA urges the Hungarian authorities to ensure that all victims of trafficking are properly identified and can benefit from the assistance and protection measures contained in the Convention, in particular by:

- not requiring written consent from trafficked persons for them to be identified as victims;
- strengthening the identification of victims of internal trafficking, including for forced labour, servitude and slavery, in particular by reinforcing the role of labour inspectors through adequate resources and training and ensuring that domestic work in private homes are covered by labour inspections;
- adopting a framework for the identification of victims of THB among third-country nationals without legal residence;
- improving the identification of victims of THB among asylum seekers and irregular migrants, in particular by increasing efforts to train staff of the Office of Immigration and Nationality on identification and the use of common indicators for identification;
- increasing efforts to identify child victims of THB, including amongst unaccompanied minors, and setting up child-specific identification procedures, which take into account the special circumstances and needs of child victims of trafficking, involves child specialists, child protection services, trained police and prosecutors, and ensures that the best interests of the child are the primary consideration;
- developing age assessment tools and effectively implementing the presumption and the measures foreseen in Article 10, paragraph 3, of the Convention when the age of the victim is uncertain and the measures foreseen in Article 10, paragraph 4, of the Convention if an unaccompanied child is identified as a victim of trafficking.

b. Assistance to victims

136. The Convention requires Parties to take measures to assist victims in their physical, psychological and social recovery, taking account of the victim's safety and protection needs, in cooperation with NGOs and other organisations engaged in assistance to victims. This assistance must be provided on a consensual and informed basis, taking account of the special needs of persons in a vulnerable position, as well as children, and it must not be made conditional on the victim's willingness to act as a witness (Article 12). The need to take account of victims' needs is also referred to in the Convention's provisions concerning temporary residence permits (Article 14) and the rights of children victims of trafficking (Article 12(7)). The Convention also establishes that the assistance to victims of THB must include appropriate and secure accommodation.

137. The provision of assistance to victims of THB in Hungary is regulated by Act CXXXV of 2005 on Crime Victim Support and State Compensation. Section 1(1) of this Act, it applies to victims of crimes committed in Hungary and any person having suffered injuries as a direct consequence of criminal acts, provided that they are: (a) Hungarian citizens, (b) citizens of any EU Member State, (c) citizens of non-EU countries lawfully residing in the EU, (d) stateless persons lawfully residing in Hungary, (e) victims of trafficking in human beings or (f) any person considered eligible in accordance with international treaties conclude by the country of origin and Hungary. Although it would appear that Act CXXXV of 2005 applies to all victims of trafficking, the Hungarian authorities interpret this provision as applying to victims of trafficking provided they meet, in addition to criterion (e), one of the other criteria pertaining to nationality or residence.

138. Pursuant to section 2(1) of Act CXXXV of 2005, a Hungarian citizen who has been the victim of a violent crime, including trafficking, while lawfully residing in another state, will be entitled to the services referred to in the Act, provided there is written evidence of the crime. GRETA notes that the condition of being lawfully in the country would exclude from the scope of application of the Act victims who were trafficked to another country with false papers or made to stay beyond the length of their visas or temporary residence permits.

139. Under section 9 of Act CXXXV of 2005, victim support services must inform victims of their rights and obligations in the criminal proceedings, the services available to them and how to apply for them, and the contact details of organisations involved in helping victims of crime. Section 9/A stipulates that third-country nationals who are identified as victims of THB must be informed about the reflection period (see paragraph 160) and the possibility of a temporary residence permit in case of co-operation with the authorities (see paragraph 165).

140. According to section 10 of Act CXXXV of 2005, victims must fill in a form in order to benefit from the services described in the Act. They must also provide a certificate delivered by the competent investigating authority, prosecutor or court, providing information on the victim, the crime and the ongoing criminal proceedings.

141. According to section 4 of Act CXXXV of 2005, the victim support services must help victims in accessing health-care services, health insurance benefits and social welfare services. It must also cover extraordinary expenses connected with accommodation, clothing, food, travel, and medical costs. The Hungarian authorities have indicated that emergency loans may be granted to victims to help them get back on their feet (on average, these loans amount to 300 euros).

142. Further, section 4 of Act CXXXV of 2005 stipulates that the state must provide appropriate and safe accommodation for victims of trafficking regardless of whether a criminal investigation has been opened. However, GRETA notes that section 4 provides that a victim's stay in a safe shelter, free of charge, is limited to a period of 90 days, renewable once. GRETA is concerned that criminal proceedings in human trafficking cases are likely to last longer than this period of time and, as a consequence, that it will put additional financial strain on NGOs providing shelter beyond this period.

143. The Hungarian authorities have stated that victim support services do not differentiate between victims of national or transnational trafficking in the assistance and protection measures. Once the victims have been given an individual assessment, personalised services are provided to them.

144. Government Decree No. 114/2007 (V24) on the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals regulates the forms of assistance and support provided to third-country nationals. This includes accommodation, either in reception centres or shelters run by NGOs for third-country victims of trafficking, free of charge for up to 18 months provided they have no means and their income is below the minimum retirement pension. Third-country victims of trafficking who are not covered by any social insurance system will be eligible to receive the state's health care services free of charge. The legal representatives of child victims can apply for a school allowance. However, GRETA was informed that these provisions had not been applied to date. Moreover, as there are currently no specific facilities for third-country victims of trafficking they would be staying in reception/detention centres for asylum seekers and/or irregular migrants. The Hungarian authorities have indicated that if the personal circumstances of the victims justify it, they can be sent to one of several centres (e.g. Debrecen, Bicske or Vàmosszabadi) where third-country nationals who are victims of human trafficking could be accommodated separately and receive medical care.

145. According to information provided by civil society, in practice, victims of human trafficking who do not have health insurance in Hungary cannot benefit from public health services and NGOs providing assistance to victims have had to cover their medical costs through their own funds.

146. The Victim Support Service of the Office of Justice is funded by the state budget. In 2013 the Victim Support Service received funding in the amount of HUF1 291 million (i.e. approximately 417 050 euros) for all victims of crime. There is no separate budget line for assistance to victims of THB and the authorities have indicated that any activities carried out for this purpose would depend on public funding re-diverted from other tasks on an ad hoc basis.

147. There are currently two NGOs operating shelters for victims of trafficking. Since 2005, the NGO Hungarian Baptist Aid (HBA) has been operating accommodation for victims of THB with funding from private donations and EU project funds. HBA runs several types of accommodation depending on the victim's needs. The first of them is a small transition flat for trafficking victims. The GRETA delegation visited this flat, which can accommodate one adult victim at a time (male or female), for a short period to allow the victim to start recovering and to enable the carrying out of risk and needs assessments before directing the person to another shelter. The flat is located on the outskirts of Budapest, at a secret address and is part of a bigger complex equipped with surveillance cameras.

148. HBA also runs a protected house which is situated about two hours from Budapest and up to six female adults can be accommodated there, sometimes accompanied by their children. There is no maximum length of stay and on average victims are said to stay one to 1½ years. Victims undergo a health check when they arrive to assess their needs for treatment and have access to psychologists. An individual rehabilitation programme is agreed on for the duration of their stay. HBA has reportedly developed good relations with the local employment services and training centres to facilitate the victims' reintegration. The house is equipped with surveillance cameras and the local police can intervene in case of need. During the first three months of their stay, residents are accompanied whenever they leave the house. Another house is available to accommodate female victims who do not require the same level of protection, also located about two hours from Budapest. This house can accommodate up to 12 women with their children; more than half are usually victims of trafficking. Victims receive a health check upon arrival and have access to psychologists during their stay. They are also offered individualised and group work to help them develop skills that will help them find a job and contribute to their reintegration. HBA is planning to open another shelter for 12 women.

149. HBA can accommodate male victims of THB on an ad hoc basis and there are plans to open a shelter specifically for men. HBA only deals on a very exceptional basis with third-country nationals or child victims when they are referred to them by the authorities as a temporary solution.

150. Since 2011 the Chance for Families 2005 Foundation has run a shelter which can accommodate women and men in need and their children. It is the only shelter receiving state funding to cater for victims of trafficking. The shelter is located some two hours North-West of Budapest. The GRETA delegation visited the shelter which, at the time of the visit, was accommodating 10 victims of trafficking, some with children. The shelter is a relatively big building where 125 persons can be accommodated, and staffed by a social worker, a nurse, a psychologist and a legal assistant. It is equipped with security cameras and is in direct contact with the police in case of need. There is a separate part of the building specifically for victims of trafficking with several bedrooms, bathrooms, a kitchen and a large living area. The shelter has a large garden, including a playground for children. There is also a kitchen workshop to allow residents to develop skills. The shelter has on occasion accommodated foreign victims. By way of example, GRETA was informed that an Ethiopian woman was referred from a reception centre upon being given a residence permit for co-operating with the authorities. There are contacts with shelters abroad, for instance in Bratislava, and Hungarian victims can be directly sent to the shelter from these other shelters. The shelter normally does not cater for child victims but has accommodated a victim aged 17, who had been sexually exploited, for the duration of the investigation. The shelter has received very few men (two victims of sexual exploitation, and some victims of labour exploitation). The Foundation has plans to set up a separate shelter for male victims.

151. The Ministry of Human Capacities allocates an annual funding to cover eight victims of human trafficking at the shelter ran by the Chance for Families 2005 Foundation, but GRETA was informed that there had been up to 13 victims of trafficking at a time, together with their children. In 2013, HUF6 million (19 383 euros) were allocated and in 2014, HUF8 million (25 845 euros). The Hungarian authorities have indicated that since 15 January 2015, the Ministry of Human Capacities has allocated HUF8 million (approximately 25 845 euros) for a new shelter run by the same foundation, with eight places. GRETA welcomes the setting up of this additional state-funded shelter.

152. There is no specific framework for assisting child victims of trafficking other than the general child care system. When it comes to unaccompanied minors, there are two accommodation centres in the country. The GRETA delegation visited István Károlyi Centre for Children, close to Budapest, which can accommodate 34 unaccompanied minors and 50 children with refugee status. There are 21 staff members including a nurse, a paediatrician and five social workers. An additional building for unaccompanied minors was about to be opened, to cope with the influx in asylum seekers, and an additional nurse was to be hired. The children receive psychological support, medical care and pocket money. They are also offered language classes but local schools appear to be reluctant to take them in. None of the services are currently intended to cater specifically for victims of trafficking. The other centre for unaccompanied minors is run by the NGO Szent Ágota, with state funding, in the south of Hungary and can accommodate up to 15 children. During the first five days of their stay they are accompanied when they go out of the centres.

153. GRETA was informed that many children go missing from both centres. At the time of the visit to the István Károlyi centre, the GRETA delegation was informed that a total of 116 unaccompanied minors placed at the centre had gone missing. A pattern of children going missing, shortly after arrival in the centres has been noted, with children often leaving within 48 hours, in the company of an adult, following telephone conversations with the child. Staff at the centres reported difficulties in monitoring the activity and movements of children and in preventing disappearances.<sup>39</sup> As soon as they go missing the police are informed but the great majority disappear and are not located by the Hungarian authorities.

154. As regards legal guardianship for unaccompanied minors, it is regulated by section 72 of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals and section 35, paragraph 6, of Act LXXX of 2007 on Asylum. The Budapest 5th District Guardianship Office centralises all requests for guardianships. According to some interlocutors, this leads to some delays and the children often disappear before a decision on allocation of a guardian has been taken. The Hungarian authorities have indicated that there is a Government proposal for amendments of Act LXXX of 2007 on Asylum with a view to clarifying the deadlines for the appointment of legal guardians.

**155. GRETA urges the Hungarian authorities to take further measures to provide victims of THB with adequate assistance, and in particular to:**

- **ensure that all assistance measures provided for in law are guaranteed in practice to victims of THB; when the provision of assistance is delegated to NGOs as service providers, the State has an obligation to provide adequate financing and ensure the quality of the services delivered by the NGOs;**
- **guarantee effective access to public health care for victims of trafficking;**
- **provide specialised assistance and shelters for child victims of THB that take into account their special needs and the best interests of the child;**
- **take effective measures to address the problem of disappearance of unaccompanied minors by providing safe accommodation, and assigning adequately trained legal guardians promptly after the arrival of an unaccompanied minor;**

<sup>39</sup> Cazenave P. and Savai R., *National background research on non-asylum seeking foreign unaccompanied minors in Hungary*, Project Mario, April 2012, page 23

- ensure that male victims of THB are provided with adequate assistance and shelters;
- ensure that presumed foreign victims of trafficking are moved to a shelter for victims of THB as soon as there are reasonable grounds to believe that they are victims of trafficking.

156. Furthermore, GRETA considers that the Hungarian authorities should review domestic legislation so that the lawfulness of victims' residence in the country where they were exploited is not a prerequisite to the provision of assistance.

157. GRETA also considers that the Hungarian authorities should actively support initiatives from civil society aiming at the reintegration of victims of trafficking, in particular by adopting measures promoting effective access to education, training, employment and housing of victims of trafficking, including children.

c. Recovery and reflection period

158. As victims of trafficking are extremely vulnerable after the trauma they have experienced, Article 13 of the Convention introduces the obligation for Parties to provide in their internal law for a recovery and reflection period of at least 30 days. The recovery and reflection period, in itself, is not conditional on co-operation with the investigative or prosecution authorities and should not be confused with the issue of a residence permit under Article 14(1) of the Convention. Pursuant to the Convention, the recovery and reflection period should be granted when there are reasonable grounds to believe that the person concerned is a victim of trafficking, i.e. before the identification procedure has been completed. During this period, Parties must authorise the person concerned to stay on their territory and expulsion orders cannot be enforced.

159. According to section 9/A of Act CXXXV of 2005 on Crime Victim Support and State Compensation, third-country nationals who turn to the authorities for assistance and are considered by them to be victims of trafficking are proposed a period of one month to decide whether to co-operate with the investigating authorities. During this period, victims are granted a certificate of temporary stay. Victims cannot be expelled unless they are considered to be a threat to public policy, public security or public health, or to the national security of Hungary. GRETA underlines in this context that expulsion should be precluded if it violates the state's international obligations, in particular the principle of *non-refoulement*.

160. GRETA stresses that the Convention provides for a recovery and reflection period to be granted not only to identified victims of trafficking but also "when there are reasonable grounds to believe that the person concerned is a victim of trafficking", and therefore before the identification procedure is completed. The victim-centred approach of the Convention implies that a recovery and reflection period should be offered to all possible victims of trafficking, together with the provision of protection and assistance measures during this period, which could also have positive effects on the investigation of human trafficking offences. It should therefore not merely be a period of time given to decide whether to co-operate with the authorities but also to enable victims to recover.

161. There are no statistics available on the number of persons having benefitted from a reflection period and it would appear that none has ever been granted.

162. **GRETA urges the Hungarian authorities to ensure that the recovery and reflection period, as provided for in Article 13 of the Convention, is specifically defined in law and that all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention are made available during this period to persons for whom there are reasonable grounds to believe are victims of THB. In order to ensure that trafficked persons are effectively granted such a period, the Hungarian authorities should take further steps to ensure that all relevant stakeholders are familiar with the recovery and reflection period, in particular officials from the Office of Immigration and Nationality, the police, prosecutors, judges, lawyers, labour inspectors, staff of the Victim Assistance Services and staff of reception centres and detention centres for asylum seekers and irregular migrants.**

d. Residence permits

163. Article 14(1) of the Convention provides for two possibilities when it comes to the issuing of renewable residence permits to victims of trafficking: on the basis of their personal situation and/or their co-operation with the competent authorities in the investigation or criminal proceedings.

164. In accordance with section 9/A of Act CXXXV of 2005 on Crime Victim Support and State Compensation, third-country nationals who agree to co-operate with the investigating authorities can benefit from a residence permit during the period of co-operation with the authorities. This provision is complemented by section 30-1(e) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals, which states that “a certificate of temporary residence shall be issued to any third-country national who is a victim of trafficking in human beings, if initiated by the victim support authority, for the duration of support”. According to section 30-1(f) of the latter Act, a residence permit on humanitarian grounds can be issued to third-country nationals who have been subjected to particularly exploitative working conditions, or to third-country nationals under 18 who were employed illegally without a valid residence permit or other authorisation to stay. The Hungarian authorities have indicated that this provision could apply to victims of human trafficking who do not co-operate with the authorities.

165. No statistics are available on the number of residence permits granted to victims of trafficking and there does not appear to be a clear understanding by the competent authorities of how the relevant provisions would apply in practice.

166. **GRETA considers that the Hungarian authorities should ensure that victims of trafficking can fully benefit in practice from the right to obtain a renewable residence permit when they co-operate with the authorities or when their personal situation justifies it, and to systematically inform them of this possibility in a language that they understand.**

e. Compensation and legal redress

167. Article 15 of the Convention establishes the obligation for Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. Parties must also provide for the right of victims of trafficking to compensation from the perpetrators as well as adopt legislative or other measures to guarantee compensation for victims from the State. A human rights-based approach to action against THB entails the effective prosecution of traffickers, putting the emphasis on the right to effective remedy for the victim. Further, Article 15(1) of the Convention establishes that victims of trafficking must have access to information on relevant judicial and administrative proceedings in a language which they can understand.

168. Section 4 of Act CXXXV of 2005 on Crime Victim Support and State Compensation stipulates that the state must provide legal aid to victims of trafficking in accordance with Act LXXX of 2003 on Legal Aid. This right to legal aid includes the provision of legal advice in preparation of their case. This is subject to a number of conditions, including being Hungarian or residing in Hungary or in an EU/EEA state, benefiting from a residence permit for humanitarian reasons, and an income below the pension level. Victims can benefit from legal aid in civil proceedings and criminal proceedings under similar conditions.

169. Insofar as compensation from perpetrators is concerned, trafficked victims can only claim tangible damages, such as unpaid wages, as part of the criminal proceedings. Pain and suffering is examined in civil proceedings. No statistics were available on the number of compensation awarded to victims of THB or on the amount paid to them as part of legal proceedings against the perpetrators.

170. Hungarian legislation provides for state compensation for all victims of crime under Act CXXXV of 2005. According to section 6 of this Act, state compensation is available to victims of violent crimes, including trafficking, who have suffered severe physical and/or mental damage and who are considered to be in need, i.e. if their income does not exceed a defined level (i.e. a monthly income below HUF 198 402, approximately 660 euros) or if they have a special status (e.g. refugees, homeless persons, physically/mentally disabled persons, and persons staying in temporary accommodation). Victims should be able to provide proof of the extent of the damage suffered. Compensation is also available to direct relatives, parents, children, spouses, and partners of the victims, in particular in case of their death. Under section 30 of Act CXXXV of 2005, applications for compensation must be lodged within three months from the crime or, if the applicants have faced circumstances beyond their control preventing them from lodging a timely application, within three months from the moment these circumstances have stopped. The police must inform victims of the possibility of obtaining state compensation.

171. State compensation is made available in the form of a lump-sum payment or in regular monthly instalments and its maximum rate is HUF 1 438 350 (approximately 4 795 euros). According to section 15 of Act CXXXV of 2005, the victim will have to refund the state support and compensation within three years from the date when the decision on the merits of the application for support was taken if the conduct justifying the support and compensation did not constitute a criminal act, the victim furnished false data in his or her application, the loss and damage was fully compensated through other sources (the victim will have to refund up to the sum obtained through other ways), or if a disqualifying reason occurred after payment of the victim's compensation.

172. As noted in paragraph 125, Act CXXXV of 2005 applies to Hungarian nationals, including if they were exploited abroad provided they were lawfully residing in this other country and have their habitual residence in Hungary, and any person who was exploited in Hungary and enjoys freedom of movement and residence in Hungary or an EU country. In addition, compensation will be available to EU citizen victims of trafficking abroad if they have their habitual residence in Hungary. Victims have to produce written evidence that they were trafficked abroad (e.g. a document issued by the police, a record of a hearing held abroad, document from the competent Hungarian consulate). Another requirement is that no legal proceedings should have been launched in the other country. Over the last three and half years, there have been three positive decisions concerning victims of trafficking, six refusals (in one case, the deadline had passed; in two cases, there were no damages; two other cases were being dealt with in Spain and Cyprus; in one case damage could not be established), and five cases where the procedure was discontinued. GRETA welcomes the principle of dealing with assistance and state compensation within the same legal framework but is of the view that access to state compensation, like assistance, should not be made dependent on the trafficking victim's origin and residence status.

173. **GRETA urges the Hungarian authorities to adopt measures to facilitate and guarantee compensation from the perpetrators for victims of trafficking, including by:**

- **ensuring that victims of trafficking are systematically informed 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.**

174. **Whilst welcoming the framework for state compensation of victims in Hungary, GRETA considers that the Hungarian authorities should review the legislation so that all victims of trafficking are able to benefit from it regardless of their nationality or the regularity of their stay in Hungary or in any other country.**

175. **Furthermore, GRETA invites the Hungarian authorities to ensure that victims of THB are systematically informed of the possibility of seeking compensation and are ensured effective access to legal aid.**

f. Repatriation and return of victims

176. Article 16 of the Convention requires Parties to establish repatriation programmes which aim at avoiding re-victimisation and involve relevant national or international institutions and NGOs, as well as to make efforts to favour the reintegration of victims into the society of the State of return. Parties must also make available to victims of trafficking contact information or structures that can assist them in the country of return, such as law enforcement offices, NGOs, legal professionals and social welfare agencies. The return of victims of trafficking must preferably be voluntary and needs to be carried out with due regard for the rights, safety and dignity of the person and for the status of any legal proceedings related to the fact that the person is a victim of THB. Furthermore a victim may not be returned where such action would be in contravention of the State's obligation of international protection, recognised in Article 40(4) of the Convention.

177. As a country mainly of origin, Hungary has put in place a framework for the repatriation of Hungarian victims exploited abroad. Government Decree No. 354/2012 (XII.13) on the Identification Order of Victims of Trafficking in Human Beings has a chapter entitled "Special rules concerning the procedures of Hungarian citizens identified as victims of human trafficking abroad". Pursuant to section 6(1), the Hungarian consulate officials, together with any institutions participating in the identification, must inform the person identified as a victim of trafficking about the conditions of placement in a protected shelter. Under section 6(2), the National Crisis Telephone Information Services (OKIT) must accept requests for accommodation from consulate officials, the police and institutions involved in the identification of Hungarian victim of THB abroad and refer them to appropriate shelters.

178. As regards child victims repatriated to Hungary, the authorities have indicated that a child-friendly protocol prepared by the Kék Child Crisis Foundation for the Office of Justice will contribute to ensuring that the best interests of the child are taken into account by the Victim Support Services.

179. As regards foreigners returned to their country of origin, section 85 of Government Decree No. 354/2012 (XII.13) stipulates that, upon request, the competent authorities may reimburse, in part or entirely, the fare paid by a victim of trafficking wishing to permanently leave Hungary and return to his/her home country or relocate to another country.

180. IOM runs an assisted voluntary return and reintegration programme with funding from the European Return Fund and the Hungarian government, which is not specific to victims of human trafficking. In practice, foreigners returned to their country of origin do not appear to be screened beforehand to detect whether they could be victims of trafficking. On average, some four to five foreigners are returned to their country of origin per year through IOM. Very few unaccompanied minors are returned to their country of origin and always on a voluntary basis and the Hungarian authorities have indicated that a number of safeguards have been put in place to ensure that the best interests of the child are protected.

181. **GRETA urges the Hungarian authorities to establish effective institutional and procedural mechanisms for the return of victims of trafficking to their country of origin in order to ensure that any return is conducted with due regard to the rights, safety and dignity of the person and the principle of *non-refoulement*, as well as the best interests of the child where child victims are concerned.**



## 4. Implementation by Hungary of measures concerning substantive criminal law, investigation, prosecution and procedural law

### a. Substantive criminal law

182. Pursuant to Article 18 of the Convention, Parties have the obligation to establish THB as a criminal offence when committed intentionally. Further, the Convention requires Parties to consider taking measures to criminalise the use of services which are the object of exploitation, with the knowledge that the person is a victim of THB (Article 19). In addition, forging travel or identity documents, removing, concealing or destroying them, as well as procuring or providing them, must also be established as criminal offences, when committed intentionally and for the purpose of enabling THB (Article 20).

183. As noted in paragraph 42, the basic offence of THB under section 192, paragraph 2, CC is punishable by a prison sentence ranging from one to five years. The different forms of exploitation are not explicitly listed in section 192 but are referred to in the official commentary of the Criminal Code and defined in other provisions of the Criminal Code (see paragraph 46). Moreover, there is no need for the use of means within the meaning of Article 4 of the Convention for a conviction to be secured, the means being considered as aggravating circumstances pursuant to paragraphs 3 to 6 of section 192 CC.

184. A first set of aggravating circumstances is found under section 192, paragraph 3, CC, according to which imprisonment from two to eight years is incurred when trafficking was committed: (a) against a person held in captivity; (b) by force or the threat of the use of force; (c) by deception; (d) by tormenting the victim; (e) against a person who is in the care, custody or supervision of or receives medical treatment from the perpetrator, or if the abuse is made in the context of a recognised position of trust, authority or influence over the victim; (f) by the unlawful use of the human body; (g) by a public official acting in an official capacity; (h) as part of a criminal organisation with accomplices; (i) on a commercial scale. **GRETA invites the Hungarian authorities to keep under review the effectiveness and dissuasiveness of the penalties provided for in section 192, paragraphs 2 and 3, of the Criminal Code, taking into account the fact that THB constitutes a serious violation of human rights.**

185. A second set of aggravating circumstances is listed under section 192, paragraph 4, CC, which provides for imprisonment ranging from five to 10 years if the criminal offence: (a) is committed against a person aged under 18; (b) is committed against a person held in captivity and one of the aggravating circumstance provided in section 192, paragraph 3, subsections (b) to (h) is established; (c) results in particularly great injuries or danger to life.

186. A third set of aggravating circumstances specifically for children appears in section 192, paragraph 5, CC and provides for prison sentences between five and 15 years if: (a) the criminal offence is committed against a child under 14; (b) the offence is committed against a child under 18 with one of the aggravating circumstances under section 192, paragraph 3, CC; (c) the offence is committed against a child under 18 and results in severe injuries or danger to life; (d) the offence is committed against a child under 18 for the purpose of child pornography. A fourth set of aggravating circumstances also specifically for children is set out in section 192, paragraph 6, CC, which provides for prison sentences from five to 20 years or life imprisonment if: (a) the criminal offences is committed against a child under 14 and an aggravating circumstance listed in section 192, paragraph 3, CC applies; (b) the offence is committed against a child under 14 and results in severe injuries or danger to life; (c) the offence is committed against a child under 14 for the purpose of child pornography.

187. As regards legal persons, section 2 of Act CIV of 2001 on Measures applicable to Legal Entities under Criminal Law stipulates that legal persons can be held liable for criminal offences. The measures that can be taken against legal entities are set out under section 3 of Act CIV of 2001 and are the closure of the legal entity, limiting its activity and imposing a fine.

188. There is no specific provision establishing as a criminal offence the fact of retaining, removing, concealing, damaging or destroying the travel or identity document of another person intentionally and for the purpose of enabling THB. However, section 346, paragraph 1, CC criminalises acquiring an authentic document from a person, without the person's consent; unlawfully destroying or damaging authentic documents; unlawfully take possession or conceal such documents from their rightful owner. These offences are punished by a prison sentence of up to two years.

189. Section 192, paragraph 7, CC punishes the preparation of the crime of trafficking by up to two years' imprisonment and section 11 CC specifies that preparation should be understood as providing the means necessary for committing a crime or facilitating it, and inviting, volunteering or undertaking to commit a crime, or agreeing to commit a crime with others. According to section 10 CC, the sentence imposed for attempting to commit a criminal offence is the same as that imposed for the commission of the crime itself. Pursuant to section 14 CC, abetting, which is defined as persuading another person to commit a crime, and complicity are also subject to the same punishment as commission of the crime.

b. Non-punishment of victims of trafficking in human beings

190. Pursuant to Article 26 of the Convention, Parties must provide for the possibility of not imposing penalties on victims of trafficking for their involvement in unlawful activities, to the extent that they have been compelled to do so.

191. In Hungary, there is no specific legal concerning the possibility of not imposing penalties on victims of trafficking who have been forced by traffickers to commit offences. However, according to section 15 CC, criminal responsibility may be fully or partly excluded if the respective person was, *inter alia*, forced or threatened to act. Pursuant to section 19 CC, "any person who has committed a criminal act under undue influence by coercion or threat, depriving him of the capacity to act according to his own free will shall not be prosecuted" (subsection 1) and "the penalty may be reduced without limitation if the coercion or threat deprives the perpetrator of the capacity to act according to his own free will" (subsection 2). According to the Hungarian authorities, no cases arose in the period 2011-2013 where victims of THB were subject to criminal prosecutions.

192. In the absence of a specific provision in respect of human trafficking cases, GRETA deems it all the more important that the non-punishment of victims having been compelled by traffickers to commit an offence be part and parcel of the training on human trafficking organised for the police, prosecution and judiciary to ensure that they are made aware of the principle of non-punishment as embodied in Article 26 of the Convention. In addition, guidance should be given to investigating and prosecuting authorities to underline the importance of this principle. 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.<sup>40</sup> Given the impact that the recent Act on Misdemeanours may have on victims of trafficking forced to commit criminal offences, it is crucial that there are clear instructions to migration officials, the police and prosecutors to ensure that victims of forced criminality are duly identified and not subjected to punishment for misdemeanours committed, when they have been compelled to do so.

**193. GRETA considers that the Hungarian authorities should take further steps to ensure compliance with Article 26 of the Convention through the adoption of a provision on non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so, or by issuing guidance to public prosecutors and migration officials on this issue. While the identification procedure is ongoing, possible victims of THB should not be punished for immigration-related violations.**

<sup>40</sup>

Available at: [www.osce.org/what/trafficking](http://www.osce.org/what/trafficking)

c. Investigation, prosecution and procedural law

194. One of the purposes of the Convention is to ensure the effective investigation and prosecution of THB (Article 1(1)(b)). In this context, Parties are required to co-operate with each other regarding investigations and/or criminal proceedings related to THB (Article 32). Further, the Convention establishes that the investigation or prosecution of THB offences must not be dependent on victims' reports, and that associations or NGOs aimed at fighting THB or protecting human rights must be able to assist and support victims during criminal proceedings, in accordance with the conditions established in the internal law and with the victim's consent (Article 27).

195. In Hungary, human trafficking offences are prosecuted *ex officio* in accordance with section 6(1) of Act XIX of 1998 on Criminal Proceedings. This provision stipulates that "it is the responsibility of the court, the prosecutor and the investigating authority to initiate and conduct the criminal proceedings".

196. Investigations into trafficking cases fall to the National Police Headquarters of the counties or municipalities where the cases have arisen. The THB Unit of the National Bureau of Investigations is competent whenever there is an international component. In practice, the THB Unit can also tackle more complex trafficking cases when the local police consider that they do not possess the required degree of knowledge and specialisation.

197. The use of special investigation techniques is possible in trafficking cases in accordance with sections 63(1) and following of Act XXXIV of 1994 on the Police. The police may, without prior authorisation by a judge, use informers and covert investigators, observe and gather information from persons suspected of a criminal act and other persons related to it as well as premises, buildings, other objects, land, vehicles and events that may be connected with the criminal act, record their observations by sound, image, other signal or trace recording technical devices, and perform controlled deliveries (section 64). Subject to a court authorisation, the police can carry out secret searches in private homes, observe and record events taking place in a private home with the use of technical devices, and use wiretapping in cases, for example, with a transnational component, where the victim is a minor, or involving organised crime (section 69). **GRETA welcomes the possibility of using special investigation techniques in trafficking cases, in line with the Committee of Ministers' Recommendation Rec(2005)10 on "special investigation techniques" in relation to serious crimes including acts of terrorism", and invites the Hungarian authorities to ensure that full use is made of special investigation techniques in trafficking cases.**

198. There are currently no specialised prosecutors dealing with THB cases in Hungary. At county level, the national police and the competent prosecutor work closely with the county police officers specialised on trafficking. County prosecutors can turn to the Chief Prosecutor's Office where needed, for instance in trafficking cases. However, no special guidance on how to deal with trafficking cases appears to have been provided to county prosecutors. Furthermore, several interlocutors met by the GRETA delegation underlined that there was insufficient knowledge and awareness of trafficking among prosecutors at county level.

199. The confiscation of criminal assets is covered by sections 74 to 76 of the Criminal Code.<sup>41</sup> The Hungarian authorities have reported that, within the framework of JITs, investigations into criminal assets linked to trafficking had been successful carried out upon request from foreign law-enforcement authorities. From the figures provided by the authorities, there have been a total of five judgments resulting in confiscation from 2011 to 2013. The Hungarian authorities have provided further information concerning another three cases in 2014 in which assets of alleged perpetrators of THB offences were seized. **GRETA invites the Hungarian authorities to make full use of the possibility of seizure and confiscation of criminal assets linked to human trafficking.**

<sup>41</sup> In the Criminal Code in force prior to Act V of 2012, confiscation of property was under section 77/B "Civil forfeiture".

200. The new definition of trafficking contained in section 192 only entered into force in July 2013 and it is therefore premature to gauge whether this new definition will lead to more proceedings and convictions. The number of criminal proceedings initiated under section 175/B was respectively 29 in 2011, 31 in 2012, and 16 in 2013. The number of convictions under section 175/B of the former Criminal Code was 9 in 2011, 8 in 2012 and 29 in 2013. In 2011, four out of the nine convictions involved prison sentences (two sentences of one to two years' imprisonment, and two sentences of two to three years' imprisonment), while the other five were suspended sentences ranging from six months to one year. In 2012, four of the eight convictions resulted in prison sentences (one prison sentence of six months to one year, one prison sentence of one to two years, one prison sentence of two to three years, and one prison sentence of three to five years) and four were suspended sentences ranging from one to two years. In 2013, 26 of the 29 convictions resulted in prison sentences (one sentence of six months to one year, two sentences of one to two years, seven sentences from two to three years, 11 sentences of three to five years, and five of five to eight years), and three suspended sentences ranging from one to two years. In 2014, there were five convictions under the new provision of the Criminal Code (section 192) with three custodial prison sentences respectively of 34, 40 and 42 months, and two suspended sentences of 18 and 22 months.

**201. GRETA considers that the Hungarian authorities should identify gaps in the investigation procedure and the presentation of cases in court with a view to ensuring that crimes related to THB are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions. For this purpose, training on THB for members of the judiciary (prosecutors and judges) and lawyers should be strengthened and cover diverse types of exploitation and different aspects such as the non-punishment provision.**

202. GRETA notes that section 29 of Act C of 2012, entitled "Active repentance", provides for the possibility of (i) dropping prosecutions if the perpetrators of a crime punishable by imprisonment not exceeding three years admits his guilt before being indicted and provides redress to the injured party within the framework of a mediation process; or (ii) reducing without limit the penalty if the perpetrators admit their guilt of crimes punishable by imprisonment not exceeding five years and if the victim has received compensation during the mediation process. GRETA notes that section 29 can in principle apply in THB cases and reiterates that human trafficking is a serious violation of the victim's human rights. The Hungarian authorities have stated that the application of this provision is restricted to a limited number of cases and is not common with regard to human trafficking. **GRETA considers nevertheless that the Hungarian authorities should explicitly exclude trafficking in human beings from the scope of section 29 of Act C on Active Repentance.**

d. Protection of victims and witnesses

203. By virtue of Article 28 the Convention, Parties must take measures to provide effective and appropriate protection from potential retaliation or intimidation in particular during and after the investigation and prosecution of perpetrators. This protection can be of various types (physical, relocation, identity change, etc.) and is to be provided to victims of trafficking, to those who report it or otherwise co-operate with the investigating or prosecuting authorities, to witnesses who give testimony and, when necessary, to members of the families of those listed above. Further, Article 30 of the Convention includes a provision requiring Parties to take measures to protect victims' private life and identity and to provide for their safety and protection from intimidation in the course of judicial proceedings, including special protection measures for child victims of THB.

204. The protection of witnesses is covered by Act XIX of 1998 on the Criminal Procedure. According to section 95 witnesses must be provided with protection against threats to their life and physical freedom as well as intimidation. Section 96 provides that, upon request of witnesses or their lawyer or ex officio, the personal data of witnesses, with the exception of their names, can be treated confidentially. In exceptional justified cases, the confidentiality of the name of a witness can also be ordered. In such cases, the personal data of a witness may only be known to the competent court, the prosecutor and the investigating authority.

205. Under section 97 of Act XIX of 1998 on the Criminal Procedure, a witness can be declared specially protected witness if his or her testimony relates to the substantial circumstances of a particularly serious case, the evidence expected by his testimony cannot be substituted, the identity, the place of stay and the fact that he is intended to be heard by the prosecutor or the investigating authority is not known by the accused and the counsel for the defence, the exposure of the identity of the witness would seriously jeopardise the life, limb or personal freedom of either the witness or his or her relatives. Further, section 98 of this Act stipulates that personal protection can be offered to the parties in criminal proceedings in accordance with Government Decree No. 34/1999. Pursuant to section 213, witnesses whose life is in direct danger can be heard without the accused being present in the room. The investigating judge may also order a video or audio recording of the examination of the witness. In accordance with section 237, paragraph 3, subparagraph c, the whole trial or part of it can be held in camera to ensure the protection of witnesses. Section 244/A, paragraphs 1 and 2, provides for the possibility of using CCTV for the hearing of certain witnesses as a way of protecting them.

206. Act LXXXV of 2001 on the Protection Programme for Participants of Criminal Procedures and Persons Co-operating with the Criminal Justice governs the possibility of a person entering a witness protection programme. It concerns serious crimes defined as criminal acts which bear the characteristics of organised crime or transnational crime, or which is connected with an act of terrorism, extortion, money laundering, trafficking in drugs or firearms, prostitution, paedophilia or a related violent crime. Measures taken can include relocating the person to a safe location, physical protection, data closure in various registers and obliging data processing authorities to report any inquiry concerning the person involved, change of name or of the full identity.

207. Each county police headquarter is equipped with child-friendly interviewing rooms that can also be used for vulnerable victims. The Hungarian authorities have added that child-friendly hearing rooms were gradually being introduced in courts. However, GRETA notes that the UN Committee on the Rights of the Child has expressed concern that there are no adequate incentives for child victims to participate voluntarily in the process of investigation and prosecution of their traffickers.<sup>42</sup> Some safeguards for children participating in criminal proceedings are set out in Act XIX of 1998 on Criminal Proceedings: children under 14 will only be called to testify in court if the expected evidence cannot be obtained by other means (section 86, paragraph 1); children under 14 will only be cross-examined by the accused if it does not cause anxiety (section 124, paragraph 3); the trial can be held in camera to protect a child participating in the procedure (section 237, paragraph 3 subparagraph b); the presiding judge can order that CCTV be used for examination of child witnesses (section 244/A, paragraph 1); when a child under 14 has been heard by the court at the investigation stage, he/she may not be summoned to the trial, and, only in exceptional cases if the child has reached the age of 14 by the time the trial starts (section 280, paragraph 1). GRETA notes that many of the safeguards apply to children under 14 and is of the view that they should be extended to cover all children up to the age of 18.

208. However, GRETA was informed that very often victims did not want to co-operate with the authorities because of threats and intimidation from traffickers. **GRETA urges the Hungarian authorities to evaluate whether measures available to protect victims and witnesses of THB, including children, are used in practice and take additional measures to ensure that they are adequately protected from potential retaliation or intimidation in the course of judicial proceedings.**

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<sup>42</sup> Committee on the Rights of the Child, Concluding observations on the report submitted by Hungary under Article 12, paragraph 1 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 3 November 2014, document CRC/C/OPSC/HUN/CO/1

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## 5. Concluding remarks

209. GRETA welcomes the steps taken by the Hungarian authorities to combat trafficking in human beings through the adoption of legislation and national strategies, the setting up of co-ordination structures, and the efforts made in the area of international co-operation. However, several important challenges remain to be tackled through legislative, policy or practical measures in order to meet the requirements of the human rights-based and victim-centred approach followed by the Convention.

210. Noting that greater focus has so far been placed on trafficking for sexual exploitation, GRETA draws attention to the need for increased action against trafficking for the purpose of labour exploitation, in particular linked to internal trafficking. The particular vulnerability of children to trafficking should also be fully addressed. Moreover, anti-trafficking action should tackle root causes, in particular through special measures for the most vulnerable sections of the community, such as Roma, women and children at risk, and promoting gender equality.

211. In order to meet the requirements of the human rights-based and victim-centred approach stemming from the Convention, GRETA calls on the Hungarian authorities to ensure that all victims of trafficking are properly identified and can benefit from the assistance measures provided for under the Convention. In this respect, whilst commending the setting up of a national referral mechanism, GRETA stresses that its effective implementation should be ensured and that all victims, irrespective of their immigration status, should be identified and assisted.

212. Strengthening the protection of victims and witnesses of THB from potential retaliation or intimidation in the course of the investigation and judicial proceedings is another area where further action is needed in order to fully apply the human rights-based and victim-centred approach promoted by the Convention.

213. Finally, all professionals who may come into contact with victims of human trafficking, including law enforcement officials, prosecutors, judges, labour inspectors, social workers and medical staff, must be continuously informed and trained about the need to apply a human rights-based approach to action against human trafficking on the basis of the Convention and the case law of the European Court of Human Rights.

214. GRETA invites the Hungarian authorities to keep it informed on a regular basis of developments in the implementation of the Convention and looks forward to continuing the good co-operation in further efforts in achieving the purposes of the Convention.

## Appendix I: List of GRETA's proposals

### Core concepts and definitions

1. In order to be fully consistent with the definition of THB in the Convention, GRETA urges the Hungarian authorities to include at a minimum the different types of exploitation mentioned in the Convention, including slavery, practices similar to slavery and servitude, in relation to the definition of trafficking in human beings of the Criminal Code.

### Comprehensive approach and co-ordination

2. GRETA urges the Hungarian authorities to allocate sufficient financial and human resources to ensure that the National Co-ordination Mechanism can achieve the objectives set out in the National Strategy and that the NGO Roundtable can function effectively, and to ensure full participation of civil society, including trade unions, in the implementation of the National Strategy.

3. GRETA also considers that the Hungarian authorities should take further steps to ensure that national action to combat THB is comprehensive and that action is taken to:

- research, identify and address effectively internal trafficking, in particular in the poorest areas of the country and among disadvantaged communities, such as Roma;
- strengthen action to combat THB for the purpose of labour exploitation by involving civil society, the labour inspectorate, businesses, trade unions and employment agencies;
- pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking, in particular children from socially vulnerable groups and unaccompanied foreign minors, and ensure that the best interests of the child are fully taken into account.

4. Further, GRETA invites the Hungarian authorities to consider the establishment of an independent National Rapporteur or other mechanism for monitoring the anti-trafficking activities of State institutions (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report).

### Training of relevant professionals

5. GRETA considers that the Hungarian authorities should seek to implement regular practical training on human trafficking for police officers across the country, in particular on identifying victims, supporting them during criminal proceedings and protecting them.

6. Further, GRETA considers that the Hungarian authorities should ensure that other professionals who are likely to come into contact with victims of trafficking, in particular prosecutors, judges, labour inspectors, border guards, victim assistance staff, officials dealing with asylum seekers and irregular migrants, child welfare staff, including those in centres for unaccompanied minors, consular staff, education staff and medical professionals receive periodic training on human trafficking. Training programmes should be designed with a view to improving the knowledge and skills of relevant professionals to enable them to identify victims of trafficking, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.

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## **Data collection and research**

7. GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Hungarian authorities should intensify their efforts to develop and maintain a comprehensive and coherent data collection system on trafficking in human beings by compiling reliable statistical information from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination). This should be accompanied by all the necessary measures required to respect the right of data subjects to personal data protection, including in situations where NGOs working with victims of trafficking are asked to provide information for the national database.

8. GRETA considers that the Hungarian authorities should conduct and support further research on THB in Hungary 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 Hungary include internal trafficking, trafficking for the purpose of labour exploitation, child trafficking, trafficking for the purpose of forced marriage, trafficking among asylum seekers and irregular migrants.

## **International co-operation**

9. GRETA welcomes the efforts made by the Hungarian authorities in the area of international co-operation and invites them to continue to strengthen international co-operation with a view to preventing human trafficking, identifying and referring to assistance victims of trafficking, as well as investigating and prosecuting human trafficking offences.

## **Measures to raise awareness and discourage demand**

10. GRETA considers that the Hungarian authorities should:

- continue their efforts to raise awareness among groups vulnerable to trafficking abroad;
- design and implement preventive and awareness-raising activities concerning internal trafficking within Hungary;
- raise awareness of diverse forms of THB among the general public, for example through a national campaign.

11. GRETA considers that the Hungarian 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.

## **Social, economic and other initiatives for groups vulnerable to THB**

12. GRETA urges the Hungarian authorities to strengthen their efforts to prevent THB in:

- adopting social and economic empowerment measures to promote the integration of Roma, in particular through improved access to education, housing, public health services and the labour market, and combating discrimination against Roma communities;
- addressing the root causes of THB for sexual exploitation, such as stereotypes and prejudice against women, especially of Roma women, domestic violence and violence against women;
- ensuring that National Social Inclusion Strategy addresses root causes of THB.



## **Border measures to prevent THB**

13. GRETA considers that the Hungarian authorities should increase efforts to detect cases of THB in the context of border controls, including through further training of border guards on the identification of victims of THB.

14. GRETA invites the Hungarian authorities to pursue co-operation on border controls with neighbouring countries as a means to combat trans-border trafficking.

## **Identification of victims of trafficking in human beings**

15. GRETA urges the Hungarian authorities to ensure that all victims of trafficking are properly identified and can benefit from the assistance and protection measures contained in the Convention, in particular by:

- not requiring written consent from trafficked persons for them to be identified as victims;
- strengthening the identification of victims of internal trafficking, including for forced labour, servitude and slavery, in particular by reinforcing the role of labour inspectors through adequate resources and training and ensuring that domestic work in private homes are covered by labour inspections;
- adopting a framework for the identification of victims of THB among third-country nationals without legal residence;
- improving the identification of victims of THB among asylum seekers and irregular migrants, in particular by increasing efforts to train staff of the Office of Immigration and Nationality on identification and the use of common indicators for identification;
- increasing efforts to identify child victims of THB, including amongst unaccompanied minors, and setting up child-specific identification procedures, which take into account the special circumstances and needs of child victims of trafficking, involves child specialists, child protection services, trained police and prosecutors, and ensures that the best interests of the child are the primary consideration;
- developing age assessment tools and effectively implementing the presumption and the measures foreseen in Article 10, paragraph 3, of the Convention when the age of the victim is uncertain and the measures foreseen in Article 10, paragraph 4, of the Convention if an unaccompanied child is identified as a victim of trafficking.

## **Assistance to victims**

16. GRETA urges the Hungarian authorities to take further measures to provide victims of THB with adequate assistance, and in particular to:

- ensure that all assistance measures provided for in law are guaranteed in practice to victims of THB; when the provision of assistance is delegated to NGOs as service providers, the State has an obligation to provide adequate financing and ensure the quality of the services delivered by the NGOs;
- guarantee effective access to public health care for victims of trafficking;
- provide specialised assistance and shelters for child victims of THB that take into account their special needs and the best interests of the child;
- take effective measures to address the problem of disappearance of unaccompanied minors by providing safe accommodation, and assigning adequately trained legal guardians promptly after the arrival of an unaccompanied minor;
- ensure that male victims of THB are provided with adequate assistance and shelters;
- ensure that presumed foreign victims of trafficking are moved to a shelter for victims of THB as soon as there are reasonable grounds to believe that they are victims of trafficking.

17. Furthermore, GRETA considers that the Hungarian authorities should review domestic legislation so that the lawfulness of victims' residence in the country where they were exploited is not a prerequisite to the provision of assistance.

18. GRETA also considers that the Hungarian authorities should actively support initiatives from civil society aiming at the reintegration of victims of trafficking, in particular by adopting measures promoting effective access to education, training, employment and housing of victims of trafficking, including children.

### **Recovery and reflection period**

19. GRETA urges the Hungarian authorities to ensure that the recovery and reflection period, as provided for in Article 13 of the Convention, is specifically defined in law and that all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention are made available during this period to persons for whom there are reasonable grounds to believe are victims of THB. In order to ensure that trafficked persons are effectively granted such a period, the Hungarian authorities should take further steps to ensure that all relevant stakeholders are familiar with the recovery and reflection period, in particular officials from the Office of Immigration and Nationality, the police, prosecutors, judges, lawyers, labour inspectors, staff of the Victim Assistance Services and staff of reception centres and detention centres for asylum seekers and irregular migrants.

### **Residence permits**

20. GRETA considers that the Hungarian authorities should ensure that victims of trafficking can fully benefit in practice from the right to obtain a renewable residence permit when they co-operate with the authorities or when their personal situation justifies it, and to systematically inform them of this possibility in a language that they understand.

### **Compensation and legal redress**

21. GRETA urges the Hungarian authorities to adopt measures to facilitate and guarantee compensation from the perpetrators for victims of trafficking, including by:

- ensuring that victims of trafficking are systematically informed 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.

22. Whilst welcoming the framework for state compensation of victims in Hungary, GRETA considers that the Hungarian authorities should review the legislation so that all victims of trafficking are able to benefit from it regardless of their nationality or the regularity of their stay in Hungary or in any other country.

23. Furthermore, GRETA invites the Hungarian authorities to ensure that victims of THB are systematically informed of the possibility of seeking compensation and are ensured effective access to legal aid.

### **Repatriation and return of victims**

24. GRETA urges the Hungarian authorities to establish effective institutional and procedural mechanisms for the return of victims of trafficking to their country of origin in order to ensure that any return is conducted with due regard to the rights, safety and dignity of the person and the principle of *non-refoulement*, as well as the best interests of the child where child victims are concerned.

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**Substantive criminal law**

25. GRETA invites the Hungarian authorities to keep under review the effectiveness and dissuasiveness of the penalties provided for in section 192, paragraphs 2 and 3, of the Criminal Code, taking into account the fact that THB constitutes a serious violation of human rights.

**Non-punishment of victims of trafficking in human beings**

26. GRETA considers that the Hungarian authorities should take further steps to ensure compliance with Article 26 of the Convention through the adoption of a provision on non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so, or by issuing guidance to public prosecutors and migration officials on this issue. While the identification procedure is ongoing, possible victims of THB should not be punished for immigration-related violations.

**Investigation, prosecution and procedural law**

27. GRETA welcomes the possibility of using special investigation techniques in trafficking cases, in line with the Committee of Ministers' Recommendation Rec(2005)10 on "special investigation techniques" in relation to serious crimes including acts of terrorism", and invites the Hungarian authorities to ensure that full use is made of special investigation techniques in trafficking cases.

28. GRETA invites the Hungarian authorities to make full use of the possibility of seizure and confiscation of criminal assets linked to human trafficking.

29. GRETA considers that the Hungarian authorities should identify gaps in the investigation procedure and the presentation of cases in court with a view to ensuring that crimes related to THB are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions. For this purpose, training on THB for members of the judiciary (prosecutors and judges) and lawyers should be strengthened and cover diverse types of exploitation and different aspects such as the non-punishment provision.

30. GRETA considers nevertheless that the Hungarian authorities should explicitly exclude trafficking in human beings from the scope of section 29 of Act C on Active Repentance.

**Protection of victims and witnesses**

31. GRETA urges the Hungarian authorities to evaluate whether measures available to protect victims and witnesses of THB, including children, are used in practice and take additional measures to ensure that they are adequately protected from potential retaliation or intimidation in the course of judicial proceedings.

## **Appendix II: List of public bodies and intergovernmental and non-governmental organisations with which GRETA held consultations**

### **Public bodies**

- Ministry of the Interior
  - *National Anti-Trafficking Co-ordinator, Deputy State Secretary for EU and International Relations*
  - *Police Co-operation Unit, Department of European Co-operation*
- Ministry of Human Capacities
  - *National Institute of Family and Social Policy*
  - *State Secretariat for Social Inclusion*
  - *National Crisis Telephone Information Service*
- Ministry of Foreign Affairs
  - *Consular Department*
- Office of Justice
  - *Victim Support Department*
- Office of Immigration and Nationality
- Chief Prosecutor's Office
  - *Detection and Supervision Department*
  - *Training and Management Department*
  - *Organised Crime, Corruption and Environmental Crime Department*
- National Office for the Judiciary
  - *Department for Judiciary*
  - *International Department*
  - *Metropolitan Court of Budapest*
- National Labour Office
- Ministry for National Economy
  - *EURES (European Employment Services) Unit*
- Hungarian Police
  - *THB Unit of the National Bureau of Investigation*
  - *Crime Prevention Department of the National Police Headquarters*
- István Károlyi Centre for Children
- Office of the Commissioner for Fundamental Rights

### **Intergovernmental organisations**

- International Organization for Migration (IOM)
- UNHCR

### **Non-governmental organisations**

- Anonymous Ways Foundation
- Blue Line Child Crisis (Kék Vonal Foundation)
- Chance for Families 2005 Foundation
- Cordelia Foundation
- European Roma Rights Centre (ERRC)
- Hungarian Baptist Aid
- Hungarian Trade Union Confederation (MSZOSZ)
- Hungarian Women's Lobby
- Menedék Hungarian Association for Migrants
- MONA Women Foundation
- NANE Association
- Terre des Hommes

## **Government's comments**

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

GRETA engaged in a dialogue with the Hungarian 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 Hungarian authorities on 10 April 2015 and invited them to submit any final comments. The comments of the authorities of Hungary, submitted on 12 May 2015, are reproduced hereafter.



**Ministry of Interior  
Department of European Cooperation**

**Reg. nr.:** BM/ 84/9526 - 3 /2015  
**Subject:** Trafficking – GRETA's final report  
on Hungary  
**Contact:** Ms Eszter GÁL  
**Phone:** + 36 1 441 1469  
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**Ms Petya Nestorova**  
Executive Secretary of the  
Council of Europe Convention on Action against  
Trafficking in Human Beings

Secretariat General  
Directorate General II – Democracy  
Directorate of Human Dignity and Equality

Budapest, “ 12 “ May 2015

**Dear Ms Nestorova,**

With reference to the letter of the Secretariat of the Council of Europe Convention on Action against Trafficking in Human Beings on 11 May 2015 please find the final comments of relevant Hungarian authorities for the final report drawn up by GRETA below:

**Comments of the Ministry of Interior:**

1. p. 24.

*“86. Insofar as research is concerned, the National Institute of Criminology, which is a member of the National Co-ordination Mechanism, carries out research into trafficking issues and research was also undertaken within the framework of the RAVOT-EUR project (see paragraph 95.)*

In the framework of the RAVOT-EUR project a **training manual** will be developed by three experts (one from Belgium, one from Hungary and one from the Netherlands) in order to provide as a comprehensive tool, practical information for experts of the partner countries involved in the identification, referral and assistance of human trafficking victims.

2. p 27.

*“103. In 2012, 940 people were provided with information on THB and in 2013 around 1000 people received such information.*

The Ministry of Interior would like to indicate that in 2014 as well around 1000 people received such information and the Ministry intends to implement the campaign in 2015 again.

3. p. 35.

*“147. There are currently two NGOs operating shelters for victims of trafficking.”*

The Ministry of Interior would like to indicate that besides of the Hungarian Baptist Aid and the Chance for Families 2005 Foundation **Anonymous Ways Foundation** provides also safe accommodation for human trafficking female victims. The Foundation uses the franchise program model of Servants Anonymous Foundation so that assist women, who belong to the target group of the Foundation, to change their life-situation and their destiny. The Foundation is member of the anti-trafficking NGO Roundtable as well.

#### **Comments of the Ministry of Human Capacities:**

1. p. 14.

*“32. The only state-funded shelter for victims of trafficking is run by the NGO Chance for Families 2005 Foundation. The other NGO that also provides accommodation for victims of trafficking, the Hungarian Baptist Aid (HBA), uses funds for the main part from international donors. HBA runs several shelters where victims of trafficking can be accommodated.”*

From 15<sup>th</sup> of January 2015 a second state-funded shelter is operating under the professional management of the same NGO.

2. p. 30.

*“120. Regarding Hungarian nationals contemplating work abroad, the website of the Consular Service of the Ministry of Foreign Affairs provides information in Hungarian and English on the conditions for working abroad and risks of trafficking. It advises persons seeking employment abroad not to take up jobs where professional and language skills are said not to be necessary, underlines the importance of a legal employment contract and the possibility to turn to Hungarian consulates for help, even if the person’s residence and employment are irregular. The website also provides information on how to apply for a visa. In addition, most Hungarian embassies and consulates have their own websites that also provide consular information and information on the Schengen Information System.”*

Answering the request of the Department for Equal Opportunity, the Consular Service also placed the contact information of the National Crisis Telephone Information Service (OKIT) on its website.

3. p. 34.

*“142. Further, section 4 of Act CXXXV of 2005 stipulates that the state must provide appropriate and safe accommodation for victims of trafficking regardless of whether a criminal investigation has been opened. However, GRETA notes that section 4 provides that a victim’s stay in a safe shelter, free of charge, is limited to a period of 90 days, renewable once. GRETA is concerned that criminal proceedings in human trafficking cases are likely to last longer than this period of time and, as a consequence, that it will put additional financial strain on NGOs providing shelter beyond this period.”*

Article 13 (1) of the Convention states:

*“Each Party shall provide in its internal law a recovery and reflection period of at least 30 days, when there are reasonable grounds to believe that the person concerned is a victim. Such a period shall be sufficient for the person concerned to recover and escape the influence of traffickers and/or to take an informed decision on cooperating with the competent authorities....”*

The regulation regarding the accommodation period spent in the shelters by the victims has been stipulated in accordance of the above mentioned section of the Convention. 90 days, renewable once shall be sufficient for the person concerned to recover.

4. p. 36.

*“150. Since 2011 the Chance for Families 2005 Foundation has run a shelter which can accommodate women and men in need and their children. It is the only shelter receiving state funding to cater for victims of trafficking. The shelter is located some two hours North-West of Budapest. The GRETA delegation visited the shelter which, at the time of the visit, was accommodating 10 victims of trafficking, some with children. The shelter is a relatively big building where 125 persons can be accommodated, and staffed by a social worker, a nurse, a psychologist and a legal assistant. It is equipped with security cameras and is in direct contact with the police in case of need. There is a separate part of the building specifically for victims of trafficking with several bedrooms, bathrooms, a kitchen and a large living area. The shelter has a large garden, including a playground for children. There is also a kitchen workshop to allow residents to develop skills. The shelter has on occasion accommodated foreign victims. By way of example, GRETA was informed that an Ethiopian woman was referred from a reception centre upon being given a residence permit for co-operating with the authorities. There are contacts with shelters abroad, for instance in Bratislava, and Hungarian victims can be directly sent to the shelter from these other shelters. The shelter normally does not cater for child victims but has accommodated a victim aged 17, who had been sexually exploited, for the duration of the investigation. The shelter has received very few men (two victims of sexual exploitation, and some victims of labour exploitation). The Foundation has plans to set up a separate shelter for male victims.*

*151. The Ministry of Human Resources allocates an annual funding to cover eight victims of human trafficking at the shelter ran by the Chance for Families 2005 Foundation, but GRETA was informed that there had been up to 13 victims of trafficking at a time, together with their children.*



*In 2013, HUF6 million (19 383 euros) were allocated and in 2014, HUF8 million (25 845 euros). The Hungarian authorities have indicated that since 15 January 2015, the Ministry of Human Resources has allocated HUF8 million (approximately 25 845 euros) for a new shelter run by the same foundation, with eight places. GRETA welcomes the setting up of this additional state-funded shelter.”*

The above mentioned number of 125 available spaces for the victims of THB must be explained. The institution visited by GRETA includes two temporary homes for families (appr. 2\*40 person), shelters for the victims of domestic violence, halfway-houses for the victims of domestic violence and the shelter for the victims of human trafficking (totally funded by the Ministry of Human Capacities), etc. The number of 125 can be a misunderstanding; it is maybe the cumulated accommodation spaces for all the aforementioned services.

9. p. 36.

154. The Ministry of Human Capacities would like to add the following information to this paragraph: In order to ensure equal access to services and rights by migrant and refugee children, the scope of the section 4 paragraph 1 point a, c of the Child Protection Act (XXXI of 1997 extends to migrant and refugee children living with their family in Hungary and also to unaccompanied minors. Pursuant to the amendment of the Child Protection Act, unaccompanied minors shall be exclusively placed in child protection institutions as of 1 May 2011, which in practice means accommodation in children's homes that may not include the restriction of the personal liberty of minors. According to section 84 paragraph 1 point c of the Child Protection Act legal representation of unaccompanied minors shall be carried out by the child protection guardian, regardless of the place of care of the child. If the rights of a minor are violated, a complaint may be lodged in accordance with the Child Protection Act.

Ministry of Human Capacities is considering the recommendations and would like to respond regarding the child protection guardians. There have been improvements and more guardians have been employed so the deadline of the appointment has shortened. If GRETA has improved good practices preventing the children leaving the place of the child care, we would be open and grateful to be informed about them.

#### **Comments of the Chief Prosecutor's Office:**

1. p. 21.

71. The Chief Prosecutor's Office would like to make the following comment on the trainings for the prosecutors. Before Act C of 2012 on the Criminal Code came into force all prosecutors in Hungary were obliged to participate in trainings on the substantive criminal law. These trainings took particular account of the offence of trafficking in human beings. They were held between December 2012 and June 2012 in 15 different locations with the participation of 2000 prosecutors. The Public Prosecution Training and Advanced Training Program for the period of 2015/2016 was adopted on 19 May 2015. Within the program trainings are foreseen to be organised for the chief

county district attorneys in 11-14 January 2016, 8-11 February 2016 and 29 February – 3 March 2016. One of the topics of the trainings will be trafficking in human beings.

**Comments of the Office of Justice:**

1. p. 33., p 47.

**135. listing 5. and Appendix I. point 3. listing 3.**

The Office of Justice issued a policy paper [Methodological Resolution No. 1/ÁS/2015 (9<sup>th</sup> March)] on the Child Friendly Protocol for Victim Support Service. The paper lays down the mandatory protocol Victim Support staff must follow when encountering child victims, thus contributing to the recommendation of GRETA named in p. 3 of Appendix I of the Report.

2. p 39-40., p 50.

**172. 174. and Appendix I. point 22.**

In point 172 and point 174 of the Report GRETA expressed its concerns regarding state compensation, for its accessibility being subject to the victim's origin and residence status. While not questioning the concerns, we would like to remind GRETA that state compensation is based on different EU legislation than general victim assistance (the former based on Council Directive 2004/80/EC, the latter on Council Framework Decision 2001/220/JHA).

Article 2 of Council Directive 2004/80/EC clearly states that compensation shall be paid by the competent authority of the Member State on whose territory the crime was committed. This does not mean that a victim victimised in another MS could not seek compensation in Hungary. Article 1 of the Directive expects MSs to ensure that where a violent intentional crime has been committed in a Member State other than the Member State where the applicant for compensation is habitually resident, the applicant shall have the right to submit the application to an authority or any other body in the latter Member State. In the Hungarian legislation, Subs. (2) Section 40 of Act CXXXV of 2005 guarantees that when a victim intends to submit an application for compensation to another EU Member State's competent authority, the assisting authority shall make the application form used in that State available to him/her and render help in filling out the form. The assisting authority shall forward the application for compensation and the substantiating documents to the deciding authority of the Member State with territorial jurisdiction over the crime site within the shortest possible period of time.

The same remark applies to point 22 of Appendix I.

3. p 39

**173. listing 1, 175., and Appendix I. point 23.**

According to Section 1 of the Decree No. 17/2007 (13<sup>th</sup> January) of the Ministry of Justice and Law Enforcement, the police shall hand over the information leaflet of Victim Support Service to all victims when first encountered, as well as give verbal notice on the availability of victim assistance. Since Hungary implemented an opt-in victim support system, this is the most Hungarian authorities can do to ensure that victims (including those of THB) are informed. Yet, the existence of the legislature mentioned hopefully satisfies GRETA's request formulated in point 23 of Appendix I.

Yours sincerely,

  
**Dr. Péter Stauber**  
**Head of Department**

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