



GRETA
GROUP OF EXPERTS
ON ACTION AGAINST
TRAFFICKING IN HUMAN BEINGS

GRETA (2016)7

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

SECOND EVALUATION ROUND

Adopted on 11 March 2016
Published on 10 June 2016

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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

trafficking@coe.int

www.coe.int/trafficking

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Preamble

The Group of Experts on Action against Trafficking in Human Beings (GRETA) has been set up pursuant to Article 36 of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention"), which entered into force on 1 February 2008. GRETA is composed of 15 independent and impartial experts coming from a variety of backgrounds, who have been selected on the basis of their professional experience in the areas covered by the Convention. The term of office of GRETA members is four years, renewable once.

GRETA is responsible for monitoring the implementation of the Convention by the parties and for drawing up reports evaluating the measures taken by each party. In accordance with Article 38, paragraph 1, of the Convention, GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions on which the evaluation procedure is to be based and defines the most appropriate means to carry out the evaluation. GRETA adopts a questionnaire for each evaluation round which serves as the basis for the evaluation and is addressed to all parties.

The first evaluation round was launched in February 2010 and the questionnaire for this round was sent to the parties according to a timetable adopted by GRETA, which reflected the time of entry into force of the Convention for each party. GRETA organised country visits to all parties in order to collect additional information and have direct meetings with relevant actors, both governmental and non-governmental.

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

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

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

I. Introduction

1. The first evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") by Denmark took place from 2010 to 2011.¹ Following the receipt of Denmark's reply to GRETA's first questionnaire on 3 September 2010, a country evaluation visit was organised from 25 to 28 January 2011. The draft report on Denmark was examined at GRETA's 10th meeting (15-18 March 2011) and the final report was adopted at GRETA's 11th meeting (20-23 September 2011). Following the receipt of the Danish authorities' comments, GRETA's final report was published on 20 December 2011.

2. In its first report on Denmark GRETA welcomed the steps taken to establish a legal, policy and institutional framework for combatting trafficking in human beings. GRETA noted that anti-trafficking action in Denmark had focused in the past on combating trafficking for the purpose of sexual exploitation, but the third National Action Plan aimed to also address trafficking for the purpose of labour exploitation. GRETA was concerned that the approach taken to identification of victims of trafficking had an illegal immigration focus and urged the Danish authorities to review the identification procedure with a view to ensuring that potential victims are treated, in the first place, as persons who have been exposed to human rights violations rather than as irregular migrants or offenders. This includes providing victims with an adequate recovery and reflection period rather than a time-limit for departing from Denmark as irregular aliens. Further, GRETA urged the Danish authorities to review the system for granting residence permits to victims of trafficking and to ensure that all victims of trafficking are provided with adequate support and assistance. GRETA also considered that the Danish authorities should review the framework for the return and repatriation of victims of trafficking, in order to avoid re-victimisation and prevent re-trafficking.

3. On the basis of GRETA's report, on 30 January 2012 the Committee of the Parties to the Convention adopted a recommendation to the Danish authorities, requesting them to report back on the measures taken to comply with this recommendation by 30 January 2014.² The report submitted by the Danish authorities on 4 February 2014 was considered at the 13th meeting of the Committee of the Parties (7 February 2014). The Committee of the Parties decided to transmit the authorities' report to GRETA for consideration and to make it public.³

4. On 3 June 2014, GRETA launched the second round of evaluation of the Convention in respect of Denmark by sending the questionnaire for this round to the Danish authorities. The original deadline for submitting the reply to the questionnaire was 3 November 2014, but in view of the forthcoming adoption of the fifth National Action Plan against Trafficking in Human Beings (2015-2018) in the first half of 2015⁴, the Danish authorities requested that the deadline be postponed until 1 March 2015, to which GRETA agreed. Denmark submitted its reply on 9 March 2015.

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

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680631bd4>

² Recommendation CP(2012)4 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Denmark, adopted at the 7th meeting of the Committee of Parties on 30 January 2012:

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680631ba3>

³ Report submitted by the Danish authorities on measures taken to comply with Committee of the Parties Recommendation CP(2011)2 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings: <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680631bd2>

⁴ The 2015-2018 National Action Plan was presented on 19 May 2015.

5. In preparation of the present report, GRETA used the reply to the questionnaire by Denmark, other information collected by GRETA and information received from civil society. An evaluation visit to Denmark took place from 18 to 22 May 2015 in order to hold meetings with relevant governmental and non-governmental actors collect additional information and examine the practical implementation of adopted measures. The visit was carried out by a delegation composed of:

- Ms Alexandra Malangone, member of GRETA;
- Mr Ryszard Piotrowicz, member of GRETA;
- Mr Mats Lindberg, Administrator in the Secretariat of the Convention.

6. During the visit, the GRETA delegation met officials from relevant ministries and other public agencies, including the Ministry of Justice, the Ministry of Children, Gender Equality, Integration and Social Affairs, the Ministry of Foreign Affairs, the Ministry of Employment, the Ministry of Taxation, the Danish Centre against Human Trafficking (CMM), the Danish Immigration Service, the Working Environment Authority, and the Criminal Injuries Compensation Board. Discussions were also held with prosecutors, judges and police officers. Further, a meeting was held with a member of the Danish Parliament.

7. In the course of the visit, the GRETA delegation visited a reception centre for unaccompanied minors in Gribskov, run by the Danish Red Cross, as well as a shelter operated by the Salvation Army in Copenhagen which can accommodate male victims of trafficking.

8. Separate meetings were held with representatives of non-governmental organisations (NGOs), the United Federation of Danish Workers (3F) and an academic researcher. The GRETA delegation also met officials from the local offices of the International Organization for Migration (IOM) and the Nordic Council of Ministers.

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

10. GRETA wishes to place on record the co-operation provided by the Danish authorities and in particular by Ms Anne-Sophie Abel Lohse and Ms Louise Falkenberg of the Ministry of Justice.

11. The draft version of the present report was approved by GRETA at its 24th meeting (16-20 November 2015) and was submitted to the Danish authorities for comments on 22 December 2015. The authorities' comments were received on 22 February 2016 and were taken into account by GRETA when adopting the final report at its 25th meeting (7-11 March 2016). The report covers the situation up to 11 March 2016; developments since that date are not taken into account in the following analysis and conclusions. The conclusions summarise the progress made since the first report, the issues which require immediate action and the other areas where further action is needed (see pages 44-45).

II. Main developments in the implementation of the Convention by Denmark

1. Emerging trends in trafficking in human beings and types of exploitation

12. Denmark is essentially a country of destination for victims of trafficking in human beings (THB). Since GRETA's first evaluation, the number of identified victims of THB has been on the increase: 60 in 2011, 66 in 2012, 76 in 2013, 71 in 2014, and 93 in 2015. About 70 % of the identified victims were women. The number of identified child victims was 15. By far the largest share of the victims originated from Romania and Nigeria. Other main countries of origin of the victims were Thailand and Uganda. Since the first evaluation by GRETA, Denmark has experienced an increase in the number of identified victims of THB from third countries who hold residence permits in EU countries, primarily Italy and Spain. There has been only one case of internal trafficking, in 2013, which concerned a Danish woman subjected to sexual exploitation.

13. Sexual exploitation has remained the main purpose of THB in Denmark (70% of the identified victims), but trafficking for the purpose of labour exploitation has been on the increase (close to 10 % of the identified victims), in particular in the sectors of cleaning, construction, restaurant services, domestic work and cannabis cultivation. Further, in 2015 there were 43 identified victims of THB for the purpose of forced criminal activities (see paragraphs 176), which increased the share of this form of THB to account for 17 % of the total number of identified victims in the period 2011-2015.

2. Developments in the legal framework

14. The Danish Criminal Code (CC) was amended by Act No. 275 of 27 March 2012 in order to bring Danish legislation in line with EU Directive 2011/36/EU⁵ on preventing and combating trafficking in human beings and protecting its victims (see paragraph 145). In Section 262a of the CC criminalising THB, the purpose of exploitation was extended to include exploitation for criminal activities. Further, the maximum penalty for THB was raised from eight to 10 years of imprisonment. The amendment also concerned section 7(1)(2)(a) of the CC regarding criminal jurisdiction for acts of THB committed outside the territory of Denmark (see paragraph 185). Moreover, section 262(a) of the CC was amended by Act No. 633 of 12 June 2013 to replace the term "indecent sexual activity" with "prostitution, the making of pornographic photographs or movies, pornographic performances". Prostitution in itself is not a criminal offence in Denmark. However, arranging for someone to engage in sexual activity with a client for payment or promise of payment or otherwise exploiting another person's sexual activity with a client for payment or promise of payment is a criminal offence.

15. Further, by Act No. 432 of 1 May 2013, the Aliens (Consolidation) Act was amended to extend the maximum duration of the "reflection period" from 100 to 120 days. A new section 9c(5) was added to the Aliens Act, stating that a temporary residence permit may be granted to foreign nationals, including victims of THB, if their presence in Denmark is required for the investigation or criminal proceedings. The residence permit cannot be extended beyond the duration of the proceedings.

3. Developments in the institutional framework

16. In its first report on Denmark, GRETA invited the Danish authorities to further improve the co-operation and co-ordination between governmental departments, the Danish Centre against Human Trafficking (*Center Mod Menneskehandel*, CMM), the police, NGOs and other members of civil society active in the field of action against THB and the protection of victims.

⁵ On 3 December 2015 a referendum was held in Denmark on whether to "opt in" as regards EU legislation in the areas of justice and home affairs. Since the referendum produced a no-vote Denmark will not at this point formally join and transpose EU Directive 2011/36/EU.

17. The Inter-Ministerial Working Group on Human Trafficking, established in 2002, continues to coordinate the implementation of the activities included in the national action plans. It is led by the Ministry of Children, Education and Gender Equality. The other members are the Ministry of Justice, the Ministry of Health, the Ministry of Taxation, the Ministry of Employment, the Ministry of Foreign Affairs, CMM, the Danish Immigration Service (DIS), the Danish Customs and Tax Administration (SKAT) and the Danish Working Environment Authority. The Department of Gender Equality maintains its co-ordinating role. The responsibilities in the area of immigration have been transferred from the Ministry of Justice to a new Ministry of Immigration, Integration and Housing.⁶

18. Established in September 2007, the CMM remains the main single actor in Denmark as regards combating THB and in particular as concerns supporting its victims. It has developed a national referral system that aims to ensure co-ordination and co-operation between all the relevant actors (in particular NGOs, the police, DIS). At the end of 2014, quarterly meetings between the CMM, the Ministry of Children, Education and Gender Equality, and NGOs were introduced.

19. The national referral group and six regional referral groups mentioned in the first evaluation report continue to support the work of the Inter-Ministerial Working Group and to facilitate co-operation and contacts between the authorities and civil society stakeholders on a regional level.⁷

20. Further, in 2012, a governmental interdisciplinary task force was established to strengthen efforts to combat THB for forced labour and improve identification and referral of victims. It includes the CMM, the Danish National Police, SKAT, the Danish Working Environment Authority, the Danish Agency for Labour Market and Recruitment, and the DIS.

4. National Action Plans

21. The implementation of the third National Action Plan (NAP) against Trafficking in Human Beings (2011-2014) was extended until the end of June 2015, at which point the fourth NAP (2015-2018) entered into force (see paragraph 23). The third NAP consisted of five main components: 1) identification of victims of THB; 2) provision of the appropriate assistance to victims; 3) demand reduction; 4) prevention of THB internationally; and 5) prosecution of traffickers. Similar to the second NAP, the implementation of the third NAP was subject of an external evaluation carried out by an international consultancy firm, COWI. However, civil society representatives working with victims of THB consider that they have not been sufficiently consulted by COWI during the evaluation and their views were not properly reflected (see paragraph 199).

⁶ When the tasks or the role of the Ministry of Children, Gender Equality, Integration and Social Affairs are mentioned in this report, it should be noted that these tasks to the best of GRETA's knowledge have been taken over by the successor Ministry of Children, Education and Gender Equality as of July 2015.

⁷ For more details about the referral groups, see GRETA's first report on Denmark, paragraph 30.

22. The evaluation by COWI concluded that action against THB for the purpose of sexual exploitation was more developed than that against THB for the purpose labour exploitation, and the former was sometimes not clearly distinguishable from measures against prostitution in general. While competencies for fighting THB for the purpose of labour exploitation were assessed as comprehensive and effective, especially as regards the Danish Customs and Tax Administration and the Danish Working Environment Authority, few victims of THB for the purpose of labour exploitation were identified and there were difficulties in gathering evidence to secure convictions. There were also very few identifications of child victims of THB and none regarding children who are Danish citizens. The work of the CMM was assessed positively by COWI, especially as regards its co-ordinating efforts. The evaluation recommended that higher priority be given to information campaigns targeting persons at risk of labour exploitation and women in prostitution who cannot have access to public social services. Further recommendations included a wider dissemination of the relevant legislation, statistics and other information to stakeholders who support victims, in particular NGOs. According to the evaluation, the existing overlap and interconnections between the NAP and the work carried out by the municipalities under the Act on Social Service needed clarification. Continuous training for all relevant actors in acquiring cross-cutting competences was also recommended. Moreover, to allow for better evaluation of strengths and weaknesses of future anti-THB action, it was recommended that clearer success criteria and indicators be set.

23. The fourth NAP was prepared by the Department of Gender Equality, in close co-operation with the Inter-Ministerial Working Group on THB, and was published on 19 May 2015. However, civil society representatives met by GRETA considered that they had not been sufficiently consulted in the preparation of the NAP. The main components of the fourth NAP are: 1) prevention of THB in Denmark and internationally; 2) proactive identification of victims of THB; 3) individualised and co-ordinated support for victims of THB; 4) prosecution of traffickers; and 5) partnership and co-ordination. While the main target group continues to be women trafficked for the purpose of sexual exploitation, the NAP also contains actions in relation to forced labour and other forms of THB.

24. GRETA welcomes the fact that, in line with GRETA's recommendation in its first report on Denmark, the fourth NAP no longer uses the term "trafficked to Denmark",⁸ and the previously restrictive interpretation of this term, which excluded victims of internal trafficking, has been abolished.

25. The implementation of the fourth NAP is the responsibility of the Inter-Ministerial Working Group for Combatting THB. As with the previous NAPs, the funding for its implementation is provided directly by the Danish Parliament which therefore has an important final say about the content of the NAP. A total of 88,6 million Danish Crowns (about 11,9 million Euros) have been allocated for the implementation of the activities foreseen in the fourth NAP, which is slightly more than the funds made available for the implementation of the third NAP. Eight ministers have signed and thereby approved the fourth NAP.⁹

26. Four NGOs (Danish Red Cross, Hope Now, Pro Vest and Reden International) were involved in the implementation of the 2011-2014 NAP and remain formally involved in the implementation of the fourth NAP. About 2,5 million Euros have been set aside for funding NGOs involved in implementing the fourth NAP.

⁸ See paragraphs 125-126 and 130 of the first GRETA report on Denmark.

⁹ The following eight pre-18 June 2015 elections ministers signed the National Action Plan 2015-2018: the Minister of Employment, the Minister of Justice, the Minister of Trade and Development Cooperation, the Minister of Children, Gender Equality, Integration and Social Affairs, the Minister for Taxation, the Minister for Health and Welfare and the Minister of Foreign Affairs. After the elections the ministers changed and there were some changes in the division of responsibilities between ministries.

27. GRETA welcomes the decision of the Danish authorities to commission external evaluations of the implementation of the National Action Plans. However, GRETA notes that an *ad hoc* evaluation by a commercial company is not the same as continuing monitoring of anti-trafficking action by a National Rapporteur. In GRETA's view, the key features of National Rapporteurs' mechanisms in the sense of Article 29, paragraph 4, of the Convention¹⁰ should be the ability to critically monitor the efforts and effectiveness of all state institutions, including national co-ordinators, and to that end maintain a constant exchange with civil society, the research community and other relevant stakeholders. The human rights-based approach to anti-trafficking policies advocated by the Convention requires adequate monitoring and evaluation. A structural separation between monitoring and executive functions enables an objective evaluation of the implementation of anti-human trafficking legislation, policy and activities, identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations.¹¹ **GRETA considers that the Danish authorities should examine the possibility of establishing an independent National Rapporteur or designating another mechanism as an independent organisational entity with a view to ensuring effective monitoring of the anti-trafficking activities of state institutions and making recommendations to persons and institutions concerned.**

5. Training of relevant professionals

28. In its first report GRETA invited the Danish authorities to step up the training provided to lawyers and judicial staff on the issue of THB and the applicable legislation and case-law, including the need to apply a human rights-based approach to action against THB on the basis of the Council of Europe Convention on Action against Trafficking in Human Beings and the case-law of the European Court of Human Rights.

29. GRETA was informed that, in order to ensure that police officers and prosecutors are kept informed of challenges and new patterns of trafficking, such as labour trafficking and trafficking for criminal activities, the Director of Public Prosecutions has published guidelines on how to deal with THB cases, including on the implementation of the non-punishment provision (see paragraphs 86 and 158) and has made relevant case law on THB available online (see paragraph 43). In the opinion of the Director of Public Prosecutions, these measures and procedures ensure that THB cases are handled correctly and uniformly across the country. The Director of Public Prosecutions addresses THB issues when relevant, for instance at meetings where representatives of all police districts and regional prosecutors are present. GRETA notes, however, that there are no training sessions specifically on THB organised for prosecutors and no prosecutors specialised in THB cases.

30. The Police Academy has been providing training on THB since 2007. The training is provided by experts from the Danish National Police and the CMM and is mandatory for all new police officers and trainees at the academy. It covers the *modus operandi* of traffickers, investigative techniques, victim identification and the law enforcement approach to victims of trafficking.

31. The 12 local police districts in Denmark have each appointed a person with a particular focus on THB. Once a year the Danish National Police organise a training day for these 12 police officers in order to exchange knowledge on new trends and best practices. Besides these police officers, a person from each of the police districts' Special Intelligence and Analysis Units participate in the meetings, as well as key persons from other relevant authorities, e.g. SKAT and the CMM.

¹⁰ "Each Party shall consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements."

¹¹ In this context, see also the Summary report on the Consultative Meeting on Strengthening Partnerships with National Rapporteurs on Trafficking in Persons and Equivalent Mechanisms organised by the UN Special Rapporteur on trafficking in persons, especially in women and children, in Berlin, 23-24 May 2013.

32. The National Police provides training on an *ad hoc* basis to partner authorities such as SKAT, the Danish Working Environment Authority (WEA) and the Danish Immigration Service (DIS). There are also guidelines issued by the National Police on how to detect and deal with THB cases. These were most recently revised in 2014.

33. The CMM delivered supplementary training for judges at an event organised by the Danish Judicial Academy on 30 April 2012, with 17 judges participating. The four-hour session covered, *inter alia*, Denmark's obligations under the Palermo Protocol and the Council of Europe Convention. Individual judges have also participated in international training events held outside Denmark.

34. The CMM provides training to a wide range of relevant professionals and has issued a publication on legislation and procedures in relation to child victims of trafficking. Among the professionals trained by the CMM are officials of the immigration service, municipalities, child and youth welfare institutions, penitentiary staff (including prisons and institutions for young offenders), hospital and health unit staff, and staff working in refugee centres, reception centres and detention centres for irregular migrants.

35. As a part of the CMM's general efforts to prevent trafficking for forced labour and to strengthen collaboration with actors in the labour market, labour inspectors and trade union staff have also received training in THB. Further, the CMM has trained private company representatives in order to raise awareness about the risk of trafficking in supply chains. The CMM has launched a set of guidelines for companies and employers on managing the risk of hidden forced labour (see paragraph 52).

36. The CMM and the Danish National Police have contributed to training seminars on THB for diplomatic and consular staff prior to their deployment to countries of origin of trafficking victims. The CMM has developed training materials for this purpose.

37. Moreover, the CMM has developed a training package for airline companies and provided training to the staff of Scandinavian Airlines in spotting victims of trafficking. The training was designed to create awareness of THB and to help cabin crew identify those who may be engaged in or at risk of trafficking.

38. GRETA welcomes the efforts made by the Danish authorities to provide training concerning THB and the expanded range of professionals to whom training is given. GRETA considers that these efforts should continue, in particular as regards judges, prosecutors, labour inspectors, staff working in detention centres and centres for asylum seekers, as well as medical staff, and should take place on a systematic basis.

6. Data collection and research

39. In its first report on Denmark GRETA considered that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Danish authorities should develop and maintain a comprehensive and coherent statistical 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, etc.). This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection. In addition, GRETA invited the Danish authorities to continue conducting and supporting research on THB-related issues, in particular in areas which have received little attention in the past, such as trafficking in children, and trafficking for the purpose of labour exploitation.

40. There have been no major changes in the data collection carried out by the CMM since the first GRETA report. The CMM continues to be in charge of collecting, compiling and analysing data on identified victims of human trafficking, which is disaggregated by sex, age, country of origin (or country for which the victim has a valid residence permit) and type of exploitation.¹² The information collected by the CMM covers different aspects of the identification process and the assistance provided to victims (e.g. who made the first contact with the victim; who identified the victim; where he/she was accommodated; what support was provided during the reflection period and, to the extent possible, what has happened after the "reflection period"). The CMM regularly receives statistical data about victims from the DIS, with which it has established formal co-operation. There is no formal agreement about data collection between the CMM and the Danish National Police or the Director of Public Prosecutions, but information can be provided on request. In 2014 CMM introduced a more comprehensive data collection system, but at the time of writing the new system is still not in full use.

41. The Danish National Police also collects data on THB cases, which mainly concerns filed reports and charges. The Director of Public Prosecutions and members of the Danish National Police have access to data on THB cases in the Danish police computer system, POLSAS.

42. GRETA welcomes the steps taken by the Danish authorities to develop and maintain a comprehensive and coherent statistical system on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of THB cases and considers that the system should as soon as possible be made fully operational and be used to its full potential.

43. The Director of Public Prosecutions has summarised court cases involving THB for the purpose of sexual exploitation. This summary is available on the intranet and the website of the prosecution service¹³ and will continue to be updated on a regular basis. From this case law the office of the Director of Public Prosecutions is able to extract information that cannot be provided by POLSAS (e.g. sex, age and country of origin of the victim, any compensation granted, confiscation of proceeds of THB, length of imprisonment).

44. In recent years the CMM has commissioned three research reports on THB, based on surveys of three sectors: *au pairs*, the "green sector" (agriculture and gardening) and the cleaning industry.¹⁴ These three sectors were selected because they employ a relatively large proportion of foreign workers and because countries other than Denmark have identified cases of exploitation and human trafficking for forced labour in these sectors. The research was based on a series of qualitative interviews with groups of migrant workers, as well as interviews with selected professionals with special knowledge of the working conditions of foreign workers in the chosen sectors. The research focused on the countries of origin of these workers, how they were recruited, and how they perceived their working and living conditions in Denmark. All three research reports concluded that while there were no actually identified victims of THB among the people interviewed, there were many examples of labour exploitation and in some cases there were indicators of human trafficking for forced labour, although not to an extent where it is possible to identify actual cases of human trafficking.

45. GRETA considers that the Danish authorities should continue to conduct and support research on THB-related issues as an evidence base for future policy measures. Areas where research is needed in order to shed more light on the extent of the problem of THB include trafficking of children and internal trafficking.

¹² Data are presented on a semi-annual basis at www.centermodmenneskehandel.dk

¹³ www.anklagemyndigheden.dk

¹⁴ Available on: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/human_trafficking_for_forced_labour_in_denmark_1.pdf;
<http://socialstyrelsen.dk/udgivelses/menneskehandel-i-rengoringsbranchen>

III. Article-by-article findings

1. Prevention of trafficking in human beings

a. Measures to raise awareness (Article 5)

46. In its first report on Denmark, GRETA considered that the Danish authorities should adopt measures to raise awareness of THB for the purpose of labour exploitation and discourage demand for the services of trafficked persons, in particular in the agriculture, construction and cleaning sectors. GRETA invited the Danish authorities to involve civil society representatives in the planning of future campaigns and to explore the possibility of participating in awareness-raising campaigns in victims' countries of origin. In addition, GRETA considered that the Danish authorities should take steps to provide information to foreign nationals planning to travel to Denmark to alert them about the risks of THB for sexual and labour exploitation, as well as inform them of their rights.

47. The CMM has launched a number of campaigns directed at the general public and potential users of services provided by victims of THB, including a nationwide awareness-raising campaign called "Stop trafficking" conducted from 1 January 2014 to 31 January 2015. It focused on trafficking for the purpose of forced labour and sexual exploitation and was funded under the third NAP. A touring exhibition was shown around Denmark, aimed at informing the general public, employers and companies about indicators of THB and how to react in case of suspicion. The exhibition toured eight cities for a period of six weeks each.¹⁵ The campaign also used social media, web pages advertising sex services, posters in train stations and banners on buses and at football matches. There was no external evaluation of the campaign, but a small-scale evaluation carried out by the CMM in the first quarter of 2015 concluded that the combination of social media and physical media works best for reaching out to a broad spectrum of people.

48. In 2012, the CMM released a film aimed at promoting awareness of different types of THB (including for the purpose of organ removal), and how to respond in case of suspicion of trafficking. The film targeted, *inter alia*, the personnel of hospitals, medical centres and medical training establishments. The aim of the CMM was to reach out to a broader range of actors working in contact not only with women trafficked for the purpose of sexual exploitation but also other victims of trafficking.

49. GRETA invites the Danish authorities to continue their efforts to raise awareness of THB, including of new forms of trafficking such as for the purpose of exploitation in criminal activities and forced begging, and to design future awareness-raising measures in the light of impact assessments of previous measures and research.

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

50. According to the preparatory works of Section 262a of the CC and the 2015 Guidelines of the Director of Public Prosecutions, the term 'forced labour' should be interpreted in line with ILO Convention No. 29 (1930) concerning Forced or Compulsory Labour and ILO Convention No. 105 (1957) concerning the Abolition of Forced Labour (with the same exceptions as those mentioned in these conventions, e.g. military service). According to the CC and the same Guidelines, forced begging is to be considered as covered by the concept of forced labour. The fourth NAP envisages ratification of the 2014 Protocol to ILO Convention No. 29. The Danish Government is at the time of writing engaged in consultation with the social partners represented in the Danish Permanent ILO-Committee about whether to ratify the Protocol.

51. In 2013 the CMM participated in an EU-funded project co-ordinated by Tilburg University in the Netherlands with the purpose of mapping different potentially THB-prone sectors. Working with the

¹⁵ For more information on the campaign see: <https://da-dk.facebook.com/stopmenneskehandel.kampagne>

sector associations, the CMM prepared sector-specific corporate social responsibility guidelines on combatting THB. The guidelines were distributed at a conference focusing on THB for the purpose of forced labour held in November 2014.

52. In 2014 the CMM issued guidelines for companies and employers on managing the risk of hidden forced labour, which are available as an interactive web-based tool, including checklists for measures which companies can take to reduce the risk of hidden forced labour; these are also used for training purposes.¹⁶ The guidelines are based on a mapping of risk factors and interviews with employers and have been developed in dialogue with a range of stakeholders, including the Danish Agency for Labour Market and Recruitment, the Danish Working Environment Authority, SKAT, DIS, the Danish National Police, the Business Authority¹⁷ and the United Federation of Danish Workers. They form part of a strategy to combat forced labour by focusing both on private sector mobilisation and self-regulation as well as on the role of the government, inspection and regulation.

53. The CMM has made efforts to engage with the private and public sectors to combat trafficking and forced labour. Since 2014 the CMM has been part of the Danish Inter-Ministerial Working Group on Corporate Social Responsibility (CSR). As part of the awareness-raising campaign referred to in paragraph 47, a side event on THB for the purpose of labour exploitation was held in connection with a larger event on CSR Awards in 2014. The CMM hosted a similar side event on THB at the 2015 CSR Awards event.

54. The United Federation of Danish Workers (3F) has been engaged in raising awareness of THB, including by warning against distortions of the labour market caused by THB.

55. The 2015 State budget allocates significant funding for workplace inspections. THB cases are among the offences labour inspection authorities will be looking for during inspections (see paragraph 84).

56. Foreign companies which send employees to Denmark and apply their own national legislation to employees are more difficult to monitor. GRETA was informed that most companies sending employees to Denmark are Polish or German. If the Agency for Labour Market and Recruitment¹⁸ during the processing of an application for a residence permit finds reason to suspect that an applicant might be a victim of trafficking for the purpose of forced labour or services, the case is reported to the police. Foreign service providers must register in the Government's Register of Foreign Service Providers (RUT), which is managed by the Danish Business Authority.

¹⁶ The guidelines are available at: <http://www.centermodmenneskehandel.dk/materialer/instruktioner-til-fagpersoner/guidelines-til-at-undga-skjult-tvangsarbejde>

¹⁷ A body promoting business and investment in Denmark: <https://danishbusinessauthority.dk/>.

¹⁸ <http://star.dk/da/English.aspx>

57. **GRETA welcomes the measures taken by the Danish authorities to prevent THB for the purpose of labour exploitation, including through working with businesses and promoting corporate social responsibility. GRETA considers that these efforts should be intensified, in particular by:**

- **further sensitising relevant officials about THB for the purpose of labour exploitation and the rights of victims;**
- **strengthening the monitoring of foreign companies which send workers to Denmark and controlling the authenticity of work contracts presented for the purpose of acquiring visas, national identity (CPR) numbers and other central personal documents;**
- **encouraging businesses domiciled in Denmark and outsourcing production to other countries to carry out human rights due diligence, including measures to secure traceability and transparency;**
- **working more closely with the private sector, in line with the Guiding Principles on Business and Human Rights.¹⁹**

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

58. As noted in paragraph 12, the number of child victims of THB identified in Denmark is rather low. No Danish children have so far been identified as victims of THB. Civil society organisations met during the second evaluation visit referred to the case²⁰ of a Danish man who allegedly arranged the sexual exploitation of his underage daughter by other men. The man was arrested and charged with sexual abuse, but the prosecutor did not consider it warranted to prosecute the case under section 262a of the CC (human trafficking).

59. It was reported by the Danish authorities that police officers, municipal staff, staff at refugee centres, reception centres and detention centres for irregular migrants, child and youth welfare institutions, penitentiary staff, including in institutions for young offenders, the tax authorities and NGOs conducting outreach work are all trained by the CMM in detecting possible child victims of trafficking.

60. The CMM has carried out training at asylum centres regarding unaccompanied children at risk of being victims of trafficking. All unaccompanied minor asylum seekers are referred to a reception centre for unaccompanied minors. There is a well-established co-operation between the CMM and several of the Red Cross reception centres for unaccompanied minors, for instance in Gribskov (see paragraph 103). The number of unaccompanied minors having launched asylum applications in Denmark was 282 in 2011, 355 in 2012, 354 in 2013, and 818 in 2014.

61. Further, the Danish authorities informed GRETA that the CMM had launched a webpage targeting school children with information on THB.

62. **GRETA considers that the Danish authorities should increase their efforts to raise awareness of child trafficking, including by continuing and expanding the provision of information to school children about this phenomenon.**

¹⁹ http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

²⁰ Known as the Tønder case after the location in which the family in question lived at the time.

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

63. GRETA notes that while human trafficking for the purpose of organ removal as defined by the Convention and organ trafficking as defined by Articles 4 to 8 of the Council of Europe Convention against Trafficking in Human Organs²¹ are two distinct crimes, they bear certain similarities and share similar root causes, such as shortage of organs to meet demand for transplantation and poor economic and other conditions that put persons in a vulnerable position. Therefore, measures to prevent organ trafficking can help prevent trafficking for the purpose of organ removal and the reverse is also true.²² Among the necessary preventive measures, GRETA underlines the importance of a robust and transparent domestic system for the removal and transplantation of human organs and the need for training of health-care professionals. GRETA also stresses the importance of conducting a thorough investigation of each case where there is information or suspicion of trafficking for the purpose of organ removal, paying attention to the abuse of the vulnerability of the “donor” and ensuring that “donors” are treated as victims of trafficking in human beings.

64. The removal of organs is among the purposes of THB mentioned explicitly in section 262(a)(1) of the CC, which defines the offence of THB in Danish law. The transplantation of organs is regulated by the Organ Transplantation Act and a consecutive order on the quality and safety with regard to organ transplantation. Pursuant to section 14 of the Organ Transplantation Act it is not allowed to advertise organs for sale or to buy organs. Further, sections 52, 54, 208 and 268 of the Health Act provide for written informed consent by the living donor, approval of the doctors performing the organ transplantation, approval of the hospitals within the specialisation plan. Any financial gain in relation to the donation of organs is prohibited. The prohibition concerns doctors, donors, the recipient and intermediaries. If a hospital is to receive approval to perform organ donation, the hospital must document a level of high quality, robustness and development including co-operation with relevant areas and competences related to the donation of organs. A living donor must be evaluated, characterised, informed and all information registered according to the rules in the consecutive order on quality and safety with regard to organ transplantation. The order also sets rules on procedures, equipment and facilities. The hospitals are responsible for the medical care, recovery of donors and recipients and the managing of waiting lists. The Danish Health and Medicine Authority supervises hospitals and healthcare personnel.

65. In 2012 the CMM produced a film targeting medical staff, which among others focuses on organ removal.

66. The Danish National Police is not aware of any cases regarding trafficking in human beings for the purpose of organ removal.

67. GRETA invites the Danish authorities to ensure that, as part of their training, medical staff are continuously sensitised to THB for the purpose of organ removal.

²¹ Opened for signature in Santiago de Compostela on 25 March 2015.

²² See Council of Europe/United Nations, *Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs*, 2009, in particular pages 55-56; OSCE, *Trafficking in human beings for the purpose of organ removal in the OSCE region*, OSCE Occasional Paper No. 6, 2013.

e. Measures to discourage demand (Article 6)

68. The awareness-raising campaigns referred to in paragraph 47 have also targeted the users of sexual services with a view to discouraging demand resulting in THB for the purpose of sexual exploitation.

69. As regards THB for the purpose of labour exploitation, the CMM has launched a set of guidelines for companies and employers on managing the risk of hidden forced labour (see paragraph 52). Other measures to prevent this form of THB have already been referred to in paragraphs 50-56.

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

f. Border measures (Article 7)

71. The Danish National Police is responsible for controlling the country's borders. The Danish National Police have produced guidelines on the processing of trafficking cases which include a list of indicators of THB, contact details of relevant authorities and an interview guide for interviewing possible victims of trafficking or perpetrators. In July 2014 the Danish National Police also published a comprehensive internal guide regarding the police effort in the fight against THB. Police officers placed at Denmark's external borders have been trained on the use of indicators of THB.

72. SKAT is present at Danish borders in order to control goods brought into and out of Denmark. SKAT does not as such control travellers or actively look for THB cases but if SKAT officers become suspicious about the validity of a traveller's identity, they will refer the case to the police. At several borders points there are joint action groups composed of police officers and SKAT personnel.

73. According to the Danish police responsible for border control at Copenhagen airport, the most common type of identity document fraud encountered involves the use of genuine identity documents by imposters. False documents, such as fabricated work contracts, were recently used in THB cases for the purpose of identity theft linked to exploitation for criminal activities.

74. GRETA welcomes the training on the use of THB indicators given to Danish police serving at external borders and considers they should step up their efforts to detect potential victims of THB at border crossings, in particular in the context of increased migration flows.

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

a. Identification (Article 10)

75. In its first report on Denmark, GRETA urged the Danish authorities to review the procedure for identification of victims of trafficking with a view to ensuring that potential victims are treated, in the first place, as persons who have been exposed to human rights violations rather than as offenders. In this context, GRETA asked the Danish authorities to review the practice of holding potential victims of trafficking in custodial settings while their identification is pending and take a proactive approach to the identification of THB victims for the purpose of labour exploitation. GRETA also recommended that the CMM be given an enhanced role in the identification of victims who are irregularly present in Denmark, in particular with a view to ensuring that potential victims of trafficking are not charged by courts without being identified. Further, GRETA invited the Danish authorities to ensure that the guidelines, indicators and other tools used for the identification of victims of trafficking by law enforcement agencies, Government departments and service providers cover all types of THB, are based on common criteria and that there is a regular exchange of information between the relevant actors responsible for identification of victims.

76. As described in GRETA's first report on Denmark, there are two procedures in place for granting the status of a victim of human trafficking, depending on whether the person concerned is regularly or irregularly present on the country's territory. In the first case, the CMM grants the status of a victim of THB on the basis of an interview conducted by social workers focusing on the indicators of THB. If possible the interview will be supplemented with information from the police, social workers, hospital staff, hotline operators, and staff of drop-in centres (see paragraph 82) or NGOs. In the second case, the Danish Immigration Service (DIS) is responsible for the identification of victims of trafficking. While the formal identification decision in the latter case is the prerogative of the DIS, the assessment is based on information from the CMM and the police and/or information brought to light through the asylum case procedure where applicable. The DIS is also responsible for the identification of victims of THB among foreign nationals with a valid residence permit who have committed an offence and asylum seekers (see paragraph 79).

77. According to police officers met by GRETA, if there is a suspicion that a person might be a victim of THB, the police would contact the DIS or the CMM within 24 hours of the suspicion having arisen. Most of the suspected cases of victims of THB (80-90%) are referred to the CMM or the DIS by the police, including the passport police at the borders. According to the guidelines of the Danish National Police on the processing of trafficking cases the Danish police is obliged to contact the CMM when the suspicion of a person being a victim of THB arises.

78. Pursuant to the Aliens Act, the police can detain a foreign national staying irregularly in Denmark for a maximum period of 72 hours. Before detaining a foreign national, the police are required to make an assessment in each case as to whether less intrusive means can be applied. An amendment to the Aliens Act adopted on 18 November 2015 allows the Ministry of Immigration, Integration and Housing to suspend the automatic judicial review of detention within 72 hours in periods of significant increase in refugees and migrants. However, on the foreign national's request, the lawfulness of the detention is to be reviewed by a court as soon as possible. As was the case at the time of the first evaluation visit, the DIS as a rule has to perform the identification of victims of THB within the 72-hour time limit set by law for the detention of irregular migrants by the police.²³ In case the CMM needs more time to interview a potential victim in order to make an assessment, the police can ask the court to extend the 72-hour time limit in order to give the CMM the necessary time to examine the case. GRETA was informed that the DIS will not make a decision to expel a potential victim before the CMM has interviewed him/her and made an assessment. However, GRETA notes that the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) in its March 2015 concluding observations on Denmark expressed concern at the practice of subjecting potential victims of trafficking, especially those who lack regular migration status, to confinement by law enforcement authorities for up to 72 hours while identification processes are carried out.²⁴ Further, the Council of Europe Commissioner for Human Rights has stressed that detention of asylum seekers and irregular migrants should remain exceptional and for the shortest possible length of time, and that the authorities should not detain persons in a situation of particular vulnerability, such as children, persons with disabilities and victims of trafficking in human beings.²⁵

79. The DIS also performs the formal identification of victims of trafficking among asylum seekers. If the person applies for asylum, the 72-hour time-limit is no longer relevant and the identification procedure can take longer. An interview guide has been developed to help the DIS staff identify victims of trafficking during asylum interviews. The DIS informs the CMM when a victim of trafficking is detected and the CMM appoints a contact person for the victim. In such cases the DIS is responsible for the accommodation and other support provided to the victim, in collaboration with the CMM. The NGO Hope Now enjoys access to asylum seekers and is making efforts to identify trafficking victims in the asylum system.

80. Civil society representatives met by GRETA noted that victims of trafficking staying irregularly in Denmark are reluctant to contact the authorities for help as they will almost certainly not be allowed to stay in Denmark beyond the period for preparing their return. NGOs also referred to difficulties in obtaining access to victims of trafficking among irregular migrants placed in administrative detention who are threatened with rapid deportation. Given the fact the DIS as a rule has to perform the identification of victims of THB within the 72-hour time limit set by law for the detention of irregular migrants by the police, it is especially important that NGOs are granted access to irregular migrants placed in administrative detention to avoid that possible victims of trafficking face rapid deportation if not identified. Furthermore, according to the experience of the NGO Street Lawyers which provides legal aid to potential victims of trafficking, there should be legal counselling for victims of THB at an early stage, when they are interviewed by the DIS or the CMM.

²³ See GRETA's first report on Denmark, in particular paragraphs 111 and 121.

²⁴ Concluding observations (2015) CEDAW/C/DNK/CO/8 available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/DNK/CO/8&Lang=En

²⁵ Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe following his visit to Denmark from 19 to 21 November 2013, CommDH(2014)4, p.3.

81. Pursuant to the Social Services Act, victims of trafficking staying irregularly in Denmark cannot stay at publically funded shelters since these do not accept irregular migrants. As a result, it is difficult for staff trained in identifying THB to meet possible victims of THB among irregular migrants who have not been in contact with the police. The Danish Government grants NGOs financial assistance on an annual basis so that they can open emergency shelters during the winter period. However, the government does not fund training of emergency shelter staff or volunteers in identifying THB and the shelters do not co-operate with the CMM.

82. A drop-in centre in the red-light district of Copenhagen is run by the CMM in collaboration with the NGO Nest International. It provides advice and anonymous medical care to vulnerable women working in prostitution. The drop-in centre also serves the purpose of establishing first contact with potential victims of human trafficking and thus helps the identification of victims.

83. To facilitate self-identification, the CMM has developed a folder with information on indicators of THB for the purpose of sexual exploitation and on how to get assistance. The folder is distributed when conducting outreach work, for example in massage parlours, the CMM's drop-in centre and two health clinics and through the mobile health services. The folder has also been given to relevant actors to distribute in other settings where possible victims of human trafficking may be encountered.

84. The mandate of labour inspectors working under the direction of the Ministry of Employment is limited to examining health and safety at work and does not cover other conditions, such as working hours and salaries. Labour inspectors can carry out unannounced inspections also at weekends and can enter private households to check working conditions of service providers, such as cleaning companies and domestic workers. If labour inspectors encounter cases of suspected human trafficking, they inform the police.

85. Furthermore, the Danish Customs and Tax Administration (SKAT) inspects a large number of worksites in various economic sectors every year and examines suspect financial transfers. SKAT inspectors have full access to companies and public institutions. SKAT's auditing powers extend to workplaces in which presumed paid employment occurs, which could apply to a private household. Inspections are allowed when a commercial business is registered at a private address or company records, such as accounts, are kept in a private residence. Eight SKAT inspectors around Denmark specialise in THB, while all tax inspectors have been informed about THB through guidelines which are periodically updated and cover all types of exploitation for which people are trafficked. The guidelines set out the procedure for forwarding relevant information to other authorities, such as the police and the CMM. GRETA was informed that SKAT inspectors have detected suspected cases of THB in the cleaning sector. SKAT has also been involved in identifying cases of forced labour for cannabis cultivation (in so-called hemp houses).

86. In February 2015, the Director of Public Prosecutions issued Guidelines on trafficking in human beings which are intended to support the police and prosecutors in their work on combating THB. The Guidelines cover a broad range of issues linked to the identification and rights of victims of trafficking and to the prosecution of traffickers, including instructions on how the non-punishment provision should be applied in relation to victims of THB. Pursuant to the Guidelines, the DIS considers a foreigner to be a victim of human trafficking if there are reasonable grounds to presume that s/he is a trafficking victim. The decision is based on an assessment of all the relevant information regarding the victim and on a list of indicators drawn up by the CMM. The Guidelines points out the need to distinguish identification for the purpose of providing social assistance to the victim and identification of victims with a view to prosecuting the perpetrators.

87. While welcoming the recent issuing of Guidelines by the Director of Public Prosecutions, GRETA remains concerned by the approach followed in Denmark to the identification of victims of trafficking, which has an illegal immigration focus. As noted in the first report, this results in fast-track decision making aimed at the return to their country of origin of foreign nationals who are irregularly present in Denmark and the approach provides very little incentive for self-identification by victims. As a result, the identification procedure leaves out those who are reluctant to report themselves and those who do not want to co-operate with the authorities. GRETA once again stresses the need to ensure that potential victims of trafficking are treated, in the first place, as persons who have been exposed to human rights violations rather than as offenders.

88. According to civil society representatives, although the figures quoted in paragraph 13 suggest an increase in the number of identified victims for the purpose of forced labour, there is still insufficient attention paid to detecting cases of THB for purposes other than sexual exploitation. Further, there is little interest among the authorities in detecting cases of THB for forced begging (see paragraph 151). GRETA also notes that insufficient attention appears to be paid to identifying male victims of THB.

89. Recalling the recommendations made in the first report, GRETA once again urges the Danish authorities to review the identification procedure for victims of trafficking with a view to ensuring that all victims are identified as such and can benefit from the assistance and protection measures provided for under the Convention. This should include steps to:

- **extend the time-frame for the identification of victims of trafficking with an irregular migration status, taking into account the traumatic experience victims may have suffered and the need for sufficient time to gather all the necessary information and decide on the status of victims of trafficking, and ensuring that when there are reasonable grounds to presume that an irregular migrant is a victim of trafficking, the person is speedily removed from detention and offered assistance and protection as provided in the Convention;**
- **ensure that the guidance, toolkits and criteria used for the identification of victims of trafficking by frontline staff are harmonised and that application is rigorously monitored;**
- **increase the incentives for self-identification by victims of trafficking (see the recommendations in paragraphs 117 and 124);**
- **improve the identification of victims of trafficking in detention centres, by giving access to such centres to specialised NGOs and enabling detained irregular migrants to have access to early legal assistance;**
- **pursue a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by expanding the mandate of SKAT and labour inspectors and by encouraging regular and co-ordinated multi-agency inspections by organisations responsible for regulating employment, health and safety in sectors most at risk;**
- **make efforts to identify victims of forced begging as a form of THB for the purpose of forced labour.**

b. Assistance measures (Article 12)

90. In its first report on Denmark, GRETA urged the Danish authorities to ensure that all victims of trafficking are provided with adequate support and assistance, including access to education, vocational training and the labour market during their stay in Denmark and in preparation for their reintegration and rehabilitation upon return to the country of origin. Further, GRETA considered that the Danish authorities should improve the provision of information to victims of trafficking on their legal rights and obligations, the services and assistance measures available and how to access them, such as legal aid and right to compensation. In this context, written information materials on the rights of potential and identified victims were recommended to be drawn up in an appropriate range of languages. GRETA also recommended that the authorities assess the needs of adult and child victims of trafficking and review accordingly the protection and assistance measures and services offered to them, including the provision of safe and suitable accommodation.

91. The CMM is responsible for co-ordinating the provision of assistance to victims of trafficking with the aim of ensuring that all victims are offered support concerning accommodation, access to medical care, psychological assistance, counselling and information. The CMM employs eight social workers, five consultants, one temporary part-time lawyer and two midwives. The lawyer is mainly working with third-country national victims of trafficking who hold Italian residence permits and are being prepared for return to Italy.

92. According to the Danish authorities, support and assistance are given to all victims of trafficking regardless of whether the victim co-operates in the investigation or criminal proceedings and has been granted a temporary residence permit. Agreements and contracts have been concluded between public institutions and civil society actors providing support and assistance, with funding from the NAP budget. The CMM and the Ministry of Children, Education and Gender Equality aim to ensure that the same assistance standards are maintained throughout the country and that the assistance is in compliance with the aim of the NAP. Both adult and child victims of trafficking are appointed a contact person from the CMM who participates in the planning and follow-up of assistance during the prepared return and in some cases even after it. However, GRETA was informed that the offer of vocational training was rather limited and did not sufficiently take into account the victims' wishes or prospects for finding work.

93. According to information provided by the Danish authorities, on average some 40 victims of trafficking benefit from state-funded assistance measures per year (i.e. all those who are granted a "reflection period"). In 2011-2015 an average of about five victims of trafficking staying irregularly in Denmark were not granted a "reflection period", most commonly because they were granted asylum, were returned under the Dublin Regulation or absconded during the asylum procedure. In 2015, 50 foreigners were identified as victims of trafficking by the DIS, 15 of whom did not stay irregularly in Denmark at the time of identification and were therefore not granted a "reflection period" (see paragraph 114 and GRETA's recommendation in paragraph 117).

94. The CMM does not have among its permanent staff lawyers to provide support to victims of THB and co-operates with a private law firm which provides legal advice on immigration matters. While the CMM pays the law firm for its services, a representative of the private law firm met by the GRETA delegation emphasised that the firm works for the victims and not for the CMM. When a trafficking case goes to a criminal court, the victim may be represented by the private law firm funded by the Danish legal aid system. There is also a list of lawyers who may be appointed by the court to assist victims of THB in court, but they are unlikely to be specialised in THB cases. Legal aid is reportedly often given quite late, leaving too little time for the lawyer to prepare.

95. As regards accommodation for female victims of THB, regardless of whether the person's status in Denmark is regular or not, the victim can also be accommodated in shelters specifically dedicated to female victims of trafficking or in other relevant safe housing, e.g. women's crisis centres. The NGOs Nest International, the Red Cross and the Salvation Army run shelters for women victims of violence and THB, in co-operation with the CMM.

96. There is still a lack of accommodation for male victims of trafficking, who are not allowed into public shelters due to their mostly irregular residency status. It is possible to offer accommodation to men within the asylum system. In cases where the asylum system is not possible or relevant, the CMM has concluded an agreement with the Salvation Army whereby the CMM provides funding for the accommodation of male victims of THB in the Salvation Army shelter in Copenhagen. The GRETA delegation visited this shelter during the second evaluation visit. The shelter's Director is qualified to give psychological support to victims of trafficking staying at the shelter and can hire temporary outside help to provide support to victims in less common languages, depending on the needs of the moment. After a large police operation in March 2015 (see paragraph 176), the Salvation Army accommodated 45 victims of trafficking, including on premises outside Copenhagen. However, the Salvation Army shelter is not only for victims of THB and has so far been kept closed during the summer when, due to warmer weather, there is a less pressing need from homeless people for shelter. During such time, the CMM may place male victims of trafficking in rented apartments, hostels, hotels or, if the circumstances allow, in the shelter of the NGO Nest International.

97. **GRETA considers that the Danish authorities should increase their efforts to ensure that all victims of THB are provided with adequate assistance, and in particular:**

- **provide a permanent solution for offering safe and suitable accommodation for male victims of THB;**
- **further improve the early provision of legal assistance and legal aid to victims of trafficking.**

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

98. In its first report, GRETA considered that the Danish authorities should step up their efforts to detect child victims of trafficking, to take into account the special needs and circumstances to be addressed in the identification of child victims of trafficking, and to set up a special referral mechanism for unaccompanied children.

99. Since the first evaluation, the CMM has intensified its efforts in this area through the implementation of the project "Outreach work by municipalities targeting child victims of human trafficking". A toolkit on child trafficking, with indicators and available services, was developed in 2012 for the purpose of general awareness-raising and training of relevant actors in the field of child trafficking.

100. As noted in paragraph 12, 15 child victims of trafficking were formally identified in the period 2011-2015 (8 girls, of whom 5 were trafficked for prostitution and 3 for forced labour, and 7 boys who were trafficked for the purpose of forced criminality). The majority of the forced criminality cases concerned forced theft and one child was forced to sell drugs. There have not been any identified cases of trafficking of Danish children and efforts to achieve early identification are mainly focused on foreign asylum seekers or irregular migrant children. A broad range of actors, including the CMM, the DIS, the Danish National Police, the Danish Ministry of Children, Education and Gender Equality and the municipalities are involved in these efforts, as are staff of refugee centres, reception centres and detention centres for irregular migrants.

101. A child victim of trafficking is provided with assistance during the prepared return period and is appointed a contact person from the CMM. The CMM co-ordinates the support and assistance to the child victims, including accommodation, medical treatment, psychological assistance, counselling, translation and interpretation. Child victims of trafficking have access to the same level of health care as other children in Denmark and must attend school.

102. Unaccompanied children who seek asylum are considered a particularly vulnerable group under the Aliens Act. According to the DIS, 355 unaccompanied children sought asylum in 2012 and 268 between January and September 2013. These children are accommodated in specialised asylum centres with specially trained staff and their applications for asylum are handled in a fast-track procedure. All unaccompanied children are appointed a personal representative whose responsibility it is to have the child's best interests as a primary consideration and to consult and advise the child in relation to all decisions taken that may affect them (see paragraph 123 of GRETA's first report on Denmark).

103. Unaccompanied minor asylum seekers are accommodated in the Red Cross reception centre in Gribskov and if the Red Cross staff suspect that a child has been trafficked, they contact the CMM and the DIS in order to perform the formal identification. A personal representative with experience in this field, e.g. a social worker or an employee of the Danish Red Cross, is appointed for child victims of THB. When the CMM conducts interviews, consent is given by the personal representative. The child will always be heard and has the opportunity to express his/her views or refuse to be interviewed. The DIS has a team of professionals who have been trained to consider asylum applications from unaccompanied minors. Pursuant to section 56a (9) of the Aliens Act, the DIS initiates a search for the parents or other family members unless the child can take up residence at a reception or care centre in its country of origin or former country of residence and unless particular reasons make it inappropriate, e.g. if there are reasons to believe that the parents of the child have participated in the trafficking. The DIS makes the formal identification of victims of trafficking among unaccompanied minor asylum seekers, typically on the basis of initial identification submitted by the CMM.

104. Asylum seekers are as a rule not deprived of their liberty, and unaccompanied minor asylum seekers, depending on their age, are allowed to leave the reception centre. If the child does not return, the police is immediately notified and issues an alert. According to Red Cross representatives met at the Gribskov Reception Centre, it is fairly common for children to leave the centre and many of them do not return. GRETA notes that the Council of Europe Commissioner for Human Rights in his report on Denmark urged the Danish authorities to carry out an effective investigation into the fate of unaccompanied minor migrants who have disappeared from reception centres.²⁶ He also expresses concern that considerations relating to migration control tend to have primacy over the best interests of the child in actions and decisions affecting children in the context of asylum and immigration and he recommended that Danish authorities ensure that the rights protected under the UN Convention on the Rights of the Child are better reflected in asylum and immigration policies and practices.²⁷

105. Child victims of trafficking, including asylum seekers, can also be accommodated in safe children's houses staffed around the clock with specially trained personnel.

²⁶ Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe following his visit to Denmark from 19 to 21 November 2013, CommDH(2014)4, page 11.

²⁷ CommDH(2014)4, page 3.

106. If there are doubts concerning the age of a child claiming asylum, an age assessment may be conducted by the Department of Forensic Medicine of Copenhagen University, including a physical examination and an X-ray examination of the bones and the teeth. The age assessment does not depend solely on the results of this examination; other information, including the statements of the child or his or her family members, identification documents, or information obtained from other States under the Dublin procedure would be taken into consideration. The person is considered a child until the opposite is determined. In this context, GRETA refers to the General Comments No. 6 of the United Nations Committee on the Rights of the Child on the Treatment of unaccompanied and separated children outside their country of origin.²⁸

107. **GRETA urges the Danish authorities to make further efforts to improve the identification of, and assistance to, child victims of trafficking, including among unaccompanied children, and in particular to:**

- **establish a clear procedure (National Referral Mechanism) concerning the identification of child victims of THB and disseminate information and guidance about the application of this procedure to relevant professionals;**
- **ensure that legal guardians are appointed without delay and are able to carry out their tasks in an efficient manner. This involves the provision of training on the assistance and protection of child victims of trafficking to persons who are likely to be appointed as legal guardians;**
- **take steps to address effectively the problem of disappearance of unaccompanied minors from reception facilities, by providing suitable safe accommodation and sufficient numbers of adequately trained supervisors.**

d. Protection of private life (Article 11)

108. The information and documents of victims of trafficking are only communicated by the CMM to other relevant actors if the victim consents. All data are stored by the CMM in accordance with the relevant rules and regulations on data protection.

109. However, civil society representatives met by GRETA have expressed concern about the extent to which staff of NGO-run shelters or drop-in centres where victims of THB are accommodated are trained in, and apply, confidentiality rules and legislation. **GRETA considers that the Danish authorities should take appropriate steps to ensure that when provision of a service for victims of THB is delegated to NGOs, the same rules of confidentiality and data protection apply.**

e. Recovery and reflection period (Article 13)

110. In its first report, GRETA urged the Danish authorities to review the legislation in order to ensure that victims of trafficking are provided with an adequate recovery and reflection period, in line with Article 13 of the Convention, rather than a time-limit to prepare their departure from the country as illegal aliens.

²⁸

Available at <http://www2.ohchr.org/english/bodies/crc/docs/GC6.pdf>

111. As explained in the first GRETA report on Denmark, pursuant to Article 33(14) of the Aliens Act, victims of trafficking who have an irregular residency status are granted a deadline of 30 days for leaving the country. This period applies to identified victims of THB and can be extended if the person agrees to co-operate in the prepared return to his/her country of origin. As noted in paragraph 15, following amendments to the Aliens Act in 2013, the maximum duration of the period was extended from the previous 100 days to 120 days. During this period, victims of trafficking are offered various assistance measures, the aim being to prepare their return.

112. The granting of a time-limit for departure does not appear to be applied unconditionally. GRETA was informed of the case of a Nigerian victim of trafficking for the purpose of sexual exploitation who was caught a third time staying irregularly in Denmark. On the two previous occasions she had been offered a prepared return but had not accepted it or had broken its terms. She was placed in administrative detention and was issued an expulsion order. The private law firm, which assisted the victim, challenged the detention and expulsion order and the case was eventually taken to the Supreme Court, which ruled in favour of the detention and expulsion with a 3 to 2 vote.²⁹ The majority of the judges found there was no basis for criticising the use of an expulsion order even if the person was a victim of trafficking because of her refusal to co-operate with the prepared return on the two previous occasions. The judges in the minority found that public order considerations were not sufficient and in the light of information that the victim was being forced back to Denmark to engage in prostitution, reference was made to the need to apply Article 13 of the Council of Europe Convention on Action against Trafficking in Human Beings which provides that each party to the Convention in its internal law shall provide for a recovery and reflection period of at least 30 days, when there are reasonable grounds to believe that the person concerned is a victim trafficking and during which time no deportations must take place. The victim was returned to Italy where she had a valid residence permit.

113. The Danish authorities have reported that the number of persons granted a "reflection period" was 48 in 2011, 38 in 2012, 60 in 2013, and 52 in 2014. These numbers are lower than the total number of identified victims of trafficking reported by the Danish authorities (see paragraph 12).

114. In their comments on the draft GRETA report, the Danish authorities have indicated that EU/EEA citizens staying irregularly in Denmark (having stayed over 3 months without employment or other grounds for a longer stay) are offered a prolonged deadline for leaving the country, i.e. a "reflection period". As for EU/EEA nationals staying regularly in Denmark, they are not given a "reflection period" as they are not obliged to leave the country within a set deadline.

115. Third country nationals who are victims of trafficking and are returned to another EU country under the Dublin II Regulation are not granted a "reflection period".³⁰

116. GRETA stresses that, according to the Convention, the recovery and reflection period should be provided when there are reasonable grounds to believe that a person is a victim of THB, i.e. prior to their formal identification as a victim. The purpose of the period is to make it possible for them to recover from the exploitation suffered and take a decision on whether to co-operate with the competent authorities.

²⁹ Supreme Court decision 20/2015 of 19 August 2015.

³⁰ The application of the 2003 "Dublin II" agreement was extended to Denmark by means of a 2006 agreement between the European Union and Denmark.

117. **Recalling the recommendation made in the first report, GRETA once again urges the Danish authorities to review the legislation in order to ensure that all persons for whom there are reasonable grounds to believe that they are victims of trafficking, including those to whom the Dublin II Regulation is applicable, are provided with a recovery and reflection period, in line with Article 13 of the Convention, rather than a time-limit to prepare their departure from the country as irregular aliens. The recovery and reflection period should be granted to victims of trafficking unconditionally, regardless of whether they have co-operated with the authorities in the past or do so in the present.**

f. Residence permits (Article 14)

118. As noted in paragraph 15, the amendments to the Aliens Act in May 2013 introduced a new section 9c (5) pursuant to which a temporary residence permit may be granted to foreign nationals, including victims of trafficking, whose presence in Denmark is required for the purposes of the investigation or prosecution. The residence permit cannot be renewed for a period longer than the investigation or prosecution period. A prerequisite for granting of a residence permit pursuant to section 9c (5) is a statement by the police that the continued presence of the foreign national in question is required for the investigation of a criminal case and that the foreign national co-operates with the police and, in case of a subsequent indictment, assists the prosecution service. A foreign national who has obtained a temporary residence permit and who subsequently informs the police that s/he no longer wishes to assist the investigation or prosecution no longer fulfils the conditions for the residence permit and has to leave the country.

119. As explained in GRETA's first report, victims of trafficking can also apply for asylum or temporary residence permits on humanitarian grounds.³¹ The granting of asylum follows the provisions of sections 7(1) and 7(2) of the Aliens Act, pursuant to which a residence permit will be issued if the alien qualifies as a refugee as defined by the provisions of the 1951 Refugee Convention or if the alien risks the death penalty or being subjected to torture or inhuman or degrading treatment or punishment in case of return to his/her country of origin. According to the Danish authorities, the UNHCR Guidelines on the application of refugee status to victims of trafficking are taken into account by the DIS when considering claims for refugee status. Further, Section 9b (1) of the Aliens Act allows the granting of resident permits to an alien who, in cases not falling within section 7(1) and (2), is in such position that essential considerations of a humanitarian nature conclusively make it appropriate to grant the application.

120. In practice, it remains very rare for victims of trafficking to be granted a residence permit in Denmark. This significantly reduces victims' incentives to co-operate with the authorities. In the period from 2011 to 2014, eight victims of trafficking were granted long-term residence permits (four in 2011, one in 2012, one in 2013 and two in 2014). No victims of trafficking have been issued a residence permit pursuant to section 9c (5) of the Aliens Act. GRETA was informed that out of 93 victims of trafficking identified in 2015, 10 applied for asylum³², but it was not granted to any of them.

121. A lawyer of the private law firm referred to in paragraphs 94 and 112 reported only rarely being successful in obtaining a residence permit for his clients who were victims of trafficking. All successful cases were related to family reunification. The immigration legislation allows the granting of a residence permit to a victim of trafficking if that person has been in Denmark for over 18 months because it has not been possible to return that person for one reason or another, e.g. in application of the principle of *non-refoulement*.

³¹ See paragraph 160 of GRETA's first report on Denmark.

³² Four Nigerians, three Moroccans, one Afghan, one Tunisian and one Ukrainian.

122. With regard to children, under Danish law a residence permit will not be granted solely on the grounds of the applicant being a child victim of trafficking. If an unaccompanied minor is not deemed mature enough to go through a normal asylum procedure, a special residence permit may be granted under section 9c (3) of the Aliens Act. Pursuant to this provision, a residence permit can also be granted to an unaccompanied minor whose application for a residence permit under section 7 has been refused if there is reason to assume that the he/she will be without any family network or without any possibility of staying at a reception and care centre and will be placed in an emergency situation upon a return to his/her country of origin or former country of residence. The DIS decides *ex officio* whether the conditions for this residence permit are met. The residence permit cannot be renewed beyond the person's 18th birthday. If the asylum case is processed under the normal procedure, which implies that a refusal of asylum is automatically appealed to the Refugee Appeals Board, a lawyer is appointed to represent the unaccompanied minor for the appeal. If an unaccompanied minor's asylum case is processed under the so-called manifestly unfounded procedure, which implies that a refusal of asylum cannot be appealed to the Refugee Appeals Board, a lawyer is appointed by the DIS to assist the minor. Unaccompanied minors whose applications for asylum have been refused are offered legal assistance after the ending of the asylum procedure unless the minor itself has retained counsel or exceptional reasons make it inappropriate. The lawyer may assist the child applying for a residence permit on other grounds. The number of unaccompanied minors who have been granted a residence permit based on section 9c (3) of the Aliens Act, i.e. children who have been considered not mature enough to undergo a normal asylum application process or whose asylum application has been rejected while the child has no access to family or public care in his or her country of origin, was respectively 61 in 2011, 27 in 2012; 12 in 2013, 3 in 2014, and 23 until 30 November 2015.

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

124. **Given that it is extremely rare for victims of trafficking to receive residence permits, GRETA considers that the Danish authorities should review the application of the system for granting residence permits to victims of trafficking with a view to ensuring that the victim-centred approach which underpins the Convention is fully applied and in order to prevent re-trafficking.**

g. Compensation and legal redress (Article 15)

125. In its first report, GRETA invited the Danish authorities to continue their efforts to provide information and legal assistance to victims of trafficking in order to enable them to exercise their right to compensation from the traffickers and/or the State, and ensure that victims have effective access to free legal aid in this respect. GRETA also invited the authorities to consider granting residence permits to victims of trafficking for the duration of the legal proceedings, with a view to enabling them to benefit from compensation and redress and to improve the registration of compensation claims by victims of trafficking regarding both compensation from the State and the offender.

126. Pursuant to section 741 (e) of the Administration of Justice Act, the police and the prosecution service must inform a victim of trafficking of his/her legal position and the progression of his or her case. This communication should include information on the victim's right to seek compensation as well as information on the perpetrator's possible arrest and being remanded in custody. According to section 741b of this Act, the police must inform the victim of the possibility of having a lawyer assigned to assist with these matters. The information must be given at the police's first interview with the victim and must be repeated at the second police interview.³³

127. Pursuant to section 741(c) of the Administration of Justice Act, the court shall assign a lawyer to a victim of trafficking during criminal proceedings at the victim's request. Their tasks include explaining the procedures, informing victims about access to psychological and social support and the right to compensation, assisting them in court, handling the compensation claim and providing assistance if the victim applies for asylum or residence. The lawyers are entitled to participate in the police questioning of the victim and can ask follow-up questions to the victim. Furthermore, the lawyer has access to the victim's statements as well as other documents regarding the victim. The lawyers are assigned free of charge for the victims unless the expense is covered by a legal expenses insurance or other insurance. If the victim is suspected of having committed a criminal offence him- or herself, a defence lawyer should be assigned instead.³⁴

128. Victims of trafficking are entitled to demand compensation from the traffickers either in connection with the criminal proceedings, in line with section 685 of the Administration of Justice Act, or in a civil court procedure. It is possible for a victim to claim compensation in a civil procedure also independently of the criminal procedures. To claim compensation in criminal court proceedings the victim does not need to be present in court, whereas s/he needs to be present or be represented by an attorney in a civil court procedure.

129. Regardless of the legal possibilities for compensation, GRETA is concerned that very few victims of trafficking in Denmark have actually received compensation. GRETA was informed that in 2011 criminal courts ordered perpetrators to pay compensation to one victim of trafficking, in 2012 to three victims of trafficking, and in 2013 to one victim of trafficking. There were two claims, in 2013 and 2014, which were dismissed by criminal courts as the courts did not consider them warranted, in the first case because the defendant was only found guilty of a minor part of the indictment, and in the second one because the court was not convinced that the victim had been subjected to violence, duress or deception. In 2015 courts awarded compensation to victims of THB in two cases. In the first case a victim of trafficking for the purpose of criminal acts received 1900 DKK (about 250 Euros) and in the second one a victim of trafficking for the purpose of forced prostitution received 18 000 DKK (about 2400 Euros). However, in both cases appeals are pending in the High Court.

130. Civil society representatives met by the GRETA delegation indicated that in the above-mentioned case of a failed compensation claim in 2014, the identified victim of trafficking for the purpose of sexual exploitation was not awarded compensation because the court did not believe that she had not worked as a prostitute before coming to Denmark and she had not been present at the criminal court proceedings. Victims of THB are reportedly afraid to seek compensation as part of criminal proceedings because they are not sure that the perpetrators will be convicted and fear repercussions. The support attorney is appointed to victims of trafficking only for the duration of the criminal proceedings and to raise a civil claim the victim has to pay a lawyer, though financing for legal aid to bring a civil claim may be granted if the applicant fulfils certain income criteria, has a reasonable cause to conduct litigation, in cases of principle or public interest, or where the case is deemed to be significant to the applicant's social or occupational situation.

³³ Guidelines No 8/2007, Section 2.1. by the Director of Public Prosecutions.

³⁴ Guidelines of February 2015 by the Director of Public Prosecutions, page 11.

131. A civil claim may concern compensation for unpaid wages or temporary inability to work caused by the exploitation. While GRETA understands that in principle it is possible to obtain legal aid to bring a compensation claim, no actual civil claims have been lodged in Denmark by victims of THB.

132. As explained in the first GRETA report, under the Act on State Compensation to Victims of Crime, the State may award compensation and damages for personal injury inflicted as a result of violations of the CC.³⁵ Applications are handled by the Criminal Injuries Compensation Board. The Board can award compensation if there is no known perpetrator or no court order, or if the perpetrator did not pay. A victim does not need to seek compensation from the perpetrator prior to submitting a compensation claim to the Board. Compensation is awarded regardless of the victim's or the perpetrator's nationality or residence in Denmark. If a criminal court orders the perpetrator to pay compensation to the victim but the perpetrator is not able to pay, the Criminal Injuries Compensation Board will pay the compensation to the victim. Detailed information on how to apply for compensation under the Act on State Compensation to Victims of Crime is available in English on the website of the Criminal Injuries Compensation Board.³⁶ GRETA was informed that in 2011 the Board awarded compensation to one victim of trafficking (the amount awarded was DKK 25 000, i.e. approximately 3000 Euros, and the lawyer received the payment in May 2011); in 2012, to one victim of trafficking (the awarded compensation of DKK 20 000, i.e. approximately 2700 Euros, was paid in February 2012) and in 2013, to four victims of THB (DKK 30 000, i.e. approximately 4000 Euros, to each victim, but two of the victims had left Denmark and could not be traced for the payment). In 2014 and 2015 there were no applications in THB cases registered by the Criminal Injuries Compensation Board.

133. The rules regarding confiscation in the CC apply to all criminal offences. The objects for confiscation can be divided into two main categories: confiscation of the proceeds of crime (section 75(1) and 76a of the CC) and confiscation of objects used in or produced by a criminal act (section 75(2) of the CC). A claim for confiscation may be made by the prosecution service regardless of whether a claim for damages exists. Confiscated property is generally transferred to the State unless it is used in satisfaction of a claim for damages stemming from the crime (section 77 of the CC). The following confiscations were made in THB cases: in 2011, amounting to DKK 597 500 (approximately 80 000 Euros), plus the value of a confiscated car; and in 2013, amounting to DKK 4 000 000 (approximately 540 000 Euros). In 2015 there was one confiscation in a case which also involved THB (see paragraph 176) DKK 10050 in cash (about 1350 Euros) and IT equipment. This case has been appealed and is presently pending in the High Court. **GRETA welcomes the fact that there have been confiscations of proceeds from THB offences and invites the Danish authorities to make full use of the seized assets to compensate victims of trafficking.**

134. The previously mentioned Guidelines developed by the Director of Public Prosecutions describe, *inter alia*, specific measures that may be taken in order to confiscate assets of perpetrators, e.g. with assistance from the tax authorities and from "Sporingsgruppen", a specialised unit in SØIK (the State Prosecutor for Serious Economic and International Crime) which assists the police in tracing and seizing assets derived from crime.

135. While acknowledging the existence of a State compensation scheme available to victims of THB, GRETA is concerned that State compensation is rarely paid in practice. **GRETA considers that the Danish authorities should make additional efforts to guarantee effective access to compensation for victims of THB, either from the offender or the State, including through the systematic provision of legal advice and information to victims about their eligibility for compensation. Training on THB for police officers, prosecutors, lawyers and judges should, as an important component, include the topic of compensation. Further, as stressed in the first report, granting residence permits to victims of THB for the duration of the legal proceedings will facilitate access to compensation and redress.**

³⁵ See paragraphs 168-169 of GRETA's first evaluation report.

³⁶ <http://www.erstatningsnaevnet.dk/da/GlobalMenu/english.aspx>

h. Repatriation and return of victims (Article 16)

136. In its first report on Denmark GRETA considered that the Danish authorities should review the current institutional and procedural framework for the return and repatriation of victims of trafficking, having regard to their safety, protection and dignity and in order to avoid their re-victimisation. In the case of children, a specific risk-assessment and process to determine the best interest of the child was recommended to be carried out. Further, GRETA invited the Danish authorities to continue their co-operation efforts with the national authorities and relevant NGOs in the countries of return of victims of trafficking in order to improve their reintegration and rehabilitation.

137. Victims of trafficking who do not fulfil conditions for a residence permit are offered a "prepared return". The prepared return is in practice an individually planned repatriation and reintegration programme which involves education or vocational training in Denmark and six months of follow-up upon return, including support to find accommodation and help to set up a small business, which are provided by the International Organization for Migration.

138. GRETA was informed that a significant number of victims of trafficking in Denmark hold residence permits in other EU countries (mostly Italy and Spain) and are returned there pursuant to the Dublin Regulation³⁷ rather than to their countries of origin. Reference is made in this context to the case reported in paragraph 112. If a victim is sent back under the Dublin Regulation, the CMM tries to contact the receiving EU country to ensure that support is given to the victim upon arrival. Further, many Romanian victims of THB have voluntarily returned to their home country with the CMM's support.

139. As explained in GRETA's first report on Denmark³⁸, the IOM has since 2008 managed a programme on assisted voluntary return and reintegration assistance for vulnerable migrants from Denmark. The programme is offered, *inter alia*, to victims of trafficking, including children, who do not fulfil the conditions for a residence permit. By way of example, of the 93 identified victims of trafficking in 2015, 43 accepted a prepared return with the assistance of IOM.³⁹ However, GRETA was informed that the follow-up after the return is not available in all countries of origin. In some African countries in particular there are no receiving organisations in place. Further, the reintegration assistance reportedly does not last long enough. Some women who try to set up businesses following their return often do not have the necessary skills or lack the necessary local network of support after a longer absence from their home country.

140. IOM's programme for assisted voluntary return and reintegration assistance was evaluated in 2012.⁴⁰ The evaluation report recommended a more individualised approach to reintegration assistance, as well as making reintegration assistance more flexible to the needs of the individual migrant. In this regard, it was decided to expand the period in which assistance is given to victims of trafficking who have returned to their countries of origin from three to six months. At the same time, the assistance scheme was made more flexible and the possibility to utilize the financial support on a wider range of activities, e.g. school fees and educational courses, was introduced. With these changes, the IOM programme was extended and will be adjusted according to the new 2015-2018 NAP.

³⁷ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast).

³⁸ Paragraphs 176 and 177.

³⁹ 36 Romanians, 3 Thai, 2 Nigerians, 1 Spaniard and 1 Ukrainian (in total, 10 women and 33 men).

⁴⁰ The evaluation was carried out by the consultancy firm Ramboll at the request of the Ministry of Justice and published in October 2012. It is available in Danish at http://www.justitsministeriet.dk/sites/default/files/media/Pressemeddelelser/pdf/2012/Ramboel_rapport_2012.pdf

141. The Danish authorities have stated that the principle of *non-refoulement* is taken into account when deciding on the return of victims of trafficking. If on the basis of risk assessment the IOM refuses to return a victim, s/he faces a forced return by the Danish police. At the time of GRETA's visit to Denmark, the DIS did not return trafficking victims to Greece, in line with the decision of the European Court of Human Rights in the case of *MSS v Belgium and Greece* (3069/09).

142. Child victims of trafficking deemed not to qualify for a residence permit are returned to their countries of origin. According to the Aliens Act, unaccompanied children who apply for asylum but whose applications are rejected, can be granted a residence permit until they turn 18, should they find themselves in a situation of emergency if they were to be returned to their country of origin. A situation of emergency is defined by the absence of family ties or relatives to take care of the minor in the home country or, since 2010, by the lack of access to a public care centre. GRETA notes that according to the Council of Europe Commissioner for Human Rights, the perspective of inevitable return limits the children's willingness and capacity to get involved in education and integrate in society and increases their vulnerability to becoming victims of human trafficking.⁴¹

143. GRETA considers that the Danish authorities should give full consideration to the UNHCR's guidelines on the application of the Refugees Convention to trafficked people⁴² and their possible entitlement to asylum when deciding upon applications for asylum of persons who are at risk of being re-trafficked or otherwise persecuted should they be obliged to return to their State of origin or residence. Further, GRETA considers that the authorities should take steps to ensure that the return of victims of THB is preferably voluntary, and is conducted with due regard to their rights, safety and dignity, including the right to *non-refoulement* (Article 40(4) of the Convention) and, in the case of children, by fully respecting the principle of the best interests of the child. The principle of *non-refoulement* should apply when a victim of trafficking is at risk of being re-trafficked if returned to the country from which s/he was trafficked to Denmark.

144. GRETA also considers that the Danish authorities should continue to develop co-operation with countries of origin of victims in order to ensure comprehensive risk and security assessment (Article 16(7) of the Convention) and safe return of the victims, as well as their effective reintegration on return.

3. Substantive criminal law

a. Criminalisation of THB (Article 18)

145. The amended section 262a of the CC reads as follows:

"A penalty of imprisonment for a term not exceeding 10 years for human trafficking is imposed on any person who recruits, transports, transfers, harbours or subsequently receives another person who is or has been subjected to:

- i. duress as defined in section 260;
- ii. deprivation of liberty as defined in section 261;
- iii. threats as defined in section 266;
- iv. the wrongful creation, confirmation or exploitation of a mistake; or
- v. any other improper procedure;

⁴¹ CommDH(2014)4, page 10.

⁴² UNHCR, Guidelines on International Protection: The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking, HCR/GIP/06/07, 7 April 2006.

to exploit such other person for prostitution, the taking of pornographic photographs, the recording of pornographic films, pornographic performances, forced labour, slavery, practices similar to slavery, criminal acts or the removal of organs.

(2) The same penalty is imposed on any person who, for the purpose of exploitation of such other person for prostitution, the taking of pornographic photographs, the recording of pornographic films, pornographic performances, forced labour, slavery, practices similar to slavery, criminal acts or the removal of organs:

- i. recruits, transports, transfers, harbours or subsequently receives a person under 18 years of age; or
- ii. gives payment or other benefit to achieve the consent to such exploitation from a person having control over the victim and from the person receiving such payment or benefit.”

146. **GRETA welcomes the 2012 amendment to section 262a of the CC which added exploitation for committing criminal acts as one of the purposes of THB.** The first prosecutions in cases of THB for exploitation for criminal acts started in September 2015 and had by March 2016 led to two court decisions in district courts (see paragraph 176).

147. In its first report on Denmark, GRETA urged the Danish authorities to review the legislation in order to fully reflect the substantive provisions of the Convention regarding the criminalisation of acts relating to falsification of travel or identity documents (Article 20) and aggravating circumstances (Article 24). The legislation has not changed in this regard since the first GRETA report on Denmark.

148. **GRETA urges the Danish authorities to review the legislation in order to fully reflect the substantive provisions of the Convention regarding the criminalisation of acts relating to travel or identity documents (Article 20) and aggravating circumstances (Article 24).**

149. In its first report on Denmark, GRETA considered that the Danish authorities should ensure that the principle according to which the consent of the victim is irrelevant when one of the means listed in the definition of trafficking in human beings has been used applies at all stages of the identification, protection and assistance of victims of trafficking, as well as in the context of criminal proceedings. There have been no changes in legislation in this regard since the first report. The Danish authorities have stressed that a person (adult or child) cannot give valid consent to being a victim of trafficking. Nevertheless, GRETA sees benefits in stating explicitly in legislation that consent is irrelevant to determining whether the crime of human trafficking has occurred. Setting out this pivotal principle in law could facilitate its use by investigators, prosecutors and judges when dealing with cases of human trafficking and to obtaining a more consistent approach. Indeed, consent is an important factor at different stages of human trafficking cases, for instance: if victims refuse to self-identify as they consider that they consented to exploitation; when taking a decision on whether to investigate and prosecute a case as THB where the victim apparently consented to exploitation; when deciding on the penalty for offenders where there are assertions of consent.⁴³ **GRETA considers that stating explicitly the irrelevance of the consent of a victim of trafficking to the intended exploitation would facilitate the effective implementation of the anti-trafficking legislation.**

⁴³ See UNODC Issue Paper, The Role of Consent in the Trafficking in Persons Protocol, United Nations, Vienna, 2014. Available at: www.unodc.org/documents/human-trafficking/2014/UNODC_2014_Issue_Paper_Consent.pdf

150. As explained in paragraph 49 of the first GRETA report on Denmark, section 262a of the CC criminalises human trafficking where coercion, deprivation of liberty, threats, the creation, encouragement or exploitation of a misconception,⁴⁴ or “any other improper method” has been used. It follows from the preparatory works of the CC that a judgment as to whether any other improper method has been used must be based on a specific assessment in each case. In several cases in which courts have found that any other improper method has been used according to section 262a of the CC the courts have emphasised that the victim had been in a vulnerable position. Thus, the courts have interpreted “any other improper method” to include the abuse of a vulnerable position. The courts have considered age (19 years), lacking verbal and/or written language skills and self-esteem, poor social or very different cultural background, as well as poor economic situation in the country of origin as criteria for considering victims of trafficking to have been in a vulnerable situation. If the court has established that the victim is in a vulnerable position, the court then looks at the behaviour of the perpetrator to assess whether they have abused this vulnerability. This may be the case if the perpetrator for instance has used their authority over the victim, kept the victim under surveillance, used force or threats or had control over the victim’s housing, working hours and earnings. The 2015 Guidelines by the Director of Public Prosecutions explains and provides examples of what may be considered as, on the one hand, improper methods and, on the other, a vulnerable position.⁴⁵

151. It follows from the preparatory works to section 262a of the CC that forced begging is to be considered as forced labour. While a number of people have received warnings for the offence of begging,⁴⁶ the police do not investigate whether there are links to THB. In the view of civil society representatives, there is little interest among the authorities in detecting cases of THB for forced begging. Begging is considered as a public nuisance and politicians demand decisive action against begging from the police, who are thus not left with much room for a more human rights-based approach to possible THB victims of forced begging (see the recommendations in paragraphs 57 and 89).

152. Forced marriage is an offence against an individual’s personal liberty according to section 260(2) of the CC, but it is not specifically mentioned as a form of exploitation resulting from THB in section 262a of the CC. The Danish authorities have indicated that, pursuant to the preparatory works for the amendment of section 262a of the CC, criminal activities include not only exploitation for financial gain, but also a perpetrator’s own exploitation of a person. The authorities have stressed that the amendment was made to bring the CC in line with Directive 2011/36/EU, and, according to paragraph 11 of the Directive’s preamble, the definition of “exploitation of criminal activities” covers behaviour such as illegal adoption or forced marriage in so far as they fulfil the constitutive elements of trafficking in human beings. Therefore the Danish authorities maintain that forced marriage is covered by section 262a of the CC, as is illegal adoption. There is no case law in Denmark in regard to THB for the purpose of forced marriage or illegal adoption.

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

153. In its first report on Denmark, GRETA invited the Danish authorities to consider the criminalisation of the known use of services of trafficked persons for all types of exploitation. There have been no legal changes in this respect. However, the Danish authorities have stressed that a company that knowingly employs a victim trafficked for the purpose of forced labour will be subject to criminal responsibility pursuant to section 262a of the CC. There is no case law in this regard.

154. GRETA invites the Danish authorities to consider introducing into law the criminalisation of all forms of use of services which are the object of exploitation as referred to in Article 4 of the Convention, where such use is done with the knowledge that the person providing the service is a victim of THB.

⁴⁴ In Danish: retsstridig fremkaldelse, bestyrkelse eller udnyttelse af en vildfarelse

⁴⁵ Guidelines of February 2015 by the Director of Public Prosecutions, pages 20-21.

⁴⁶ Section 197 of the CC criminalises begging.

c. Corporate liability (Article 22)

155. As explained in GRETA's first report on Denmark, companies and other incorporated bodies (legal persons) may incur criminal liability under the rules of chapter 5 of the CC. For a legal entity to incur criminal liability it is a condition that an offence has been committed in the course of its activities and that the offence was caused by one or more natural persons connected to the legal entity or by that entity as such. State authorities and municipalities may only incur criminal liability for offences committed in carrying on activities which are equal or comparable to activities carried on by private individuals. There is no case law regarding legal entities and human trafficking. **GRETA invites the Danish authorities to examine the reasons why no legal entities have been punished for trafficking-related acts and, in the light of their findings, take the necessary measures to ensure that the criminal liability of legal entities can be acted upon in practice so that trafficking situations are more often established.**

d. Non-punishment of victims of trafficking in human beings (Article 26)

156. In its first report on Denmark, GRETA urged the Danish authorities to adopt a victim-centred approach and to take steps to achieve an effective implementation of Article 26 of the Convention, by providing for the possibility of not imposing penalties on victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so; and by ensuring that while the identification procedure is ongoing, potential victims of trafficking are not punished for their illegal entry or residence in Denmark.

157. There are still no legal provisions specifically on the non-punishment of victims of trafficking. As explained in the first GRETA report on Denmark, a victim of trafficking prosecuted for a serious offence may have their penalty reduced on the grounds of trafficking pursuant to section 82(6) of the CC (mitigating circumstances) and/or section 83 of the CC (reduced sentences).

158. As a follow-up to GRETA's first report, the Director of Public Prosecutions issued in May 2012 binding guidelines to the members of the prosecution service on handling cases of victims of human trafficking who have committed a criminal offence. These guidelines were later incorporated into the Guidelines on the Handling of Cases of Human Trafficking published by the Director of Public Prosecutions in February 2015. According to the Guidelines, an indictment shall be waived pursuant to section 722 (2) of the Administration of Justice Act if the suspect is a victim of human trafficking, provided that the alleged offence relates to the trafficking and cannot be characterised as a serious crime.⁴⁷ Further, it is stated that victims of trafficking as a point of departure shall not be deprived of their liberty⁴⁸ and that it should always be considered whether accommodating a trafficking victim in a crisis centre or similar place would not be sufficient for securing the presence of the person.⁴⁹

159. GRETA was informed that indictments can be waived in case of forgery or use of false documents with regard to passports, identity papers or similar violations of the Aliens Act. Indictments can also be waived if a person was trafficked and forced to commit criminal acts. Representatives of the prosecution service met by the GRETA delegation pointed out that it might be possible for a victim of THB to get acquitted even in cases of more serious crimes, but this would be on the basis of general criminal law defences (duress). When the non-punishment guidance is applied by the prosecution service there will be no court proceedings against the victim of trafficking and no criminal record will remain in the Danish Central Crime Register which is kept by the Danish National Police.

⁴⁷ Guidelines of February 2015 by the Director of Public Prosecutions, page 15.

⁴⁸ Guidelines RM 2/2015, page 5.

⁴⁹ Guidelines RM 2/2015, page 14.

160. Judges met by GRETA during the second evaluation visit took the view that it is mainly the responsibility of prosecutors not to prosecute victims of trafficking for offences which fall under the Guidelines, whereas, according to the judges, it is difficult for judges not to follow the provisions of law and not convict victim offenders if the latter are charged by prosecutors. If a convicted person is subsequently identified as a victim of trafficking the courts may set the sentence aside on the basis of the Guidelines. In one case a person was convicted of use of false documents in relation to entry into Denmark but it was considered a mitigating circumstance that the person was a victim of trafficking and therefore the penalty was not enforced.

161. The Danish authorities have referred to two cases against Vietnamese nationals identified as victims of trafficking who were engaged in the production of drugs. In the first case, two Vietnamese nationals were sentenced to one year and three months' imprisonment, but nine months of the sentence was suspended. The court emphasised, *inter alia*, that the Vietnamese nationals had originally been trafficked to Denmark. In the second case, one Vietnamese national was sentenced to eight months' imprisonment, which was effectively served. The court also emphasised that the person concerned had been trafficked.

162. In the period 2011-2015 the CMM identified seven Nigerian and six Vietnamese victims of THB for the exploitation for criminal activities, namely the production or sale of drugs. After being identified as victims of THB, three of the Nigerians disappeared and the others were repatriated (as regards the Vietnamese, see paragraph 161).

163. Victims of THB whose status in Denmark is irregular are detained under administrative regulations. Civil society representatives met by the GRETA delegation expressed concern that some of them may be deported before there has been a possibility to identify them as trafficking victims. The 2015 Guidelines of the Director of Public Prosecutions stress that foreigners should not be deported in cases in which there is reason to believe that they are trafficking victims, unless there are considerations of public order.

164. **GRETA welcomes the issuing of binding guidelines to prosecutors on the application of the non-punishment principle which, according to civil society representatives met during the visit, has improved the application of the non-punishment principle.** Nonetheless, the non-punishment principle appears to be applied mainly in relation to minor offences and not to the extent that the letter and the spirit of the Council of Europe Convention would call for. GRETA notes that the general legal defences available to accused persons do not necessarily take fully into account the circumstances of trafficked people and the penalties that may be imposed on them.

165. **GRETA considers that the Danish authorities should take steps to:**

- **extend the scope of the non-punishment provision to cover all offences which victims of THB were compelled to commit, including administrative and immigration-related offences;**
- **strengthen their efforts to ensure compliance with the principle of the non-punishment provision, including by amending and promoting the existing guidance.** 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.⁵⁰

4. Investigation, prosecution and procedural law

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

166. In its first report on Denmark, GRETA considered that the Danish authorities should continue proactive investigations to detect cases of THB for sexual exploitation and step up the proactive investigation of potential cases of THB for the purpose of labour exploitation, e.g. in sectors such as agriculture, construction, cleaning work, restaurants and amongst *au pairs*, including through co-operation between the police and other relevant actors. It also considered that the authorities should ensure that victims of trafficking are adequately informed, protected and assisted during court proceedings, including measures to protect their private life and safety. Finally, GRETA considered that the authorities should facilitate the legal stay in Denmark of victims of trafficking so that they can testify and exercise their rights to compensation and redress.

167. According to the Danish authorities, since 2001, the effort against trafficking in human beings has been a priority for the Danish National Police. In July 2014 the Danish National Police published a comprehensive revised internal guide regarding the fight against THB. To adjust anti-THB efforts to local conditions, each of the 12 local police districts in Denmark has appointed a key person with particular expertise in THB matters. Furthermore, most police districts have established a group of officers, including the aforementioned key person, who focus on outreach work in environments where prostitution and informal work is found. These officers conduct proactive investigations. Each of the local police districts have also established special Intelligence and Analysis Units (EAE units) responsible for collecting and analysing intelligence regarding THB, amongst other crimes. Information gathered by the EAE units is registered in a database used by the corresponding units in the other local police districts, the National Police and, if relevant, by other units within the Danish police force.

168. As an integrated part of the joint police effort against trafficking a specialised unit within the National Police, the National Centre of Investigation (NCI), is additionally responsible for monitoring activities against THB with a view to directing the police's efforts on the basis of strategic and operational analysis. The NCI has established a so-called Open Source Unit responsible for collecting information about prostitution. The unit informs the relevant local police districts about developments on the internet regarding prostitution. Further, the Danish National Police NCI has established a Cyber Crime Centre, which specializes in investigations into internet-based crime, including child pornography and other crimes conducted through the internet, including potentially THB.

⁵⁰ <http://www.osce.org/cthb/101002>

169. There are no legal provisions concerning the blocking of internet sites which could be used for THB offences, notably for recruiting victims. However, according to Danish legislation, attempts at making offences are punishable and therefore a person could be convicted for both successful and unsuccessful attempts at recruiting victims for THB through the internet. If such a court decision would establish that an internet site has been used for recruitment of THB victims, it could be seized and shut down (provided that it is technically possible, with the server in Denmark or in another country where the internet service provider or authorities are co-operative).

170. The previously mentioned 2015 Guidelines by the Director of Public Prosecutions state that since foreign trafficking victims often disappear, police and prosecution authorities should consider holding a preliminary court hearing with the victim at an early stage of the investigations, in particular if the police assess that there is a risk that the victim will leave the country before any main court hearing in the case.

171. THB is considered a serious crime and therefore the police may, subject to obtaining court approval, employ any of the special investigation techniques allowed by law. Pursuant to the Administrations Act the police have a variety of investigative tools at their disposal when investigating cases regarding THB, including wiretapping, observation, use of informants and undercover agents, as long as certain conditions are met. Pursuant to section 754a (1) of this Act, the police may use undercover agents during an active investigation. According to section 754a (2) of the Administrations Act, the police may allow controlled deliveries in order to expose the principal offender. These investigative measures must not cause an increase in the magnitude or gravity of the offence and they require a court order. Pursuant to section 780 of the Act, the police may intervene in the secrecy of communication by intercepting telephone or other telecommunications devices (such as call logs), familiarise themselves with the contents of letters and other shipments (letter opening) and stop the forwarding of letters and other shipments (letter stopping). Interception of private communication requires a court order and can only be conducted if the suspected offence is punishable by imprisonment of six years or more. Pursuant to Chapter 73 of the Administration of Justice Act, searches of houses are allowed in cases of the suspected crime being punishable by imprisonment or in cases in which there is a certain reason to presume that evidence or objects related to the case under investigation may be found during the search.

172. Reference has already been made in paragraph 134 to the rules regarding confiscation and the practical application of these rules in cases of THB. Pursuant to section 75(1) of the CC the proceeds of a criminal act, or a corresponding amount, may be confiscated in full or in part. Where there is insufficient information to determine the amount, an amount deemed equivalent to the proceeds made may be confiscated.

173. While statistics with the precise number of police investigations regarding THB are not available, it appears that there have been between 10 and 20 such investigations launched per year in the period 2011-2014. The number of prosecutions in THB cases was 12 in 2011, 18 in 2012, 18 in 2013 and 3 in 2014. As regards 2015, the number of charges for THB was 29 and the number of prosecutions, 58.⁵¹ Five people were sentenced for THB in 2011, two in 2012, 2 in 2013, 9 in 2014 and 12 in 2015. The prison sentences ranged from nine month to two years and six months.

⁵¹ It should be noted that the statistics regarding charges, indictments and convictions are not equal to the number of persons charged/indicted/convicted for THB as the numbers are calculated as one charge/indictment/conviction per person per case file. Thus, one case can consist of several charges/indictments/convictions, just as one person can be subject to more than one charge/indictment/conviction. Further, the 12 convictions in 2015 were appealed to the High Court and are still pending at the time of writing.

174. To date only two cases involving THB for the purpose of labour exploitation have been prosecuted. One is referred to as the "Cellar Case" and the other as the "Garage Case", after the accommodation the exploited victims were kept in. Neither case has resulted in a conviction for THB. Both cases involved men exploited in the cleaning sector. In the "Cellar Case" the charge of THB was rejected in the district court because the description of the criminal act did not fulfil the requirements in the Administration of Justice Act.⁵² The case was appealed to the High Court by the prosecution, but withdrawn after the High Court decision on the "Garage Case" (see paragraph 175). There was also a case known as the "Balcony Case", which involved exploitation of people in the cleaning services industry, but it was prosecuted under article 282 of the CC (usury) and was not considered to be a THB case.

175. In the "Garage Case" the district court acquitted the defendants of the THB charges⁵³ upon which the prosecution appealed the case to the High Court which found⁵⁴ that the victims were not in a situation where they had no alternative but to do the work, as they were free to leave the premises. Accordingly the court found that they were not victims of THB for the purpose of forced labour. The court in particular emphasised that the persons in question stayed legally in Denmark and were in possession of identity papers, money and a certain network of family and friends. They left Denmark for shorter or longer periods but came back in order to work for the defendants. In addition, a large number of other workers had left the defendants after a short time. The victims explained that they needed the salary, which – although it was small – was higher than the wages they could achieve at home. On 4 March 2015 the High Court delivered its decision in which the defendants were acquitted of the trafficking charge but convicted of usury pursuant to sections 282 and 279 of the CC. The first defendant was sentenced to three years' imprisonment and the second defendant to two years' imprisonment.

176. The largest case of THB in Denmark so far concerns THB for the purpose of forced criminality. It involved some 300 persons being recruited in Romania with job offers, transported by bus to Denmark and placed in isolated houses in the country side. These persons were then registered by the perpetrators in the Danish personal identification system and received a personal ID number (CPR) which is a precondition for receiving social benefits, taking loans or making online purchases. Following that, the perpetrators claimed unemployment and maternity benefits, took out loans from credit companies, committed tax and VAT fraud, as well as other crimes. The police conducted "Operation Hvepsebo" ("Operation Hornet's Nest"), which involved a period of preparation with the use of special investigative techniques and in February 2015 some 64 locations across Denmark were raided, 98 persons arrested and 22 persons charged. More than 30 persons were identified as victims of THB. The operation involved multi-disciplinary co-operation of different services (police, the CMM, tax authorities, immigration authorities) and the setting up of a successful Joint Investigation Team with Romania. District courts convicted 15 perpetrators for THB and organised fraud (with sentences ranging from two years to seven years and eleven months of imprisonment); some of the court cases are still pending.

177. Civil society representatives pointed out to the GRETA delegation that this kind of exploitation will cause difficulties for the victims after their eventual return to their home countries, since the debts taken out in their names will remain. The courts cannot annul debts taken on in this way, but based on the criminal charges, the private creditor companies can drop their claims against the victims and raise them against the traffickers as part of the case. The court may then order the trafficker to repay the debt. Civil society representatives expressed concern that not all debts taken out in the names of the victims will become known by the court, in which case the debts will eventually follow the victims to their home countries if the creditors go to court with unpaid bills or debts.

⁵² Decision by the District Court of Helsingør on 6 March 2014. The Administration of Justice Act, section 834, subsection 2, litra 4 provides that the grounds for an indictment must be provided whereas in the indictment of the "Cellar Case" the coercion, recruitment and transport were not described.

⁵³ Decision by the District Court of Helsingør on 26 March 2014.

⁵⁴ Decision by the Eastern High Court of Denmark on 4 March 2015.

178. GRETA stresses that failure to convict traffickers and the absence of effective sentences undermines efforts to combat THB and support victims' rehabilitation and reintegration. **GRETA considers that the Danish authorities should take additional measures to ensure that cases of THB for the purpose of sexual, labour or other exploitation are investigated proactively, prosecuted successfully, and lead to effective, proportionate and dissuasive sanctions. In this context, the Danish authorities should encourage the specialisation of prosecutors and judges to deal with human trafficking cases.**

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

179. During the court proceedings the victim or his or her representative can ask the court to decide that the proceedings will not be open to the public if the victim is considered to be in danger. Section 29(1) of the Administration of Justice Act further provides for the possibility to hold court proceedings in camera if the hearing in public will cause somebody to be unnecessarily aggrieved. Moreover, the victim or his/her representative can ask the court to decide that the victim's identity may not be made public. However, concerns were expressed by civil society representatives about current legislation allowing questions about private life being asked in open court hearings. The courts may decide that the offender has to leave the courtroom while the victim gives testimony, if there is reason to believe that the victim will not be able to give an unreserved testimony with the offender present. Children under 13 years of age only give video recorded statements for courts. On 11 February 2016 the Administration of Justice Act was amended, following which persons less than 18 years of age may be video interviewed when special circumstances apply and taking into account the child's age. THB is mentioned as an example of possible applicability. The amendments entered into force on 1 April 2016.

180. A witness protection programme run by the national police exists in Denmark (see paragraph 213 of the first GRETA report on Denmark). According to the Danish authorities, specific details on available protection measures cannot be given due to the sensitivity of such information. The Director of Public Prosecutions was not able to provide statistics on the number of cases where special protection measures have been used.

181. Victims of trafficking are generally allowed to have a representative present during their interviews with the police. Although not having any legal status in such cases, an NGO or association is free to offer its assistance to a victim, e.g. by being present during the legal proceedings.

182. The Danish authorities are not in possession of information or statistics on the number of victims of THB who have benefitted from the existing provisions for the protection of victims and witnesses.

183. **GRETA considers that the Danish authorities should make full use of existing measures to protect victims of human trafficking from intimidation and retaliation during the investigation and court proceedings.**

c. Jurisdiction (Article 31)

184. It follows from section 6 of the CC that an act of THB falls under Danish criminal jurisdiction when the act is committed within the Danish state⁵⁵, on board a Danish vessel or aircraft located within the territory of another state by a person belonging to or travelling on the vessel or aircraft, or on board a Danish vessel or aircraft located outside the territory of any state.

185. Denmark also asserts extra-territorial jurisdiction with regard to trafficking in human beings. According to section 7(1) of the CC, Denmark has criminal jurisdiction when the act is committed within the territory of another state by a person who was a Danish national or had his/her permanent or habitual residence within the Danish state at the date of the provisional charge if the act is also a criminal offence under the legislation of the country in which the act was committed (dual criminality), or if the offender had the aforesaid attachment to Denmark when committing the act and such an act comprises human trafficking or is aimed at someone having the aforesaid attachment to Denmark when the act was committed. The Danish authorities have also referred to sections 7(2) and 7a(3) of the CC which establish Danish criminal jurisdiction over acts committed outside the territory of any state by Danish nationals or persons who have their permanent or habitual residence in Denmark, or against Danish nationals or persons who have their permanent or habitual residence in Denmark, provided the acts in question are punishable by imprisonment of over four months.

186. When ratifying the Convention, Denmark made a reservation in relation to Article 31, paragraph 1(e), which concerns jurisdiction over offences committed against one of its nationals outside Denmark. **GRETA invites the Danish authorities to review to pertinence of this reservation.**

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

a. International co-operation (Article 32)

187. In its first report on Denmark, GRETA considered that the Danish authorities should explore further possibilities for international co-operation with governmental and non-governmental actors in the fields of protecting and assisting victims of trafficking, including in preparation of their return and reintegration in their countries of origin. Further, GRETA invited the Danish authorities to continue developing international co-operation with a view to preventing and combating THB.

188. Denmark actively engaged in co-operation in international and regional fora, such as the UN, the OSCE, the EU, the Council of Europe, the Council of Baltic Sea States and other international bodies on the issue of THB, *inter alia*, to ensure that the topic remains high on the agenda. Through the EU and through core support to UN organisations active in work against THB, Denmark contributes to financing activities at country level aimed at preventing and combating THB.

189. The National Police participate in co-operation in the frameworks of Europol, Frontex and Interpol. However, representatives of the Danish police met by the GRETA delegation stated that the exchanges of information with Interpol are not very smooth and that international police co-operation in other fora or bilaterally varies in quality, with co-operation with Frontex being among the most positive examples.

⁵⁵ Denmark's reservation as regards the Convention's applicability to the Faroe Islands and Greenland remains in force.

190. Denmark is a member of the Council of the Baltic Sea States (CBSS) Task Force against Trafficking in Human Beings and supports its work, including a new CBSS project focusing on supporting trafficking victims in the local communities of member States ("Strengthening the Role of Municipalities in the Work against Trafficking in Human Beings"). In the years 2012-14, Denmark participated in a regional initiative implemented under the auspices of the CBSS entitled "ADSTRINGO". The objective of the project was to prevent THB for forced labour through enhanced national and regional partnerships and through improved understanding of the mechanisms that facilitate such exploitation. The core target group consisted of key labour actors, including representatives of employers and trade unions as well as policy-makers, authorities and representatives of NGOs and migrant service providers. Nationally, the main target groups included representatives of recruitment agencies, businesses, employer's associations, trade unions, labour inspectors, law enforcement authorities, work permit authorities, NGOs, tax authorities, national rapporteurs on THB, etc. On the international level, the target group included representatives of international employers' and employees' organisations as well as international organisations and international NGOs.

191. In 2013 the CMM established a Nordic network against child trafficking, an informal meeting forum, with participants from relevant central authorities and NGOs working with child victims of trafficking. Besides contributing to the development of standards regarding trafficked children on topics such as identification, social services and support, protection, repatriation and (re)integration, prevention and partnership, its aims are to find ways to share data and knowledge across countries and to develop practices and procedures regarding minors who cross borders and travel between the Nordic countries. Once a year the participating countries contribute to a short report where activities and discussions in the network are summarised.

192. Furthermore, the Danish authorities reported that bilateral development co-operation contributes to promoting sustainable development in countries of origin and thus also contributes to combating THB by addressing its root causes, such as poverty and inequitable social distribution. Some Danish embassies support short-term specific anti-trafficking activities. For instance, in Mozambique the Danish embassy supports financially the Mozambican Human Rights League, which is mapping human trafficking in the country with a view to elaborating an action plan. In Ethiopia Denmark has for a three-year period (2011-2014) financed a programme called "Support to the Agar Strategic Plan with a Focus on Trafficking Victims Reintegration Programme (Agar)" with DKK 3,5 million (about 470 000 euro). In Bolivia the current country programme contributes to supporting the efforts of national institutions with DKK 25 million (about 3.35 million euro), including as regards legislation and investigation of crime in the field of anti-trafficking and violence against women. For instance, the Danish embassy in La Paz supported in 2014 a regional seminar on combatting trafficking at which the government presented its national strategy. The Danish Government's Neighbourhood Programme for bilateral co-operation in support of anti-THB actions in Belarus, the Republic of Moldova and Ukraine mentioned in GRETA's first report was completed recently. Further, until 2015 Denmark annually supported UNODC with approximately DKK 5 million (about 670 000 euro) as core funding. In 2015, Denmark seconded a junior expert to the trafficking and smuggling section in UNODC. Denmark also supported UN Women with DKK 60 million (about 8 million euro) in 2015 as core funding.

193. The CMM has also made efforts to enhance bilateral collaboration with selected countries where victims of THB in Denmark typically originate or through which they transit, e.g. Nigeria, Romania, Spain, Italy and Thailand. CMM sends teams to all these countries on study trips and fact-finding missions to learn more about the opportunities for returned victims of THB and reintegration services available.

194. A Memorandum of Understanding has been concluded between the Ministry of Public Security of the People's Republic of China and the Danish Ministry of Justice on Police Co-operation in Preventing and Combating Crime, in which the parties have agreed to enhance co-operation in order to prevent and combat various crimes, including transnational THB. Furthermore, an agreement has been concluded between the Governments of the Russian Federation and Denmark on co-operation in combatting transnational crimes, including THB, in which the parties have agreed to co-operate and provide mutual assistance. Denmark has not concluded any bilateral agreements on police co-operation exclusively in the fight against trafficking.

195. In the last three years, a Joint Investigation Team has been set up between Denmark and Estonia in a case of suspected THB for sexual exploitation that stretches beyond Denmark's borders. The investigation was ongoing at the time of the GRETA delegation visit to Denmark, but was scheduled to be concluded by October 2015. As a result of the JIT a male and a female suspect were charged with *inter alia* THB. A Danish district court convicted the women of THB for the purpose of sexual exploitation and for pimping, but the High Court dismissed the THB-charge, because the evidence was not sufficient. The male suspect was never arrested.

196. **GRETA commends the efforts in the area of international co-operation made by Denmark and invites them to continue and develop these efforts.**

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

197. In its first report on Denmark, GRETA invited the Danish authorities to involve representatives of NGOs in the meetings of the Inter-Ministerial Working Group on Human Trafficking and work with NGOs in policy development. According to the Danish authorities, NGOs are already associated in the policy development in this area through close involvement in external evaluations of the NAPs and by providing input during their development. NGOs are also represented in the local and national co-ordination and referral groups that report to the inter-ministerial working group.

198. According to the authorities, the involvement of NGOs and other civil society organisations has been a key element in the efforts to combat THB since the first NAP was adopted in 2002. In the new NAP for 2015-2018, funds have been set aside for which NGOs and other civil society organisations can apply to perform certain tasks that fall within the scope of the NAP. These funds are for the period from 1 July 2015 until the end of 2018 and will amount to approximately 18 000 000 DKR (about 2,4 million euros) in total.

199. However, NGO representatives met by GRETA during the second evaluation visit were less positive about the Government's co-operation with civil society and stated that while the Government provided information, there was no real consultation. For example, it was said that NGOs had not been consulted at all about the 2015-18 NAP and only briefly in the context of the COWI evaluation of the 2012-2014 NAP (see paragraph 21).

200. **Taking into account the important role played by civil society in implementing anti-trafficking activities, the National Action Plans, GRETA considers that civil society should be adequately consulted during the evaluation of previous National Action Plans and the drawing up of new plans.**

IV. Conclusions

201. Since the adoption of GRETA's first report on Denmark in 2011, progress has been made in a number of areas.

202. The Danish authorities have continued to develop the legal framework for combating trafficking in human beings. The provision criminalising human trafficking has been amended to specifically include exploitation for criminal activities among the forms of exploitation and the maximum penalty has been increased from eight to 10 years. Further, the maximum duration of the "reflection period" was extended from 100 to 120 days, and a new provision was added to the Aliens Act concerning the granting of a temporary residence permit to victims of trafficking for the purpose of their co-operation in the investigation or criminal proceedings.

203. Since GRETA's first evaluation, the Danish Centre against Human Trafficking (CMM) has developed a national referral system aimed at ensuring co-ordination between all relevant actors and has extended its network of co-operation partners.

204. Progress has been made in developing a comprehensive and coherent statistical system on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of THB cases.

205. Efforts have been made to prevent human trafficking for the purpose of labour exploitation, including through working with the private and public sectors and promoting corporate social responsibility. GRETA welcomes the issuing of guidelines for companies and employers on managing the risk of hidden forced labour.

206. The Danish authorities have pursued their training efforts in the area of combating human trafficking and identifying victims and have expanded the categories of staff targeted.

207. GRETA commends the guidelines published by the Director of Public Prosecutions on how to deal with THB cases, and the training package developed by the CMM for airlines companies about how to spot possible victims of THB.

208. GRETA also welcomes the efforts made in the area of international co-operation, both when it comes to co-operation in the investigation of human trafficking cases, and funding of projects aimed at improving the prevention of trafficking and strengthening the protection of victims.

209. However, despite the progress achieved, some issues give rise to concern. In this report, GRETA requests the Danish authorities to take further action in a number of areas. The position of the recommendations in the text of the report is shown in parentheses.

Issues for immediate action

- **Recalling the recommendations made in the first report, GRETA once again urges the Danish authorities to review the identification procedure for victims of trafficking with a view to ensuring that all victims are identified as such and can benefit from the assistance and protection measures provided for under the Convention. This should include steps to:**
 - **extend the time-frame for the identification of victims of trafficking with an irregular migration status, taking into account the traumatic experience victims may have suffered and the need for sufficient time to gather all the necessary information and decide on the status of victims of trafficking, and ensuring that when there are reasonable grounds to presume that an irregular migrant is a victim of trafficking, the person is speedily removed from detention and offered assistance and protection as provided in the Convention;**
 - **ensure that the guidance, toolkits and criteria used for the identification of victims of trafficking by frontline staff are harmonised and that application is rigorously monitored;**
 - **increase the incentives for self-identification by victims of trafficking (see the recommendations in paragraphs 117 and 124);**
 - **improve the identification of victims of trafficking in detention centres, by giving access to such centres to specialised NGOs and enabling detained irregular migrants to have access to early legal assistance;**
 - **pursue a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by expanding the mandate of SKAT and labour inspectors and by encouraging regular and co-ordinated multi-agency inspections by organisations responsible for regulating employment, health and safety in sectors most at risk;**
 - **make efforts to identify victims of forced begging as a form of THB for the purpose of forced labour (paragraph 89).**
- **GRETA urges the Danish authorities to make further efforts to improve the identification of, and assistance to, child victims of trafficking, including among unaccompanied children, and in particular to:**
 - **establish a clear procedure (National Referral Mechanism) concerning the identification of child victims of THB and disseminate information and guidance about the application of this procedure to relevant professionals;**
 - **ensure that legal guardians are appointed without delay and are able to carry out their tasks in an efficient manner. This involves the provision of training on the assistance and protection of child victims of trafficking to persons who are likely to be appointed as legal guardians;**
 - **take steps to address effectively the problem of disappearance of unaccompanied minors from reception facilities, by providing suitable safe accommodation and sufficient numbers of adequately trained supervisors (paragraph 107).**

- **Recalling the recommendation made in the first report, GRETA once again urges the Danish authorities to review the legislation in order to ensure that all persons for whom there are reasonable grounds to believe that they are victims of trafficking, including those to whom the Dublin II Regulation is applicable, are provided with a recovery and reflection period, in line with Article 13 of the Convention, rather than a time-limit to prepare their departure from the country as irregular aliens. The recovery and reflection period should be granted to victims of trafficking unconditionally, regardless of whether they have co-operated with the authorities in the past or do so in the present (paragraph 117).**
- **GRETA urges again the Danish authorities to review the legislation in order to fully reflect the substantive provisions of the Convention regarding the criminalisation of acts relating to travel or identity documents (Article 20) and aggravating circumstances (Article 24) (paragraph 148).**

Further conclusions:

- GRETA considers that the Danish authorities should examine the possibility of establishing an independent National Rapporteur or designating another mechanism as an independent organisational entity with a view to ensuring effective monitoring of the anti-trafficking activities of state institutions and making recommendations to persons and institutions concerned (paragraph 27).
- GRETA considers that the efforts of the Danish authorities to provide training concerning THB to an extensive range of professionals efforts should continue, in particular as regards judges, prosecutors, labour inspectors, staff working in detention centres and centres for asylum seekers, as well as medical staff, and that the training should take place on a systematic basis (paragraph 38).
- GRETA considers that the comprehensive and coherent statistical system on measures to protect and promote the rights of victims as well as on the investigation, prosecution and adjudication of THB cases which has been developed should be made operational as soon as possible and be used to its full potential (paragraph 42).
- GRETA considers that the Danish authorities should continue to conduct and support research on THB-related issues as an evidence base for future policy measures. Areas where research is needed in order to shed more light on the extent of the problem of THB include trafficking of children and internal trafficking (paragraph 45).
- GRETA invites the Danish authorities to continue their efforts to raise awareness of THB, including of new forms of trafficking such as for the purpose of exploitation in criminal activities and forced begging, and to design future awareness-raising measures in the light of impact assessments of previous measures and research (paragraph 49).

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- GRETA considers that the efforts by the Danish authorities to prevent THB for the purpose of labour exploitation, including through working with businesses and promoting corporate social responsibility, should be intensified, in particular by:
 - further sensitising relevant officials about THB for the purpose of labour exploitation and the rights of victims;
 - strengthening the monitoring of foreign companies which send workers to Denmark and controlling the authenticity of work contracts presented for the purpose of acquiring visas, national identity (CPR) numbers and other central personal documents;
 - encouraging businesses domiciled in Denmark and outsourcing production to other countries to carry out human rights due diligence, including measures to secure traceability and transparency;
 - working more closely with the private sector, in line with the Guiding Principles on Business and Human Rights (paragraph 57).
 - GRETA considers that the Danish authorities should increase their efforts to raise awareness of child trafficking, including by continuing and expanding the provision of information to school children about this phenomenon (paragraph 62).
 - GRETA invites the Danish authorities to ensure that, as part of their training, medical staff are continuously sensitised to THB for the purpose of organ removal (paragraph 67).
 - GRETA considers that the Danish authorities should continue their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society and the private sector (paragraph 70).
 - GRETA considers that Danish police serving at external borders should step up their efforts to detect potential victims of THB at border crossings, in particular in the context of increased migration flows (paragraph 74).
 - GRETA considers that the Danish authorities should increase their efforts to ensure that all victims of THB are provided with adequate assistance, and in particular:
 - provide a permanent solution for offering safe and suitable accommodation for male victims of THB;
 - further improve the early provision of legal assistance and legal aid to victims of trafficking (paragraph 97).
 - GRETA considers that the Danish authorities should take appropriate steps to ensure that when provision of a service for victims of THB is delegated to NGOs, the same rules of confidentiality and data protection apply (paragraph 109).
 - Given that it is extremely rare for victims of trafficking to receive residence permits, GRETA considers that the Danish authorities should review the application of the system for granting residence permits to victims of trafficking with a view to ensuring that the victim-centred approach which underpins the Convention is fully applied and in order to prevent re-trafficking (paragraph 124).
 - GRETA invites the Danish authorities to make full use of seized assets to compensate victims of trafficking (paragraph 133).

- GRETA considers that the Danish authorities should make additional efforts to guarantee effective access to compensation for victims of THB, either from the offender or the State, including through the systematic provision of legal advice and information to victims about their eligibility for compensation. Training on THB for police officers, prosecutors, lawyers and judges should, as an important component, include the topic of compensation. Further, as stressed in the first report, granting residence permits to victims of THB for the duration of the legal proceedings will facilitate access to compensation and redress (paragraph 135).
- GRETA considers that the Danish authorities should give full consideration to the UNHCR's guidelines on the application of the Refugees Convention to trafficked people and their possible entitlement to asylum when deciding upon applications for asylum of persons who are at risk of being re-trafficked or otherwise persecuted should they be obliged to return to their State of origin or residence. Further, GRETA considers that the authorities should take steps to ensure that the return of victims of THB is preferably voluntary, and is conducted with due regard to their rights, safety and dignity, including the right to *non-refoulement* (Article 40(4) of the Convention) and, in the case of children, by fully respecting the principle of the best interests of the child. The principle of *non-refoulement* should apply when a victim of trafficking is at risk of being re-trafficked if returned to the country from which s/he was trafficked to Denmark (paragraph 143).
- GRETA considers that the Danish authorities should continue to develop co-operation with countries of origin of victims in order to ensure comprehensive risk and security assessment (Article 16(7) of the Convention) and safe return of the victims, as well as their effective reintegration on return (paragraph 144).
- GRETA considers that stating explicitly the irrelevance of the consent of a victim of trafficking to the intended exploitation would facilitate the effective implementation of the anti-trafficking legislation (paragraph 149).
- GRETA invites the Danish authorities to consider introducing into law the criminalisation of all forms of use of services which are the object of exploitation as referred to in Article 4 of the Convention, where such use is done with the knowledge that the person providing the service is a victim of THB (paragraph 154).
- GRETA invites the Danish authorities to examine the reasons why no legal entities have been punished for trafficking-related acts and, in the light of their findings, take the necessary measures to ensure that the criminal liability of legal entities can be acted upon in practice so that trafficking situations are more often established (paragraph 155).
- GRETA considers that the Danish authorities should take steps to:
 - extend the scope of the non-punishment provision to cover all offences which victims of THB were compelled to commit, including administrative and immigration-related offences;
 - strengthen their efforts to ensure compliance with the principle of the non-punishment provision, including by amending and promoting the existing guidance (paragraph 165).
- GRETA considers that the Danish authorities should take additional measures to ensure that cases of THB for the purpose of sexual, labour or other exploitation are investigated proactively, prosecuted successfully, and lead to effective, proportionate and dissuasive sanctions. In this context, the Danish authorities should encourage the specialisation of prosecutors and judges to deal with human trafficking cases (paragraph 178).

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- GRETA considers that the Danish authorities should make full use of existing measures to protect victims of human trafficking from intimidation and retaliation during the investigation and court proceedings (paragraph 183).
 - GRETA invites the Danish authorities to review to pertinence of its reservation in relation to the Convention's Article 31, paragraph 1(e), which concerns jurisdiction over offences committed against one of its nationals outside Denmark (paragraph 186).
 - GRETA invites the Danish authorities to continue and develop their efforts as regards international co-operation (paragraph 196).
 - Taking into account the important role played by civil society in implementing anti-trafficking activities, the National Action Plans, GRETA considers that civil society should be adequately consulted during the evaluation of previous National Action Plans and the drawing up of new plans (paragraph 200).

Appendix

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

Public bodies

- Ministry of Justice
- Ministry of Children, Gender Equality, Integration and Social Affairs,
- Ministry of Employment
- Ministry of Foreign Affairs
- Ministry of Taxation
- Danish Centre against Human Trafficking (CMM)
- Danish National Police
- National (Police) Centre of Investigation
- Danish Immigration Service (DIS)
- Copenhagen Police Specialised Unit on Trafficking in Human Beings
- Copenhagen Airport Passport Police
- Public Prosecution Service
- Danish Association of Judges
- Danish Customs and Tax Administration (SKAT)
- Working Environment Authority
- Criminal Injuries Compensation Board
- Ms Jane Heitmann, Member of Parliament

Intergovernmental organisations

- International Organization for Migration (IOM)
- Nordic Council of Ministers

NGOs and other civil society organisations

- Consultancy within Engineering, Environmental Science and Economics (COWI)
- Danish Red Cross
- Hope Now
- Nest/Reden International
- Pro West
- Save the Children
- The Street Lawyers (*Gadejuristen*)
- 3F (United Federation of Danish Workers)

GOVERNMENT'S COMMENTS

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

GRETA engaged in a dialogue with the Danish 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 Danish authorities on 22 April 2016 and invited them to submit any final comments. The comments of the authorities of Denmark, submitted on 20 May 2016, are reproduced hereafter.

Ministry of Justice**Date: 9 June 2016****Office: Politikontoret****Contact: Tine Rahr Kristensen****Our ref.: 2014-19000-0278****Doc.: 1976048****Final comments to the GRETA report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Denmark**

At the 25th meeting of GRETA (7-11 March 2016), the final report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Denmark (second evaluation round) was adopted.

Denmark received GRETA's final report on 22 April 2016 and has been invited to submit any final comments to this report. A draft version of the report was approved by GRETA at its 24th meeting (16-20 November 2015) and was submitted to the Danish authorities for comments on 22 December 2015. The Government of Denmark commented on the draft report on 22 February 2016. In the following, Denmark's comments to GRETA's final report are made.

Comments regarding the factual contents of GRETA's final report**Paragraph 59:**

The Government notes that the CMM has not yet been able to establish a dialogue with all the professionals mentioned in this paragraph in order to arrange training sessions. With regard to the police, municipalities and institutions for young offenders, the CMM has only trained some police units, students in police academy, some municipalities and staff in few institutions for young offenders.

Paragraph 86:

Reference is made to the Government's comments of 22 February 2016 to this paragraph (the former paragraph 82) where the following sentence was added at the end of the paragraph: "However, identification for the purpose of providing social assistance may be included in the identification with a view to prosecuting the perpetrators."

Paragraph 91:

The Government notes that the lawyer assists all persons coming into contact with the CMM.

Paragraph 94:

With reference to paragraph 91, the Government notes that the CMM does employ a part time lawyer as a part of its permanent staff. The lawyer provides support to potential victims of trafficking and victims of trafficking coming into contact with the CMM. The goal is to assist the victims at an early stage, even before a formal identification as victims of human trafficking takes place.

Furthermore, the Government notes that support attorneys are appointed to victims of human trafficking in criminal proceedings when they so request. The attorney must be appointed when the victim so requests and the victim may only be interviewed by the police without the attorney present if the victim is willing to do so.

Paragraph 176:

The Government notes that the information that the case involved some 300 persons being recruited is based on estimation on the overall number of persons involved in the matter. Thus, not all of these persons were identified as victims of trafficking.

Furthermore, the Government notes that as of today 15 defendants connected to the "Operation Hornet's Nest" have been convicted of trafficking (1 defendant was acquitted on the count of trafficking). However, the cases have been appealed to the High Court and are therefore not final. The last case connected to

the “Operation Hornet’s Nest” concerning 5 defendants is still pending at the District Court. 1 defendant has absconded prosecution and an arrest warrant has been issued internationally.

Paragraph 180:

The Government generally notes that statistical information about the use of special protection measures is classified.

Paragraph 185:

The Government notes that the information regarding Danish extraterritorial criminal jurisdiction pursuant to Section 7(2) and 7a(3) of the CC is not accurate as it does not reflect *when* the person must have the said attachment to Denmark. Denmark has extraterritorial criminal jurisdiction pursuant to Section 7(2) and 7a(3) of the CC in the following situations:

According to Section 7(2) of the CC acts committed outside the territory of any state by a person who was a Danish national or had his permanent or similar habitual residence within the Danish state at the date of the provisional charge are also subject to Danish criminal jurisdiction, provided that acts of the kind described may carry a sentence of imprisonment for a term exceeding four months.

According to Section 7 a(3) of the CC acts committed outside the territory of any state, but aimed at a person who was a Danish national or has his/her permanent or similar habitual residence within the Danish state when the act was committed are also subject to Danish criminal jurisdiction, provided that acts of the kind described may carry a sentence of imprisonment for a term exceeding four months.

Comments regarding GRETA’s recommendations

Paragraph 27:

The Danish actions to combat human trafficking carried out by the CMM is evaluated at the moment, and on basis of the results of this evaluation the Government will consider the need for adjustments of the existing Rapporteur-mechanism.

Paragraph 38:

The Government will continue training of professionals in the recognition of signs, signals and needs of the victims of human trafficking. The Government regularly considers how to strengthen and expand the training of professionals and frontline personnel.

Specifically regarding the training of prosecutors, the opinion of the Director of Public Prosecutions is that the initiated measures and procedures are sufficient to ensure that THB cases are handled correctly and uniformly across country, even though there are no training sessions specifically on THB for prosecutors and no prosecutors specialized in THB cases.

Paragraph 42:

The Government acknowledges the recommendation and will consider how to further strengthen the use of the statistical system on knowledge of human trafficking.

Paragraph 45:

The Government acknowledges the recommendation and will consider how to further strengthen research and knowledge about human trafficking-related issues.

However, the Government has already taken steps in this regard having launched an amendment to the current Danish Action Plan to Combat Trafficking in Human Beings. The purpose of the amendment is *inter alia* to strengthen the acquisition of knowledge and to ensure that the outreach work to individuals who have been trafficked into prostitution or labour exploitation is developed and strengthened. The amendment includes the following initiatives:

- Pool for the development of an outreach effort among persons trafficked into prostitution advertised through the internet and digital platforms

- Pool for the development and strengthening of outreach work among victims of trafficking in to forced labour in selected industries
- Nationwide outreach efforts and systematic screening for victims of human trafficking among foreign nationals working in brothels

It is ensured that outcomes and lessons from these initiatives are documented.

Furthermore the amendment to the action plan includes a mid-term evaluation of the CMM.

Paragraph 49:

The Government acknowledges the recommendation. The Government has a continuing focus on how to raise awareness about human trafficking in general and on new forms of human trafficking.

Paragraph 57:

The Government will consider the recommendations and how to further strengthen the action against human trafficking for the purpose of labour exploitation. However, the Government has already taken a number of steps in this regard.

As also stated in the Government's comments of 22 February 2016, a governmental interdisciplinary working group including the CMM, the Danish National Police, the Tax authorities (SKAT), the Danish Working Environment Authority (AT), the Danish Agency for Labour Market and Recruitment (STAR) and the Danish Immigration Service (DIS) was established in 2012 as part of the strengthened efforts to combat human trafficking for labour exploitation. The purpose of the task force is to exchange knowledge on specifically vulnerable sectors with regard to human trafficking for forced labour and to establish procedures for referral and identification of victims.

Moreover the Danish Government has launched an amendment to the current Danish Action Plan to Combat Trafficking in Human Beings. The purpose of the amendment is to ensure that the outreach work to individuals who have been trafficked into prostitution or labour exploitation is developed and strengthened. Activities involve development of a screening tool, outreach, awareness raising and information dissemination aimed at the target group. These efforts are undertaken by the Danish Trade Union, 3F, and Aalborg University and it is ensured that outcomes and lessons are documented. A group of relevant authorities concerning trafficking into labour exploitation (including SKAT, the Danish National Police, the Danish Working Environment Authority, the Danish Agency for Labour Market and Recruitment, the Danish Immigration Service and the Center against Human Trafficking) will follow up on and discuss lessons learned from this funding pool.

In 2012, the Mediation and Complaints-Handling Institution for Responsible Business Conduct was established by law. This institution deals with cases relating to non-compliance of the OECD Guidelines for Multinational Enterprises. As such the institution can deal with cases involving Danish companies who have not fulfilled their human rights due diligence as described in the UN guiding principles and the OECD guidelines for multinational companies. This gives a person or a group of persons, who have experienced negative impact on their human rights, access to remedy. The institution seeks to mediate between the parties involved and can express critical statements in cases where mediation is not possible.

In 2014 the institution examined a complaint stating that a Danish company had infringed on the human rights of its foreign workers by withholding their passports. The institution made a public statement saying that it was a gross infringement of the human rights of the foreign workers to withhold their passports.

The institution is the OECD's Contact Point in Denmark and is responsible for raising awareness of what responsible business conduct entails. The institution has published an online due diligence guide

and in November 2015 it held an international conference on operationalising due diligence targeted at Danish companies.

The Government notes that the effort to ensure decent working conditions in Denmark continues to be a high priority, and that the monitoring of foreign companies operating in Denmark is an important element in this effort.

Paragraph 62:

The Government will consider the recommendations on how to further strengthen the awareness of child trafficking.

Paragraph 67:

As stated in the report it is not allowed to advertise organs for sale and any financial gain in relation to the donation is prohibited. The prohibition includes doctors, donors, the recipient and intermediaries. Not only the reception and the payment are prohibited. Knowledge of the accomplishment of such a financial gain is also prohibited.

According to annex 4 of the consecutive order on quality and safety with regard to organ transplantation, the hospitals/Regions in Denmark are responsible for adequate training of their personnel.

Paragraph 70:

The Government will consider the recommendations on how to further strengthen efforts to discourage demand for the services of trafficked persons.

Paragraph 74:

The Government has taken note of the recommendation. However, in the Government's opinion adequate steps have already been taken to step up efforts to detect potential victims of THB at border crossings, cf. paragraph 71.

Paragraph 89:

There are two procedures in place for granting the status of a victim of THB, depending on whether the person concerned is regularly or irregularly present in Denmark. In the first case the CMM is responsible for the identification of a victim of THB. In the latter case, the Danish Immigration Service (DIS) is responsible for the identification.

As previously noted by the Government, it must be emphasized that there is no legal requirement in Danish legislation stating that in processing cases of irregular immigrants, the DIS must perform the identification of a potential victim of THB within a certain time limit.

Pursuant to the Danish Aliens Act the police may decide to detain an irregular immigrant administratively for a period of maximum 72 hours if detention is deemed necessary and proportional in order to enable departure. If the police deem it necessary to detain the alien for longer than 72 hours, the lawfulness of the detention has to be reviewed by a court.

Thus, the 72 hours mentioned above refers to the maximum period of time an alien can be detained before the case is brought before a court. This does not lay down a time limit for granting the status of a victim of THB. To ensure that a possible victim of THB is detained no longer than necessary, the identification must be carried out as soon as possible and will as a general rule be made within 72 hours by DIS.

The DIS' decision in this regard is based on information from and assessments made by the CMM and the police. The CMM's and the police's assessments will be forwarded to the DIS as soon as possible ensuring that the decision in most cases can be made within the 72 hour period.

However, in special cases, where the CMM needs more time to interview a potential victim in order to make an assessment, the police can ask the court to extend the detention, in order to ensure the CMM

the necessary time to examine the case. The DIS will not make a decision to expel a potential victim until the CMM has interviewed him or her and made an assessment regardless of the 72 hour period, nor will the said person be returned before an assessment of THB has been made.

If and when an alien is identified as a victim of THB, the said person will be released from detention unless the person is suspected of a serious criminal offense and he or she will be granted a reflection period and offered a prepared return to his or her home country in case the alien is not granted a residence permit.

The Government has carefully considered the recommendation to extend the time-frame for the identification of victims of trafficking with an irregular migration status. However, in order to ensure that detention of asylum seekers and irregular migrants, including possible victims of THB, is of the shortest possible length of time, Denmark has not found compelling reasons to introduce a time-frame in Danish legislation within which victims of THB must be identified.

The Government notes that if a victim of trafficking is staying illegally in Denmark, the victim will be offered a prolonged deadline for leaving the country according to the Danish Aliens Act Section 33(14), unless particular reasons make it inappropriate. This period is also known as a reflection period. The reflection period of 30 days is granted regardless of whether or not the victim cooperates with the authorities.

Upon request, the time limit for departure may be extended beyond the initial 30 days, if particular reasons make it appropriate or if the alien is cooperating concerning a prepared return. The time limit for departure may not exceed 120 days. In conclusion, in the Government's opinion, the Danish legislation already provides the basis for granting a reflection period of 30 days, which is not conditional on the victim cooperating with the authorities.

With regard to the recommendation on harmonization and monitoring of guidance, toolkits and identification criteria the Government notes that according to the national Action Plan to Combat Trafficking in Human Beings 2015-2018, the Danish authorities ensure that national efforts to combat trafficking in human beings continue. The first action plan was launched in 2002 and the cooperation between authorities regarding cases of human trafficking is well established in Denmark. There are set procedures for the identification and the handling of cases involving victims of human trafficking and there are several different groups of authorities meeting regularly to ensure consistency in the national procedures etc. In the Government's opinion the guidance, toolkits and criteria used for the identification of victims of trafficking by frontline staff are thus already harmonized.

With regard to the recommendation on the pursuit of a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation, the Government can inform the Committee that SKAT has assigned a number of auditing powers in order to ensure that income taxes and VAT etc. are charged correctly and paid. Auditing powers are stipulated in the individual tax laws. In the opinion of the Government, there is no need for an expansion of SKAT's mandate regarding THB. In this connection the Government notes that in case SKAT suspect THB, the information will be passed to the appropriate authority - in this case the police.

In the light of the applicable general administrative rules on exchange of information between governmental authorities the Government sees no need for an expansion of SKAT's mandate in this regard.

With regard to the recommendation on identification of victims of forced begging, the Government notes that it has a continuing focus on ensuring that the Danish efforts against human trafficking follow the development of all forms of human trafficking crimes.

Paragraph 97:

The Government notes that all victims of trafficking in human beings – including male victims of trafficking – who are under the provision of the Danish Immigration Service have access to accommodation in asylum centers.

The CMM is continually working to ensure adequate housing for all victims of human trafficking, including male victims, and the Government is following the needs of all victims closely.

Furthermore, the Government notes that all victims of human trafficking referred to or in contact with CMM have access to legal assistance in Denmark via the CMM.

Furthermore, all victims of human trafficking also have the right to legal assistance in the form of a support attorney provided by the state during criminal proceedings. The police must inform the victim of the right to have a support attorney appointed. The information must be given before the first police interview and must be repeated before a second police interview is conducted, cf. Section 741b of the CC. The support attorneys must be appointed when the victim so request, cf. Section 741a of the CC, and the victim may only be interviewed by the police without the attorney present if the victim is willing to do so, cf. Section 741b of the CC. These provisions facilitate early provisions of legal assistance to victims of THB.

The Danish efforts against human trafficking are being evaluated at the moment and on basis of the results the Government will consider whether adjustments are needed in the organization and process of the services to victims of trafficking.

Paragraph 107:

The Danish action to combat human trafficking carried out by the Center against Human Trafficking is evaluated at the moment and the Government will on basis of the results consider the need for any adjustments of the existing procedures concerning identification of child victims of human trafficking.

With regard to the recommendation on the appointment of legal guardians, the Government notes that pursuant to Section 56a(1) of the Danish Aliens act all unaccompanied minors are appointed a legal guardian to provide them with personal support during their stay in Denmark. At the request of the Danish Immigration Service, an organization approved by the Minister of Immigration, Integration and Housing nominates a person to the profession of legal guardian. Legal guardians are formally appointed by the State Administration. The current group of guardians consists primarily of voluntary guardians. However, in cases regarding child victims of trafficking, only professional legal guardians with appropriate training and experience are appointed.

With regard to the recommendation on the disappearance of unaccompanied minors from reception facilities, the Government notes that as a general rule unaccompanied minor victims of trafficking are accommodated in specialized asylum centers for unaccompanied minors or other appropriate accommodation based on their individual needs. The specialized accommodation available to unaccompanied minors provides a safe environment staffed with trained personnel. The minors are supervised by staff all day and members of the staff are present around the clock.

Please also note that the National Police in accordance with the National Action Plan 2015 - 2018 – together with other relevant actors as the CMM – are focusing on gathering information about children who are potentially victims of human trafficking.

The National Police's guidelines on THB stresses that the police shall pay special attention to information or observations that indicate that a victim of trafficking is a child.

With the view of raising awareness of child trafficking among all relevant police officers, the National Police has produced a quick guide with information on aspects regarding trafficking in children. The guide contains among other things a number of indicators that is relevant in particular when assessing child trafficking.

Owing to the increasing amount of child migrants, the National Police (the National Investigation Center (NCI)) in cooperation with the CMM has initiated training of the staff of the Danish Red Cross on THB indicators, the proceedings in THB cases etc.

Paragraph 109:

The Government acknowledges the recommendation and will take it into consideration.

Paragraph 117:

As mentioned in Denmark's reply of 4 February 2014 concerning measures taken to comply with Committee of the Parties Recommendation CP(2012)4 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings regarding the first evaluation, paragraph 19, a recovery and reflection period of at least 30 days must be granted when there are reasonable grounds to believe that a person is a victim of trafficking according to article 13 in the Council of Europe Convention on Action against Trafficking in Human Beings.

This article was implemented directly in the Danish Aliens Act in 2007 by Act no. 504 of 6 June 2007, which entered into force on 1 August 2007. Thus, according to Section 33 (14) of the Danish Aliens Act such a recovery and reflection period of 30 days is granted to presumed victims of trafficking, who do not have permission to stay in Denmark. The reflection period of 30 days is granted regardless of whether or not the victim cooperates with the authorities.

Under the Aliens Act, the reflection period can be prolonged up to a total of 120 days if special reasons make it appropriate or if the foreigner accepts an offer of a prepared return and cooperates in the efforts of planning this. "Special reasons" imply *inter alia* medical reasons or that the foreigner's assistance is needed for a shorter period of time regarding criminal investigations or proceedings.

If a presumed victim seeks asylum, he/she can stay in Denmark during the asylum process. A reflection period under the Aliens Act will only be relevant, if the application is rejected and a deadline for leaving the country should then be fixed.

Victims of trafficking who are returned to another EU country under the Dublin Regulation are as a general rule not granted a reflection period. According to paragraph 27 in the Dublin III Regulation, the exchange of an applicant's personal data, including sensitive data on his or her health, prior to a transfer, will however ensure that the competent asylum authorities are in a position to provide applicants with adequate assistance and to ensure continuity in the protection and rights afforded to them. Special provisions should be made to ensure the protection of data relating to applicants involved in that situation, in accordance with Directive 95/46/EC. Against this background it is the Government's opinion that the special needs of victims of trafficking are taken into account when returned to another EU country.

Paragraph 124:

As mentioned in Denmark's reply of 4 February 2014 concerning measures taken to comply with Committee of the Parties Recommendation CP(2012)4 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings regarding the first evaluation (paragraph 20), human trafficking is regarded as a cruel and serious crime by the Government and a number of steps and initiatives have been taken during recent years aimed at combating human trafficking in a more effective manner. Important initiatives include implementing measures to identify presumed victims of trafficking. Furthermore, an important part of the efforts is to provide aid and assistance to victims in order to help them recover and escape the influence of the traffickers. Ideally, the Government wants to ensure that victims are able to start a life free of trafficking and less vulnerable to re-trafficking.

The victim-centered approach to combating human trafficking is reflected in the Danish immigration legislation. Accordingly, aid and assistance offered to the victims and e.g. the reflection period provided pursuant to the Aliens Act are unconditional of whether the person in question cooperates with the Danish authorities regarding criminal investigations or proceedings.

Under Danish law, a residence permit will not be granted solely on grounds of the applicant being a victim of trafficking. However, victims of trafficking may apply for asylum or residence permit on other grounds. Whether the conditions for granting a residence permit are fulfilled, is assessed by the

immigration authorities. Circumstances relating to the fact that a person is a victim of trafficking may be of relevance in this regard.

Asylum will be granted if the alien falls within the provisions of the Convention relating to the Status of Refugees (28 July 1951), or if the alien risks death penalty or being subjected to torture or inhuman or degrading treatment or punishment in case of return to his/her country of origin. Based on a concrete and individual assessment, this might be the case, e.g. if a victim of trafficking has been highly profiled in medias due to cooperation with law enforcement authorities, which leads to prosecution of the perpetrators.

Furthermore, residence permit on e.g. humanitarian grounds can be granted, if significant humanitarian considerations warrant it, for example if the said person suffers from a serious physical or psychological illness.

Moreover, temporary residence permits may be granted to aliens, including victims of trafficking, whose stay in Denmark is necessary regarding criminal investigations or proceedings.

The examples mentioned above apply to all aliens including victims of trafficking.

Paragraph 133:

The Government has taken note of the recommendation.

Paragraph 135:

As stated in the Government's comments to paragraph 97, a support attorney is appointed to all victims of THB who so request, cf. Section 741a of the CC. Furthermore, all victims of THB are informed by the police of the right to a support attorney and the right to seek compensation, cf. Section 741 b and 741 e of the CC.

The rules regarding compensation apply to all victims of criminal offences and as such prosecutors, judges etc. are competent in handling claims for compensation in criminal proceedings.

The Director of Public Prosecutions has published guidelines on the guidance of victims (RM 8/2007 reviewed on 16 July 2016), which i.a. includes information on how to give guidance to victims about compensation.

Furthermore, police officers at the Danish Police Academy are trained in relevant aspects regarding compensation for victims of crime.

Paragraph 143:

The Government notes that the asylum procedure in Denmark is carefully conducted in accordance with international obligations, including the Convention relating to the Status of Refugees (28 July 1951) and the principle of non-refoulement, with regard to combating trafficking and ensuring full respect for the rights of victims of trafficking.

As stated in the Government's comments to paragraph 124 above, asylum will be granted if the alien falls within the provisions of the Convention relating to the Status of Refugees (28 July 1951), or if the alien risks death penalty or being subjected to torture or inhuman or degrading treatment or punishment in case of return to his/her country of origin (principle of non-refoulement), cfr. the remarks above regarding recommendation 124.

Asylum cannot be granted solely on grounds of the applicant being a victim of trafficking as stated in UNHCR's guidelines. The applicant concerned must be found to have a well-founded fear of persecution linked to one or more of the convention grounds in order to be recognized as a refugee. Based on a concrete and individual assessment, a victim of trafficking can among others be highly profiled in medias due to cooperation with law enforcement authorities, which will rise to the level of persecution if the victim of trafficking is returned to his/her country of origin and in this case s/he will fall within the provisions of the Convention relating to the Status of Refugees (28 July 1951).

The principle of non-refoulement is incorporated in the Aliens Act Section 31 to ensure that an alien is protected against a return to a country where the alien has reason to fear persecution regardless of whether the alien has been rejected to stay in Denmark. The application of the provision complies with, among others, case-law of the European Court of Human Rights.

Furthermore, the Danish authorities carefully examine each case of an irregular immigrant in accordance with national legislation and international obligations including the principle of the best interest of the child, before deciding whether or not the said person can be granted a residence permit in Denmark or/and if the said person can be returned to their home country.

However, an irregular immigrant including victims of THB who has no legal right to stay in Denmark must leave the Danish territory.

Denmark agrees with the recommendation that the return of irregular immigrants is preferably done voluntarily.

It is a high priority for the Government to ensure that the return of irregular immigrants including vulnerable immigrants is done with due regards to their rights, safety and dignity regardless of whether the return of the said person is done voluntarily or enforced. Victims of THB are offered an individually planned repatriation program involving activities in Denmark, e.g. education or vocational training, and six months upon return, e.g. reception, housing, help regarding small business start-up. The offer aims at minimizing the risk amongst victims of THB of re-trafficking. It is however a condition for victims of THB to receive this repatriation program that he or she cooperates with the authorities on their voluntarily return.

Paragraph 144:

The Danish authorities will continue to focus on the development of the cooperation with countries of origin in order to protect the victims of trafficking.

Paragraph 148:

Article 20

Forgery is a criminal offence pursuant to Section 171 of the CC. According to this Section, the intentional use of a false document to deceive in legal matters is punishable. A document is false when it does not originate from the issuer named in the document, or content given to it does not originate from the issuer. Pursuant to the general provisions in Sections 21 and 23 of the CC it is also punishable to attempt to commit forgery or aid and abide forgery by e.g. forging a travel or identity document or by procuring or providing a false document to another person.

Acts whereby a person intentionally retains, removes, conceals, damages or destroys a travel or identity document of another person are punishable pursuant to Section 276 (theft) or Section 291 (destruction of property) of the CC.

Furthermore, according to Section 5(2)(1) and Section 5(2)(3) of the Danish Passport Act, wrongfully obtaining a passport or other travel document by fraudulent misrepresentation or concealment, causing a passport or other travel document issued for one self to be issued in another name and birthdate than one's own and the distortion or removal of parts of a passport or another travel document or notations therein for illegal purposes are criminal offences.

If the above mentioned acts are committed for the purpose to commit THB it is punishable as aiding and abiding trafficking in human beings, cf. Section 262a, cf. Section 23 of the CC.

The criminal act covered by article 20 of the convention is thus already criminalised in Danish legislation.

Article 24

Chapter 10 of the CC (Sections 80-89a) sets out general principles for determination of penalty for violations of the CC, e.g. trafficking in human beings.

It follows from Section 80(1) that when determining a sentence, consideration must be given *inter alia* to the gravity of the offence, while ensuring consistency in the application of the law. In assessing the gravity of the offence, the harm, danger and infringement pertaining to the offence and what the offender realised or should have realised in this regard must be taken into account, cf. Section 80(2) of the CC.

Section 81 of the CC contains a non-exhaustive list of circumstances which as a general rule are to be considered as aggravating circumstances when determining the sentence. Thus, the courts can without a specific statutory basis also take other aggravating circumstances into consideration when determining the penalty. According to Section 81 it must *inter alia* be considered an aggravating circumstance, if the act was committed jointly with others, if the act had been carefully planned or was a constituent element of extensive crime, if the act was committed in the exercise of a public function or office or by abuse of a position or of trust and confidence, or if the offender exploited the victim's defenseless position. The reference to the victim's defenseless position aims *inter alia* at child victims.

The aggravating circumstances mentioned in article 24 of the convention are thus already encased in Danish legislation.

Paragraph 149:

A person (adult or child) cannot consent to being a victim of trafficking in violation of Section 262 a of the CC. Consequently, such consent of a victim is irrelevant in the context of criminal proceedings as well as identification, protection and assistance of victims.

Paragraph 154:

The use of services of a victim of THB is not criminalized. However, a person's own exploitation of a victim of THB is covered by the constituent elements of the CC Section 262a regarding THB. E.g. a company that knowingly receives a victim trafficked for the purpose of forced labour in order for that person to work for the company may – as well as the person who recruited, transported, transferred and housed the victim – be subject to criminal responsibility pursuant to Section 262a of the CC.

Therefore, the Government has no current plans of amending the CC.

Paragraph 155:

The Government has taken note of the recommendation.

Paragraph 165:

According to Section 722(2) of the Administration of Justice Act indictment for an offense can be waived if there are special mitigating circumstances or other special circumstances and prosecution cannot be deemed necessary in regards to the public interest.

Pursuant to the binding guidelines issued by the Director of Public Prosecutions, indictment shall, as a main rule, be waived pursuant to Section 722(2) of the Administration of Justice Act if the suspect has been victim of human trafficking, provided that the alleged offence relates to the trafficking and cannot be characterized as a serious crime. Examples where indictment is often waived include forgery or use of false documents with regards to passports, identity papers or similar violation of the Aliens Act rules on entry into and working in Denmark, i.e. immigration-related offences. Indictment can also be waived if the trafficking is committed in order to exploit the person for criminal acts; meaning if the victim has been exploited to e.g. commit theft or dealing of narcotics.

Furthermore, as the wording of Section 262a of the CC was amended by Act no. 633 of 12 June 2013, it was stated in the preparatory works that a person exploited for prostitution should not be punished for participating as an accomplice in trafficking with regard to the persons assistance in the operation of a prostitution business by e.g. answering calls, acting as a receptionist, making purchases, cooking or cleaning. Criminal liability for participating as an accomplice should be considered only when the person has had a more direct role in connection with the recruitment, transport, transfer, housing or receiving of another person in circumstances covered by the provision.

In the view of the Government some crimes may be so serious that they call for criminal liability regardless of the circumstances. Therefore, the Government does not have any current plans of amending the rules in the Administration of Justice Act regarding waiver of indictment.

In this connection the Government notes that if criminal charges are brought against a victim of THB, the penalty may be reduced pursuant to Section 82(6) and 83 of the CC.

Paragraph 178:

The Government has taken note of the recommendation.

Paragraph 183:

The Government has taken note of the recommendation. However, in the Government's opinion there are no grounds to assume that the existing measures to protect are not adequately used.

Paragraph 186:

As explained in paragraph 185 not all extra-territorial crimes concerning THB committed against a Danish national are subject to Danish criminal jurisdiction. Therefore, it is the Government's assessment that the reservation to article 31(1)(e) of the convention is a necessity.

Paragraph 196:

Denmark will continue to support international and regional organisations in combating and preventing trafficking.

Paragraph 200:

The Danish action to combat human trafficking carried out by the CMM is evaluated at the moment by an extern consulting agency. All NGO's working with victims of human trafficking and other issues related to human trafficking are interviewed as part of the evaluation.

In the end of 2014 quarterly meetings between the NGOs, the CMM and the Ministry of Children, Education and Gender Equality were established. This ensures a high degree of information-sharing and provides a forum for tackling issues and challenges and sharing of best practices. Furthermore, twice a year the CMM has individually bilateral meetings with all NGOs involved in the Action Plan.