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# **GRETA**

Group of Experts on Action  
against Trafficking in Human Beings

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

First evaluation round

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## Preamble

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Executive summary

The Swedish authorities have taken a number of important steps to prevent and combat trafficking in human beings. The criminal offence of human trafficking was introduced in 2002 to cover transnational trafficking for sexual exploitation, and was subsequently expanded to include other forms of exploitation, as well as internal trafficking. Furthermore, the social protection and aliens' legislation provide for a number of rights of victims of human trafficking.

An action plan to combat prostitution and human trafficking for sexual purposes was adopted in 2008 and some of the activities contained in it continued to be implemented after its expiry in 2010. The institutional framework put in place to implement the action plan includes the County Administrative Board of Stockholm, which was designated to co-ordinate co-operation among the key state actors, the National Co-ordinator against Prostitution and Trafficking, and the National Task Force against Prostitution and Trafficking. Moreover, a National Rapporteur on Trafficking in Human Beings was set up in 1997 under the authority of the National Police Board. Specialised police units dealing with prostitution and trafficking have also been set up within the police.

Until recently, the focus of anti-trafficking action in Sweden was on combating prostitution and trafficking for sexual exploitation. Following a decision of the Swedish Government of 11 April 2013, the activities of the bodies involved in combating trafficking have been expanded to include other growing forms of exploitation. Nevertheless, GRETA urges the Swedish authorities to take further steps to ensure that national action to combat human trafficking is comprehensive, by paying increased attention to trafficking for the purpose of labour exploitation as well as trafficking for forced begging and forced criminality, trafficking within Sweden and re-trafficking from other EU member states. This should involve the adoption of a new action plan addressing trafficking for all types of exploitation. Further, GRETA considers that the Swedish authorities should ensure that NGOs and other civil society actors are involved in the planning, co-ordination and implementation of national anti-trafficking policies.

In relation to measures to prevent trafficking, GRETA welcomes the initiatives of the Swedish authorities to alert the general public about trafficking for sexual exploitation and considers that the authorities should strengthen their awareness-raising efforts as regards trafficking for all types of exploitation. GRETA also asks the authorities to make further efforts to discourage demand for the services of trafficked persons for all types of exploitation, in partnership with the private sector and civil society, including trade unions and employers.

GRETA notes that the identification of victims of trafficking in Sweden depends to a large extent on their willingness or ability to provide information necessary for the initiation of a criminal investigation. GRETA is concerned that this leaves victims of trafficking without formal identification and outside of the scope of the protection measures provided for under the Convention. Further, GRETA stresses that insufficient attention has been paid to the requirement for pro-active identification of victims of trafficking for non-sexual types of exploitation. GRETA urges the Swedish authorities to set up a formalised national referral mechanism which gives a formal role in the identification process to frontline actors who may come into contact with victims of trafficking, such as NGOs, labour inspectors, social workers and officials dealing with irregular migrants and asylum seekers. This should be accompanied by the provision of operational indicators, guidance and training to frontline staff to identify victims of different forms of exploitation.

The assistance to victims of trafficking is the responsibility of the municipal social services, which often make arrangements for the support of victims by contracting specialised NGOs. However, as the identification of victims of trafficking is linked to their participation in criminal proceedings, a number of victims are not formally identified and are left without adequate assistance and protection. This is particularly true for victims of trafficking for labour exploitation and male victims. GRETA urges the Swedish authorities to ensure that access to assistance for victims of trafficking is not made conditional on their co-operation in the investigation and criminal proceedings, and to provide safe and suitable accommodation to victims of trafficking for all forms of exploitation. In addition, GRETA asks the Swedish authorities to ensure that a recovery and reflection period is granted to all persons in respect of whom there are reasonable grounds to believe that they are victims of trafficking.

As regards children, GRETA urges the Swedish authorities to address the problem of unaccompanied minors going missing, by providing suitable safe accommodation and adequately trained supervisors or foster parents, and to ensure the timely identification of victims of trafficking among such children.

GRETA welcomes the possibility in Swedish law to issue residence permits to victims of trafficking both on the basis of their personal situation as well as for co-operating with the authorities in the investigation. It asks the authorities to ensure that victims of trafficking, regardless of the form of exploitation, can fully benefit in practice from the right to obtain a renewable residence permit.

Further, GRETA welcomes the efforts of the Swedish authorities to make compensation available to victims of trafficking. Nevertheless, GRETA stresses the need for effective access to legal aid for victims claiming compensation.

While Swedish legislation provides for the possibility to take into account the fact that a victim of trafficking has been compelled into unlawful activities, GRETA is concerned by reports about irregular migrants subject to labour exploitation who were deported for violations of the immigration law, despite concerns that trafficking may have occurred. GRETA urges the Swedish authorities to strengthen their efforts to ensure that victims of trafficking are not punished for their involvement in unlawful activities, including immigration-related offences, in compliance with the non-punishment clause contained in Article 26 of the Convention.

GRETA notes the low number of convictions for trafficking offences in Sweden and urges the authorities to identify gaps in the investigation procedure with a view to ensuring that human trafficking offences for all types of exploitation are effectively investigated and prosecuted, leading to proportionate and dissuasive sanctions.

Finally, GRETA considers that the Swedish authorities should strengthen the training provided to judges, prosecutors and other relevant professionals on the issue of human trafficking and the relevant criminal law provisions with a view to ensuring practical application of these provisions so that victims of trafficking, including children, subjected to different types of exploitation, are adequately informed, protected and assisted during the pre-trial and court proceedings.



## I. Introduction

1. Sweden deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) on 31 May 2010. The Convention entered into force for Sweden on 1 September 2010.<sup>1</sup>

2. As established in Article 36(1) of the Convention, the Group of Experts on Action against Trafficking in Human Beings (“GRETA”) monitors the implementation of the Convention by the Parties. GRETA does so in conformity with the procedure laid down in Article 38 of the Convention and the Rules on the evaluation procedure of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties. For the first evaluation round (2010-2013), GRETA drew up a monitoring timetable according to which the Parties to the Convention were divided into groups, Sweden being in the third group of 10 Parties to be evaluated.

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by Sweden to implement the provisions set out in the Convention. The “Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties – first evaluation round” was sent to Sweden on 31 January 2012. The deadline for replying to the questionnaire was 1 June 2012, date on which Sweden submitted its reply.

4. In preparation of the present report, GRETA used the reply to the questionnaire by Sweden, other information collected by GRETA and information received from civil society. In addition, an evaluation visit to Sweden took place from 27 to 31 May 2013, carried out by the following delegation:

- Mr Helmut Sax, Second Vice-President of GRETA;
- Ms Siobhán Mullally, member of GRETA;
- Mr David Dolidze, Administrator at the Secretariat of the Convention on Action against Trafficking in Human Beings;
- Ms Carolina Lasén Diaz, Administrator at the Secretariat of the Convention on Action against Trafficking in Human Beings.

5. During the visit, the GRETA delegation held meetings with officials from relevant ministries and public agencies, representatives of the judiciary and the Prosecution Authority, members of Parliament, the Chief Parliamentary Ombudsman, Head of International Division and the International Co-ordinator of the Parliamentary Ombudsman, representatives of the County Administrative Board of Stockholm and public officials in Malmo and Gothenburg (see Appendix II). These meetings took place in a spirit of close co-operation.

6. The GRETA delegation held separate meetings with representatives of non-governmental organisations (NGOs) and other members of civil society acting in the anti-trafficking field, as well as with international organisations present in Sweden (see Appendix II). GRETA is grateful for the information provided by them.

7. Further, in the context of the evaluation visit to Sweden, the GRETA delegation visited NGO-ran shelters accommodating female victims of violence, including victims of trafficking, in Stockholm, Malmo and Gothenburg. GRETA delegation also visited a shelter for children and young people victims of sexual abuse, substance abuse and psychological difficulties, which was also accommodating victims of trafficking.

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

8. GRETA is grateful for the assistance provided by the contact person appointed by the Swedish authorities, Ms Maria Hölcke, Deputy Director of the Division for Criminal Law of the Ministry of Justice, and Mr Rikard Grozdics, Legal Adviser in the same Division.

9. The draft report was adopted by GRETA at its 18th meeting (4-8 November 2013) and was submitted to the Swedish authorities for comments on 17 December 2013. The comments were received on 17 February 2014 and the final report was adopted by GRETA at its 19th meeting (17-21 March 2014).

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

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

10. Sweden is primarily a country of destination of victims of trafficking in human beings (THB). According to statistical information provided by the Swedish authorities,<sup>2</sup> 44 presumed victims of THB were identified in 2009, of whom 16 were children; 74 in 2010, including 29 children; 10 in 2011, including one child; 33 in 2012, including four children and 62 in 2013, none of whom were children. In the period of 2009-2013 most of the identified victims originated from EU countries (including 26 Romanian nationals and 21 Bulgarian nationals). While in 2009 the majority of the identified victims were subjected to sexual exploitation (27), in 2010 the number of persons trafficked for non-sexual exploitation prevailed (55) due to cases of trafficking for labour exploitation (in particular berry picking). In 2011, five of the presumed victims were trafficked for sexual exploitation, four for labour exploitation and one was forced to commit criminal offences. In 2012, there were 17 presumed victims of sexual exploitation and 16 of non-sexual exploitation. In 2013 there were 41 people suspected to be victims of THB for the purposes of sexual exploitation and 21 of other types of exploitation. The Swedish authorities have referred to two cases of children trafficked within Sweden in 2009, two in 2010, one in 2011 and three in 2012.

11. The above numbers are considerably higher than the number of victims of trafficking who took part in criminal proceedings which resulted in final convictions of perpetrators of trafficking offences. According to data on the number of victims of THB confirmed by courts, there were three persons in 2009 (two adults and one 17-year old child), four in 2010 (two adults and two children), one in 2011, 18 in 2012 (including three children) and two in 2013. GRETA notes that the present arrangements for collecting data on trafficking in human beings in Sweden (see paragraphs 78-83) and the focus on THB for sexual forms of exploitation do not allow for an accurate overview of the real scale of trafficking in Sweden.

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

#### **a. Legal framework**

12. At the international level, in addition to the Council of Europe Convention on Action against Trafficking in Human Beings, Sweden is Party to the United Nations Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (both of which it ratified in 2004). Sweden is also Party to the UN Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (ratified in 1990 and 2007, respectively), the Convention on the Elimination of All Forms of Discrimination against Women (ratified in 1980), as well as the following conventions elaborated under the International Labour Organisation (ILO): Convention concerning Forced or Compulsory Labour (No.29), Convention concerning the Abolition of Forced Labour (No.105) and Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No.182). Further, Sweden is Party to a number of Council of Europe conventions in the criminal field which are relevant to action against THB.<sup>3</sup>

<sup>2</sup> The data was collected by the National Council on Crime Prevention and includes possible victims of trafficking reported to the police and prosecutors, regardless of their formal identification.

<sup>3</sup> In particular the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse; the European Convention on Mutual Assistance in Criminal Matters and its first Additional Protocol; the European Convention on Extradition and its first and Second Additional Protocols; the European Convention on the International Validity of Criminal Judgments; the European Convention on the Transfer of Proceedings in Criminal Matters; and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

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

14. When the offence of THB was first introduced in the Swedish Penal Code (PC) in 2002, it covered only transnational trafficking for sexual exploitation. Subsequent amendments of the PC in 2004 and 2010 criminalised trafficking for other forms of exploitation, such as forced labour, removal of organs and involvement in armed conflicts, as well as trafficking within the country (i.e. internal trafficking). The PC also criminalises the attempt, preparation for and conspiracy to carry out THB and the failure to disclose the commission of a THB offence.

15. Other domestic legal acts relevant to action against THB include:

- the Code of Judicial Procedure, which establishes an obligation upon prosecutors to initiate prosecution into THB cases ex officio and sets out the procedural rules on the admission of evidence, witness and victim examination, etc.;
- the Aliens Act of 2005, which regulates the issuing of residence permits for victims of THB;
- the Act on Counsel for an Injured Party of 1988, which regulates access to legal assistance for victims of crimes;
- the Tort Liability Act of 1972 and Criminal Injuries Compensation Act of 1978, which regulate access of victims of crimes to compensation respectively, from the offender and from the state;
- the Social Services Act of 2001, which sets forth the conditions and modalities of providing social services to vulnerable groups, including victims of THB);
- the Act on Health Care for Asylum Seekers and Others of 2008, which is applicable to victims of THB.

b. National Action Plan

16. An Action Plan to combat prostitution and human trafficking for sexual purposes (the Action Plan) was adopted in July 2008, covering the period 2008-2010 and focussing on five priorities:

- greater protection and support for people at risk;
- more emphasis on preventive work;
- higher standards and improved efficiency in the justice system;
- increased national and international co-operation;
- a higher level of knowledge and awareness.

17. The Action Plan set out 36 measures aimed at combating prostitution and THB for the purposes of sexual exploitation, including training of relevant professionals, increasing public awareness and evaluation of the results. The total budget for putting the Action Plan into practice was around 23 million euros. These measures were carried out by the County Administrative Board of Stockholm, the National Board of Health and Welfare and the Swedish National Board for Youth Affairs. Certain activities under the Action Plan, such as outreach activities, accommodation, rehabilitation and other forms of assistance and protection were carried out by NGOs (including the European Women's Lobby and the Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights) and the Council of the Baltic Sea States (CBSS). The County Administrative Board of Stockholm was given the responsibility for co-ordinating the implementation of the Action Plan, safe return and victim support programmes.

18. Following the expiry of the Action Plan in 2010, Sweden has no national action plan to combat THB, although some of the activities from the Action Plan 2008-2010 targeting THB for the purposes of sexual exploitation, continue to be implemented in 2011-2014.

19. The Swedish authorities have also referred to the Action Plan against sexual exploitation of children (updated in 2007) and the Action Plan for combating men's violence against women, violence and oppression in the name of honour and violence in same-sex relationships (2007-2010). In response to GRETA's query as to the relevance of these two action plans to combating THB, the Swedish authorities stated that it was important to recognise that THB can be a form of violence against women. The Action Plan for combating men's violence against women led to an amendment in the Social Services Act, entitling victims of crime to support and assistance, also benefitting victims of THB. The Action Plan also led to an increase of funding to municipalities for enhancing accommodation capacities for women victims, including victims of THB. Further, a new Action Plan against trafficking, exploitation and sexual abuse of children for 2014-2015 was approved by the Government and was presented to the Swedish Parliament in February 2014. The Action Plan includes measures relevant to combating trafficking in children, aiming at improving the co-operation between authorities and increasing the effectiveness of protection and support provided to children, as well as increasing the awareness of the general public and of professionals working with children.

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

#### **a. National Rapporteur on Trafficking in Human Beings**

20. The office of the National Rapporteur on trafficking in human beings was set up in December 1997 under the authority of the National Police Board, the central administrative and supervisory authority of the police service. The policy choice to place the National Rapporteur at the level of the National Police Board was due to providing him/her access to primary sources of often classified information, relevant to THB. The National Rapporteur, who is a detective inspector at the National Police Board, performs the following tasks:

- collecting information on the extent of THB in Sweden and abroad;
- monitoring progress in the fight against THB;
- analysing investigations, prosecutions and sentences of buyer, procurers, traffickers and organised crime networks;
- monitoring, evaluation and dissemination of information about emerging issues, such as new forms and methods of THB to and within Sweden;
- organising seminars and training in Sweden and abroad;
- developing anti-trafficking networks;
- establishing and maintaining relations with the media and the public.

21. The National Rapporteur presents yearly reports to the Government concerning the above-mentioned tasks. The National Police Board has appointed contact persons in every police authority in the country who regularly provide relevant information to the National Rapporteur. The National Rapporteur also collects information from other relevant sources.

b. County Administrative Board of Stockholm

22. Pursuant to the Action Plan 2008-2010 the County Administrative Board of Stockholm was designated to co-ordinate co-operation among the key state actors. The County Administrative Board accommodates within its structure the National Co-ordinator against Prostitution and Trafficking (see paragraphs 25-27) and the National Task Force against Prostitution and Trafficking (see paragraphs 28-30). Following the expiry of the Action Plan its mandate was extended until 2014 and was broadened to include measures to combat trafficking for the purpose of removal of organs, involvement in armed conflicts, forced labour and other illegal activities placing persons in distress, as well as strengthening co-operation with NGOs.

23. The County Administrative Board of Stockholm has been mandated to improve national co-operation against THB for sexual exploitation and prostitution through co-ordinating its activities with administrative boards of 20 other counties of Sweden. For this purpose the County Administrative Board of Stockholm has established a network of County Administrative Boards which co-ordinates the organisation of information campaigns, seminars, dissemination of information and development of anti-trafficking response in the regions. This network meets three times a year.

24. Further, the County Administrative Board of Stockholm develops rehabilitation programmes for victims of THB for sexual purposes and prostitution and co-ordinates the project entitled "Assisted Voluntary Return and Reintegration for Victims of Trafficking and Foreign Persons in Prostitution", which caters for the safe return for victims of THB to their home countries, avoiding the risk of re-trafficking (see paragraph 183).

c. National Co-ordinator against Prostitution and Trafficking

25. The Swedish National Co-ordinator against Prostitution and Trafficking (National Co-ordinator) was appointed in 2009 to co-ordinate the implementation of the Action Plan and the activities of public bodies throughout Sweden as regards combating prostitution and THB for sexual exploitation.

26. The National Co-ordinator is assisted by a Secretariat within the structure of the County Administrative Board of Stockholm, consisting of three full-time staff members. The annual budget dedicated to the activities of the National Co-ordinator is approximately €700 000.

27. The National Co-ordinator often acts as the first point of contact when cases of human trafficking are detected outside large cities, refers the case to an appropriate member of National Task Force and provides guidance. Following the recent broadening of functions of the County Administrative Board of Stockholm to cover THB for other forms of exploitation (Government Decision on 11 April 2013), the National Co-ordinator also expanded the area of his activities, to include other growing forms of exploitation. Further, according to the information provided by the Swedish authorities in their comments to the draft GRETA report, the anti-trafficking work of the County Administrative Board on co-ordination, training and operative support, is currently under evaluation. A report on this evaluation will be presented in 2014 and is to provide a basis for future action.

d. National Task Force against Prostitution and Trafficking

28. The National Task Force against Prostitution and Trafficking (National Task Force) was set up in January 2009 under the County Administrative Board of Stockholm with the purpose of coordinating the anti-trafficking response in Sweden at the operational level. It is composed of representatives of the following bodies:

- National Police Board;
- National Bureau of Investigation;
- Specialised Police Units in Stockholm, Gothenburg and Malmo;
- Prosecutor's Office;
- Prosecution Development Centre in Gothenburg;
- Swedish Migration Board in Stockholm and Gothenburg;
- Specialised Social Services in Stockholm, Gothenburg and Malmo.

29. The National Task Force functions as a strategic and operational resource for communication and knowledge-sharing between public authorities involved in preventing and combating THB for the purpose of sexual exploitation in Sweden. One of its tasks is to produce information and training materials and provide training to target groups at county, municipal and central government levels.

30. Initially, the National Task Force was established for the duration of the Action Plan for 2008-2010, but has continued functioning after the expiry of the Action Plan and has had its functions expanded by Government decision of 11 April 2013 to include other growing forms of exploitation (see paragraph 61).

e. Police

31. The National Bureau of Investigations has a dedicated group of police officers working on THB. In addition, the police in the three largest cities (Stockholm, Gothenburg and Malmö) have specialised units dedicated to combating prostitution and THB for sexual exploitation. The Stockholm police unit against prostitution and THB consists of 25 police officers and a number of surveillance teams working on combating prostitution and THB for sexual exploitation. The specialised anti-trafficking police unit in Malmo covers THB for all types of exploitation, while those in Gothenburg and Stockholm deal with prostitution and THB for sexual exploitation. Detecting and combating THB for non-sexual exploitation is under the responsibility of specialised officers in border police units.

f. Prosecution authority

32. The Prosecution Development Centre in Gothenburg is responsible for legal development and monitoring of criminal cases for THB and crimes involving the procuring and purchasing of sexual services. The three International Public Prosecution Offices (located respectively in Stockholm, Gothenburg and Malmo) cover the whole territory of the country and have operational responsibility for preliminary investigation into and prosecution of such cases. For instance, the Stockholm Office of International Prosecutors has a focus group on human trafficking comprising six to seven prosecutors. Senior prosecutors working on THB are specialised in combating transnational organised crime and also receive training on international legal co-operation.

g. Swedish Migration Board

33. The Swedish Migration Board's functions include the screening of applications for residence and work permits and the detection of potential victims of trafficking, whom it refers to the police. The Migration Board also informs the social services about potential trafficking victims. In November 2013, the Swedish Migration Board took a decision to strengthen its work against THB. Each of the four departments (Managed Migration and Citizenship, Work Permits Unit, Division for Asylum and Division for Reception) of the Migration Board has an anti-trafficking co-ordinator, which form a working group led by a central co-ordinator. There are anti-trafficking contact persons at each of the Migration Board's 75 units throughout Sweden. Since the beginning of 2014 applications for temporary residence permits for victims and witnesses of crimes under the Aliens Act, previously dealt with by the Department of Managed Migration and Citizenship in Gothenburg, are now handled by the Unit for Co-ordination of Foreign Issues in Norrköping.

h. NGOs

34. A number of NGOs in Sweden participate in action against trafficking in human beings. For instance, the NGOs End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes–ECPAT Sweden, Save the Children Sweden, Talita, Foundation Safer Sweden, Foundation against Trafficking and Caritas provide accommodation and assistance to victims of THB, advocate for better access for victims to their rights, protection of children against THB and assistance to persons in vulnerable situation. Other NGOs, such as the Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights and the Salvation Army, are also involved in the provision of accommodation and other assistance to victims of trafficking mostly for sexual exploitation.

35. At present none of the NGOs participate in the work of policy-making or co-ordinating structures in Sweden. Their contribution to combating THB is mostly as service providers when it comes to assistance for victims of THB, in co-operation with the municipal social services and the police. NGOs providing accommodation and assistance to victims of THB for sexual exploitation at the local level receive financing from the respective municipalities. The Secretariat of the National Co-ordinator is co-ordinating a network of about 40 safe houses run by NGOs for different categories of people in need, including victims of violence and victims of THB for sexual exploitation. Further, the Government offices have developed, in co-operation with civil society, a manual providing guidance to public officials on reaching out and consulting relevant NGOs. According to the Swedish authorities, this consultation process is seen as an important source for obtaining information on the situation of THB for the purpose of sexual exploitation in Sweden.

i. Intergovernmental organisations

36. Combating THB is one of the priority areas of work of the Council of the Baltic Sea States (CBSS), which has its headquarters in Stockholm. Through its Task Force against Trafficking in Human Beings (TF-THB)<sup>4</sup>, the CBSS provides training on THB, produces handbooks and manuals on THB, carries out research and raises general awareness about THB for different types of exploitation. By way of example, TF-THB has carried out training on THB for diplomatic and consular personnel in the CBSS Region (in co-operation with the IOM), a joint project with the United Nations Office on Drugs and Crime (UNODC) on fostering NGO-law enforcement co-operation in preventing and combating THB in, from and to the Baltic Sea Region, as well as an information campaign against trafficking in human beings, entitled "Safe Trip".

<sup>4</sup> The current mandate of TF-THB runs until 31 December 2017.



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37. The International Organisation for Migration (IOM) and United Nations Children's Fund (UNICEF) have a number of activities relevant to action against THB in Sweden. UNICEF is advocating for access to education for undocumented children, including unaccompanied foreign minors and has produced an anti-trafficking manual in co-operation with the County Administrative Board of Stockholm, which aims at assisting police officers, social workers and other frontline staff to identify child victims of THB subject to different types of exploitation. The IOM Helsinki Office has launched, in co-operation with the County Administrative Board, a pilot project on the assisted voluntary return for victims of THB and persons in prostitution in Sweden. The aim of the project is developing a standardised system for the return of victims of THB which includes risk assessment and post-return assistance.

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

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

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

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

39. THB constitutes an offence to the dignity and fundamental freedoms of the human being and thus a grave violation of human rights. GRETA emphasises the obligations of States to respect, fulfil and protect human rights, including by ensuring compliance by non-State actors, in accordance with the duty of due diligence. A State that fails to fulfil these obligations may, for instance, be held accountable for violations of the European Convention on Human Rights and Fundamental Freedoms (ECHR). This has been confirmed by the European Court of Human Rights in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the European Convention on Human Rights<sup>6</sup> (which prohibits slavery, servitude and forced or compulsory labour). The Court further concluded that Article 4 entails a positive obligation to protect victims or potential victims, as well as a procedural obligation to investigate trafficking<sup>7</sup>.

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

41. GRETA wishes to stress the need for States to also address THB as a form of violence against women and to take account of gender-specific types of exploitation, as well as the particular situation of child victims of trafficking, in line with the relevant international legal instruments<sup>8</sup>.

<sup>5</sup> Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

<sup>6</sup> *Rantsev v. Cyprus and Russia*, application No. 25965/04, judgment of 7 January 2010, ECHR 2010, paragraph 282.

<sup>7</sup> See *Siliadin v. France*, application No. 73316/01, judgment of 26 July 2005, ECHR 2005 VII; *C.N. and V. v. France*, application No. 67724/09, judgment of 11 October 2012, and *C.N. v. United Kingdom*, application No. 4239/08, judgment of 13 November 2012.

<sup>8</sup> Such as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the United Nations Convention on the Rights of the Child and the Optional Protocol thereto on the sale of children, child prostitution and child pornography, and the United Nations Convention on the Elimination of All Forms of Discrimination against Women.

42. The Swedish authorities have indicated that trafficking in human beings is considered a human rights violation, especially in light of the recent case law of the European Court of Human Rights (ECtHR). The article criminalising THB in the Swedish Penal Code is in Chapter 4 entitled “Offences against Liberty and Peace”, which indicates the presence of a legal framework for penalising THB as an offence threatening human dignity and the fundamental rights of victims. The ECHR had been incorporated into Swedish law and the Swedish Constitution prohibits any regulation which would contravene the ECHR. The Swedish authorities have specified that international conventions are not directly applicable by domestic courts, but are integrated through amendments to national legislation, as necessary.<sup>9</sup>

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

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

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

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

45. Chapter 4, Section 1(a) of the Swedish Penal Code (PC) defines the offence of THB as follows:

“A person who, in other cases than those referred to in Section 1 (Kidnapping), by unlawful coercion, deceit, exploitation of another person’s vulnerable situation or by other such improper means recruits, transports, transfers, harbours or receives a person with the intent that he or she shall be exploited for sexual purposes, the removal of organs, military service, forced labour or other activity in a situation that places that person in distress, shall be sentenced for trafficking in human beings to imprisonment, for at least two years and at most 10 years.

A person who commits an act referred to in the first paragraph against a person who is under 18 years of age shall be sentenced for trafficking in human beings even if none of the improper means described in that paragraph was used.

If an offence referred to in the first or second paragraph is less serious,<sup>10</sup> the sentence shall be imprisonment for at most four years.”<sup>11</sup>

<sup>9</sup> Prior to ratifying the UN Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, the Swedish Government adopted a Bill 2003/04: 111, introducing amendments to the Penal Code, and prior to ratifying the Council of Europe Anti-Trafficking Convention the Government adopted Bill 2009/10: 152 containing amendments to the trafficking offence under the Penal Code.

<sup>10</sup> According to the *travaux préparatoires*, an offence may be considered less serious when, for instance, the risk of actual exploitation has been very low. In addition, the nature of the intended exploitation and the extent of that exploitation must also be considered, as well as whether the extent of the violation of another person’s freedom has entailed physical or mental suffering or violation. Ultimately it is up to the court to decide in each case whether the offence at hand may be considered as “less serious”.

<sup>11</sup> Unofficial translation provided by the Swedish authorities.

46. GRETA notes that the three elements of the definition of THB under the Convention (action, means and purpose of exploitation) are included in the above-mentioned definition in the Swedish CC. That said, not all means contained in the definition under the Convention are specifically mentioned in the Swedish CC, in particular threat or use of force, abduction, fraud, abuse of power, giving or receiving payments or benefits to achieve the consent of a person having control over another person. The Swedish authorities have pointed out that the list of means in Chapter 4, Section 1(a), of the PC is not exhaustive and the wording “other such improper means” would cover a number of circumstances, including when the consent of a person having control over another person was achieved through giving or receiving payments or benefits. “Threat or use of force” would be covered by “unlawful coercion” which includes any form of assault or threat of use of force, or compelling another person into submission.

47. According to the Swedish authorities, abduction is covered by Chapter 4, Section 1, of the Penal Code, which criminalises kidnapping as a separate offence. THB is considered in the Swedish PC as a subsidiary offence to kidnapping, and because kidnapping includes seizure, transfer or confining of another person with the intent of injury, forcing into service or extortion, there was no need to reflect abduction among the means that constitute THB. As explained by representatives of the Prosecutor’s office, if there exist elements of the crime of abduction, it is most likely that the court would convict the perpetrator for this offence rather than THB, leading to higher penalties (from four to 18 years of imprisonment, as compared to two to 10 years of imprisonment in the case of THB). Concerning “fraud”, according to the explanation provided by the Swedish authorities, it is covered by the term “deceit”, which is one of the elements of “fraud” also criminalised as a separate offence under Chapter 9 of the Penal Code. **Nevertheless, in order to be fully consistent with the definition of THB in the Convention, GRETA invites the Swedish authorities to include abduction as one of the means for committing trafficking in human beings.**

48. Chapter 4, Section 1(a), of the PC does not refer to slavery, practices similar to slavery and servitude as forms of exploitation. According to the Swedish authorities, the reference to “other activity in a situation that places the person in distress” is interpreted broadly to include any form of exploitation not specifically listed. This provision was included in the current definition through amendments in 2004 and the *travaux préparatoires* of these amendments explicitly state that slavery, practices similar to slavery and servitude are meant to be covered by this wording. **Nevertheless, in order to be fully consistent with the definition of THB in the Convention, GRETA invites the Swedish authorities to explicitly include slavery and practices similar to slavery and servitude in the forms of exploitation resulting from human trafficking.**

49. Pursuant to Article 4(b) of the Convention, the consent of the victim is irrelevant where any of the means set forth in the definition of THB have been used. GRETA notes that the irrelevance of the person’s consent to the intended exploitation, when any of the specified means are used, is not explicitly stated in the definition of THB under Chapter 4, Section 1 (a), of the CC. The *travaux préparatoires* of the PC state that the consent of a victim of THB is irrelevant when any of the means have been used. According to the Swedish authorities, the use of means to achieve the exploitation of a victim deprives the latter of exercising his/her free will, which is why consent cannot be given. The Swedish authorities have also indicated that the actual exploitation does not need to occur for there to be an offence of THB. **Nevertheless, GRETA considers that stating explicitly the irrelevance of the consent of a victim of trafficking to the intended exploitation could improve the implementation of the anti-trafficking provisions.**

50. The definition of trafficking in children (defined as persons under 18 years of age) in Chapter 4, Section 1(a), paragraph 2, of the PC does not require the use of means, which is in line with the Convention.

51. For further analysis of the definition of THB and related offences from a substantive criminal law perspective, see paragraphs 188-193.

ii. *Definition of “victim of THB”*

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

53. According to the Swedish authorities, there is no explicit definition of a victim of THB in the Swedish legislation. Neither is there a system of granting a person a victim status. Generally, a victim of THB is any natural person who is subject to THB as defined in Chapter 4, Section 1 (a), of the CC. The concept of victim has however different meanings depending on the context. In criminal proceedings an injured party (*målsägande*) is a person against whom the offence was committed or who was affronted or harmed by it. To be considered as an injured party it is required that the crime be reported to the police and criminal proceedings initiated. The court decides whether a person is an injured party when the prosecutor submits a prosecution. According to Swedish law, it is sometimes necessary besides being classified as an injured party to be a party and/or to be heard in the court proceedings in order to access certain rights, such as interpretation, translation and reimbursement of costs.

54. Assistance and support from the social services are provided regardless of whether a person is considered as an injured party in criminal proceedings. According to information provided by the Swedish authorities, persons staying in Sweden have the right of access to social services, which include the necessary support in order to achieve a reasonable standard of living, unless their needs can be met elsewhere. Since 1 July 2013, persons who avoid the enforcement of a decision on refusal of entry or an expulsion order and persons staying in the country without having applied for permits, are entitled to subsidised care corresponding to the care to which asylum seekers have access. For adults, this comprises health and dental care that cannot be deferred,<sup>12</sup> maternity care, abortion costs and contraceptive advice. In the case of children, the same care is offered as that available to children resident in Sweden.

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

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

i. *Comprehensive approach and co-ordination*

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

<sup>12</sup> Care that cannot be deferred means care offered in addition to the immediate care pursuant to the Health and Medical Services Act and the Dental Care Act (1985:125), if it is deemed that such care is required to prevent serious illness.

57. The above-described institutional and policy framework in Sweden is intended to combat prostitution and THB for sexual exploitation. The Action Plan to combat prostitution and human trafficking for sexual purposes (2008-2010) included measures to prevent these two phenomena by increasing awareness among the general public, providing training to professionals working with young people and assisting sex workers in finding alternative occupation. The Action Plan also aimed at increasing the efficiency of investigations into trafficking and purchase of sex by equipping the police, prosecutors and judiciary with more effective tools for achieving convictions for perpetrators, confiscations of proceeds of crime and providing them with improved training on these subjects.

58. Most of the stakeholders responsible for the implementation of the Action Plan were public bodies at the governmental and municipal levels. NGOs were involved in some of the activities as service providers, with little say in the policy making process. According to the Swedish authorities, the purpose of the Action Plan to combat prostitution and THB for sexual purposes was to initiate a set of actions that would be incorporated into routine activities of relevant public bodies and would continue on a permanent basis, including through necessary budgetary appropriations. Even though the Action Plan expired in 2010, some of its activities targeting THB for the purposes of sexual exploitation continue to be implemented in 2011-2014. The Government has commissioned the Swedish Institute to organise visiting programmes and international seminars for key international actors in order to disseminate information concerning the Swedish approach and initiatives to combat prostitution and THB for the purpose of sexual exploitation.

59. In 2009 the Government requested the Swedish National Council for Crime Prevention (a public agency under the Ministry of Justice) to carry out an evaluation of the implementation of the Action Plan, which was finalised in November 2011. According to this evaluation, the Action Plan contributed to increasing the awareness in Sweden as regards the criminalisation of the purchase of sexual services. It also contributed to better training of professionals involved in social services, health care, the police and NGOs working in this area. The evaluation also contained proposals for further actions in the area of THB, such as carrying out further research concerning prostitution and THB, improving co-ordination between public bodies and NGOs working in this area and establishing a national centre of knowledge as a focal point for on-going work to combat prostitution and THB. However, no independent evaluation of the implementation of the Action Plan has been carried out so far.

60. GRETA notes that the Action Plan to combat prostitution and human trafficking for sexual purposes (2008-2010) did not cover trafficking for other types of exploitation. While the focus of the competent bodies and professionals has been primarily on combating the purchase of sexual services and trafficking for the purposes of sexual exploitation, other areas where exploitation of victims of trafficking occurs have received less attention and resources. During the evaluation visit, the GRETA delegation was informed that since 2010 the approach to combating THB in Sweden has been developing towards greater attention to trafficking for different types of exploitation, including, in particular, forced labour, forced begging and the removal of organs. The Swedish authorities recognise the need to broaden the mandate and competences of existing co-ordinating structures and on 11 April 2013 the Government issued a decision whereby the County Administrative Board of Stockholm was given a mandate to co-ordinate national efforts on combating trafficking for the purpose of removal of organs, military service, forced labour or other activities in a situation that places a person in distress. According to this decision, the County Administrative Board of Stockholm is required to strengthen collaboration with public bodies, local authorities, voluntary organisations and interest groups, as well as other national and international actors, including the Swedish diplomatic missions abroad. The County Administrative Board of Stockholm is expected to report back to the Government on the measures taken by 15 March 2015. With the expanded mandate of the County Administrative Board of Stockholm, other key anti-trafficking actors will also be working with a broadened mandate in partnership with the Board.

61. According to the Swedish authorities, at present there are no plans to adopt a new action plan on combating THB. **GRETA urges the Swedish authorities to take further steps to ensure that national action to combat THB is comprehensive, by paying increased attention to human trafficking for the purpose of labour exploitation as well as trafficking for forced begging and forced criminality, including trafficking within Sweden and re-trafficking from other EU member states. This should involve the adoption without further delay of an action plan addressing THB for all types of exploitation.**

62. The GRETA delegation was further informed that the Swedish authorities are considering the setting up of a National Referral Mechanism for identification of victims of THB and their referral to assistance. According to the comments provided by the authorities to the draft GRETA report, the County Administrative Board of Stockholm is working with ICMPD with a view to developing a National Referral Mechanism involving public services and NGOs, the blueprint for which is to be presented in the course of 2014 for public discussion. **GRETA would like to be kept informed of developments as regards this initiative.**

63. According to representatives of NGOs and public bodies met by the GRETA delegation, co-operation between the National Co-ordinator and NGOs was good. However, NGO representatives expressed some concerns about their co-operation with the police and social services and referred to weaknesses in the co-ordination between the asylum and migration authorities, with negative effects on the identification of THB victims amongst irregular migrants and asylum seekers.

64. **GRETA considers that the Swedish authorities should strengthen co-ordination between governmental bodies, municipal bodies and NGOs engaged in anti-trafficking action, and to ensure that NGOs are involved in the planning, co-ordination and implementation of national policy, in particular any future action plan on combating THB. The conclusion of formal Memoranda of Understanding between public bodies and competent NGOs should be encouraged.**

65. While welcoming the broadening of the functions of the National Task Force and the National Co-ordinator and bearing in mind the on-going evaluation of anti-trafficking activities of the County Administrative Board of Stockholm, **GRETA considers that these developments should be accompanied by the provision of adequate human and financial resources to the National Task Force against Prostitution and Trafficking and to the National Co-ordinator, so as to enable them to effectively carry out their new expanded mandate. In this context, GRETA invites the Swedish authorities to give a more explicit national role to the office of the National Co-ordinator, which is currently placed within the County Administrative Board of Stockholm.**

66. Further, GRETA invites the Swedish authorities to establish the National Rapporteur as a *de jure* independent post with a mandate to monitor the anti-trafficking activities of state institutions (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report) as well as to provide the National Rapporteur with adequate resources to carry out this mandate.

*ii. Training of relevant professionals*

67. Training for professionals involved in combating prostitution and THB for sexual purposes was one of the measures covered by the Action Plan for 2008-2010. The National Police Board and the Prosecution Authority were given the task of developing new methods and skills for their staff. The main aim was improving the detection of crimes concerning THB for the purposes of sexual exploitation, procuring, the purchase of sexual services and the purchase of sexual acts by children; increasing the effectiveness of investigations, improving co-operation with other authorities and organisations concerned by the Action Plan and improving assistance for victims, including access to compensation.

68. For the duration of the Action Plan the Swedish Government allocated some €4,5 million to finance training activities. Initially, skill-development training targeted police officers responsible for gathering intelligence on suspected criminal activities. This was followed by training for preliminary investigation officers and investigators of THB for the purpose of sexual exploitation, procurement and purchase of sexual services. Methods of training included interactive courses (available on the Swedish Police intranet), manual for investigators, seminars for police officers and prosecutors, an information website on preventive measures and combating prostitution and THB for the purposes of sexual exploitation. In addition, in response to possible cases of THB in the berry-picking sector, in 2013, the National Bureau of Investigation and the National Co-ordinator provided in special training sessions to local and regional police officers.

69. The Prosecution Authority, in co-operation with the police, organised training for prosecutors dealing with THB cases. In 2008-2009 internal training departments of the General Prosecutor's Office and the National Police organised four training sessions lasting two days each on investigative methods, setting-up of joint investigation teams (JITs), co-operation with Romanian and Nigerian authorities, and on the protection of children from abuse. In addition, trainings to raise awareness concerning THB and the situation of victims of THB were organised during 2009–2011 for all prosecutors. Around 80 prosecutors attended the two-day training-seminars, focussing on THB for the purposes of sexual exploitation.

70. The Swedish Migration Board organised in the course of 2012-2013 seven half-day training sessions with 25 participants on average per session, in co-operation with the police and social services. Topics covered by these trainings included the definition of THB in the Swedish legislation, guidelines as to when to contact the police, code of confidentiality, identification of potential victims and co-operation between authorities. Guidelines and manuals on THB, prepared by the Migration Board were used as training materials. Further, in 2009-2010 the Crime Victim Compensation and Support Authority carried out a training programme targeting the judiciary, police authorities, public prosecution and staff of the Swedish Migration Board. The main aim of this programme was to increase knowledge concerning occurrence of prostitution and THB for the purposes of sexual exploitation and to improve the treatment towards victims. In total, there were two seminars and six two-day training sessions conducted under this programme, involving nearly 700 participants (100 judges, 63 prosecutors, 363 police officers, 173 employees of the Swedish Migration Board).

71. A national training programme to specialise in investigations involving crimes against children is in place in Sweden, which comprises fifteen weeks of training, including ten weeks of investigative methods and five weeks on the interviewing of child victims of crime. One of the main principles of this training programme is to safeguard the best interests of the child. In October 2013, the Police decided to further develop its work to investigate crimes against children and safeguard their best interests. Specialisation in investigation of different types of crimes against children will be developed, including investigations on sexual exploitation and sexual abuse.

72. In the course of 2008-2010 the Swedish National Courts Administration participated in a project on THB for sexual exploitation and legislation on prostitution, which included seminars and training courses attended by representatives of the judiciary. The project was aimed at enhancing knowledge about victims of sexual violence and creating conditions for improving the treatment of victims in the course of investigations of sexual offences and court proceedings, and had a total budget of 650 000 euros. In addition, the Judicial Academy provides on-going training for new judges, which includes a module on THB. GRETA was informed by representatives of the police, prosecutors and NGOs that judges were reluctant to participate in other training programmes on THB for fear that this might compromise their independence and impartiality.

73. The National Board for Youth Affairs developed and carried out a training programme for professionals working with children and young people, in order to intensify preventive work among young people at risk. The aim is to increase the knowledge of professionals working with children on the risks of sexual exploitation, including through the misuse of the Internet. In the period of during 2011-2014 the state budget paid 3 365 000 euros towards training activities carried out by the National Board for Youth Affairs.



74. Further, the Government commissioned the Swedish National Board of Health and Welfare to produce training material for staff of municipal social services providing assistance to victims of THB for sexual exploitation, allocating 1.2 million euros for this task. The two sets of training materials which were presented in March 2011 focussed on assistance and protection for adult victims and on assistance to children and young people. Further, a methodology for enhanced care for young people vulnerable to THB for sexual exploitation or to prostitution has been developed by the National Board of Institutional Care, which also conducted training and awareness-raising activities for staff. A total of 380 000 euros were allocated from the budget to implement these activities.

75. The Swedish Bar Association offers regular trainings to acting and future lawyers, which include sessions on the protection of children from commercial sexual exploitation and child trafficking for the purposes of sexual exploitation. In addition, the on-going training of young judges includes a section on THB, and incorporates lectures provided by EPCAT. The Judicial Academy also provides training concerning children in legal processes as well as more general courses in criminal law, including a section on THB.

76. While acknowledging the efforts made by the Swedish authorities to train relevant professionals, GRETA stresses the importance of not conflating training on THB with training on combating prostitution. Further, GRETA notes that there is still a need for providing training to frontline staff on detecting and combating THB for different types of exploitation. During the country visit some interlocutors expressed the view that training was particularly necessary outside the big cities (Stockholm, Gothenburg and Malmo) as regards dealing with victims of non-sexual types of exploitation as there was no sufficient knowledge about this subject.

**77. GRETA urges the Swedish authorities to take further steps to provide regular training on THB for all types of exploitation to all relevant professionals (in particular, judges, prosecutors, police, Migration Board staff, social workers, labour inspectors, lawyers, Trade Unions officials, NGOs contracted as service providers). Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals, which enable them to identify victims of trafficking for all forms of exploitation and assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers involved in all forms of THB.**

*iii. Data collection and research*

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

79. In Sweden, statistical information concerning THB is collected by several actors. The National Rapporteur collects data from 21 police districts in the country, as well as from prosecutors, courts, and other relevant sources, by means of questionnaires designed for this purpose. These statistics also include information on the offence of procurement of sexual services, because cases initiated for alleged THB offences sometimes lead to prosecution of other offences, such as procurement. The authorities confirmed, when commenting on the draft GRETA report, that there is no systematic collection of trafficking-related data by the Swedish Government.

80. The National Council for Crime Prevention collects and publishes crime statistics, including on THB. The information gathered by the National Council for Crime Prevention is based on offences reported to the police, customs authorities and the prosecution authorities. This information is broken down into reported offences, solved cases, persons suspected of the commission of offences and persons convicted. Further, as of 2011, the Crime Victim Compensation and Support Authority collects statistics about the number of victims who receive compensation, including victims of THB. As far as GRETA knows, no data is collected from NGOs assisting victims of THB.

81. According to the Swedish authorities' comments on the draft GRETA report, the National Council for Crime Prevention chose to use only fully controllable statistical parameters, while aiming to strike a balance between the number of cases to report and the complexity of details in cases reported. In particular, when it comes to THB cases, the Swedish authorities recognise that there is a need to expand the parameters of information collected, such as for instance country of origin of victims, to have a clearer overall picture.

82. The Swedish Migration Board is responsible for gathering information about the number of persons who were granted a recovery and reflection period and a residence permit, as well as the number of victims of THB who were repatriated and returned. These statistics include victims of serious crimes, as such victims may request residence permits in Sweden, and are disaggregated by sex, age and nationality. Statistics on THB are not disaggregated by type of exploitation. According to the Swedish authorities, work is in progress to improve the methods for collecting data and to change classification codes to give clearer information on the phenomenon of THB in Sweden.

83. According to the Swedish authorities, a large-scale project entitled "Project on supplying of information throughout the judiciary" is currently under way, which will introduce an electronic flow of information between authorities throughout the 'judicial chain'. It is considered that this project will result in further development of statistics and more detailed reports on specific offences, including THB.

**84. GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Swedish authorities should further develop a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical information from all main actors, including prosecutors, courts, the Crime Victim Compensation and Support Authority and NGOs, providing assistance to victims of THB, 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, including when NGOs working with victims of trafficking are asked to provide information for the national database.**

85. In the framework of the National Action Plan to combat men's violence against women, violence and oppression in the name of honour and violence in same-sex relations, the Crime Victim Compensation and Support Authority developed a programme of research and education aimed at improving knowledge and awareness in this area. The final report was submitted on 15 December 2010. Following this report the research task of the Crime Victim Compensation and Support Authority has been extended until 2014, while the Government allocated additional €4,5 million for this purpose.

86. In total, some 900 000 euros were allocated by the Crime Victim Compensation and Support Authority for research projects concerning THB in 2009-2013. Four research projects were conducted by academic institutions in Sweden. The research project entitled "To distinguish between victims: A victim perspective on human trafficking and trafficking-related crimes", currently carried out by Örebro University, aims at analysing the law enforcement response to THB offenses for the purposes of sexual exploitation in a series of publications<sup>13</sup>. The research project called "Anti-sex trafficking institutions, implemented by the Södertörn University, examined the approaches to combating THB for the purposes of sexual exploitation in the Netherlands, Denmark, Sweden, Estonia, Latvia and Lithuania. The results showed that priority in these countries is given to preventive measures and prosecution of the offenders, as well as identifying victims and ensuring their safe return to countries of origin. The project entitled "Human trafficking for sexual purposes - a holistic approach to preventing crime", implemented by the University of Uppsala, examined the legislation about THB for sexual exploitation, case-law and international legal instruments in the field. Finally, the project entitled "Mapping attitudes towards prostitution in Europe - Investigating Demand and Destinations for Sex Trafficking", which is being carried out by the University of Gothenburg, looks into the effects of different laws and attitudes to prostitution and trafficking in Spain, France, the Netherlands and Germany.

87. In addition, in 2008 the National Council for Crime Prevention published a study entitled "The organisation of human trafficking: a study of criminal involvement in sexual exploitation in Sweden, Finland and Estonia".

88. During the evaluation visit the GRETA delegation was informed by representatives of public bodies and NGOs that there was a lack of knowledge about the scale of trafficking within Sweden for different types of exploitation. The National Co-ordinator confirmed that so far there has been no mapping as regards THB for non-sexual types of exploitation, even though significant cases of THB for forced begging and labour exploitation (berry picking) have been successfully detected in the past few years, involving significant numbers of victims of THB.

**89. GRETA considers that the Swedish authorities should conduct and support research on trafficking-related issues as an important source of information for future policy measures. Areas where research is particularly needed at present to shed more light on the extent and nature of the problem include trafficking for non-sexual types of exploitation, trafficking in children and among vulnerable groups, such as the Roma, and trafficking within Sweden.**

*iv. International co-operation*

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

91. In Sweden, international legal co-operation is regulated by the Law on International Legal Assistance in Criminal Matters, which sets out the modalities on providing international legal assistance by the competent bodies. This legislation also prescribes possibilities for Swedish prosecutors and courts to request legal assistance from foreign countries. The competent authorities in Swedish are entitled to provide international legal assistance even if Sweden does not have agreements on this subject with the state requesting such assistance. To meet the request for international legal assistance Swedish authorities are entitled to take all the measures necessary in preliminary investigation or court proceedings. Legal assistance can be requested and provided both during a preliminary investigation and during a trial.

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<sup>13</sup> The latest article under this project, entitled "Still Neglecting the Demand that Fuels Human Trafficking: A Study Comparing the Criminal Laws and Practice of Five European States on Human Trafficking, Purchasing Sex from Trafficked Adults and from Minors" was published in 2013. It discusses the efforts to reduce the market for sexual services of trafficked persons, both adults and children in five countries: Hungary, Italy, the Netherlands, Sweden and the United Kingdom and examines whether the criminalisation of the purchase of sexual acts from children has provided children victims of trafficking effective protection against sexual exploitation. The article concludes by exposing the gaps that exist in securing trafficked persons' right to effective protection against sexual exploitation.

92. The Act on Joint Investigation Teams for Criminal Investigations regulates certain forms of co-operation in the framework of international legal assistance and police co-operation. This includes exchanges of information, extradition of suspects, setting up of joint investigation teams and conducting joint police operations in cases of transnational crimes. International co-operation with participation of Swedish prosecutors is often facilitated by Eurojust. The Swedish Police pursue co-operation with their foreign counterparts on the basis of agreements on cross-border co-operation, bilateral agreements with a number of countries and through Interpol.

93. Apart from international agreements on legal co-operation referred to in paragraph 12, Sweden is bound by the Convention of 29 May 2000 on mutual legal assistance in criminal matters between EU Member States, the EU Council Framework decision of 13 June 2002 on joint investigation teams (2002/465/JHA) and the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States.

94. Further, Sweden participates in the Baltic Sea Task Force on Organised Crime (BSTF) set up in 1996 under the Swedish chairmanship of the Council of Baltic Sea States (CBSS) to strengthen co-operation in the region. BSTF is a network of persons responsible for operational co-operation among the law enforcement bodies of the 11 CBSS member states. In addition, representatives from Europol, Eurojust, Interpol, Frontex and European Commission are members of the Task Force and its working bodies. A number of operative and intelligence projects have been carried out by BSTF, including on combating THB. The mandate of BSTF has been extended until 2016.

95. Combating THB was one of the priority areas of the Swedish Presidency of the EU in 2009 which, *inter alia*, led to the adoption of the Stockholm Programme on Co-operation on Justice and Home Affairs. Sweden is an active participant in Europol, Eurojust and Frontex. In addition, Sweden has been a partner in a number of EU-funded projects against trafficking, including both policy-level and operational-level projects concerning different types of exploitation and extending to policy fields beyond Justice and Home Affairs, in areas such as development cooperation, equality opportunities, human rights and social affairs.

96. As regards regional anti-trafficking initiatives, Sweden pursues co-operation through CBSS and its Task Force against Trafficking in Human Beings (TF-THB) and the Expert Group for Co-operation on Children at Risk (EGCC). The overall objective of TF-THB is to counteract human trafficking in the Baltic Sea Region through preventive activities, strengthening the assistance to victims and improving legislation. Currently the EGCC is implementing a project involving Sweden, Lithuania, Poland and Norway entitled "Children trafficked for exploitation in begging and criminality". The project is funded by the Swedish International Development Co-operation Agency (Sida) and has the objective to enhance the co-operation and exchange of experiences between national teams consisting of investigating police officers, prosecutors, child protection professionals and NGOs.

97. International development co-operation forms an important part of Sweden's foreign policy with its annual budget equalling 1% of the GDP. Sweden has been supporting through Sida the UN Inter-Agency Project on Human Trafficking (UNIAP) in Greater Mekong Sub-Region, which covers Cambodia, China, Laos, Myanmar, Thailand and Vietnam. This project led to establishing of the Co-ordinated Mekong Ministerial Initiative against Trafficking (COMMIT), a Memorandum of Understanding between the countries concerned and a Joint Plan of Action for preventing and combating human trafficking in the region. Prevention activities include information campaigns, vocational training, micro-credits and educational programmes for children vulnerable to trafficking; the adoption of anti-trafficking laws; training for the police and other professionals and assistance to victims of THB.

98. Further, Sweden supports a project implemented by Save the Children Sweden in Eastern Europe, which includes prevention of child trafficking in Romania through counselling, vocational training and economic subsidies to girls who have repatriated after being trafficked abroad. Under the same project, activities in Albania, Bosnia and Herzegovina, Montenegro, Kosovo\* and Romania include child protection and the dissemination of information through national reports and the media.

99. In September 2011 Sweden appointed a special Ambassador at the Ministry for Foreign Affairs with the task to consolidate Sweden's anti-trafficking work in the United Nations and other international organisations. However, during the evaluation visit, GRETA was informed that following the retirement of the previous incumbent a new ambassador had not been appointed.

100. According to representatives of the police and prosecution authorities, international legal co-operation with other EU member states is mostly smooth. For instance, a joint investigation team was successfully established with the Bulgarian police in the framework of the investigation of one of the berry picking cases. Concern was expressed regarding difficulties in establishing a joint investigation team with the Romanian police in one case, but in general co-operation with Romania has improved and further initiatives are underway to strengthen co-operation. Further, certain difficulties were reported as regards co-operation with China, in particular as regards the time needed to exchange information relating to investigation.

101. GRETA welcomes the high importance attached by the Swedish authorities to international co-operation to combat THB. **GRETA invites the Swedish authorities to continue developing international co-operation with a view to preventing THB, assisting victims of trafficking and prosecuting offenders, including through exploring further possibilities for co-operation with governmental and non-governmental actors in countries of origin and transit.**

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

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

### **a. Measures to raise awareness**

103. Measures taken to prevent THB in Sweden have so far concentrated primarily on women at risk of becoming victims of trafficking for the purpose of sexual exploitation, children at risk of being sexually exploited or abused, and alerting the general public on the negative consequences of purchasing sexual services. These awareness-raising activities have been carried out in co-operation between the County Administrative Board of Stockholm, the Ministry of Health and Social Affairs, the Police, the CBSS, and the NGOs "1000 möjligheter" (1000 opportunities) and ECPAT.

104. One of the recent actions to raise awareness about THB for sexual exploitation and help its victims to escape their situation was the "Safe Trip" campaign, addressed to women in the process or at risk of being trafficked to or within Sweden. This campaign was organised and implemented as a pilot project in the Stockholm area by CBSS's TF-THB, with the support of the County Administrative Board of Stockholm. Messages encouraging potential victims of THB to contact the 24-hour national helpline were disseminated in Swedish, English, Romanian, Russian, Spanish and Thai on billboards at airports, railway stations, parking lots and other transportation in Stockholm area. The authorities and service providers make efforts to distribute campaign materials throughout the country.

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

105. The impact of the “Safe Trip” campaign was measured by a survey conducted by YouGov<sup>14</sup>, an international internet-based market research. The survey showed that the majority of the persons who had seen the campaign billboards were in the age group of 18-34 year-olds. Campaign messages were mostly perceived as clear, focussing on an important issue and being useful. Some respondents considered that the messages created “food for thought” to the general public. Critics, while being in minority, stated that the way of presentation of campaign materials did not draw sufficient attention to it. Overall, 95% of the interviewed agreed that action against THB was an important task to be pursued by Sweden.

106. The international campaign “Don’t look away!” aimed at alerting travellers to issues concerning the protection of children from sexual exploitation was implemented by the Swedish Ministry of Health and Social Affairs in co-operation with the Swedish Police and the NGO ECPAT. The campaign used a short film which drew attention to possible scenarios of sexual exploitation of children. The film was shown at airports and Arlanda Express train (connecting Stockholm to Arlanda airport) from December 2011 to March 2012.

107. The National Board for Youth Affairs (renamed as of 1 April 2014 as Swedish Agency for Youth and Civil Society) is developing specific information materials for young people with the aim to preventing them from becoming victims of sexual exploitation via the internet and other interactive media. The materials will contain information about where young people can turn for help, how they can identify possible threats arising from contacts made via the internet and what strategies they can use to avoid being exposed via the internet or through other interactive media. One of the objectives is also to provide information to parents and professionals.

108. Following media attention concerning the situation of berry pickers from Bulgaria and Thailand and investigations of THB for the purposes of labour exploitation in Sweden, public awareness of other forms of THB has increased. However, to GRETA’s knowledge, there have been no systematic awareness-raising campaigns concerning THB for non-sexual types of exploitation and, according to comments of the Swedish authorities, none are currently planned. Further, little information was available on steps taken to raise awareness of risks of THB within diplomatic households or missions.

**109. GRETA welcomes the initiatives of the Swedish authorities to alert the general public and key stakeholders to the risks of THB for sexual exploitation and considers that the authorities should strengthen their awareness-raising efforts as regards THB for the purposes of all types of exploitation and not just sexual exploitation.**

b. Measures to discourage demand

110. In accordance with the Convention, the adoption measures to discourage demand for the services of victims of trafficking, especially women and children, should be understood as a positive obligation on Parties to adopt and reinforce such measures as regards THB for the purpose of any form of exploitation (see paragraph 108 of the Explanatory Report of the Convention). As it is stated in the Recommended Principles and Guidelines on Human Rights and Human Trafficking, strategies aimed at preventing THB shall address demand as a root cause of trafficking.<sup>15</sup>

<sup>14</sup> [YouGov \(see: www.yougov.se\)](http://www.yougov.se) is carrying out internet-based population surveys and post-election exit polls. In the Nordic region, YouGov is particularly well known for its accurate exit polls all of which are conducted via the internet; for example, YouGov conducted the most accurate exit poll at the Swedish general election 2010.

<sup>15</sup> Principle 4 of Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

111. In Sweden, legislation enacted in 1999 prohibits the purchase of sexual services (Chapter 6, Section 11, of the PC).<sup>16</sup> The legislation was introduced as one of several measures taken to combat violence against women and prostitution. The Swedish authorities consider that prostitution is unacceptable and is a cause of serious harm to individuals and to society as a whole, representing a serious obstacle to social equality, gender equality and the enjoyment of human rights. Countering the demand for commercial sexual services is therefore considered by the Swedish authorities to be fundamental to combating both prostitution and THB.

112. According to the report of an inquiry commissioned by the Swedish Government, published in 2010,<sup>17</sup> the criminalisation of the purchase of sexual services is an important instrument in combating prostitution and THB for sexual exploitation. The report finds that street prostitution has halved since 1999, the concerns that prostitution would move to other arenas or underground have not been realised, and there are no signs of increased violence in prostitution. The report also notes that the incidence of the crime of THB in Sweden is considerably lower in scale than in other comparable countries, and that the Swedish National Police are of the view that the ban on the purchase of sexual services acts as a barrier to human traffickers and procurers considering establishing themselves in Sweden. Opinion polls conducted by the Swedish Opinion and Social Research consultancy (SIFO) showed that in 2008, 78% of people aged 18-28 supported the law. Representatives of the police and prosecutors stated that the criminalisation of the purchase of sexual services potentially widens the scope of a criminal investigation and may lead to new lines of inquiry, thereby contributing to the effectiveness of investigations, including for trafficking investigations. The effect of the Swedish legislation criminalising the purchase of sexual services has been the subject of a number of studies.<sup>18</sup> Critics of the “Swedish model” argue that it drives prostitution further underground, contributes to a further stigmatisation of sex workers, makes sex workers unlikely to co-operate with the police and further decreases their credibility as witnesses in legal proceedings.<sup>19</sup>

113. GRETA notes that in practice there is sometimes conflation between the fight against THB and combating prostitution in Sweden. GRETA stresses the importance of keeping under review the impact of the legislation criminalising the purchase of sexual services on the identification of victims of trafficking, on the provision of protection and assistance to victims of THB, and on the effective prosecution of traffickers. The impact of the criminalisation of the purchase of sexual services on the reduction of demand for the services of trafficked persons, and more broadly on the phenomenon of THB for the purposes of sexual exploitation, should also be continuously assessed.

114. Reference should be made to “The Reducing Demand Campaign” conducted by the NGO “1 000 opportunities”, with the financial support of County Administrative Board of Stockholm, and aimed at decreasing demand for sexual services through sensitising potential buyers and victims of THB. The campaign material containing information, fictional and real-life stories and issues for discussion, was disseminated to interested youth centres and schools throughout Sweden.

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<sup>16</sup> In 2011, the Swedish Parliament approved a bill increasing in the maximum term of imprisonment from six months to one year, as recommended in the 2010 evaluation.

<sup>17</sup> Prohibition of the purchase of sexual services. An evaluation 1999-2008 (SOU 2010:49) to the Government, available at: <http://www.regeringen.se/sb/d/12634/a/149142>, in English at: <http://www.government.se/sb/d/13420/a/151488>

<sup>18</sup> See, for example, the [report](#) entitled “Prostitution, trafficking and modern slavery in Europe” of the Committee on Equality and Non-Discrimination of the Parliamentary Assembly of the Council of Europe, Res.1983 adopted on 8 April 2014.

<sup>19</sup> See, for example, Ann Jordan (2012) “[The Swedish Law to Criminalize clients: A failed experiment in social engineering](#)”, Issue Paper 4, April 2012, Centre for Human Rights and Humanitarian Law, American University Washington College of Laws, available at: <http://rightswork.org/wp-content/uploads/2012/04/Issue-Paper-4.pdf>.

115. GRETA recalls that pursuant to Article 19 of the Convention, Parties are required to consider the introduction of legislative or other measures to establish as a criminal offence the use of the services of a victim of trafficking, with the knowledge that the person is a victim of THB. This provision targets the client whether of a victim of trafficking for sexual exploitation or of other forms of THB. **GRETA considers that the Swedish authorities should make further efforts to discourage demand for the services of trafficked persons for all types of exploitation, in partnership with the private sector and civil society, including trade unions and employers. In this context, GRETA invites the Swedish authorities to consider establishing as a criminal offence the use of services which are the object of labour exploitation, with the knowledge that the person is a victim of trafficking in human beings.**

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

116. According to the Swedish authorities, border measures are considered an integral part of crime prevention activities and, in the context of combating THB, are carried out following the Frontex Handbook on risk profiles on THB, which has been distributed to border posts. The Swedish Coastguard works together with the police and customs against organised crime, and participates in joint regional intelligence operations in cases of THB involving travel by sea. The basic training curriculum for coastal guards included a module on THB. THB is integrated in the training programmes and manuals for Border Police officers.

117. GRETA was informed that the Swedish legislation on labour migration for third-country nationals had been significantly liberalised through amendments made to the Aliens Act in 2008, opening new work opportunities to third-country nationals seeking employment in Sweden<sup>20</sup>. Concern was expressed to GRETA that this liberalisation had not been accompanied by sufficient safeguards to protect migrant workers against labour exploitation and could therefore facilitate THB for the purposes of labour exploitation. Specific “at risk” sectors include construction, hotels and restaurants, fast food outlets, contract cleaning and agriculture (in particular berry-picking). Just before the 2011 berry season the Swedish Migration Board launched new guidelines applicable to a range of sectors, including berry-picking, cleaning, hotel and restaurants, construction, trade, agriculture and forestry and automobile repair. To secure a work permit for a third-country national, an employer must demonstrate that their business can guarantee a salary for at least three months, and must describe the terms of employment in the Offer of Employment, as well as provide information to the Migration Board about the work. Employers are also required to demonstrate that potential employees have received accurate and comprehensive information about the work, terms of employment and working conditions. As a result of the stricter requirements now in place, the Migration Board can deny applications from employers who have not shown satisfactory economic conditions to employ third country nationals. According to the Swedish Government, employers not providing the necessary documentation will usually have their applications denied by the Migration Board.

118. In addition, the Swedish Work Environment Authority operates the website [www.safeatwork.se](http://www.safeatwork.se) containing information for persons coming to work in Sweden for different areas of employment, including construction, restaurant, forestry, agriculture and horticulture sectors. In the course of the evaluation visit, GRETA was informed that the Work Environment Authority was planning to publish a brochure “Working in Sweden” which would be provided to persons obtaining Swedish work permits, containing general information on the labour standards applicable, and the rights of workers. This brochure has now been published and made available to potential foreign employees in Swedish embassies and consulates. The Work Environment Authority is responsible for monitoring the enforcement of the Work Environment Act and the Working Hours Act. Its mandate covers only health and safety condition and it does not have a specific role or mandate in the field of THB. Inspectors are provided with a check list to identify suspicious cases involving THB, in which case they are required to contact the police authorities. No such reports have been made to date.

<sup>20</sup> Information on residence and employment in Sweden is available on the websites of the Swedish Migration Board (<http://www.migrationsverket.se>) and a dedicated website <http://work.sweden.se/>.



119. Swedish embassies and consulates process visa applications pursuant to Regulation No. 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas and the Commission Decision of 19 March 2010 establishing the Handbook for the processing of visa applications and the modification of issued visas. In case of doubt, the application may be passed to the Swedish Migration Board for a decision. All Swedish diplomatic missions abroad have information on their websites about the requirements for applications for residence permits and work permits in Sweden, as well as the requirements to obtain a Schengen visa. The Swedish Migration Board assists the Ministry of Foreign Affairs in providing the relevant information.

120. The CBSS Task Force against THB has organised a series of seminars for diplomatic and consular personnel in partnership with the IOM in the capitals of the CBSS member states, as well as in Brussels and Madrid. Building on the experience of these seminars in 2011 the CBSS published 2500 copies of the operational Handbook for Diplomatic and Consular Personnel on “How to Assist and Protect Victims of Human Trafficking”, which was distributed to all embassies in the region, encouraging them to use it as a tool for dealing with THB cases.

121. In the course of 2012 the Swedish Migration Board participated in the project “A new way in” with the Swedish Public Employment Service and the independent think tank Global Challenge. The project aimed to explore ways of informing third country nationals about the possibility of applying for work permit and entering Sweden legally, as an alternative to the irregular ways of migrating to Sweden.

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

122. According to the Swedish authorities, it is mandatory for all passport applicants to appear personally at the passport office. Since October 2005 the applicants are obliged to have his/her digital photograph taken at the passport office (the police authorities in Sweden embassies and consulates abroad), which is then stored on a passport chip. Since 2009 the applicants are required to have their fingerprints recorded by passport authority. All passport applicants are required to collect their issued passports in person.

123. National identity cards which may also be used as travel documents are protected by similar security measures, except for registering the owner’s fingerprints. Similarly to passport, the national identity card has a chip with a digital photograph. An applicant must apply and collect the identity card in person and confirm his/her identity by presenting a valid ID document at both times. Further, the refugee travel documents and other alien passports issued by the Swedish Migration Board to third-country nationals are also protected by security measures.

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

a. Identification of victims of trafficking in human beings

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

125. In Sweden, the identification of a victim of THB can be initiated by the police, the social services, the Migration Board or an NGO providing support to victims (e.g. through a hotline, such as the one operated by ECPAT Sweden for suspected cases of trafficking in children). According to the Swedish authorities, commonly agreed guidelines on working on THB cases are used within the National Task Force. It is expected that the setting up of the National Referral Mechanism (see paragraph 62) will provide for further, more detailed indicators for the identification of victims of THB. Within the Police, a set of indicators based upon international experience is used for training on THB. They consist of indicators for identification of adults in sexual exploitation and in labour exploitation and indicators for identification of children in sexual exploitation and in labour exploitation.

126. Moreover, indicators developed by Frontex on the identification of potential victims of THB in the context of border controls are also provided to border guards. At the Migration Board, the "Manual for migration cases", which is the guiding document for processing asylum applications and applications for residence and work permits, contains a specific chapter on identification and referral of presumed THB victims. Should a staff member of the Migration Board suspect a case of THB, he/she is required to report to one of the four co-ordinators (see paragraph 33) for further action. Finally, in 2013, UNICEF and the National Co-ordinator against Prostitution and Trafficking at the County Administrative Board of Stockholm, have published a revised manual to facilitate identification of child victims of trafficking.

127. As regards the police, identification can be made by any police officer who comes across a suspected case of THB. Thus identification may take place on the basis of intelligence gathering operations evolving into criminal investigations or on the basis of observations made by patrolling front-line officers. Another starting point for investigations is internet surveillance, in particular in relation to the selling of sexual services through the internet. The police must initiate a preliminary investigation as soon as there is a credible report or other information that an offence has been committed. As noted in paragraph 31, specialised police units to detect and identify victims of THB for sexual exploitation are operating in Stockholm, Malmo and Gothenburg.

128. At present, there is no national mechanism for the identification and referral to assistance of victims of THB in Sweden. In practice, identification by the police largely depends on the victim's willingness or ability to provide information to initiate criminal investigation. GRETA is concerned that the criminal law-based approach to victim identification leaves victims of THB without formal identification and outside of the scope of the protection measures provided for under the Convention. Further, GRETA notes that insufficient attention has been paid to the requirement for pro-active identification of victims of THB for non-sexual types of exploitation.

129. GRETA's attention has been drawn to certain difficulties as regards the referral of victims of THB from the social services to the police, due to the fact that these two actors pursue different goals: while the main objective of the social services is to determine whether the person concerned should receive assistance, the police focus on obtaining evidence to initiate a criminal case. According to NGOs and representatives of the social services, victims often refuse to repeat statements they made to the social services as they are unwilling to participate as witnesses in criminal proceedings. According to representatives of the police and the social services, efforts are being made to improve co-ordination and to enable victims of THB to be identified without being requested to give testimony in criminal proceedings.

130. The Migration Board plays an important role in the detection of victims of THB. There is an internal guidance (“routines”) for migration officers on the steps to be taken when a case of THB is suspected. In all such cases the information available must be transferred to the police. The issuing of work permits for third-country nationals is closely controlled by the Migration Board. Businesses in the cleaning, restaurant, construction and car repair industries must demonstrate their ability to guarantee the payment of employees’ wages. They are also required to prove that the future employee has been properly informed of the terms of employment. GRETA was informed by representatives of the Migration Board that they had come across a number of possible victims of THB for non-sexual types of exploitation. However, although the cases were reported to the police, no victims of THB were formally identified, allegedly because the police had little experience in THB for non-sexual exploitation and evidence could not be gathered to initiate criminal cases.

131. GRETA notes that there are considerable gaps in the current practice of identification of victims of THB for labour exploitation. There is no body with a comprehensive labour inspectorate mandate, leading to gaps in the monitoring of conditions of employment and limited monitoring of unscrupulous employers. The Swedish Work Environment Authority does not have a specific role or mandate to combat THB and there are weak operative links between labour inspectors (responsible only for checking health and safety at workplaces), Trade Unions and the border police. In addition, job offers, which are the basis for issuing work permits, are not legally binding upon employers, so any person arriving in Sweden to take up employment has no guarantee that the initially promised offer of employment will in fact be respected. GRETA is concerned by the potential risks of THB for the purposes of labour exploitation that arise where such job offers are not binding. Recent research on THB for labour exploitation in Sweden brings to light cases of migrant workers paying high fees to get employment in Sweden, leading to debt bondage often used by traffickers to keep migrant workers under control.<sup>21</sup> Other means of control include threats, isolation, surveillance and confiscation of travel or identity documents. Another problem reported is the trade in work permits, when employment offers that were made are not followed by the issuing of a valid contract<sup>22</sup> or such offers are made by “shell companies”<sup>23</sup> which by the time of the arrival of employees, no longer exist. Further, the research suggests there is an important lack of awareness about trafficking for labour exploitation among key authorities such as the police, judges and staff of consulates, which hinders the identification of victims of THB.

132. GRETA was informed of discussions in Sweden to ensure that the terms and conditions of job offers are complied with. In 2013 the Ministry of Employment proposed measures to identify and prevent abuse in the labour market, such as introducing follow-up controls of employment conditions by the Migration Board after the issuing of a residence or work permit. The proposals also include the introduction of an obligation for employers to provide the Migration Board with information on the current conditions of employment of the person in possession of the work permit. Furthermore, it is proposed that the Migration Board should have access to information available in the taxation system, the databases of the Swedish Enforcement Agency, as well as the Swedish Social Insurance Agency and the Swedish Pension Agency. Finally, further grounds for withdrawal of residence permits were proposed, for instance when the criteria for the issuing of the work permit are no longer complied with, or when the holder of the work permit has not taken up the promised employment within a reasonable time. These proposals are currently being examined by the Government offices, and consultative bodies have been invited to state their opinions on the proposals. **GRETA would like to be kept informed of the outcome of these discussions.**

<sup>21</sup> European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), *Exploitation of migrant workers in Finland, Sweden, Estonia and Lithuania: Uncovering the links between recruitment, irregular employment practices and labour trafficking* HEUNI, Publication Series no. 75 (Helsinki: 2013).

<sup>22</sup> HEUNI, *Exploitation of migrant workers in Finland, Sweden, Estonia and Lithuania*, p. 197, box 2.

<sup>23</sup> Companies created solely for the purpose of applying for work permits for foreigners which declare themselves bankrupt soon after they obtain such permits.

133. The trade unions in Sweden can potentially play an important role in preventing exploitation of workers employed in different economic sectors. Based on collective agreements concluded with local and foreign employers operating in Sweden, trade unions may carry out inspections and monitor the conditions of employment. The mandate of trade unions to inspect work places includes sectors such as domestic work and the provision of personal services, where collective agreements are in place. However, concluding such agreements is not mandatory and areas in which employers have no agreements with trade unions in place, remain beyond the reach of the trade unions' monitoring and inspection roles, and as a result the potential role that they can play in the detection of victims of THB is limited.

134. According to official estimates, from 2007 to 2010 about 30 000 foreign workers were brought into the country to pick berries. The workers' countries of origin included Thailand, China and Vietnam. Cases of wages not being paid have been reported and a few cases were taken to court for labour law violations, but there were no convictions for THB. Representatives of the Migration Board informed GRETA that in 2012 some 2 000 Bulgarian nationals were victims of labour exploitation in the berry-picking sector. In the summer of 2012 around 700 berry-pickers from Bulgaria came to Stockholm from the counties of Uppsala and Gävleborg in order to seek assistance with their return to Bulgaria, which was arranged by the Bulgarian Embassy in Sweden and the Municipality of Stockholm. A series of reports concerning possible cases of THB were filed by the Police in Uppsala, but no criminal investigations were opened and no victims were formally identified on the basis of reasonable grounds. Following the return of the berry-pickers to Bulgaria, a criminal investigation was opened there and several hundreds of presumed victims were interviewed. As far as the Swedish Police is aware, as of January 2014, decisions on prosecutions are still pending in Bulgaria. This case led to the establishment of close co-operation between Swedish and Bulgarian law enforcement bodies, including direct exchanges of information via police channels. The National Co-ordinator also organised a one-day seminar with participation of NGOs from Bulgaria and Swedish social services.

135. GRETA was informed by NGOs about cases of trafficking for forced begging and forced criminality in Sweden. According to the authorities, efforts are being made to provide a co-ordinated response to new types of THB in Sweden, including by broadening the scope of the National Task Force and the National Co-ordinator. It was noted by police and prosecutors that cases potentially involving trafficking in children for forced begging raised complex questions around children's rights, family life and the status of migrant families. In addition, UNICEF expressed concern that the skills and capacity to respond to trafficking in children for non-sexual purposes were not adequately developed in Sweden.

136. In relation to the identification of victims of THB among asylum seekers, the competent body to decide upon asylum claims is the Swedish Migration Board. The Swedish authorities have indicated that, should a suspicion arise that an asylum seeker might be a victim of THB, the person concerned is informed about the support available for victims of THB and the possibility to report the crime to the police. The asylum procedure itself is not suspended and continues in parallel to the criminal investigation. However, the investigation into a possible THB case may have an impact on the time within which the asylum claim is processed or on the time of the person's return in case of a negative decision. Even if the criminal charges are dropped at the end of the investigation, it is recognised that the applicant may nonetheless have reasons to claim asylum or other forms of protection.

137. GRETA was informed that in 2012 there were 3 578 unaccompanied minors among the asylum seekers in Sweden, while in 2013 the number of such minors was 3 826. Once identified by the Migration Board, the responsibility for accommodation and assistance to unaccompanied minors is vested with the municipalities, who as a rule place them in foster care. Pursuant to the Act on Guardians Ad Litem for Unaccompanied Children, a legal guardian must be appointed by the Chief Guardian (an office functioning in all Swedish municipalities) as soon as an unaccompanied minor arrives in Sweden in order to look after the best interests of the child. According to the authorities, about 10% of unaccompanied minor asylum seekers disappear and a number of professionals involved in child protection believe that at least some of these children are trafficked. The Swedish National Co-ordinator informed GRETA that as the result of mapping of child victims of THB since 2008, 166 suspected cases of child trafficking were detected among unaccompanied minors, but very few were reported to the police and none led to formal identification.

138. The National Board of Health and Welfare, the Migration Board, the County Administrative boards and The Swedish Association of Local Authorities and Regions form a national co-ordination group on problems relating to unaccompanied children. In the spring of 2014, the group's work is planned to focus on children and young people who disappear and may be vulnerable to trafficking. The County Administrative board of Stockholm and the national emergency helpline (SOS Alarm) will also be included in this work. In cases where unaccompanied asylum seeking children go missing, the legal guardian or a specially appointed custodian should make a police report. The social services may also report to the police. At present there are no statistics available concerning the number of unaccompanied children who have gone missing from the asylum system and social services in Sweden. The guidelines of National Boards for work with unaccompanied children contain information on how social services should take into account the risks faced by children who are or may be victims of trafficking, and what are the social and other services that need to be made available to them, such as escorting the child while commuting to school or during an asylum investigation. Further, in 2014 the Migration Board has been commissioned by the Government to report on the measures being taken to ensure that special attention is given to children that may be victims of trafficking, and on how the Migration Board co-operates with other authorities and relevant actors with regard to unaccompanied minors. **GRETA would like to be informed of the conclusions of this report.**

139. In 2008 UNICEF and the National Board of Health and Welfare developed a publication intended to serve as a tool for frontline professionals (social services, Migration Board, the police, health services and NGOs) who come into contact with children and young people vulnerable to THB in order to help them identify child victims of trafficking. The publication contains a checklist of issues and actions to identify child victims of THB. In 2013 the publication was re-edited through the funding of the County Administrative Board of Stockholm and distributed to relevant professionals in the municipalities. According to the Decree on Preliminary Investigations, children are to be interviewed by a person specially qualified for the task. In police work, investigations involving children as victims or the injured party are carried out by investigators specialising in crimes against children. There is a national training programme for investigators, which includes five weeks specifically dedicated to interviewing child victims of crime. The police collaborate with other authorities, including the Children's House (Barnahus), when investigating a crime involving a child victim.

140. Representatives of local NGOs dealing with the protection of victims of THB, including children, drew the attention of GRETA to the fact that in some cases unaccompanied minors have been removed from social services by adults claiming parenthood or custody and the social services were reportedly not always sufficiently vigilant in ascertaining the identity of the person claiming parental rights. In their comments on the draft GRETA report, the Swedish authorities have indicated that the National Board of Health and Welfare will address the issue in the national co-ordination group in the course of 2014.

141. In the context of broadening the anti-trafficking mandate of the County Administrative Board of Stockholm special attention should be paid to children vulnerable to THB in order to improve co-operation between the authorities to increase the chances of early identification and to prevent risks of trafficking.

142. **GRETA urges the Swedish authorities to set up a formalised national referral mechanism defining clear procedures and roles of all frontline actors who may come into contact with victims of trafficking. In this context, the Swedish authorities should:**

- **strengthen the multi-agency involvement in the decision-making process leading to the identification of victims of trafficking, by giving a formal role in the identification process to frontline actors such as NGOs, labour inspectors, social workers and officials dealing with irregular migrants and asylum seekers;**
- **provide all frontline staff with operational indicators, guidance and toolkits for the identification of victims of trafficking subjected to different forms of exploitation and train them to use those identification tools;**
- **ensure that the police, social services, labour inspectors and other relevant actors adopt a more proactive approach and increase their outreach work to identify potential victims of trafficking, in particular as regards forms of exploitation other than sexual (labour exploitation, forced begging, forced criminality, etc.);**
- **ensure that the identification of victims of THB is not made conditional on their co-operation in the investigation and criminal proceedings or the initiation of criminal proceedings;**
- **improve the identification of victims of trafficking among irregular migrants and asylum seekers, including through training of immigration police officers;**
- **address the problem of unaccompanied minors going missing, by providing suitable safe accommodation and adequately trained supervisors or foster parents, and ensure the timely identification of victims of trafficking among such children.**

b. Assistance to victims

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

144. In Sweden the Act on Social Services, the Aliens Act and the Act on Health and Medical Care contain provisions relevant to the assistance to victims of THB, although they do not specifically refer to victims of THB as a category to be provided with assistance. Chapter 4, Section 1, of the Act on Social Services states that "persons unable to provide for their needs or to obtain provision for them in any other way are entitled to assistance from the social welfare committee towards their livelihood and for their living in general." Further, Chapter 4, Section 2, of the Act on Social Services authorises the social welfare committee to provide assistance beyond the requirements of Section 1. Chapter 5, Section 11, of the Act on Social Services states that "the social welfare committee should take steps to ensure that persons subjected to criminal acts and their next-of-kin are supported and helped", which would include formally identified victims of THB. This Act also contains provisions relating to the reception of children, which are based on the principle that the best interests of the child should always be taken into account when deciding upon accommodation and assistance for children in need.

145. Since 1 July 2013 the responsibility for supervising the provision of social services has been vested with the Health and Social Care Inspectorate, which has six regional divisions covering the territory of Sweden. The task of providing assistance to persons in need, including victims of THB, is given to social welfare committees in each of the 290 municipalities in Sweden. According to the Act on Social Services, the assistance aims at ensuring reasonable standard of living for the individual receiving it, and will be designed so as to promote the independent living of the person concerned. The assistance should include accommodation, support in contact with other agencies, financial assistance, interpretation and psychosocial support.

146. The assistance to victims of THB is the responsibility of the municipal social services which apply local standards and regulations. In practical terms, municipalities often make arrangements for the support of victims by contracting specialised NGOs who run shelters for different categories of persons. Victims of THB for sexual exploitation can get additional help from specialised anti-prostitution units of the municipal social services in Stockholm, Malmo and Gothenburg. The focus of NGO support services has been primarily on victims of THB for sexual exploitation. Representatives of Caritas Sweden and the Swedish Trade Union Confederation highlighted the need for more support services for victims of trafficking for the purposes of labour exploitation, in particular outside the Stockholm area. GRETA's attention was also drawn to difficulties in securing assistance and support, including accommodation, for presumed male victims of trafficking for the purposes of labour exploitation.

147. NGOs running shelters which accommodate victims of THB are engaged in daily cooperation with the municipal social services and police. In 2012 "Safer Sweden" and other NGOs working in the area of THB approached the County Administrative Board of Stockholm with a co-operation proposal concerning the establishment of an informal NGO network in order to consolidate efforts at providing victims of THB with assistance of a harmonised standard. According to information provided by the Swedish authorities, the network entitled "Platform Civilians Sweden against THB" was established on 29 August 2013. The purpose of this network is to improve the co-ordination of measures for victims of THB, to combat all forms of trafficking and to improve victims' access to information on their rights. This network, currently consisting of sixteen members, has established co-operation with the County Administrative Board of Stockholm.

148. Since 1 July 2013 the Health and Social Care Inspectorate has an obligation to inspect shelters and other accommodation, as well as facilities where assistance is provided under the Act on Social Services to verify the quality of the measures proposed and the overall conditions. However, the standard of assistance and protection varies between municipalities and the types of assistance provided, depend, to a certain extent, on victim's needs and residence status.

149. The GRETA delegation was informed by representatives of public bodies and NGOs that assistance to victims of THB who are formally identified as such is tailored to their needs. However, as the identification of victims of THB is linked to their participation in criminal proceedings, a number of victims are not formally identified and are left outside the reach of the assistance and protection that they are entitled to under the Convention. This is particularly true for victims of THB for non-sexual types of exploitation. According to the Swedish authorities, measures are being taken to improve the access of victims of THB to assistance. In particular, the Health and Social Care Inspectorate has been set up with the task of ensuring that the public receives health and social care of good quality, in accordance with legislative and other regulatory provisions. The Health and Social Care Inspectorate is expected to develop an analysis of the deficiencies observed in providing health and social services, prepare systematic supervisory reports and guidance to health and social care services.

150. During the evaluation visit, the GRETA delegation visited three shelters for women victims of domestic violence which also accommodate victims of trafficking (in Stockholm, Malmo and Gothenburg). These shelters were designed to accommodate women together with their children and provided emergency and long-term medical assistance, vocational training, education, assistance in finding employment to those eligible, etc. GRETA notes that there are currently no specialised accommodation facilities and assistance arrangements for male victims of trafficking.

151. The County Administrative Board of Stockholm has been requested by the Swedish Government to develop rehabilitation programs for victims of THB for sexual exploitation and prostitution, which should take into account the special needs of child victims. These programs aim to meet the individual needs and provide support for THB victims whether they stay in Sweden or return to their country of origin. A total of 217 000 euros has been allocated from the state budget to implement this project. Expenses for assistance provided to victims of THB by the municipalities are covered through local budgetary allocations. In addition, the State budget envisages special funding for legal assistance (e.g. interpretation and translation, counsels for victims of crimes, or “injured parties” and special representatives of children).

152. Children residing legally in Sweden have the right to access education within the school system. This right is also extended to children with a temporary residence permit, as well as children seeking asylum. The Swedish school system is funded by the municipalities and a targeted government grant is provided to municipalities where schools accept children seeking asylum. GRETA was informed of the plans to allow children without a residence permit to have access to education in Sweden. Further, the National Board for Health and Welfare and the County Council of Stockholm are planning to develop and disseminate guidelines for social services on trafficking in children, which will be integrated into an assessment, planning and follow-up tool, used by service providers in all local authorities in Sweden.

153. **GRETA urges the Swedish authorities to strengthen their efforts to provide assistance to victims of trafficking, and in particular to:**

- **ensure that, in practice, access to assistance for victims of THB is not made conditional on their co-operation in the investigation and criminal proceedings;**
- **provide safe and suitable accommodation to victims of trafficking for all types of exploitation, depending on their needs;**
- **ensure that suitable accommodation is provided to male victims of trafficking and that they have effective access to the assistance measures provided for in law;**
- **ensure that all children victims of trafficking benefit from the assistance measures provided for under the Convention, including appropriate accommodation, specialised support services and access to education.**

154. **In addition, GRETA considers that the Swedish authorities should introduce a set of common quality standards for assistance provided to victims of trafficking by all service providers and ensure an effective supervision of their observance in all municipalities.**

c. Recovery and reflection period

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



156. Section 15 of Chapter 5 of the Aliens Act has been amended in the light of EU Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities. The Aliens Act allows victims of all crimes (not only THB) to be provided with a recovery and reflection period under Section 15 of Chapter 5. This provision also applies to witnesses of the offences who can provide evidence in criminal proceedings. The provision allows an alien to be provided with a temporary residence permit for the duration of 30 days in order to recover from the crime he/she suffered and reflect upon co-operation with the authorities in charge of the criminal investigation. The Swedish authorities have indicated that nationals of the European Economic Area are also entitled to a recovery and reflection period under Section 15 of Chapter 5 of the Aliens Act.

157. Application for the recovery and reflection period may only be filed by an investigating officer provided the stay of the person concerned is necessary to enable a preliminary investigation or hearing in a criminal case, and if considerations of public policy and security do not indicate to the contrary.

158. The Swedish Migration Board is the decision-making authority as regards the recovery and reflection period. A negative decision of the Migration Board may be appealed in a migration court by the investigator or prosecutor conducting the preliminary criminal investigation. According to the Swedish authorities, an alien illegally staying in Sweden may not be removed during the recovery and reflection period.

159. During the evaluation visit GRETA was informed by representatives of the police that co-operation with the police was required for the recovery and reflection period to be granted. Further, representatives of the prosecution and social services indicated that the law enforcement authorities tend to immediately apply for a residence permit (instead of a recovery and reflection period) because the conditions and procedures for granting both of them are very similar and the residence permit has a longer duration (six months).

160. GRETA is concerned that even though the legislation does not make the recovery and reflection period conditional on the victim's participation in the criminal investigation, in practice the application for this period is only possible through the investigating officer, which may result in a requirement, in practice, that the possible victim participates in the criminal investigation, contrary to the purposes of the recovery and reflection period under the Convention.

**161. GRETA urges the Swedish authorities to ensure that a recovery and reflection period is provided to all persons in respect of whom the authorities have reasonable grounds to believe that they are victims of trafficking. It should be made clear that the granting of the recovery and reflection period is not subject to co-operation with the law enforcement authorities in criminal proceedings.**

**162. Further, GRETA considers that victims of THB should be allowed to apply for the recovery and reflection period in person or through the social services and NGOs that have detected them. All victims of trafficking should be systematically informed of the possibility of benefitting from a recovery and reflection period and should be effectively granted such a period.**

d. Residence permits

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

164. Granting of temporary residence permits to victims of crime is regulated by the provisions of Chapter 5, Section 15, of the Aliens Act, which reads as follows:

“Upon application from the person in charge of a preliminary investigation, a temporary residence permit valid for at least six months shall be granted to an alien staying in this country, if:

1. it is necessary to enable a preliminary investigation or a main hearing in a criminal case to be carried out,
2. the alien has shown a clear intention to cooperate with the investigating authorities,
3. the alien has severed all relations with the persons who are suspected of crime concerned in the preliminary investigation, and
4. considerations of public policy and security do not indicate that a permit should not be granted.”<sup>24</sup>

165. The temporary residence permit may be renewed upon request of the person in charge of the preliminary investigation, provided the reasons for which it has been issued remain valid. The temporary residence permit entitles its beneficiaries to access social assistance measures, as well as education and the labour market (without needing to separately apply for the work permit).

166. Further, Chapter 5, Section 6, of the Aliens Act provides for the possibility of issuing a residence permit to an alien if “an overall assessment of his/her situation reveal such exceptionally distressing circumstances that he/she should be allowed to stay”. When assessing this situation the alien’s state of health, his/her adaptation to Sweden and his/her situation in the country of origin are taken into account. According to the Swedish authorities, the *travaux préparatoires* of the Aliens Act refer to victims of THB as a category of persons who can be considered as being in exceptionally distressing circumstances. When granting residence permits, no record is made as to the grounds for which they are granted, which is why there is no statistical information concerning the number of victims of THB who received residence permits.

167. Child victims of trafficking may be granted residence permits under Chapter 5, Section 6 of the Aliens Act even if their circumstances “do not have the same seriousness and weight that is required for a permit to be granted to adults.” The grounds for granting a residence permit for children are to be altered from “exceptionally distressing circumstances” to “specially distressing circumstances”, so as to strengthen the child rights perspective in Chapter 5, Section 6 of the Swedish Aliens Act. GRETA notes with satisfaction that a temporary residence permit, granted under Chapter 5, Section 15, of the Aliens Act entitles its beneficiaries to access a broad range of social assistance measures, education and the labour market.

168. In addition, Chapter 4, Sections 1 and 2 of the Aliens Act set out the modalities for granting a residence permit to persons claiming refugee status in Sweden, including “persons otherwise in need of protection”. This possibility is open to victims of THB.

169. GRETA was informed by representatives of the police, social services and NGOs that residence permits were granted mostly to victims of THB for sexual exploitation who agreed to co-operate with the investigation. Victims of THB for other types of exploitation usually did not get to the stage of obtaining temporary residence permits due to difficulties in initiating criminal cases. GRETA notes with concern that this is linked to the lack of investigation and prosecution of THB for non-sexual forms of exploitation (see paragraph 204).

<sup>24</sup>

Unofficial translation provided by the Swedish authorities.

170. GRETA notes that residence permits give their holders the same rights as Swedish nationals. However, according to representatives of public bodies, in smaller towns there is insufficient knowledge about the rights of victims of THB, which may complicate their access to the labour market and to education.

171. According to the authorities, in 2012 there were 24 persons affected by THB who were granted temporary residence permits for six months (all of them subject of sexual exploitation). By May 2013 the Migration Board had detected 23 potential cases of THB through screening of applications for residence permits and in asylum procedures, which were later confirmed by the police. The Swedish authorities highlighted that residence permits may be granted to victims, but also witnesses of any crime, including THB, therefore it was not possible to indicate how many victims of THB received residence permits.

172. GRETA welcomes the possibility for victims of THB to be issued a residence permit both on the basis of their personal situation as well as for co-operating with the authorities. **GRETA considers that the Swedish authorities should ensure that victims of trafficking, regardless of the form of exploitation, can fully benefit in practice from the right to obtain a renewable residence permit when a victim is unable to co-operate with the authorities. Further, GRETA considers that the Swedish authorities should take steps to raise awareness of this possibility among relevant professionals and victims.**

e. Compensation and legal redress

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

174. Pursuant to the Swedish Code of Judicial Procedure (CJP), in criminal proceedings the injured party may lodge a private claim for compensation of damages to be paid by the offender in conjunction with the prosecution of the offence. When making such a claim the prosecutor, upon request of the injured party, prepares and presents this party's action, provided that this will not result in any major inconvenience for the criminal case at hand and the claim is not manifestly ill-founded. In certain criminal cases, the court may appoint a counsel for the injured party or a special representative for a child who also assists with a compensation claim. In addition, victims of crime may claim compensation/damages from the perpetrator according to the Tort Liability Act, which allows doing so within 10 years from the injury or damage suffered or longer, in case the limitation period from bringing of charges for the offence in question is longer than 10 years.

175. In cases where a perpetrator was not identified or has no possibility to pay compensation, or if the victim does not have insurance that fully covers the injuries, victims of crimes may apply for state compensation. Access to state compensation is regulated by the Criminal Injuries Compensation Act. The Crime Victim Compensation and Support Authority is the public body responsible for examining application claims. It also has the statutory duty of disseminating information to crime victims on criminal injuries compensation, the relevant procedures and the assistance they are entitled to. The Crime Victim Compensation and Support Authority operates a telephone service providing information to any interested people relating to compensation. Such information is also disseminated by means of brochures available in Swedish and 14 other languages.

176. In order to have access to state compensation there must be a judgment of the court on the case in question and either the offender should be unable to pay or it is not possible to identify the offender. State compensation may cover expenses incurred for medical treatment, counselling, pain and suffering and permanent injuries. If the crime is considered to be a serious violation of the victim's personal integrity, private life or human dignity, compensation can also be awarded for violation of personal integrity, which is the case for most criminal acts suffered by victims of THB. State compensation may be awarded for offences committed in Sweden regardless of whether the victim is a Swedish national or resident. It is possible to apply for compensation in person or through an authorised representative within two years after the completion of the criminal case, even after the victim had left Sweden. If the victim is returned to the country of origin through a repatriation programme there is a mechanism allowing him/her to access compensation from abroad. Swedish residents can also be entitled to state compensation for crimes committed against them abroad.

177. GRETA was informed that in 2008 the Crime Victim Compensation and Support Authority carried out an evaluation of access of victims of THB for sexual exploitation to state compensation. The results of this study, presented on 1 February 2010, revealed that in 33 out of 34 cases the awarded state compensation was received by applicants. According to representatives of the Crime Victim Compensation and Support Authority, a total of 40 requests for state compensation from victims of THB have been recorded to date. According to data collected by the Crime Victim Compensation and Support Authority, in 14 cases compensation was awarded to victims of THB for sexual exploitation and in only one case to a victim of THB for labour exploitation. The amounts given ranged from 8 200 to 33 400 euros for violation of personal integrity and for pain and suffering. It is noteworthy that the Crime Victim Compensation and Support Authority received only one claim for compensation from a victim of THB for non-sexual purposes of exploitation.

178. Pursuant to the Code of Judicial Procedure, an injured party who will be heard by the court and has no command of Swedish should be provided with interpretation and translation during the legal proceedings free of charge. Such person should be informed about his/her right to be represented by the prosecutor or a legal counsel. He/she also has the right to a "supporting person". The legal counsel for the victim of THB is appointed by the court and the expenses for his/her services are covered by the state budget. The legal counsel protects the injured party's interests and is entitled to take various legal actions, for instance, to initiate a compensation request on behalf of the victim, if the prosecutor does not do so.

179. Pursuant to the Act on Counsel for an Injured Party, the court regularly appoints a counsel for the injured party, including victims of THB. The counsel assists the party and protects his/her interests and can bring an action for damages on the victim's behalf, if the prosecutor does not do so. The counsel is paid by the State. That said, prosecutors drew GRETA's attention to the fact that while legal assistance is free for victims of crime during the criminal case, it is discontinued as soon as the final judgment is delivered, leaving victims without legal assistance to pursue their compensation claim.

180. In the view of representatives of NGOs and prosecution, one of the most significant difficulties for victims of THB to receive compensation is the fact that judges are not sufficiently sensitised to the situation and circumstances of victims of THB. Further, the right of a victim of THB may become compromised, should a prosecutor decide to re-qualify a case initiated for THB due to lack of evidence, and instead press charges for procuring or purchase of sexual services. In such a case, a victim of purchase of sexual services might be considered an 'injured party', but that question has to be determined on a case by case basis.

181. GRETA welcomes the efforts of the Swedish authorities to make compensation available to victims of THB. However, **GRETA considers that the Swedish authorities should strengthen their efforts to facilitate and guarantee access to compensation for all victims of trafficking, in particular by:**

- **ensuring that victims of trafficking are systematically informed, in a language that they can understand, of the right to seek compensation and the procedures to be followed;**
- **enabling victims of trafficking to exercise their right to compensation from the perpetrator or from the state, by ensuring their effective access to legal aid and by allowing them to stay in the country for the duration of the proceedings.**

f. Repatriation and return of victims

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

183. Since 2009 the County Administrative Board of Stockholm has been implementing activities with a view to ensuring that persons subjected to prostitution and THB for sexual purposes are able to safely return to their countries. During the implementation of the National Action Plan a total of 1 085 000 euros were allocated from the state budget for the implementation of activities to improve the provision of support to victims of THB who return to their countries.

184. In August 2012 the County Administrative Board of Stockholm initiated a pilot project in co-operation with the IOM Office in Helsinki with the aim to develop a consistent mechanism of voluntary return and reintegration for victims of trafficking and foreign persons in prostitution in Sweden. This pilot project aims at providing counselling to the persons who are being returned and ensures that voluntary return is followed by reintegration support and monitoring programmes tailored to the needs of each returnee. It is envisaged to produce a manual on voluntary returns and a return brochure for victims of THB and persons in prostitution. According to the Swedish authorities, this project covers victims of THB for all types of exploitation, as well as foreign nationals in prostitution.

185. During the evaluation visit the GRETA delegation was informed that victims of THB from both EEA and non-EEA countries, who are not prepared to co-operate with the law enforcement authorities in criminal investigations are rapidly removed from Sweden. GRETA is concerned that expedited removal of victims of THB would not allow sufficient time for their identification and assessment of the risks of their return, or compliance with the State's obligations of *non-refoulement*, as stipulated in Article 40(4) of the Convention. Incidents of re-trafficking of EU nationals to Sweden for the purpose of sexual exploitation and of third-country nationals within the EU were brought to GRETA's attention. Concern was expressed that risks of re-trafficking were not adequately assessed or recognised, and that *non-refoulement* obligations were not adequately enforced.

186. GRETA considers that the Swedish authorities should take further steps to ensure compliance with *non-refoulement* obligations (as per Article 40(4) of the Convention). GRETA also considers that steps should be taken to strengthen co-operation with countries of origin of victims of trafficking in order to ensure safe and preferably voluntary return as well as effective reintegration of victims. The return of victims of THB from different municipalities should be carried out in a co-ordinated manner that ensures compliance with the State's obligations.

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

##### a. Substantive criminal law

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

188. As mentioned in paragraph 45, trafficking in human beings is established as a criminal offence under Chapter 4, Section 1a, of the PC. The basic offence is punishable by imprisonment from two to 10 years. Aggravating circumstances applicable to all the offences envisaged by the PC are contained in Chapter 29, Section 2 of the PC. GRETA notes that none of the aggravating circumstances included in Article 24 of the Convention appear in this provision. The Swedish authorities have explained in the comments to the draft GRETA report that the aggravating circumstances envisaged by the Convention would apply to THB offences by virtue of Chapter 29, Section 2, of the PC. According to the authorities, the list of aggravating circumstances in Chapter 29, Section 2, of the PC is not meant to be exhaustive and circumstances not expressly mentioned in this provision can be taken into consideration by Swedish courts as aggravating circumstances. **GRETA considers that the Swedish authorities should ensure that all the aggravating circumstances included in the Convention are appropriately taken into account.**

189. An attempt to commit a trafficking offence, as well as aiding and abetting are punishable in accordance with the provisions of Chapter 23 of the PC (applicable to all offences under CC). Further, pursuant to Chapter 29, Section 4, of the PC Swedish courts must take into account previous convictions when delivering judgments for any offence, including THB, irrespective of where the previous offence had been committed. Criminal convictions in another Party to the Convention may therefore be taken into account when determining the penalty for offences of THB in Sweden.

190. The use of services of a victim of THB with the knowledge that the person is a victim is not criminalised as a separate offence by the Swedish legislation. According to the Swedish authorities, a number of other provisions of the PC are relevant in such cases as they allow for penalising of the users of services extorted from victims of trafficking. One of these provisions is contained in Chapter 6, Section 11, of the PC, criminalising the purchase of sexual services (see paragraph 111). In 2011 the maximum penalty for this offence was raised from six months to one year imprisonment. Other forms of sexual abuse may be punished under Chapter 6 of the PC establishing sexual offences against adults and children. According to the Swedish authorities, there were no convictions recorded for the use of services of a victim of THB for the purposes of sexual exploitation with the knowledge that the person was a victim.

191. According to the Swedish authorities, the use of services which are the object of exploitation with the knowledge that a person is a victim of THB for forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs may be punished according to different provisions in the PC criminalising fraud and other dishonesty, offences against the working environment (Chapter 3, Section 10, of the PC in conjunction with the Work Environment Act) and offences established for taking another person's organ without his/her consent (Chapter 3, Sections 5 and 6 of the PC, as well as the Transplantation Act and the Genetic Integrity Act). According to the Swedish authorities, no convictions were imposed for the use of services of a person with the knowledge that he/she was a victim of THB for exploitation other than sexual forms of exploitation.

192. Swedish legislation does not establish a separate offence of retaining, removing, concealing, damaging or destroying a travel or identity document of another person committed intentionally and for the purpose of enabling THB. According to the authorities, these acts would be covered by the definition of THB as an attempt, preparation or conspiracy to commit THB. Such action may also be punishable under Chapter 14 of the PC containing crimes of falsification. In addition, a person unlawfully retaining travel or identity documents may be sentenced for unlawful diversion (Chapter 8, Section 8, of the PC and Chapter 9, Section 6, of the PC).

193. According to the Swedish legal system, only natural persons can be held criminally liable for offences committed by them. Legal persons may be subject to non-criminal sanctions, such as restitution of damages and forfeiture of assets, as a result of offences committed in connection with their activities. In addition, administrative and corporate fines can also be imposed. Chapter 36, Sections 7-10a, of the PC set out corporate fines that legal persons may be subject to, stating that an entrepreneur shall be liable to pay a corporate fine for crimes committed in the course of his or her business activities. The corporate fine may vary between 570 euros and 1 140 000 euros. In determining the amount of the fine, consideration is given to the scale of punishment for the crime, the damage or danger that the crime caused, its relation to the business activity and the magnitude of criminal activity. This includes cases where a punishment envisaged for the offence is more severe than a summary fine, and the entrepreneur has not done what could reasonably be required to prevent the crime, or if the crime was committed by a person in a managerial position with the powers to represent the entrepreneur or to take decisions on his/her behalf, or if the crime was committed by a person who had a special responsibility for supervision or control of the activity. The term entrepreneur has a broad meaning and covers natural and legal persons running a business as well as state-owned companies, except for when the crime is related to the exercise of public authority. So far no legal persons have been subject to sanctions for their involvement in THB.

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

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

195. Swedish legislation provides for the possibility to take into account the fact that a victim of THB has been compelled into unlawful activities. According to the authorities, exemption from criminal responsibility may be determined on the grounds of necessary defence and state of necessity and the injury caused to another. As stipulated in Chapter 24, Section 4, of the PC, the necessity requirement is met when danger threatens life, health, property or some other important interest protected by the law. If a person was forced or deceived into acting as an accomplice in an offence or advantage was taken of his or her young age, innocence or dependent status, this would be considered as a mitigating circumstance (Chapter 23, Section 5, of the PC). When determining a sanction, the court may take into account all relevant mitigating circumstances (stipulated by Chapter 29, Section 3, of the PC). Chapter 29, Section 6, of the PC states that "if, in view of a circumstance described in Section 5<sup>25</sup> it is manifestly unreasonable to impose a sanction, the court shall grant exemption from sanction."

<sup>25</sup> Concerning the attitude of the accused to the offence committed, his/her state of health, and the lapse of time for the offence in question.

196. Pursuant to Chapter 20, Section 7, of the Code of Judicial Procedure, the prosecution may be waived when no compelling public or private interest is disregarded:

1. if it may be presumed that the offence would not result in another sanction than a fine;
2. if it may be presumed that the sanction would be a conditional sentence and special reasons justify waiver of prosecution;
3. if the suspect has committed another offence and no further sanction in addition to the sanction for that offence is needed in respect of the present offence; or
4. if psychiatric care or special care in accordance with the Act on Support and Service for Certain Persons with Functional Impairments is rendered.

A prosecution may be waived in cases other than those mentioned in the first paragraph if it is manifest by reason of special circumstances that no sanction is required to prevent the suspect from engaging in further criminal activity and that, in view of the circumstances, the institution of a prosecution is not required for other reasons.”

197. A decision to waive prosecution may also be taken even after the institution of a prosecution, in case newly emerged circumstances, had they existed or been known at the time of initiation of prosecution, would have led to waiver. The Swedish authorities have indicated that the provisions on the waiver of prosecution in respect of young offenders are broader. For instance, if an unlawful act was committed by a victim under coercion from a trafficker, it is possible that the prosecutor would not regard the THB victim as responsible.

198. During the evaluation visit GRETA was informed by representatives of the police and the prosecution about cases of irregular migrants subject to labour exploitation who were deported for violations of the immigration law and were not identified as potential victims of THB, despite concerns that trafficking may have occurred. In some cases the exploiters allegedly threatened to report the irregular migrants to authorities. **GRETA urges the Swedish authorities to strengthen their efforts to ensure that victims of trafficking are not punished for offences they have been compelled to commit, including immigration-related offences, in compliance with the non-punishment clause contained in Article 26 of the Convention. The authorities should consider issuing guidance to public prosecutors, advising them of the steps to be taken when prosecuting suspects who might be victims of trafficking.**

c. Investigation, prosecution and procedural law

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



200. According to Swedish legislation<sup>26</sup>, as soon as there is a reason to believe that an offence subject to public prosecution has been committed, the police or the prosecution authority must initiate a criminal case. The prosecutor must initiate the prosecution *ex officio*, regardless of the existence of a victim's complaint. Swedish legislation does not require the application of the dual criminality principle for international legal co-operation in the criminal field to investigate a trafficking offence of a transnational nature. The prosecution authority or the police may establish jurisdiction over a trafficking offence in the following cases:

- the offence is committed by a Swedish citizen or an alien with residence in Sweden,
- the offence is committed by an alien not residing in Sweden who, after having committed the crime, has become a Swedish national or has acquired residence or is a Danish, Finnish, Icelandic, or Norwegian national and is present in Sweden, or
- the offence is committed by any other alien who is present in Sweden, and the crime under Swedish Law is punishable by imprisonment for more than six months.

201. According to information provided by the Swedish authorities, there were 68 investigations into THB in 2009, 84 in 2010 and 97 in 2011. Given the actual number of victims identified, these numbers are rather high. According to representatives of the police and the prosecution authority, criminal investigations into suspected trafficking cases often result in convictions for other offences, such as procuring or gross procuring, when it is not possible to prove charges for trafficking, the latter being a more complex offence. As the result of these investigations the authorities often discover and press charges also for the offence of purchase of sexual services.

202. The number of convictions for THB remains low: one in 2009, four in 2010, two in 2011, five in 2012 and two in 2013. The sentences for persons convicted of THB ranged from 10 months imprisonment (involving labour exploitation for berry picking) to five years imprisonment (for THB for the purposes of sexual exploitation, and gross procuring combined). Further, according to the comments provided by the Swedish authorities on the draft GRETA report, a further seven cases in 2012 and one in 2013 were prosecuted for THB offences, but were later dismissed by courts, ending with convictions for other offences. According to the Swedish authorities, the Prosecution Authority has administered a survey of all THB brought before court in 2009-2012. Among these 18 were cases of trafficking for the purposes of sexual exploitation, two for labour exploitation (berry picking) and six for different types of exploitation, such as forced begging, forced criminality (stealing), domestic servitude (household errands) and fraud.

203. The use of special investigation techniques is authorised by the courts and this authorisation is usually issued on the same day when requested or the next day. According to existing regulation on secret wiretapping and secret tele-surveillance, this technique can be used for telephone as well as the internet communications. Pursuant to Chapter 27, Section 18, of the Code on Judicial Procedure, secret wiretapping can be used when investigating a crime with a minimum sentence of imprisonment two years (including THB according to Chapter 4, Section 1a, of the Penal Code). Secret tele-surveillance can be used when investigating a crime with a minimum sentence of imprisonment six months (as per Chapter 27, Section 19, of the Code of Judicial Procedure). Further, in accordance with the Law on Secret Taping of Rooms, electronic eavesdropping (bugging) can be used when investigating cases of THB when the expected sentence for the crime exceeds imprisonment for four years.

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Chapter 23, Section 1, of the Code of Judicial Procedure.

204. Trafficking for other purposes, such as labour exploitation, forced begging or forced commission of offences has been difficult to prove in courts for a number of reasons. The police have less practical experience in detecting such cases. Further, the courts reportedly apply a high threshold for evidence to be convinced that the case at hand concerns a trafficking offence and not a labour dispute. Another difficulty in investigating THB cases for the purpose of labour exploitation relates to the failure to apply the principle of irrelevance of the victim's consent. Allegedly, there were cases where judges were comparing the income promised to victims of THB in berry picking to the average income in their countries of origin.<sup>27</sup> GRETA notes that the irrelevance of the consent to the intended or actual exploitation, which is not expressly stated in the legislation, is also not taken into account in judicial practice, which leads to additional difficulties for prosecutors in proving that the case at hand is actually a trafficking case and not that of a labour dispute.

205. According to representatives of the Judicial Academy, not many judges follow specialised training on human trafficking because of the low likelihood of dealing with such cases. The Swedish authorities have informed GRETA of an on-going discussion concerning the possible specialisation of judges in higher courts. **GRETA refers to its recommendations made in paragraph 77 concerning the training of relevant professionals, including judges.**

206. Under Chapter 1, Section 8, of the PC, confiscation is considered a possible legal consequence of a crime and may be applied to the proceeds and instrumentalities used or intended for use in criminal offences. In addition, the property of a person convicted for trafficking may also be confiscated if the likelihood that the property constitutes proceeds of a crime is substantiated in a compelling manner (extended confiscation). Such property may also be seized if the reasons for applying this measure outweigh the intrusion or other detriment to the suspect or another adverse interest (Chapter 36, Sections 1-6 of the PC and Chapter 27, Section 1, of the Code of Judicial Procedure).

207. Swedish legislation was amended in 2010 to enable the seizure and confiscation of assets of criminals without the need to prove that these assets originated from the offences in question. Prosecutors are authorised to request information from banks as regards transactions and money transfers of persons suspected of the commission of offences such as THB. Further, according to representatives of the prosecution, confiscated assets are used to provide compensation to victims of crimes under the state compensation scheme. The Swedish authorities have referred to a THB case ending with a conviction in 2012, referred to as the "Baltic case", which also resulted in a confiscation of around 40 000 euros from the traffickers.

208. **GRETA urges the Swedish authorities to take steps to identify gaps in the investigation procedure and the presentation to cases in courts, *inter alia*, with a view to ensuring that human trafficking offences for all types of exploitation are effectively investigated and prosecuted, leading to proportionate and dissuasive sanctions.**

d. Protection of victims and witnesses

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

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<sup>27</sup> The 2013 HEUINI Report "Exploitation of migrant workers in Finland, Sweden, Estonia and Lithuania" suggests that the low number of convictions for trafficking for forced labour is due to a tendency in some courts to compare the working conditions in Sweden with working conditions in the countries of origin of the migrants.

210. During the preliminary investigation the contact details of the presumed victim are kept secret if it is assumed that the victim could be subject to threat or violence. Pursuant to an amendment of the Act on Public Access to Information and Secrecy, personal and financial information concerning the injured party may be kept secret in cases concerning kidnapping and THB if it can be assumed that disclosure of information would cause damage or harm to the injured party or a person closely related to him/her. This amendment enables courts to hold hearings *in camera* and in such cases the court may also impose a duty of confidentiality on those attending the hearing. That said, GRETA notes that at all stages the identity of the injured party is disclosed. Further, GRETA was informed that in practice judges make use of secrecy provisions in rape cases, but to a much lesser extent in THB cases, suggesting a lack of understanding of the trauma endured by victims of THB.

211. In certain cases, the court can decide that a witness or a victim may be questioned by telephone instead of attending in person. The court may also decide to admit a written or otherwise recorded statement as proof in proceedings, which includes audio and video recording of a statement. In addition, courts may also allow giving testimony by means of a video conference. The Swedish authorities have indicated that almost all courts provide the possibility of avoiding direct confrontation or contact between victims, witnesses and defendants. If there is a ground to believe that the presence the defendant would intimidate a witness or a victim and impede them from telling the truth, the court may order the defendant to be removed from the courtroom. In addition, a prosecutor may impose a “non-contact order” if there is a risk of that the defendant may subject a victim or a witness to crime or harassment.

212. GRETA refers to the Sixth and Seventh periodic report of the CEDAW on Sweden (2006) which states that “in various contexts, the Government has expressed the importance of greater general awareness of gender equality issues within the court system, for example how women who have been subjected to crimes – such as victims of trafficking in human beings or of rape or other violence – are regarded and treated.” In this respect GRETA notes that according to some NGOs working in the area of protection of victims of THB, judges continue to demonstrate certain reservations as regards the credibility of testimonies of victims of trafficking.

213. According to Swedish legislation, final judgments, including the reasoning of the judgment of the court, should be made public. Therefore any provision concerning secrecy would no longer be applicable in regard to information revealed in the judgment once it becomes public. Nonetheless, under certain conditions a court may decide that secrecy shall remain applicable to information revealed in the judgment. Consequently, third-party requests for information contained in the judgment may be refused by a court if it considers that disclosure would be detrimental to the interests of any party in the case.

214. As regards child victims of crime, pursuant to the Act on Special Representative for a Child, the court can appoint a special representative who should be a lawyer or another person suitable for this task. In protecting the interests of the child he/she can, for example, bring a compensation claim on behalf of the child. The services of a representative of a child are covered by the state budget. According to the Swedish authorities, children are very rarely heard in court. Testimonies of children below 15 years of age are, as a rule, presented in court by video recording (Chapter 35, Section 14, of the Code of Judicial Procedure) based on interviews which take place in the so-called “children’s houses” (locations specifically adapted for children).

215. Further, the court may decide that examination of anyone under the age of 15 shall be held behind closed doors. If testimony is sought from a person who is under 15, the court determines in accordance with the circumstances whether he/she should be heard as a witness. Child victims above 15 years of age as a rule testify in the court in person. Such examinations, however, are held in camera. Pursuant to Chapter 5, Section 1, of the Code of Judicial Procedure, and Chapter 35, Section 12, of the Public Access to Information and Secrecy Act the court may hold closed hearings, including in THB cases. During such a hearing the court may impose a duty of confidentiality on those attending. In certain cases, the court may also decide that a witness or a victim may be questioned by telephone. In all courts in Sweden it is possible to give testimony via a video conference. In most courts it is possible to allow a victim or a witness to enter the courtroom from an entrance, separated from the public and the defendant. If there are grounds to believe that in the presence of the defendant a witness or a victim would not be able to tell the truth due to fear or any other cause, the court may order the defendant to be excluded from the courtroom during the examination of such victim or witness. The court may also decide to admit a recorded statement in the proceedings.

216. During the examination at the court an injured party may be accompanied by a supporting person. The supporting person may be a relative of the injured party or a representative of an association/group protecting interests of victims of crime. The supporting person can only provide moral support to the injured party, may request a pause during the court sitting, if needed for the injured party, but may not take any legal action.

217. Apart from providing assistance and legal counselling to victims, the Swedish judicial procedure envisages support for witnesses participating in court proceedings. Witness support is provided by a person working on a not-for-profit basis and assisting witnesses and victims of crime with humanitarian support and practical information relating to criminal proceedings. Such a person would act under an oath of confidentiality. The witness support person may also refer witnesses and victims of crime to other persons and bodies that may also be able to provide support.

218. Measures taken by the police to ensure personal safety may include persons giving evidence or participating or having participated in a preliminary investigation or a trial concerning gross criminality or organised crime. Protection measures can include moving to a safe shelter or installing an alarm. The Swedish National Police Board has a specific set of regulations on how the local police should conduct their work regarding personal safety. Since July 2006 a national programme for personal protection is in place in Sweden. This programme is regulated by the provisions of the Police Act (1984:387) and Government Ordinance 2006:519 and sets out protection measures, working methods and routines, covering:

- suspects, accused, witnesses, parties and other persons providing evidence (i.e. ‘witnesses’) who participate or have participated in preliminary investigations or trials concerning serious or organized crime, and closely related persons,
- persons who continuously provide or have provided the police with information concerning serious or organized crime (e.g. informers), and closely related persons;
- employees within the public legal services, for example police officers, and closely related persons;
- other persons if there are special reasons, e.g. politicians, journalists and other vulnerable groups.

219. For a person to be accepted to the protection programme there should be a manifest risk of a serious crime against his or her or a closely related person's life, health or liberty. In addition, it is required that the information provided by the person is of significance to the investigation or trial, there is a link between the risk of crime and the information provided by the witness, the person agrees to comply with the conditions imposed by the programme, the witness is entitled to permanently stay in Sweden or likely to be so, and other security measures are considered insufficient. The specific security measures are decided by the police or the Prison and Probation Service (as relevant). They may include physical protection, including relocation, and limitation on the disclosure of information concerning the identity and whereabouts. The programme also envisages "personal security compensation" aimed at compensating any financial losses due to the security measures taken in respect of the person concerned.

220. While welcoming the range of safeguards provided under Swedish legislation to protect victims and witnesses during court proceedings, **GRETA considers that the Swedish authorities should strengthen the training provided to judges, prosecutors and other relevant professionals on the issue of THB and the relevant criminal law provisions with a view to ensuring practical application of these provisions so that victims of trafficking, including children, subjected to different types of exploitation, are adequately informed, protected and assisted during the pre-trial and court proceedings.**

## Concluding remarks

221. GRETA welcomes the steps taken by the Swedish authorities to combat trafficking in human beings and support victims of trafficking, including the adoption of relevant legislation and the setting up of co-ordinating and specialised structures. GRETA also commends the Swedish authorities' efforts in the area of international co-operation and the support provided to anti-trafficking activities in other countries.

222. The Swedish authorities have invested considerable efforts in raising public awareness about trafficking for the purpose of sexual exploitation and discouraging demand for sexual services that fosters prostitution and THB. However, GRETA stresses the need for paying increased attention to trafficking for the purpose of labour exploitation, which has been on the rise, as well as other emerging forms of THB.

223. Several important challenges remain to be tackled to ensure that the human rights-based and victim-centred approach underpinning the Convention is fully reflected and applied in the national policy to combat THB. It is incumbent on the authorities to ensure that all victims of trafficking are properly identified and can benefit from the protection and assistance measures provided for under the Convention and Swedish law, regardless of whether they co-operate with the investigation and criminal proceedings. Further, notwithstanding the legal possibility of granting a recovery and reflection period, issuing residence permits and awarding compensation to victims of trafficking, effective access to these entitlements remains to be ensured.

224. Strengthening the effectiveness of investigations and prosecutions with a view to securing proportionate and dissuasive sanctions for human trafficking offences for all types of exploitation is another area where further action is needed.

225. GRETA stresses the importance of building strategic partnerships between the authorities and civil society with the aim of achieving the purposes of the Convention, which is why NGOs, trade unions and other civil society actors should be involved in the planning and implementation of national anti-trafficking policy.

226. All professionals who may come into contact with victims of human trafficking, including police officers, migration officials, prosecutors, judges, labour inspectors, social workers, lawyers and NGOs contracted as service providers, must be trained and constantly reminded of the need to apply a human rights-based approach to action against human trafficking on the basis of the Convention and the case law of the European Court of Human Rights.

227. GRETA invites the Swedish authorities to keep it informed of developments in the implementation of the Convention and looks forward to continuing the good co-operation in further efforts in achieving the purposes of the Convention.

## Appendix I: List of GRETA's proposals

### Definition of "trafficking in human beings"

1. GRETA invites the Swedish authorities to include abduction as one of the means for committing trafficking in human beings.
2. GRETA invites the Swedish authorities to explicitly include slavery and practices similar to slavery and servitude in the forms of exploitation resulting from human trafficking.
3. GRETA considers that stating explicitly the irrelevance of the consent of a victim of trafficking to the intended exploitation could improve the implementation of the anti-trafficking provisions.

### Comprehensive approach and co-ordination

4. GRETA urges the Swedish authorities to take further steps to ensure that national action to combat THB is comprehensive, by paying increased attention to human trafficking for the purpose of labour exploitation as well as trafficking for forced begging and forced criminality, including trafficking within Sweden and re-trafficking from other EU member states. This should involve the adoption without further delay of an action plan addressing THB for all types of exploitation.
5. GRETA considers that the Swedish authorities should strengthen co-ordination between governmental bodies, municipal bodies and NGOs engaged in anti-trafficking action, and to ensure that NGOs are involved in the planning, co-ordination and implementation of national policy, in particular any future action plan on combating THB. The conclusion of formal Memoranda of Understanding between public bodies and competent NGOs should be encouraged.
6. GRETA considers that these developments should be accompanied by the provision of adequate human and financial resources to the National Task Force against Prostitution and Trafficking and to the National Co-ordinator, so as to enable them to effectively carry out their new expanded mandate. In this context, GRETA invites the Swedish authorities to give a more explicit national role to the office of the National Co-ordinator, which is currently placed within the County Administrative Board of Stockholm.
7. GRETA invites the Swedish authorities to establish the National Rapporteur as a *de jure* independent post with a mandate to monitor the anti-trafficking activities of state institutions (see Article 29, paragraph 4, of the Convention and paragraph 298 of the Explanatory Report) as well as to provide the National Rapporteur with adequate resources to carry out this mandate.

### Training of relevant professionals

8. GRETA urges the Swedish authorities to take further steps to provide regular training on THB for all types of exploitation to all relevant professionals (in particular, judges, prosecutors, police, Migration Board staff, social workers, labour inspectors, lawyers, Trade Unions officials, NGOs contracted as service providers). Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals, which enable them to identify victims of trafficking for all forms of exploitation and assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers involved in all forms of THB.

## **Data collection and research**

9. GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Swedish authorities should further develop a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical information from all main actors, including prosecutors, courts, the Crime Victim Compensation and Support Authority and NGOs, providing assistance to victims of THB, 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, including when NGOs working with victims of trafficking are asked to provide information for the national database.

10. GRETA considers that the Swedish authorities should conduct and support research on trafficking-related issues as an important source of information for future policy measures. Areas where research is particularly needed at present to shed more light on the extent and nature of the problem include trafficking for non-sexual types of exploitation, trafficking in children and among vulnerable groups, such as the Roma, and trafficking within Sweden.

## **International co-operation**

11. GRETA invites the Swedish authorities to continue developing international co-operation with a view to preventing THB, assisting victims of trafficking and prosecuting offenders, including through exploring further possibilities for co-operation with governmental and non-governmental actors in countries of origin and transit.

## **Measures to raise awareness**

12. GRETA welcomes the initiatives of the Swedish authorities to alert the general public and key stakeholders to the risks of THB for sexual exploitation and considers that the authorities should strengthen their awareness-raising efforts as regards THB for the purposes of all types of exploitation and not just sexual exploitation.

## **Measures to discourage demand**

13. GRETA considers that the Swedish authorities should make further efforts to discourage demand for the services of trafficked persons for all types of exploitation, in partnership with the private sector and civil society, including trade unions and employers. In this context, GRETA invites the Swedish authorities to consider establishing as a criminal offence the use of services which are the object of labour exploitation, with the knowledge that the person is a victim of trafficking in human beings.

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

14. GRETA urges the Swedish authorities to set up a formalised national referral mechanism defining clear procedures and roles of all frontline actors who may come into contact with victims of trafficking. In this context, the Swedish authorities should:

- strengthen the multi-agency involvement in the decision-making process leading to the identification of victims of trafficking, by giving a formal role in the identification process to frontline actors such as NGOs, labour inspectors, social workers and officials dealing with irregular migrants and asylum seekers;
- provide all frontline staff with operational indicators, guidance and toolkits for the identification of victims of trafficking subjected to different forms of exploitation and train them to use those identification tools;
- ensure that the police, social services, labour inspectors and other relevant actors adopt a more proactive approach and increase their outreach work to identify potential victims of trafficking, in particular as regards forms of exploitation other than sexual (labour exploitation, forced begging, forced criminality, etc.);



- ensure that the identification of victims of THB is not made conditional on their co-operation in the investigation and criminal proceedings or the initiation of criminal proceedings;
- improve the identification of victims of trafficking among irregular migrants and asylum seekers, including through training of immigration police officers;
- address the problem of unaccompanied minors going missing, by providing suitable safe accommodation and adequately trained supervisors or foster parents, and ensure the timely identification of victims of trafficking among such children.

### **Assistance to victims**

15. GRETA urges the Swedish authorities to strengthen their efforts to provide assistance to victims of trafficking, and in particular to:

- ensure that, in practice, access to assistance for victims of THB is not made conditional on their co-operation in the investigation and criminal proceedings;
- provide safe and suitable accommodation to victims of trafficking for all types of exploitation, depending on their needs;
- ensure that suitable accommodation is provided to male victims of trafficking and that they have effective access to the assistance measures provided for in law;
- ensure that all children victims of trafficking benefit from the assistance measures provided for under the Convention, including appropriate accommodation, specialised support services and access to education.

16. In addition, GRETA considers that the Swedish authorities should introduce a set of common quality standards for assistance provided to victims of trafficking by all service providers and ensure an effective supervision of their observance in all municipalities.

### **Recovery and reflection period**

17. GRETA urges the Swedish authorities to ensure that a recovery and reflection period is provided to all persons in respect of whom the authorities have reasonable grounds to believe that they are victims of trafficking. It should be made clear that the granting of the recovery and reflection period is not subject to co-operation with the law enforcement authorities in criminal proceedings.

18. Further, GRETA considers that victims of THB should be allowed to apply for the recovery and reflection period in person or through the social services and NGOs that have detected them. All victims of trafficking should be systematically informed of the possibility of benefitting from a recovery and reflection period and should be effectively granted such a period.

### **Residence permits**

19. GRETA considers that the Swedish authorities should ensure that victims of trafficking, regardless of the form of exploitation, can fully benefit in practice from the right, provided under Swedish law, to obtain a renewable residence permit when a victim is unable to co-operate with the authorities. Further, GRETA considers that the Swedish authorities should take steps to raise awareness of this possibility among relevant professionals and victims.

## **Compensation and legal redress**

20. GRETA considers that the Swedish authorities should strengthen their efforts to facilitate and guarantee access to compensation for all victims of trafficking, in particular by:

- ensuring that victims of trafficking are systematically informed, in a language that they can understand, of the right to seek compensation and the procedures to be followed;
- enabling victims of trafficking to exercise their right to compensation from the perpetrator or from the state, by ensuring their effective access to legal aid and by allowing them to stay in the country for the duration of the proceedings.

## **Repatriation and return of victims**

21. GRETA considers that the Swedish authorities should take further steps to ensure compliance with *non-refoulement* obligations (as per Article 40(4) of the Convention). GRETA also considers that steps should be taken to strengthen co-operation with countries of origin of victims of trafficking in order to ensure safe and preferably voluntary return as well as effective reintegration of victims. The return of victims of THB from different municipalities should be carried out in a co-ordinated manner that ensures compliance with the State's obligations.

## **Substantive criminal law**

22. GRETA considers that the Swedish authorities should ensure that all the aggravating circumstances included in the Convention are appropriately taken into account.

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

23. GRETA urges the Swedish authorities to strengthen their efforts to ensure that victims of trafficking are not punished for offences related to THB, including immigration-related offences, in compliance with the non-punishment clause contained in Article 26 of the Convention. The authorities should consider issuing guidance to public prosecutors, advising them of the steps to be taken when prosecuting suspects who might be victims of trafficking.

## **Investigation, prosecution and procedural law**

24. GRETA urges the Swedish authorities to take steps to identify gaps in the investigation procedure and the presentation to cases in courts, *inter alia*, with a view to ensuring that human trafficking offences for all types of exploitation are effectively investigated and prosecuted, leading to proportionate and dissuasive sanctions.

## **Protection of victims and witnesses**

25. GRETA considers that the Swedish authorities should strengthen the training provided to judges, prosecutors and other relevant professionals on the issue of THB and the relevant criminal law provisions with a view to ensuring practical application of these provisions so that victims of trafficking, including children, subjected to different types of exploitation, are adequately informed, protected and assisted during the pre-trial and court proceedings.

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

### **Public bodies**

- Ministry of Justice
  - Division for Criminal Law
  - Division for Police Issues
  - Division for Crime Policy
  - Division for Migration and Asylum Policy
  - Division for Prosecution Issues
  - Division for Procedural Law and Court Issues
- Ministry of Health and Social Affairs
  - Division for Families and Social Services
  - Legal Secretariat
- Ministry for Education and Research
- Ministry of Employment
- Police
  - National Police Board
  - National Rapporteur on Trafficking in Human Beings
  - National Bureau of Investigations
  - Police units against trafficking in human beings in Stockholm, Gothenburg and Malmo
- Prosecution Authority
  - International Public Prosecutions Office
  - Prosecutions Development Centre (Gothenburg)
- Parliament
  - Committee on Justice
  - Committee on Labour Market
- Chief Parliamentary Ombudsman
- Equality Ombudsman
- Ombudsman for Children
- County Administrative Board of Stockholm
- Crime Victim Compensation and Support Authority
- Migration Board
- National Board of Health and Welfare
- National Board of Institutional Care
- National Board for Youth Affairs

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- National Centre for Knowledge on Men's Violence against Women
  - National Council for Crime Prevention
  - National Courts Administration
  - Office of the Chancellor of Justice
  - Social Services in Stockholm, Gothenburg and Malmo
  - Swedish Armed Forces
  - Swedish International Development Cooperation Agency (SIDA)
  - Swedish Institute
  - Work Environment Authority

#### **Intergovernmental organisations**

- Council of the Baltic Sea States (CBSS), Task Force against THB
- IOM
- UNHCR
- UNICEF

#### **Non-governmental organisations and other civil society actors**

- Caritas Sweden
- Children's Rights Bureau
- ECPAT Sweden
- Foundation Against Trafficking Sweden
- Foundation for Young Women (UKV)
- Foundation Safer Sweden
- National Organisation for Women's Shelters and Young Women's Shelters in Sweden
- Rose Alliance
- Salvation Army
- Save the Children Sweden
- Swedish Trade Union Confederation
- Talita
- World Childhood Foundation

## **Government's comments**

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

GRETA engaged in a dialogue with the Swedish 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 Swedish authorities on 17 April 2014 and invited them to submit any final comments. The comments of the authorities of Sweden, submitted on 16 May 2014, are reproduced hereafter.



16 May 2014

Ministry of Justice Sweden

*Division for Criminal Law*

Ms Petya Nestorova  
Executive Secretary of the Council of  
Europe Convention on Action against  
Trafficking in Human Beings

**Comments on the final report from GRETA, first evaluation round**

Dear Ms Nestorova,

The Government of Sweden acknowledges receipt of the final report drawn up by the Group of Experts on Action against Trafficking in Human Beings (GRETA) concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Sweden.

We would like to express our appreciation of all the efforts made by GRETA in order to produce the current report and for a constructive cooperation. The evaluation process, which started in Sweden in January 2012, has been valuable in further highlighting the struggle against trafficking in human beings and that enhancement of measures in this context is a constant issue. The report and its proposals will be very useful and thoroughly considered in the work ahead.

Following the invitation from GRETA we would like to submit a few comments that we find important, see the appendix.

We look forward to the continuing cooperation and dialogue with GRETA in the future.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Maria Hölcke". The signature is written in a cursive style with a large, looped final flourish.

Maria Hölcke

Deputy Director of the Ministry of Justice

Contact person to GRETA



REGERINGSKANSLIET

Ministry of Justice Sweden

*Division for Criminal Law*

Appendix with comments on the final report  
from GRETA, first evaluation round

**Paragraph 25**

In our comment to the preliminary report we pointed out that there was no mandate to the National Coordinator against Prostitution and Trafficking to coordinate the implementation of the Action Plan or the activities it contains. That was a responsibility of the Government Offices. This comment was taken into account in certain parts of the report but not in the current paragraph 25.

**Paragraph 73**

In this paragraph we would like to add that in 2014 the Swedish Agency for Youth and Civil Society (which is the new name of the National Board for Youth Affairs as pointed out in paragraph 107 of the report) was commissioned by the Government to, together with the municipalities, develop best practises in order to both prevent sexual exploitation of children and young people and to provide the best possible measures for victims.

**Paragraph 132**

The measures have been prepared by the Ministry of Justice, not the Ministry of Employment.

The latest development is that government bill on measures against abuse of the rules for labour immigration (prop. 2013/14:227) was published on 5 May 2014 (in Swedish:



<http://www.regeringen.se/sb/d/17854/a/239618> ). The bill presents proposals for measures to discover and stop abuse of the rules for labour immigration:

- Introduction of a sanctioned obligation for employers to, due to the period of validity of the permit, provide the Swedish Migration Board with information on the current conditions of employment.
- Introduction of follow-up controls conducted by the Swedish Migration Board, once a residence permit and a work permit have been granted.
- Further grounds for withdrawal of residence permits, when the conditions of the work permit are no longer complied with, or if the holder of a work permit has not taken up the current work within a reasonable time frame.
- In addition, the re-adjustment time will be extended to four months instead of three, that is the period to seek new employment. The bill will be under reading by the Swedish parliament (Riksdagen). Amendments are proposed to enter into force on 1 August 2014.

The question whether the Migration Board should have access to information available in the taxation system, the databases of the Swedish Enforcement Agency, the Swedish Social Insurance Agency and the Swedish Pension Agency will be referred to an inquiry on the treatment of personal data related to the Swedish Aliens Act and the Swedish Citizenship Act.

**Paragraph 152**

GRETA notes in the paragraph that they were informed of the plans to allow children without a residence permit to have access to education in Sweden. In our comments to the draft report we informed that since 1 July 2013 amendments to the Education Act and the new Act (2013:407) on health care for some foreigners who reside in Sweden without the necessary permits, give undocumented children the same

right as resident children to education and health care and dental care. We would once again like to point this out.

**Paragraph 188**

GRETA notes in the paragraph that none of the aggravating circumstances included in article 24 of the Convention appear in Chapter 29, section 2 of the Swedish Penal Code. In our view this is not correct. In our comments to the preliminary report we gave examples from the list of aggravating circumstances stated in the above-mentioned section. For example paragraph 6, which states as an aggravating circumstance that a crime has been committed within the framework of a criminal organisation.

Furthermore we explained how all the aggravating circumstances in article 24 of the Convention are covered by Chapter 29 of the Swedish Penal Code. In our comment to the preliminary report we wrote the following:

“When assessing the penal value of any crime, consideration shall be given to the damage, wrong or danger caused by the criminal act. It shall also be considered whether the criminal act has implicated a serious offense towards the life, health or security of another person (Chapter 29, section 1 paragraph 2 of the Penal Code). All the relevant circumstances shall thus be regarded when establishing the penal value of a crime.

Nevertheless, there are some aggravating circumstances, mentioned in Chapter 29, section 2 of the Penal Code, which may be given special attention when assessing the penal value of a crime. The situations mentioned in the Article 24 of the Convention are covered by this list of circumstances.

If a case has involved endangering of a victims life this may be considered under paragraph 2, according to which special consideration shall be given to the fact that the defendant has shown great ruthlessness.

If a trafficking offence involves a child there are other paragraphs that may be applicable. For example, according to paragraph 3, special consideration shall be given to the fact that the defendant has taken advantage of another person’s vulnerable situation or that person’s

special difficulty to protect himself. But also paragraph 5 and 8 could be given special attention when assessing the penal value of a crime committed against a child.

Under paragraph 4 it is possible to consider if the defendant has taken advantage of his/her own position or misused a special confidence. This last mentioned provision is applicable in a situation when a trafficking offence has been committed by a public official in the performance of his/her duties.

If a trafficking offence is committed within the framework of a criminal organisation this may be considered an aggravating circumstance according to paragraph 6 in the mentioned provision, which particularly covers such situations.

Having said this, it should be underlined that the list of circumstances in Chapter 29, section 2 of the Penal Code is not meant to be exhaustive; all relevant circumstances may be regarded as aggravating. That means, whether or not a single circumstance mentioned in Article 24 is covered by the list, it may be seen as aggravating according to the legislation.

If, in a particular case, one or several aggravating circumstances are applicable, this shall be considered within the scale of punishment of the trafficking offence.”

The consideration from GRETA that Sweden should ensure that all the aggravating circumstances included in the Convention are appropriately taken into account is therefore puzzling. In this respect we would like to reiterate paragraph 70 of the explanatory report of the Convention which states the following: ”It was understood by the drafters that, under the Convention, Parties would not be obliged to copy verbatim into their domestic law the concepts in Article 4, provided that domestic law covered the concepts in a manner consistent with the principles of the Convention and offered an equivalent framework for implementing it”.