



Strasbourg, 19 April 2017

GRETA(2017)20

GROUP OF EXPERTS ON ACTION AGAINST TRAFFICKING IN HUMAN BEINGS (GRETA)

Reply to the Questionnaire from Estonia

Reply submitted 11 April 2017

Council of Europe Convention on Action against Trafficking in Human Beings

The *Council of Europe Convention on Action against Trafficking in Human Beings [CETS No. 197]* was opened for signature in Warsaw on 16 May 2005, on the occasion of the Third Summit of Heads of State and Government of the Council of Europe member states and entered into force on 1 February 2008.

This Convention is considered to be one of the Council of Europe's most important achievements and the most important human rights treaty of the last decade. The first European treaty in this field, it is a comprehensive instrument focusing mainly on the protection of victims of trafficking and the safeguarding of their rights. It also aims to prevent trafficking and to prosecute traffickers. In addition, it provides for the setting up of an effective and independent monitoring mechanism capable of controlling the implementation of the obligations contained in the Convention.

Monitoring mechanism of the Convention

The monitoring mechanism of the Convention consists of two pillars: the *Group of Experts on Action against Trafficking in Human Beings (GRETA)*, a technical body, composed of independent and highly qualified experts, and the *Committee of the Parties*, a more political body, 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.

GRETA is responsible for monitoring implementation of the Convention by the Parties. GRETA will regularly publish reports evaluating the measures taken by the parties and those Parties which do not fully respect the measures contained in the Convention will be required to step up their action.

The Committee of the Parties may also, on the basis of GRETA's report and conclusions, make recommendations to a Party concerning the measures to be taken to follow up GRETA's conclusions.

For further information please consult our website: www.coe.int/trafficking

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

e-mail: Trafficking@coe.int

December 2016

Introduction

In accordance with Article 36, paragraph 1, of the *Council of Europe Convention on Action against Trafficking in Human Beings* (hereinafter "the Convention"), the *Group of Experts on Action against Trafficking in Human Beings (GRETA)* "shall monitor the implementation of this Convention by the Parties".

Pursuant to Article 38, paragraph 1, of the Convention and Rules 1 and 2 of the *Rules of procedure for evaluating implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties* (hereinafter "the Rules on the Evaluation Procedure"), GRETA will evaluate the implementation of the Convention following a procedure divided in rounds. GRETA decided that the duration of the first evaluation round should be four years, starting at the beginning of 2010 and finishing at the end of 2013.

The first evaluation round with regard to a Party is initiated by sending the questionnaire the earliest one year and at the latest two years following the entry into force of the Convention for the Party concerned (Rule 3 of the Rules on the Evaluation Procedure).

For the first evaluation round, GRETA has selected the provisions of the Convention which will provide an overview of the implementation of the Convention by each Party (Rule 4, second paragraph, of the Rules on the Evaluation Procedure).

For each evaluation round, GRETA will prepare a questionnaire on the implementation by the Parties of the specific provisions of the Convention on which the evaluation is based. The questionnaire will be public (Rule 5, first paragraph, of the Rules on the Evaluation Procedure).

In conformity with Rule 11 of the Rules on the Evaluation Procedure, replies to the questionnaire should be submitted in one of the official languages of the Council of Europe, which are English and French. Replies in other languages will not be taken into consideration. Replies should be detailed, answer all questions and reference texts should be attached when requested by GRETA.

COUNCIL OF EUROPE



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[GRETA\(2010\)1rev6](#)

**Replies by the Government of Estonia 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

Adopted by the Group of Experts
on Action against Trafficking in Human Beings
(GRETA)
on 1 February 2010

Preliminary Questions

- **Question 1:** Please specify which State body/agency was responsible for co-ordinating and collecting the replies to this questionnaire. Please specify the name and professional title of the person heading this State body/agency. Please indicate if this person is the “contact person” appointed by your country to liaise with GRETA or a different person.

The Ministry of the Justice was responsible State institution for coordinating and collecting replies to this questionnaire. State Secretary Mr Norman Aas is a person heading the Ministry of the Justice of Estonia, but he is not the “contact person” appointed by Estonia to liaise with GRETA.

Contact person to liaise with GRETA is nominated from the same ministry, but from criminal policy department, an advisor Anu Leps, who acts as a national coordinator on THB matters in Estonia.

- **Question 2:** Which State bodies/agencies contributed to responding to this questionnaire? Please indicate the main responsibilities and/or fields of competence of each of these bodies/agencies.

The Ministry of Justice coordinated the collection of the responses from different agencies and ministries.

The Ministry of the Justice (MoJ): By the Government of the Republic Act § 59¹ the area of government of the Ministry of Justice shall include co-ordination of legislative drafting, systematisation of legislation and publication of Riigi Teataja, management of the professional activities of the courts of first and second instance, the Prosecutor’s Office, forensic examinations, prisons, professional activities of notaries and legal assistance, and deciding the extradition of a citizen of a foreign state or a stateless person to a foreign state, co-ordination of the field of intellectual property, planning of the competition supervision policy and organisation of competition supervision, issues related to data protection and legislative drafting according to the competence of the ministry. Following executive agencies and inspectorates shall be within the area of government of the Ministry of Justice: 1) the Data Protection Inspectorate, 2) the Competition Authority, 3) the Patent Office.

The Ministry of the Interior: By the Government of the Republic Act § 66 the area of government of the Ministry of the Interior shall include the management of the activities relating to the state’s internal security, public order, border guard, rescue service, emergency alert notifications and issues relating to citizenship and immigration, planning and co-ordination of crisis management and development of the civil society, issues relating to population activities and religious associations, and the drafting of respective draft legislation. Following executive agencies and inspectorates shall be within the area of government of the Ministry of the Interior: 1) the Security Police Administration, 2) the Police and Border Guard Board, 3) the Rescue Board, 4) the Emergency Centre.

The Ministry of Social Welfare: By the Government of the Republic Act § 67 the area of government of the Ministry of Social Affairs shall include the drafting and implementation of plans to resolve social issues of the state, the management of public health protection and medical care, employment, labour market and working environment, social security, social insurance and social welfare, equal treatment and promotion of the equality of men and women and co-ordination of activities in this field, and the preparation of respective draft legislation. Following executive agencies and inspectorates are within the area of government of the Ministry of Social Affairs: 1) the State Agency of Medicines; 2) the Social Insurance Board; 3) the Health Board; 4) the Labour Inspectorate.

The Ministry of Foreign Affairs: By the Government of the Republic Act § 69 the area of government of the Ministry of Foreign Affairs shall include the making of proposals for planning the foreign policy of the state, resolution of issues related to international agreements and foreign trade, securing that the positions of Estonia in the Permanent Representatives’ Committee of the Council of the European Union and in court proceedings in the European Court of Justice and in the court of first instance are being defended, management of the relations of the Republic of Estonia with foreign states and international organisations,

¹ Government of the Republic Act: <https://www.riigiteataja.ee/en/eli/530062016004/consolide>.

management of internal protocol and protocol abroad in the event of national holidays being celebrated, foreign visits of national importance being conducted and eminent guests being received, protection of the interests of the Estonian state and Estonian citizens abroad, administration of the provision of international development assistance and humanitarian aid, promotion of Estonia, and preparation of respective draft legislation.

The General Prosecutor's Office: By the Prosecutor's Office Act¹ § 1 prosecutor's office is a government agency within the area of government of the Ministry of Justice which participates in the planning of surveillance necessary to combat and detect criminal offences, directs pre-trial criminal procedure and ensures the legality and efficiency thereof, represents public prosecution in court and performs other duties assigned to the prosecutor's office by law. Office of Prosecutor General (§ 4) shall ensure the legality and efficacy of pre-trial procedure, represent public prosecutions in the courts and perform other duties imposed on them by law.

The Police and Boarder Guard Board: By the Police and Border Guard Act² § 1 the police is an institution of executive power within the area of government of the Ministry of the Interior and the main functions thereof are protection of public order, organisation of matters of border management, detection and elimination of marine pollution, organisation of search and rescue operations at sea, and organisation of matters in the area of citizenship and migration.

Labour Inspectorate of Estonia³: The main functions of the Labour Inspectorate of Estonia is to carry out supervision in compliance with legislation regulating occupational health and safety and labour relations, informing general public, workers and employers of the dangers in the work environment and resolving of individual labour disputes. The Labour Inspectorate and the Police and Border Guard Board signed a cooperation agreement in October 2015 under which joint visits over employers will be carried out in order to detect illegally staying / working foreigners, and thus to identify potential human trafficking (forced labour) cases.

- *Question 3:* Did any non-governmental organisations (NGOs) or other entities of civil society contribute to responding to this questionnaire? If so, please indicate the main activities of each of the NGOs and/or other entities of civil society which contributed.

NGOs or other entities of civil society didn't respond to this questionnaire, but the main activities of the NGOs working in the field of victim support is as follows:

- 1) Hotline service and counselling offered by NGO Living For Tomorrow: address Tööstuse 48A, 10416, Tallinn, Phone +372 6607 320 or e-post info@lft.ee, Facebook <http://www.facebook.com/living.for.tomorrow>, www.lft.ee.
- 2) Legal, psychological and social counselling, shelter for adult victims of THB. NGO Eluliin: telephone +372 655 6140 +372 551 5491; Atoll Centre in Tallinn, AVA Centre in Jõhvi and Toome Centre in Tartu. VEGA shelter in Tallinn;
- 3) Offering services for unaccompanied children and child victims of THB: SOS Children Village, e-mail: office@sos-lastekyla.ee, Phone +372 656 6958.

I. Integration of the core concepts and definitions contained in the Convention in the internal law of the parties

Section I.1. Integration of the Human Rights approach to action against trafficking in human beings

As stipulated in the Convention, trafficking in human beings (hereinafter "THB") "constitutes a violation of human rights and an offence to the dignity and the integrity of the human being"

¹Prosecutor's Office Act: <https://www.riigiteataja.ee/en/eli/516062016001/consolide>.

²Police and Border Guard Act: <https://www.riigiteataja.ee/en/eli/528122016009/consolide>.

³Labour Inspectorate of Estonia statute in Estonian: <https://www.riigiteataja.ee/akt/116012015004>.

(third paragraph of the Preamble of the Convention). Therefore in the letter and in the spirit of the Convention, THB is a violation of human rights and not just a criminal offence.

- *Question 4:* Please indicate if, in your internal law, THB is considered as a human rights violation (or only a criminal offence, see Section II.3. below).

Human rights violated in cases of human trafficking are protected by The Constitution of the Republic of Estonia¹ in Chapter II entitled Fundamental Rights, Freedoms and Duties, which provides:

- Paragraph 18. No one may be subjected to torture or to cruel or degrading treatment or punishment. No one may be subjected to medical or scientific experiments against his or her free will.
- Paragraph 19. Everyone has the right to free self-realisation.
- Paragraph 20. Everyone has the right to liberty and security of person. No one may be deprived of his or her liberty except in the cases and pursuant to a procedure provided by law.
- Paragraph 29. Every citizen of Estonia is entitled to freely choose his or her area of activity, profession and position of employment. No one may be compelled to perform work or service against his or her free will, except for service in the defence forces or alternative service, or work required to prevent the spread of an infectious disease or to contain a natural disaster or catastrophe, or work which a convicted offender is required to perform according to the law and pursuant to a procedure established by law.

According to § 14 it is the duty of the legislature, the executive, the judiciary, and of local authorities, to guarantee the rights and freedoms provided in the Constitution. Liability for human trafficking is included in Estonian Penal Code, Chapter 9, Division 6 entitled as offences against liberty.

Estonia is committed to widening the democratic space based on rule of law and ensuring full respect for human rights. Protecting and advancing human rights is essential to guaranteeing global peace and security. Estonia is focused on the protection of human rights of women and girls, rights of children and rights of indigenous peoples as the most vulnerable ones often suffering from violence and discrimination are victims of trafficking.

From the practical procedural side, that when a person thinks that his/her human rights have been violated, he/she should address a court (normally an administrative court) to establish an infringement. It is possible to demand the elimination of the violation or compensation for the damages. When a person has gone through all the instances of the court of the Republic of Estonia but has not achieved the desired result, he/she has the right to turn to the European Court of Human Rights. A number of requirements must be met before that. It is important that all national instances of the court be addressed, that the appeal be against a country that has joined the European Convention for the Protection of Human Rights and Fundamental Freedoms, and that the violation has taken place after joining the convention on 16 April 1996.

- *Question 5:* Please indicate what special legal protection exists under your internal law (including case law, if any) in cases of violations of human rights, which would apply in cases of THB (for example, constitutional protection, positive obligation of the state, priority examination, etc.).

The Code of Criminal Procedure² § 9 (4) states that in a criminal proceeding, it is permitted to interfere with the private and family life of a person only in the cases and pursuant to the procedure provided for in this Code in order to prevent a criminal offence, apprehend a criminal offender, ascertain the truth in a criminal matter or secure the execution of a court judgment.

In general, court hearings are public in Estonia, but according to the Code of Criminal Procedure § 12 (1) 2) and 3) a court may declare that a session or a part be restricted on public access in order to protect morals or the private and family life of a person and in the interests of a minor or a victim. In regards to the general conditions for taking evidence, the Code of Criminal Procedure § 64 (1) provides that evidence shall be taken in a manner which is not prejudicial to the honour and dignity of the persons participating in the taking

¹ Constitution of the Republic of Estonia: <https://www.riigiteataja.ee/en/eli/ee/rhvv/act/521052015001/consolide>.

² The Code of Criminal Procedure: <https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/530012017001/consolide>.

of the evidence, does not endanger their life or health or cause unjustified proprietary damage. Evidence shall not be taken by torturing a person or using violence against him or her in any other manner or by means affecting a person's memory capacity or degrading his or her human dignity.

For ensuring safety of witnesses, a preliminary investigation judge may, as provided in Code of Criminal Procedure § 67, declare a witness anonymous by a ruling in order to ensure the safety of the witness. In addition, Code of Criminal Procedure § 69 provides that a body conducting the proceedings may organise telehearing of a witness if the direct hearing of the witness is complicated or involves excessive costs or if it is necessary to protect the witness or the victim.

In connection with the right to reasonable time of processing, the Code of Criminal Procedure § 274² provides, that if it is established in a court hearing that a criminal matter cannot be adjudicated within a reasonable time of proceedings and violation of the right of the accused to hearing of the criminal matter within a reasonable period of time cannot be cured in any other manner, the court may, with the consent of the accused, terminate the criminal proceedings, taking into account the circumstances provided for in § 205² of this Code.

Section I.2. Comprehensive approach to THB, co-ordination of all actors and actions to prevent and combat THB and to protect its victims, and international co-operation

Questions in this section aim to obtain information concerning the comprehensive nature of the legal framework and policies on action against THB established by the parties to the Convention covering measures on prevention, protection and prosecution (Article 1) as well as on partnerships (Articles 29, 32 and 35).

These partnerships should comprise:

- national co-ordination and co-operation among all national actors involved in action against THB (Article 29-2). Any national action to combat THB must be comprehensive and multi-sectorial, and take on board the required multidisciplinary expertise. This comprehensive national action must be co-ordinated through a specific governmental body or entity. These are the "co-ordinating bodies" referred to in Article 29 of the Convention which are distinct from "National Rapporteurs". In accordance with the Convention it is compulsory to ensure co-ordination of the national policies and actions ("shall"), whereas the appointment of National Rapporteurs is optional ("shall consider appointing ...").
- international co-operation among all actors from different parties (Chapter VI of the Convention). Article 32 sets out the general principles which are to govern international co-operation. Firstly the parties must co-operate with one another "to the widest extent possible". This principle requires them to provide extensive co-operation to one another and to minimise impediments to the smooth and rapid flow of information and evidence internationally. Article 32 contains the general part of the obligation to co-operate: co-operation must include the prevention of and combat against THB (first indent), the protection of and assistance to victims (second indent) and to investigations or proceedings concerning criminal offences established in accordance with the Convention (third indent), i.e. the offences established in conformity with Articles 18, 20 and 21.
- co-operation and partnership with civil society (Article 35). The strategic partnership referred to in Article 35 between State authorities and public officials and civil society means the setting-up of co-operative frameworks through which state actors fulfil their obligations under the Convention, by co-ordinating their efforts with civil society. Co-operation with international non-governmental organisations active in the field of prevention and protection of the victims of THB is also needed.

Questions concerning the comprehensive approach to THB (Article 1):

- *Question 6:* Please indicate the titles of the main internal legal provisions and/or regulations containing measures to prevent THB, to protect and assist its victims, and to criminalise THB and prosecute traffickers.

Penal Code

Code of Criminal Procedure

Victim Support Act

Aliens Act

Employment Contracts Act¹

State Legal Aid Act

Obligation to Leave and Prohibition on Entry Act²

Social Welfare Act³

Child Protection Act⁴

Basic Schools and Upper Secondary Schools Act⁵

27.02.2015 Government Regulation Number 100 confirming Strategy for Preventing Violence for 2015–2020⁶

01.04.2010 Government Regulation Number 117 confirming Development Plan for Reducing Violence 2010-2014⁷

30.01.2006 Government Regulation Number 63 confirming Development Plan for Combating Trafficking in Human Beings⁸

- *Question 7:* Does your country have a comprehensive national policy and/or a National Action Plan to combat THB? If so, please indicate its title, date of adoption and duration, main fields of action and the body/bodies responsible for its implementation.

Estonia has a national policy and a strategic development plan of the Government of the Republic for combating trafficking in human beings since 2006. There are three national/governmental level strategies worked out, which are confirmed by the government. The third strategy is in implementation now, for the years 2015-2020.

The objectives and actions of prevention and combating of trafficking in human beings are agreed and written down in following strategies:

- 1) 27.02.2015 Government Regulation Number 100 confirming Strategy for Preventing Violence for 2015–2020
- 2) 01.04.2010 Government Regulation Number 117 confirming Development Plan for Reducing Violence 2010-2014
- 3) 30.01.2006 Government Regulation Number 63 confirming Development Plan for Combating Trafficking in Human Beings

¹ In the Constitution of the Republic of Estonia it is prohibited to force somebody to work and the Penal Code enacts that trafficking in human beings is a crime, but the legislation does not provide any definition of labour exploitation or prohibition of labour exploitation *expressis verbis*. However the Employment Contracts Act (the ECA) contains the contains several provisions, which refer to the prohibition of the exploitation of the employee. For example the ECA §§ 1, 2, 4, 15, 17, 28, 29, 30-33, 43-44, 46, 48-53, 54-70, 72-78, 79-81, 85-86, 88-91, 92-94. These sections require the employer to provide employee with the work agreed upon, to pay the agreed salary (not less than the minimum wage), respect the requirements of the working and rest time, give the employee the opportunity to use the vacation and provide the rules for the conclusion of the contract, termination of the contract and the rules for claiming damages from employee.

² Act covers regulations about unaccompanied aliens, who can be related to THB crimes, also specifications to issue of precept to leave.

³ Social Welfare Act covers Provision of substitute home service and foster care for children.

⁴ Chapter 6 of the Act defines child in need of assistance, which might be applicable also in the THB cases.

⁵ Basic Schools and Upper Secondary Schools Act⁵ regulates compulsory school education for all children living in Estonia.

⁶ Strategy for Preventing Violence for 2015-2020: <http://www.kriminaalpoliitika.ee/et/strategy-preventing-violence-2015-2020>.

⁷ Development Plan for Reducing Violence in 2010-2014: <http://www.kriminaalpoliitika.ee/et/development-plan-reducing-violence-2010-2014>.

⁸ Development Plan for Combating Trafficking in Human Beings 2006-2009 in Estonian: <http://ft.ee/admin/upload/files/Inimkaubanduse+arengukava+!%C3%B5pparuanne.pdf>.

The Strategy for Preventing Violence in 2015–2020 addresses violence between persons and does not discuss violence against oneself or collective violence. The Strategy encompasses violence between children, abuse of children, domestic violence (intimate partner violence), sexual violence and trafficking in human beings. People may become victims of violence regardless of their social and cultural background, age or gender. The prevalence and consequences of violence differ by types of violence and by gender of victims. For example, a large share of victims in registered domestic violence cases are women – eight victims out of ten. In domestic violence, sexual violence and trafficking in human beings, the violence experienced by women is often more severe and has worse consequences. The Strategy for Preventing Violence discusses violence prevention in its wider meaning, at three prevention levels encompassing universal prevention, victim protection and work with consequences of violence. First, the Strategy addresses awareness raising and educating of the public; second, the Strategy focuses on people at risk of becoming a victim or committing an offence; and third, the Strategy is used for working with consequences of violence, offering support measures to victims as well as interventions concerning perpetrators of violence. The solutions proposed in the Strategy are guided by the World Health Organisation's understanding that risk factors for violence are related to the society (e.g. norms favouring violence, gender inequality), the community (e.g. lacking victim support services), relationships (e.g. domestic conflicts, poor parenting skills) and persons (e.g. history of abuse as a child, psychological and behavioural problems, addiction problems).

Development Plan for Reducing Violence in 2010-2014 had the purpose to reduce and prevent violence in its various forms. The development plan dealt with violence related to minors, domestic violence and trafficking in human beings. The types of violence and situations that endanger vulnerable target groups – women and children – the most and the risk factors of which are often related to each other (e.g. influence of violence on subsequent violent behaviour) are discussed. This development plan was implemented in assuming that in order to reduce violence it is important to: 1) prevent violence by changing people's values, dispositions and attitude to violence; 2) reduce possibilities for the occurrence of situations facilitating violence; 3) improve access of victims of violence to assisting and supporting services; 3) ensure more efficient intervention of the criminal justice system in crimes of violence and thus reduce repetitive victimization and recidivism of criminal offenders.

Development Plan for Combating Trafficking in Human Beings 2006–2009 was the first national level action plan for THB issues and later in time it has been decided on the government level, that as number of violent crimes are related in order of the consequences and also reasons, then from 2010 these relations are also covered in strategies in combined way and with interaction of each other.

The idea to prepare a national development plan of combating and preventing THB was put in motion by the meeting of the Nordic and Baltic Ministers for Justice, Interior and Social Affairs on 9 April 2003, which also adopted recommendations for combating human trafficking. One of the recommendations was to acknowledge human trafficking as a priority issue by all countries and to prepare, by the year 2005 at the latest, national action plans for combating trafficking in human beings. In March 2004, Estonia ratified the UN supplementary protocol on trafficking in persons. In its Cabinet Meeting of 13 January 2005, the Government of the Republic discussed issues related to human trafficking and decided that, as one of the measures of criminal policy, the Ministry of Justice will start co-ordinating the prevention of human trafficking. The meeting also agreed on the preparation of a relevant national action plan.

The principal objective of the Development Plan was to render the fight against human trafficking more effective. In order to reach that aim, the Development Plan has six strategic sub objectives:

1. Continuous mapping of the problems related to human trafficking in order to get a comprehensive and trustworthy overview of the actual extent and forms of human trafficking.
2. Prevention of human trafficking by informing the public of the nature of human trafficking and decrease of demand.
3. Development of the skills of the specialists engaging in the problem of human trafficking, and promoting cooperation between them.
4. Curbing human trafficking by means of more effective border controls and control over employment mediation.
5. Effective reaction to criminal offences related to human trafficking.
6. Providing assistance and rehabilitation to victims of human trafficking.

Strategies are prepared in co-operation of several related ministries (justice, social affairs, internal affairs, foreign affairs, education and research, state agencies such as police, prosecutor's offices, labour inspectorate, etc), sectorial experts and other interested parties (incl NGOs), led by the Ministry of Justice and based on comprehensive discussions. The Ministry of Justice has co-ordinated since 2006 activities of

the Government's development plan, monitors the development plan's implementation and prepares annual reports for the Government. For that purpose, the Ministry of Justice has been given the national task to co-ordinate the combating of trafficking in human beings in the country.

Questions concerning specialised authorities, co-ordination of actors and actions against THB and international co-operation (Articles 29, 32 to 35):

- *Question 8:* In your country, are there persons or entities specialised in the fight against THB and the protection of victims? If so, please describe the type and the periodicity of the training provided for these persons or the staff of these entities? Please specify the financial resources (in euros) allocated to this training.

There are no special anti-trafficking units in place in investigating agencies, also in governmental level, but there are specialists in place, incl in the police and prosecutor's offices who have one of the main responsibilities to deal with the issues and cases of human trafficking. For example, it has been agreed, that in Northern Prosecutor Office there is one specialized prosecutor working with the THB cases. Normally the investigators who investigate THB cases are working also with the other organized crime cases in the regional level of police and prosecutors offices and on the central level. We have in Estonia 4 regional (North, South, East and West) Police and Border Guard Board, the same number of Prosecution Offices and in addition to these offices one central body on the state level.

Training has been one of the priority objectives in all of the strategies on state level and has been organized throughout the years by the government, supported also with the support of the foreign financing and by the NGOs actively working on the field. Normally there are every year or every after second year some kind of trainings organized by different partners. If the ministries or any other state bodies do the trainings, then normally with the budget of the organizations/from the yearly budget, so that it is not always possible to clearly determine the amount of the finances given for the special trainings.

Some examples of the trainings done periodically over the years since 2010:

1. Ministry of Social Affairs organized yearly allocation of funds to organize trainings for schools, last years the purpose has been to teach vocational school students. This is organized through the public procurement and trainings have been done by NGO Living for Tomorrow since 2010 until 2017 with the financing by Ministry of Social Affairs.
2. Ministry of Foreign Affairs have trained consular personnel on THB issues on their regular trainings for new consular staff, also for the staff on the post. In addition to that they are implementing already for the last 5 years the educational program "Reisi targalt"¹ which gives advice for the safe travel and also includes issues of THB. The program is offered for the schools, also is a part of the consular trainings, also introduced on yearly fairs of Tourism, available for all the people online and through the app modules. The program "Reisi targalt" and consular trainings has been financed by the Ministry of Foreign Affairs since 2010.
3. Ministry of Social Affairs have organized and financed trainings for different specialist groups (victim support, social welfare, police, prosecutors, labour inspectors, etc) since 2010 for number of years, also the trainings are organized by the ministries of Justice and Internal Affairs to different target groups and themes of trafficking for the same periodicity of time. One of the latest and good examples of the common trainings for different specialists are trainings organized by Ministry of Social Affairs together with the Labour Inspectorate and Police and Border Guard Board in 2016 for police officers, labour inspectors and Tax and Toll board workers in order to improve their cooperation in identifying and investigating labour trafficking cases.
4. International projects have helped a lot in educating different stakeholders, also in implementation and publication of training materials. Some example from projects would be: ADSTRINGO², FLEX³,

¹ Reisi targalt program: <http://reisitargalt.vm.ee/>.

² ADSTRINGO project information: <http://www.cbss.org/safe-secure-region/tfthb/> and research: <http://heuni.fi/en/index/researchareas/humantrafficking/adstringo-addressingtraffickinginhumanbeingsforlabourexploitationthroughimprovedpartnershipsenhanceddiagnosticsandintensifiedorganisationalapproaches.html>.

³ FLEX: <http://heuni.fi/en/index/researchareas/humantrafficking/flex.html>.

HESTIA¹; STROM², VISUP³. For the last years, the attention has been put also for educating municipalities as part of the STROM project.

5. In addition, there have been several trainings supported by the European Commission ISEC fund, Norway grants, Nordic Council of Ministers (NCM), Council of Baltic Sea States and implemented either by the ministries, by the NCM, by other state institutions, as police. As training have been partial activities in the projects, then specific amounts for the training costs are hard to specify.
 6. During the period of 2015-2017, around 300 Police and Border Guard Board officials have received a training in human trafficking topics. Names of the courses – anti-trafficking in human beings, CEPOL web inhumane treatment, trafficking in human beings, human trafficking, victims of human trafficking, questioning victims of human trafficking, cooperation to prevent human trafficking, human smugglers and migrants in Italy.
 7. Prosecutors and judges have been participating in the trainings organized by the aforementioned ministries, but also have got chances to join the trainings organized on EU and international level, for example through Eurojust or other entities.
- *Question 9:* Is there, within your governmental structure, a national body responsible for co-ordinating all national actors and actions against THB (regardless of the denomination and whether it was set up for this specific purpose or whether this responsibility was assigned to an already existing governmental body)? If so, please specify its name, administrative status, annual budget (in euros), human resources, composition and competences. If there is currently no such co-ordinating body, are there any plans to set one up in the near future? If so, please give details.

The Criminal Policy Department at the Ministry of Justice hold the post of the National Coordinator on Trafficking in Human Beings in Estonia, which is a part time work for one of the advisers in Analysis Division. The National Coordinator is Estonia's equivalent mechanism to the National Rapporteur and has the role to coordinate the implementation of anti-trafficking policies, incl. organization of the meetings of the stakeholders at all levels, analysing crime statistics, comprehensive data collecting and reporting to the agencies asking information about Estonian situation of T. The National Coordinator is responsible for setting the agenda for the meetings of the National Coordination network, which monitors the implementation of the National Strategy and its Action Plan (NAP). The National Coordinator gathers information on the status of implementation of the measures foreseen by the NAP and collects input and suggestions from different stakeholders for the yearly report on NAP implementation for the government. National Coordinator also organizes different prevention activities, also is engaged in the trainings organized by other authorities, incl other ministries. Training activities are done either on the local, regional or state level.

National Coordinator represents Estonia in the European Commission's work group of national co-ordinators and independent rapporteurs, in the Task Force against Trafficking in Human Beings under the Council of the Baltic Sea States, is the contact person for Council of Europe and coordinates any other internal or international cooperation on the field of THB in case the need arises.

- *Question 10:* Is this co-ordinating body also responsible for the co-ordination of the collection of administrative data or population survey data on THB? If not, please specify which body/entity has this responsibility.

Ministry of Justice is responsible in the state for collecting crime statistics and for analysing it. Crime statistics overviews are public, can be found in here: <http://www.kriminaalpoliitika.ee/et/statistika-ja-uuringud/kuritegevus-eeestis>. Statistics of the year 2016 is not published yet. Responsibilities about population surveys are not concretized. If there is a possibility to carry out such kind of research, the content is agreed between the stakeholders working in anti-trafficking field. Latest population surveys⁴ have been carried out with the financial support from Norwegian financial mechanism and through Ministry of Social Research.

Ministry of Social Affairs and Social Insurance Board are responsible for collection of the data about victims, their assistance and Ministry of Internal Affairs and Foreign Affairs are in charge of the data related

¹ HESTIA: <http://heuni.fi/en/index/researchareas/humantrafficking/hestia-preventinghumantraffickingandshammarriagesamultidisciplinarysolution.html>, <http://ft.ee/inimkaubitsemine/projektid-2-1/hestia-2-1>.

² STROM project: <http://www.cbss.org/safe-secure-region/tfthb/>, <http://ft.ee/inimkaubitsemine/projektid-2-1/strom-i-ja-ii>.

³ VISUP: <http://www.kriminaalpoliitika.ee/et/inimkaubandus/improving-victim-support-during-criminal-proceeding-anti-trafficking-training-criminal>.

⁴ Surveys are found just in Estonian, but in here: <http://www.sm.ee/et/programmi-mojuuuringud>.

to foreigners' also consular services. If there is a need for the data about the criminal investigations or the work of the investigating bodies, then normally the data is available for the national coordinator through the Criminal Proceedings Registry or if there is a need for the detailed data, then from the Office of the Prosecutor General and National Police and Border Guard Board. NGOs who are mandated to offer services to victims collect the statistics of their work and this data is sent either to Social Insurance Board or Ministry of Social Affairs.

- *Question 11:* Do NGOs have full membership status in your national co-ordinating body? If so, how many? Please describe the criteria for NGO membership.

NGOs, who are working with the THB victims and offering services, are full partners in national roundtable and network. There is no special criteria for being the member in the roundtable or network. Normally there are 2-3 NGOs mandated to offer services to victims of trafficking and organize assistance.

- *Question 12:* Are there any other national or international entities or bodies participating in your national co-ordinating body? If so, please specify.

National roundtable consists of the following members/officials from:

Ministry of Education and Sciences

Ministry of Foreign Affairs

Ministry of the Interior

Ministry of Justice

Ministry of Social Affairs

Office of the Prosecutor General and also prosecutors from the regional offices

National Police and Border Guard Board, also police officers from regional offices

NGOs: Living For Tomorrow, Lifeline, SOS Children Village, Estonian Human Rights Centre

European Migration Network contact point

Universities (Tartu and Tallinn universities)

Social Insurance Board

Labour Inspectorate

Estonian Unemployment Fund, incl EURES Network in Estonia

Chancellor of Justice Office

IOM Office in Tallinn

US Embassy in Tallinn

Ericsson

- *Question 13:* Please describe the legal basis for international co-operation between your country and other countries in the fight against THB:

– national legislation;

– international instruments/agreements (bilateral and/or multilateral).

Please indicate the title of the legal instruments.

National legislation:

Chapter 19 of the Code of Criminal Procedure provides the international cooperation in criminal procedure. The Code of Criminal Procedure § 433 provides the general principles of international cooperation according to which international cooperation in criminal procedure comprises extradition of persons to foreign states, mutual assistance between states in criminal matters, execution of the judgments of foreign courts, taking over and transfer of criminal proceedings commenced, cooperation with the International Criminal Court and Eurojust and extradition to Member States of the European Union. According to the Code of Criminal Procedure § 433 (2), international cooperation in criminal procedure shall be effected pursuant to the provisions of this Chapter unless otherwise prescribed by the international agreements of the Republic of Estonia, the European Union legislation or the generally recognized principles of international law.

The Code of Criminal Procedure § 435 names the judicial authorities competent to engage in international cooperation in criminal procedure. Therefore, the central authority for international cooperation in criminal procedure is the Ministry of Justice, unless otherwise provided by law or international legislation binding on the Republic of Estonia. Courts, the Prosecutors' Offices, the Police and Border Guard Board, the Security Police Board, the Tax and Customs Board, the Environmental Inspectorate, the Competition Board and the Military Police are the judicial authorities competent to engage in international cooperation in criminal procedure to the extent provided by law and international legislation binding on the Republic of Estonia.

Code of Criminal Procedure § 471 regulates organization of international investigation teams, international investigation team may be requested to be set up for a specific purpose and a limited period in the interests of efficiency of pre-trial investigation of criminal offences. The request shall set out a proposal concerning the composition of the investigation team. In Estonia, the Office of the Prosecutor General and Eurojust's National Member for Estonia are competent to submit a request for setting up a joint investigation team. The Office of the Prosecutor General or Eurojust's National Member for Estonia with the permission of the Office of the Prosecutor General shall make a decision concerning setting up a joint investigation team on the basis of a proposal made to Estonia and enter into a corresponding agreement with the competent judicial authority of a foreign state.

International instruments:

Estonia has joined the following international documents in the field of international co-operation:

1. European Convention on Mutual Assistance in Criminal Matters and its Protocol (*in force 27.07.1997*)
2. Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters (*in force 01.01.2005*)
3. European Convention on the Transfer of Proceedings in Criminal Matters (*in force 29.07.1997*)
4. European Convention on Extradition and its two Protocols (*in force 27.07.1997*)
5. European Convention on Information on Foreign Law and its Protocol (*in force 29.07.1997*)
6. Convention on laundering, search, seizure and confiscation of the proceeds from crime (*in force 01.01.2000*)
7. European Convention on the International Validity of Criminal Judgments (*in force 26.07.2001*)
8. Convention on the Transfer of Sentenced Persons (*in force 01.08.1997*)
9. Council Decision 2008/615/JHA of 23 June 2008 (Prüm Decision) on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (*in force for Estonia 22.12.2008*).
10. Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union.
11. Schengen Agreement of 1985, Estonia joined on 21 December 2007

Estonia has signed bilateral agreements on legal assistance in criminal matters with several countries:

1. Agreement between the Republic of Estonia, the Republic of Lithuania and the Republic of Latvia on Legal Assistance and Legal Relations (*in force 03.04.1994*)
2. Agreement between the Republic of Estonia and the Russian Federation on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (*in force 19.03.1995*)
3. Agreement between the Republic of Estonia and the Ukraine on Legal Assistance Relations and Legal Relations in Civil and Criminal Matters (*in force 19.06.1996*)
4. Agreement between the Republic of Estonia and the Republic of Poland on Rendering Legal Aid and on Legal Relations in Civil, Work and Criminal Matters (*in force 08.02.2000*)
5. Treaty between the Government of the United States of America and the Government of the Republic of Estonia on Mutual Legal Assistance in Criminal Matters (*in force 20.10.2000*)
6. Treaty between the Government of the Republic of Estonia and the Government Republic of Belarus on Co-operation in Combating Crime (*in force 03.12.2004*)

Police cooperation is normally done in EU through the Europol, Estonia has memorandum of understanding/cooperation contract with Europol since 10.10.2001 and since 2002 there is a first liaison officer working in Europol from Estonia. Estonia has full membership in Europol since 01.07.2005 and now there are working 2 police liaison officers and 1 toll officer in Europol. Internationally active police cooperation is also done with Interpol.

Officially there are sent international law assistance requests and the international investigation teams (JIT) are formed, but in practice, it is possible to do cooperation with the investigating authorities abroad through the personal contacts. It works both for police and prosecutors work.

- Question 14: What steps have been taken by your country to ensure that the requesting party is promptly informed of the final results of action taken in the framework of international co-operation on action against THB, as provided for in Article 34 of the Convention?

The processing of requests for assistance received from foreign states is provided in the Code of Criminal Procedure:

§ 462. Processing of requests for assistance received from foreign states

(1) The Ministry of Justice shall verify whether a request for assistance received from a foreign state meets the requirements. A request for assistance in compliance with the requirements shall be immediately communicated to the Office of the Prosecutor General.

(2) The Office of the Prosecutor General shall verify whether compliance with the request for assistance is admissible and possible and communicate the request for assistance to the competent judicial authority for execution.

(3) Requests for assistance received by investigative bodies shall be communicated to the Office of the Prosecutor General. In cases of urgency, a request for assistance submitted through the International Criminal Police Organisation (Interpol) or a notice in the Schengen Information System may be complied with before the request for assistance is received by the Ministry of Justice with the consent of the Office of the Prosecutor General.

As provided in the Code of Criminal Procedure § 463 (2), the materials received as a result of compliance with a request shall be communicated to the requesting state using the same channel which was used for sending the request, except in the case the requesting state requests the sending of the materials directly to the initiator of the request.

Through Europol there is a possibility to form Joint Investigation Teams (JIT-s). The terms in accordance with which a JIT is to operate vary to a degree with each case, but they are based on a model agreement appended to) Council Resolution (2010/C 70/01), which encourages the competent authorities in Member States to use it "to agree upon the modalities for the joint investigation team."

- *Question 15:* Do the relevant authorities of your country have the possibility to spontaneously provide information, without prior request, to authorities of another country if the disclosure of such information might assist the receiving country in initiating or carrying out investigations or proceedings concerning criminal offences established in accordance with the Convention? If so, please indicate how such information is transmitted and which authorities are involved.

Yes, it is possible to spontaneously provide information, without prior request, to authorities of another country. The competent authorities such as the State Police, the Office of the Prosecutor General and courts are the authorities that are involved in criminal proceedings, thus these authorities may exchange of information and sometimes a lot of use has been made of the contacts established on the international seminars, conferences, etc. Nordic Council of Ministers have supported number of international events of the Baltic Sea and Nordic States, so that a lot of the officials already know the contact persons from other countries whom they can contact if there is a doubt or information about possible case of THB. Also there are done bilateral agreements while the criminal investigations, if it is needed.

Spontaneous exchange of information is provided in the legislation in the Code of Criminal Procedure § 473, which states that within the framework of mutual assistance in criminal procedure, a competent judicial authority may forward to a foreign state and, in the case of criminal offences listed in subsection 491 (2) of this Code, to Eurojust information obtained by a procedural act performed without prior request when such information may be the reason for initiating a criminal proceeding in such foreign state or may assist in ascertaining the facts relating to a criminal offence subject to a criminal proceeding already initiated.

According to The Code of Criminal Procedure § 435, the competent judicial authorities to engage in international cooperation are the Ministry of Justice, courts, the Prosecutors' Offices, the Police and Border Guard Board, the Security Police Board, the Tax and Customs Board, the Environmental Inspectorate, the Competition Board and the Military Police.

- *Question 16:* Do your police forces carry out joint actions, on a bilateral and/or a multilateral legal basis, with the police forces from other parties to fight THB? If so, please describe the action taken and provide an assessment of its impact. If not, please describe any plans for joint action or obstacles to joint action.

Estonian police can initiate JIT (joint investigation teams) and participate between different law enforcement agencies in different countries. JIT agreeing and contracts are made in the Europol. The legal framework

for setting up JITs between Member States can be found in Article 13 of the 2000 MLA Convention as well as in the Framework Decision on Joint Investigation Teams from 2002, which was adopted in view of the slow progress towards ratification of the MLA Convention. The Framework Decision itself will cease to have effect once the 2000 MLA Convention has entered into force in all Member States.

JIT is led by a person from the Member State in which the JIT operates. Although the members of the JIT may originate from various jurisdictions, they are to carry out their duties in accordance with the national laws of the territory in which the investigation takes place. JITs enable the direct gathering and exchange of information and evidence without the need to use traditional channels of mutual legal assistance (MLA). Seconded members stationed abroad with the JIT may request investigative measures from their competent national authorities without the need for any MLA request. Additionally, a member of a JIT may make relevant information available to the rest of the team, provided such communication is in accordance with national law and falls within the competence of the JIT member supplying the information. Seconded members shall be entitled to be present when investigative measures are taken in the Member State in which the team operates and may be entrusted by the team leader to take certain investigative measures themselves.

JITs can also be set up with and between countries outside of the European Union, provided that a legal basis for the creation of such JIT exists between the countries involved. The legal basis can take the form of an international legal instrument, a bilateral or multilateral agreement or national legislation (e.g. article(s) in the codes of criminal procedure).

Police and Boarder Guard Board has signed a cooperation agreement with the Labour Inspectorate to carry out joint inspections of illegal employment, including the detection of cases of trafficking and to enhance inter-agency information exchange and risk analysis capabilities. Police and Boarder Guard Board continued to foster cooperation with the Estonian Tax and Customs Board to improve the detection of illegal employment, incl. detection of forced labour, carry out joint inspections and develop inter-agency analysis capability. In 2015 over 600 and in 2016 over 400 inspections were conducted to discover illegal stay and work in Estonia.

Section I.3. Definition of "THB" and of "victim" in the internal law of the parties

In accordance with Article 4a of the Convention, trafficking in human beings consists of a combination of three basic components, each to be found in a list given in the definition:

- the action of: "recruitment, transportation, transfer, harbouring or receipt of persons";
- by means of: "the 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";
- for the purpose of exploitation, which includes "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 or organs".

Article 4b of the Convention follows European Court of Human Rights case-law in that it states that the consent of a victim of THB to a form of exploitation listed in Article 4a is irrelevant if any of the means referred to in Article 4a has been used.

Under Article 4c recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation is to be regarded as trafficking in human beings even if it does not involve any of the means listed in Article 4a. It is also immaterial whether or not the child consents to be exploited. Under Article 4d the word "child" means any person under 18 years of age.

Article 4e defines "victim" as "any natural person who is subject to trafficking in human beings as defined in this article". A victim is anyone subjected to a combination of components (action – means – purpose) specified in Article 4a of the Convention.

Questions:

- *Question 17:* Are all the elements of the three components (action, means and purpose) contained in Article 4a of the Convention included in the legal definition of THB established by your internal law? Please describe how they have been integrated in your internal law.

Under Estonian law, THB is defined in § 133 of the Penal Code as follows:

§ 133. Trafficking in human beings

- (1) Placing a person in a situation where he or she is forced to work under unusual conditions, engage in prostitution, beg, commit a criminal offence or perform other disagreeable duties, or keeping a person in such situation, if such act is performed through deprivation of liberty, violence, deceit, threatening to cause damage, by taking advantage of dependence on another person, helpless or vulnerable situation of the person, is punishable by one to seven years' imprisonment.
- (2) The same act if:
 - 1) committed against two or more persons;
 - 2) committed against a person of less than eighteen years of age;
 - 3) committed against a person in a helpless situation;
 - 4) committed in a torturous or cruel manner;
 - 5) serious health damage is caused thereby;
 - 6) danger to life is caused thereby;
 - 7) committed by a group;
 - 8) committed by taking advantage of official position,
 - 9) serious consequences are caused thereby;
 - 10) committed by a person who has previously committed a criminal offence provided for in this section or §§ 133¹, 133², 133³ or 175;
 is punishable by three to fifteen years' imprisonment.
- (3) An act provided for in subsection (1) or (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment.
- (4) For the criminal offence provided for in this section, the court may impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 83² of this Code.
- (5) For the purposes of this section, vulnerable situation is a situation where a person lacks an actual or acceptable opportunity not to commit any of the acts specified in subsection (1) of this section.

Therefore Penal Code § 133 (1) provides seven alternatives considered as "means" regarding to the Article 4a of the Convention. We hereby note that the means provided in the Convention under wording "fraud" and "deception" are covered by the Estonian word for "deceit". Secondly, the situation of taking advantage of dependence on another person covers the situation provided in Convention as "giving or receiving of payments or benefits to achieve the consent of a person having control over another person".

The "actions" listed in Article 4a of the Convention as recruitment, transportation, transfer, harboring and receipt are covered with the concept used in Penal Code § 133 (1) as "placing a person in a situation".

The list of "purposes of exploitation" in Penal Code § 133 (1) is an open-ended list because of the wording "performing other disagreeable duties".

- *Question 18:* Please indicate which of the following forms of THB are recognised under your internal law:
 - national;
 - transnational;
 - linked to organised crime;
 - not linked to organised crime.

The crimes listed in Estonian Penal Code as THB do not depend on its national or transnational nature.

Criminal liability for THB does not require the link to organised crime. According to Penal Code § 133 (2) 7) when the act of THB is committed by a group, it provides for a more severe punishment.

- *Question 19:* Under your internal law, is a "victim of THB" any natural person who is subject to THB as defined in Article 4e of the Convention? Please provide the definition of a "victim of THB" under your internal law. Please provide (a translation of) the legal text(s) in English or in French.

Yes, victim of THB is any natural person, who is subject to THB as defined in Article 4e of the Convention. Definition of a victim as stated in the Victim Support Act is following:

(1¹) For the purposes of this Act, a victim of trafficking in human beings is a person in the case of whom criminal proceedings have been initiated with regard to the criminal offence committed against him or her based on the elements of criminal offence provided for in §§ 133 to 133³, 138 to 140 or 175 of the Penal Code or based on the elements of criminal offence provided for in any other similar foreign penal code.

(1²) For the purposes of this Act, an alleged victim of trafficking in human beings is a person:

- 1) who has been preliminarily identified in Estonia by an organisation engaged in helping of victims of trafficking in human beings and filed information with the Estonian National Social Insurance Board about a suspicion that the person may be a victim of trafficking in human beings; or
- 2) in respect of whom a competent foreign authority has submitted information to the Estonian National Social Insurance Board about falling victim of trafficking in human beings in that state.

- *Question 20:* Does your internal law recognise as victims of THB:
 - women;
 - men;
 - children?

Women, men and children all can be recognised as victims of THB.

- *Question 21:* To what extent does the consent of a person to intended or actual exploitation determine if that person will be recognised as a victim of THB under your internal law? Please specify if your internal law contemplates the consent of the three categories of victims: women, men, children. Please provide examples.

Consent is irrelevant, as Estonian legislation is in accordance with the principles of Convention. (see the definition in Penal Code in Question 17 and Victim Support Act in Question 19). There is no difference whether the victim is a man, woman or a child.

II. Implementation by the parties of measures aimed to prevent THB, protect and promote the rights of victims of THB and prosecute traffickers

Section II.1. Implementation of measures to prevent THB

Questions in this section aim to obtain information on the implementation by the parties of the preventive measures contained in Chapter II of the Convention (Articles 5 to 9). Implementation of preventive measures concerns all countries: countries of origin, transit and destination. Preventive measures to be implemented can vary depending on the type of country, but all countries should implement measures to prevent THB.

Questions:

- *Question 22:* Has a national/regional/local campaign or programme to alert the potential victims of THB to the various forms of exploitation been carried out in your country during the last two years? If so, was it based on research for determining effective prevention methods? Was it addressed to a particular group of potential victims? Which bodies, governmental or non-governmental, were in charge of implementing it? Please describe the material used for the campaign/programme and its dissemination. If possible, please provide an assessment of

the impact of the campaign/programme. If more than one campaign or programme was carried out please provide the details for each of them. If there are currently plans for launching a new campaign or programme, please provide details.

- 1) The latest campaign is 1ELU (1LIFE) which takes place now nationally in biggest towns of Estonia and also in national online media, from January 2017 until June 2017 and focuses to prevent THB, turning attention for the possibilities getting help and advice. The message is that everybody has one life, which can be lived decently, with honour and without exploitation. Campaign is supported from European Commission Internal Safety Fund (ISF) with national co-financing 85000 EUR and Estonian Ministry of Internal Affairs and organized through the project run by Ministry of Justice and Social Affairs with the partnership of NGO Living For Tomorrow and Estonian Human Rights Centre. Visuals and campaign is worked out by the IDEA PR Agency. The need for this kind of campaign rose from the public opinion survey carried out in 2014, which also inquired the awareness of the victim support services and around 20% of the respondents said that they know which services are available for the victims of labour or sexual exploitation. There are online and social media activities in the campaign, also commercials in the shopping centres in the biggest towns in Estonia, commercials in Apollo cinemas in front of the movies, also informative videos shown on the screens in the Tallinn bus station, airport and ports in Tallinn, on Tallink ferries, also in e-school program for juveniles and parents, etc.

The campaign has three parts:

- First is dedicated to the labour exploitation and this was done with using videos (8 different ones in 2 languages) in commercial clips in shopping centres, in bus station, in the ports and airport and on Tallink ferries and the videos were shown in Apollo cinemas during 1 month before all the films.
- Second round dedicates to the sexual exploitation focusing two the sex byers, also to prostitutes offering sex. This campaign will be in the bigger daily online news web portals, also job recruitment and special portal using web banners.
- Third, will be for children used for criminal acts and will be presented through study video, which will be sent for teachers who can use it in schools. The announcement will be done also in e-school portal, which is used by the parents, teachers, also students.
- Campaign doesn't have much printed materials, but there are business cards with the information of the victim support services and special design was done for the public transport of Tallinn. There were handles in the buses for some weeks.
- Special FB page is established (<https://www.facebook.com/1ELU-705600759611129/?fref=ts>) and videos can be found in YouTube as follows: <https://www.youtube.com/channel/UCgWFDoe6VC0evDO3GU90VRg>.



Handles used in public transport, also business cards with the information of the victim support agencies.

- 2) Social campaign about job recruitment, <http://toovahendus.ti.ee/>, which gives advice about job recruitment with the special focus of working abroad and labour rights, done in 2015. This campaign focused to young people (15-24) travelling to work abroad and to females/males in the age group of 25-49 and 50+. This campaign had evaluation after the implementation and it showed that awareness about the job recruitment rights and policies increased in general 3%, but in special focus groups up to 7%. 6% increase was in the amount of people who would check the background and history of the company who offers job recruitment. Campaign reached 52% of the population planned as a target group. The most essential is organizing the campaign of preventing THB, the campaign has 3 focuses: labour exploitation, sexual exploitation and forced criminality of children in THB.
- 3) EU supported project VISUP (Improving Victim Support During Criminal Proceeding: Anti-Trafficking Training for Criminal Justice System Practitioners) ended in September 2015. Objective of the project was to raise the professional knowledge about supporting victims in criminal proceedings, also protection of the rights of THB and domestic violence (DV) victims. This includes training program for the criminal justice system practitioners, workshops and study visits, also small scale online campaign. All the materials are found in here: <http://www.kriminaalpoliitika.ee/et/inimkaubandus/improving-victim-support-during-criminal-proceeding-anti-trafficking-training-criminal>.

- 4) Garage 48 and US embassy organized THB theme Hackathon in 18.-20. September 2015 in Tallinn. During the 48 hours of the Garage48 "Trafficking in Persons" hackathon, around 80 participants from Estonia, Bulgaria, Latvia, Lithuania, Moldova, the United States, Russia, Armenia, the United Kingdom and Ukraine worked on the premises on the Baltic Film and Media School under the guidance of experienced design, technical and human trafficking expert mentors. By the end of the hackathon, taking place in cooperation with the US Embassy in Tallinn, six projects were presented, including online communities, where victims can rate their previous employees to other job seekers or victims could share their stories, a game to educate children of the dangers of human trafficking, and a website where you could securely store a copy of your travel documents in case they were taken from you or lost. More information is here: <http://garage48.org/blog/othe-winner-of-garage48-tip-will-disrupt-traffickers-by-scanning-online-ads>.
- *Question 23:* Please describe the social and economic empowerment measures for disadvantaged groups vulnerable to THB which have been implemented or are planned.

Gender inequality is making **women** vulnerable for THB. In June 2016, Estonian Government adopted a *Welfare Development Plan*¹ which is first comprehensive strategy document bringing together social and labour policy. One of the main aims of the document is to achieve full gender equality. To reach that goal the plan targets a wide range of issues, including reducing gender pay gap and balanced participation of women and men in all levels of decision-making. It also emphasizes the importance of reducing harmful impact of gender stereotypes on decisions and everyday life of women and men and guaranteeing institutional capacity to promote gender equality, including gender mainstreaming. One of the biggest challenges for Estonia is reducing our wide gender pay gap. Specific measures planned for the coming years include providing the Labour Inspectorate with a right to exercise state supervision over equal pay for women and men for the same work and work of equal value. The measure also includes developing guidelines to provide know-how for Labour inspectors and employers on evaluation and comparison. The main aim is to develop proposals to increase transparency of pay information in organisations and to reduce gender pay gap. It is needed to stop the prevalence of stereotypical attitudes, social norms and practices that support and reproduce discrimination and violence against women. Thus, over the years Estonia has conducted trainings for various target groups to help raise awareness of harmful gender stereotypes. This year, gender equality trainings are aimed at career counsellors to help them better recognize and implement gender aspects in their work. This will help them give advice that is free of gender stereotypes and thus, help men and women make more diverse choices. Estonia has also conducted trainings for teacher and school administrations on gender equality and gender mainstreaming to help implement gender awareness into education. There are several NGOs who in cooperation with the state or independently work towards achieving gender equality (for example, NGO Estonian Women's Studies and Resource Centre, NGO Estonian Women's Roundtables Union).

Since many victims of THB have experience domestic violence in their life prior to falling into the hands of traffickers, it is highly relevant to provide support also for **victims of domestic violence**. Estonia has Strategy for Violence Prevention for 2015-2020 which sets goals in violence prevention and victim support. The Strategy lays out concrete activities how to reduce and prevent violence in its various forms, including domestic violence and sexual violence. The development plan foresees a number of actions, including raising individuals awareness of their rights, regular mapping of nature and scope of violence; development of services for victims and training specialists working with both victims and abusers. Also, concrete steps have been taken to support **victims of violence against women**. Women's shelter service for victims of violence against women is described in the Victim Support Act since 1.01.2017, thus establishing clear requirements for service providers and people directly working with victims². For the first time, the concept of violence against women is mentioned in the Estonian legislation. This is a very big step ahead in acknowledging the problem and providing proper services for the victims. Women's NGOs are mostly providing the service all over Estonia (Estonian Women's Shelters Union, NGO Eluliin, NGO Tartu Women's Shelter etc). Secondly, there is state coordination of services meant for **victims of sexual violence**, and the victim meets service coordinator already in the emergency room. The evidence is taken immediately and stored for later in case victim wants to file a complaint later. This is a very rapid development considering the fact that first activities to acknowledge the problem of sexual violence took

¹ Welfare Development Plan 2016-2023, available at https://www.sm.ee/sites/default/files/content-editors/eesmargid_ja_tegevused/welfare_development_plan_2016-2023.pdf.

² Victim Support Act is available at <https://www.riigiteataja.ee/en/eli/502012017002/consolide>.

place in Estonia only in 2014. In addition, since autumn 2016 we are using MARAC (multi-agency risk assessment conferences) in serious cases of domestic violence. We hope to improve cooperation and holistic approach to violence cases. Altogether, these actions should empower victims of gender based violence and prevent human trafficking.

Vulnerable to THB is also **Russian-speaking minority** in Estonia. There are wider policies to empower them regarding different spheres of life, but concrete steps have been taken also to prevent THB. All the campaigns and information materials targeting wider audience about THB are translated into Russian. Every year, lectures on THB are organised in Russian schools in Russian language (paid from State budget and arranged by the Ministry of Social Affairs, conducted by NGOs). Anti-trafficking hotline provides support and empowerment in different languages including Russian.

Regarding **refugees**, several steps have been taken to ensure their social and economic empowerment. There is a policy document *The Strategy of Integration and Social Cohesion in Estonia* (“Integrating Estonia 2020”)¹, which defines how integration process should be handled and how it helps refugees to gain strengths and power in their new home country. Refugees are able to acquire knowledge and skills, learning to function in the new environment in terms of everyday life (finding a residence, places in schools and kindergartens, taxes, healthcare and social services, language learning opportunities, etc.), in the State sphere (organization of society, legislation, principles of operation of the State, the rights and obligations of citizens of another country, issues relating to residence permits and right of residence) as well as the behavioural sphere (first impression of the fundamental values of the receiving society, cultural traditions, basic level language learning).” There are both state and non-state actors working with refugees². State has worked out settlement programme³ and is implemented since 2014. Welcoming programme is an action plan supporting the adaptation of newly arrived foreigners, its target group, the conditions for participation and the procedure of enrolling persons in the Welcoming programme is established by 13.08.2014 regulation nr 34 “Welcoming programme”. The main goal is to support the migration and subsequent integration of newly arrived immigrants by providing them information: 1) on the functioning of the state and society; 2) daily life, working, studying and family matters, and by facilitating the acquisition of Estonian language skills. Welcoming programme is funded by the European Social Fund (ESF), the Asylum, Migration and Integration Fund (AMIF) and the state budget.

Estonian Refugee Council⁴ (ERC) facilitates the cultural, social and labour market integration of refugees. ERC also engages in public awareness activities relating to refugees and advocacy, and represents refugee interests. Moreover, it provides humanitarian aid outside of Estonia and operates a volunteer-based support person service. JMC is an NGO which provides the support person service and leisure activities for asylum seekers and refugees in Estonia⁵. NGO Pagula is NGO which provides support person services and cultural integration activities in the western part of Estonia in order to help refugees there integrate fast and effectively. The Estonian office of the International Organization for Migration (IOM Estonia) offers adaptation courses (also known as the welcoming programme) for refugees. This activity is co-financed by AMIF and Ministry of Internal Affairs. IOM also provides training and conducts awareness raising activities at large. The Estonian Human Rights Centre (EHRC) is a general human rights NGO that, *inter alia*, focuses on advancing the human rights of asylum-seekers and refugees. EHRC has a partnership agreement with UNHCR relating to legal counselling of asylum-seekers. The Estonian Roundtable for Refugee Organizations comprises EHRC, ERC, JMC and IOM Estonia. They engage in joint advocacy in the asylum area by providing comments on policy and legal initiatives.

- **Question 24:** What preventive measures to discourage demand leading to THB, as provided for in Article 6 of the Convention, has your country adopted or is considering adopting?

The campaign 1ELU (described in Question 22) also focuses in one aspect to the discouraging of demand for sexual services.

Estonian Ministry of Social Affairs (MoSA) has been organising trainings for different target groups since 2002. Every year, 2-3 two to three-day trainings take place on THB, and discussing demand is always part of the trainings. Whether the training is for police, social workers, victim support personnel, teachers or

¹ *The Strategy of Integration and National Cohesion in Estonia 2020* (“Integrating Estonia 2020”), see Annex 1, available at: http://www.kul.ee/sites/kulminn/files/integrating_estonia_2020.pdf.

² Following information is taken from the report The UN Refugees Agency (2016). Integration of refugees in Estonia: Participation and Empowerment.

³ Settlement programme: <https://www.settleinestonia.ee/?lang=en>.

⁴ Estonian Refugee Council: <http://www.pagulasabi.ee/en/about-us>.

⁵ Johannes Mihkelson Centre: <http://www.jmk.ee/>.

other target groups, it is relevant to talk about the effects of demand. Also, MoSA has published materials targeting demand (research report by Katri Eespere titled "Hidden side of prostitution – sex buyers speak"¹, publication "Sex buyers – who they are?"², articles in media etc). NGO Eluliin and NGO Estonian Women's Studies and resource Center have both organised campaigns against buying of sex.

In regards to ratifying the Istanbul Convention, the proposed amendments in the draft concerning Penal Code provide for the criminalization of forced marriages and buying sex from the victim of THB. After the enactment of the proposed amendment in Penal Code § 133 (1), it would provide that concluding marriage under force will be an act considered as THB. Similarly, Penal Code § 175 (1) would provide that forcing a person of less than eighteen years of age in order to marry against his or her will would be considered as THB. The objective of this regulation is to condemn these kind of actions and protect the victims from THB. Secondly, after the enactment of the proposed amendment in Penal Code § 133¹ (1), buying sex from the victim of THB will be considered as a crime. The objective of criminalization of this act is to discourage the demand leading to THB and protect the rights of victims.

- *Question 25:* Please specify the measures taken by your country to ensure quality, security and integrity of travel and identity documents in order to prevent their unlawful creation and issuance as well as to ensure that they cannot easily forged.

In Estonia we have two types of documents – main is ID card and biometric passport. Both document are according to ICAO and to other high quality security documents standards (ISO, PCI etc.). All documents are machine readable and have sophisticated security features. For biometric passport - high quality security printing, ICAO chip with biometrical data, UV secondary facial image. For ID card – polycarbonate, laser engraved personal data, different high quality security features. Details about security of facilities and place of personalization are not disclosed.

- *Question 26:* Please specify the measures taken by your country to detect cases of THB at its borders, *inter alia* by means of border surveillance teams and intelligence measures.

In 2015, the Police and Boarder Guard Board (PBGB) introduced a new national border control database PIKO that allows making real-time inquiries in border crossing points into both Estonian and international databases (e.g. SIS), thus making the verification of border crossers easier and faster. PIKO was developed in cooperation with the PBGB and the IT and Development Centre of the Ministry of the Interior (SMIT), the whole project was financed through the European External Borders Fund (EBF).

- *Question 27:* Please describe any measures taken to provide information, through consulates and embassies, about legal entry and stay on the territory of your country in order to ensure informed and legal immigration.

Estonian foreign representations worldwide provide information about legal entry conditions to Schengen area and immigration rules trough different communication channels in co-operation with Estonian Police and Boarder Guard Board. Information about entry conditions and consular assistance, also for THB victims abroad, is available in all representations and at their homepages. For more detailed information in printed form about visa and entry conditions is also available in hand-outs and leaflets, distributed in embassies and consulates.

Representations offer also phone and personal consultation in all consular and immigration related matters by our consular clerks and diplomats. Consular Department of the Ministry of Foreign Affairs together with many embassies provide relevant information on immigration, consular and THB issues also via social media, trough Facebook, Twitter and "Web Consul" page and trough 24/7 Consular emergency helpline phone number. In some foreign representations, there are Police and Boarder Guard Board immigration liaison officers in place to provide support and specialised information on migration and THB issues.

From 1st March 2017, our foreign representations started to promote our new Police and Boarder Guard Board's immigration helpline service, whereby four specialised migration advisors started to work at giving free professional advice and legal aid to foreigners who wish to settle in Estonia. Migration advisors work in

¹ Eespere, K. (2007) "Hidden side of prostitution – sex buyers speak":

[http://ft.ee/admin/upload/files/The_hidden_side_of_prostitution_sex_buyers_speak%20\(1\).pdf](http://ft.ee/admin/upload/files/The_hidden_side_of_prostitution_sex_buyers_speak%20(1).pdf).

² Luht, K (2006). „Seksiostjad- kes nad

on?"https://books.google.ee/books/about/Seksiostjad_kes_nad_on.html?id=xg7NGAAACAAJ&redir_esc=y.

3 regions (2 in Northern Police Prefecture, 1 in Southern Police Prefecture and 1 in Eastern Police Prefecture), advisors give help regards several questions, incl counselling of the companies seeking and hiring foreign workers.

- *Question 28:* Please describe any measures taken to avoid issuing visas (tourist, working, student visas, etc.) when there are reasonable grounds to believe that a person may be a victim of THB or implicated in THB. In such cases, please describe any specific measures which your law enforcement authorities have instructions to apply.

In Estonia all visa applications submitted to Estonia's foreign representations are obliged to pass a consultation procedure and get an approval from the Security Police Board and Police and Border Guard Board (4 fold approval by migration, border, police and security police officials, incl. SIS art 96). At the borders the border guard officials have access to national visa register (online) and VIS and can check additional information (information on visa, visa invitation etc.) if needed. Estonia uses biometric information to confirm the identities of visa holders who's biometric data is entered to VIS. One-finger fingerprint scanners for fingerprint capturing is used at the border.

- *Question 29:* Do any specific measures exist for preventing national THB, including THB taking place on the territory of parties with special agreements establishing common borders (Schengen Agreement for example)? If so, please specify.

Estonia has ratified the Prüm treaty in 2008, has the means and procedures in place to exchange DNA, and fingerprints data in order to prevent cross boarder crime, including trafficking.

Police share information through SIENNA and INTERPOL platform and SPOC (single point of contact). In Estonia there is a special police unit for that (Information Management Office). In Europol there are 2 police communication officers and 1 customs official and it is possible to use liaison officer (Schengen communication officer) if it is necessary. It is possible to initiate JIT (joint investigation teams) between different law enforcement agencies in different countries.

- *Question 30:* What funds have been allocated to the above-mentioned preventive measures in the state budget (central and/or regional/local)? Please specify amounts in euros.

Government organized anti-trafficking activities through the national strategy and amounts for the activities are described in the national action plan for the years 2016-2020: <http://www.kriminaalpoliitika.ee/et/vagivalla-ennetamise-strateegia-rakendusplaan-aastateks-2016-2020>.

Annual report is done for the 2015, for 2016 reporting has just started, so information about the costs of the prevention activities are not available yet.

Costs of the prevention activities for 2015 are around 175 000 euros, incl finances for trainings, awareness raising campaigns, additionally 48 000 euro annually for hotline services and counselling etc. The initial budget by Ministry of Social Affairs is planned for direct prevention in 2016 approximately in the amount of 12 300 euro per year, and in 2017 it will spend 50 300 euro for prevention. Ministry of Justice has got from ISF fund for the campaign 1 ELU with state co-financing 85 000 EUR.

In 2012-2016 the Ministry of Social Affairs was co-ordinating an implementation of the programme concerning violence against women funded from the Norwegian Financial Mechanism, and in addition to general state budget allocations additional support was given to implement all the projects. The aim of the programme was to prevent and tackle gender-based violence by creating bases for more systematic structures to reduce gender-based violence, and support victims of trafficking. The whole budget of the programme was 2 352 941 euro, including 352 941 euro as State money. NGO Living for Tomorrow managed a project that was funded with 170 598 euro and NGO Eluliin 250 378 euro

- *Question 31:* Has an assessment of the impact of the above-mentioned preventive measures taken by your country been carried out? If so, please specify the results of the assessment.

About the labour rights and job recruitment campaign some of the results of the assessment of results were brought out in Question 22, but for clarification it can be said, that the results were evaluated through the

web-survey carried out some month after the campaign, so that results will show short-term results, not long-time impact.

Campaign 1ELU will have assessment done in June after the activities are done.

Assessment was made to Norway Grants programme “Domestic and gender-based violence”, that included projects against THB, co-ordinated by the Ministry of Social Affairs and implemented from 2012 to 2016. It was evaluated for the donor country by company Civita. The report itself is not available for the public, but some points can be highlighted.

Availability of information about THB and preventive measures was improved. NGO LFT created better system for information management thus enabling easier and faster analysis of cases they have been dealing with. Anti-trafficking hotline is considered valuable tool in trafficking prevention, and audit was conducted to evaluate this project separately. Research was conducted in public opinion and in awareness on THB. Awareness has improved a lot and both young people and grownups are rather well informed about the nature of THB and its identification factors. So we can believe that prevention efforts have been successful. However, people don't see themselves as potential victims and the crime is still considered as foreign and far, so obviously, awareness raising must continue regularly.

The existence and content of the Violence Prevention Strategy 2015-2020 was highlighted as an important progress in trafficking and violence prevention field. State strategy pulls together all the relevant counterparts and defines each ones tasks, resources and responsibilities in the field.

Section II.2. Implementation of measures to protect and promote the rights of victims of trafficking in human beings

Questions in this section aim to obtain information on the implementation by the parties of measures to protect and promote the rights of victims contained in Chapter III of the Convention (Articles 10 to 17). This part of the questionnaire concerns the ways and procedures to identify victims (Article 10), measures to assist victims (Article 12), the recovery and reflection period (Article 13) and residence permits (Article 14). In addition some questions concerning repatriation and return of victims (Article 16) and reintegration of victims into society (Article 16-5) as well as questions about compensation (Article 15) are addressed.

Questions:

- *Question 32:* At what moment and by whom is the process to identify a potential victim of THB initiated (for example, declaration of the potential victim, statement by a police officer, statement by a NGO etc.)?

There are several options for identifying the victim of THB. It can be done by person itself, police, but also other parties.

Victim Support Act describes following options:

VSA § 3:

(1¹) For the purposes of this Act, a victim of trafficking in human beings is a person in the case of whom criminal proceedings have been initiated with regard to the criminal offence committed against him or her based on the elements of criminal offence provided for in §§ 133 to 133³, 138 to 140 or 175 of the Penal Code or based on the elements of criminal offence provided for in any other similar foreign penal code.

(1²) For the purposes of this Act, an alleged victim of trafficking in human beings is a person: 1) who has been preliminarily identified in Estonia by an organisation engaged in helping of victims of trafficking in human beings and filed information with the Estonian National Social Insurance Board about a suspicion that the person may be a victim of trafficking in human beings; or, 2) in respect of whom a competent foreign authority has submitted information to the Estonian National Social Insurance Board about falling victim of trafficking in human beings in that state.

(2²) The following persons have the right to receive the services prescribed for victims of trafficking in human beings and sexually abused minors:

1) if the Estonian National Social Insurance Board has doubts that a criminal offence provided for in §§ 133 to 133³, 138 to 140 or 175 of the Penal Code has been committed against the person and the Estonian National Social Insurance Board has submitted a report on a criminal offence to an investigative body or prosecutor's office for deciding on the commencement of criminal proceedings;

2) if the Estonian National Social Insurance Board has doubts that a criminal offence provided for in §§ 141 to 145¹, 175¹ or 178 to 179 of the Penal Code has been committed against the person and the Estonian National Social Insurance Board has submitted a report on a criminal offence to an investigative body or prosecutor's office for deciding on the commencement of criminal proceedings;

3) the person himself or herself or another person has submitted a report on a criminal offence to an investigative body or prosecutor's office and the content thereof is a criminal offence provided for in the sections specified in clauses 1) and 2) of this section and Border Guard Board has submitted a respective report on the person to the Estonian National Social Insurance Board;

4) an organisation engaged in Estonia in helping victims of trafficking in human beings has submitted information to the Estonian National Social Insurance Board about a suspicion that the person may be an alleged victim of trafficking in human beings, and the Social Insurance has decided to provide the victim support service to the person;

5) a competent foreign authority has submitted information to the Estonian National Social Insurance Board about an Estonian citizen or a permanent resident of Estonia falling victim of trafficking in human beings in that state;

6) if the Estonian National Social Insurance Board has reasonable grounds to believe that a criminal offence provided for in §§ 141 to 145¹, § 175¹ or §§ 178 to 179 of the Penal Code has been committed against a but no report on a criminal offence has been submitted to an investigative body or prosecutor's office;

(2³) In criminal proceedings are not commenced in the cases specified in clauses (2²) 1) to 3) of this section, services shall be provided victims of trafficking in human beings and sexually abused minors to the extent of 60 days as of notification of the Estonian National Social Insurance Board of refusal to commence criminal proceedings.

(2⁴) In the cases specified in clauses (2²) 4) to 6) of this section, a person is entitled to receive the services for up to 60 days as of the decision of the Estonian National Social Insurance Board on provision of victim support services.

(2⁵) If a victim of trafficking in human beings, sexually abused minor or the person specified in subsection (2²) of this section is an insured person for the purposes of § 5 of the Health Insurance Act, the costs of the health care services provided to the person in the framework of victim support services shall be compensated for to the extent not covered by health insurance.

(2⁶) Provision of the services provided for in subsections (2³) to (2⁵) of this section does not constitute a legal basis for stay of an alien in Estonia or postpone the performance of the obligation to leave Estonia.

- *Question 33:* Have any common criteria been defined in your internal law for granting the legal status of victim of THB? If so, please specify.

According to Criminal Procedure Code § 37 (1) a victim is a natural or legal person whose legal rights have been directly violated by a criminal offence aimed at the person or by an unlawful act committed by a person not capable of guilt. In the case of an attempt to commit a criminal offence, a person is a victim even if, instead of the legal rights attacked, such legal rights are violated the violation of which is covered by the legal rights attacked.

- *Question 34:* Which national authority(ies) grant(s) the legal status of victim of THB (for example, police forces, public prosecutor, judge, etc.)? Can such a decision be appealed?

Estonian Police and Border Guard Board is the body responsible for granting and renewing residence permits to third-country national, including who are victims of trafficking in human beings.

According to the Aliens Act¹ § 203 a third country national may be granted a temporary residence permit to participate in the criminal proceedings for assistance in the ascertaining of the facts of the subject of proof of a criminal offence if:

(s)he is a victim or a witness in a criminal procedure, the object of which is a criminal offence provided for in § 133-133³, 138-140, §-s 145¹, 175, § 260¹(1) p 3 or 5 of the Penal Code².

According to the Aliens Act § 222 section 1 a complaint may be filed against a decision regarding the issue and refusal to issue, the extension and refusal to extend, the revocation of a temporary residence permit or the refusal to review an application with an administrative court within ten days as of the date of notification of the decision, or such decision may be challenged. A decision on an appeal may be contested in an administrative court within the same term.

Aliens Act enables to grant temporary residence permit in case of substantial public interest.

§ 203. Cases of temporary residence permits issued for participation in criminal proceedings

(1) An alien may be issued a temporary residence permit for participation in criminal proceedings for assistance in the ascertaining of the facts of the subject of proof of a criminal offence if: 1) he or she is a victim or a witness in a criminal procedure, the object of which is a criminal offence provided for in § 133-133³, § 138-140, § 145¹, § 175 or clause 260¹ (1) 3) or 5) of the Penal Code; (*remark – these are the paragraphs related to THB*)

(2) In case of the issue of a temporary residence permit for participation in criminal proceedings the victim or witness specified in subsection (1) of this section shall have previously facilitated the ascertaining of facts relating to the subject of proof of a criminal offence or has given consent for doing so and has broken off all the relations with the persons who are being suspected or accused of committing the respective offence.

§ 204. Notification of alien

Upon the existence of the bases provided for in subsection 203 (1) of this Act the prosecutor's office or an investigative authority on the order of the prosecutor's office shall notify an alien of the services offered during the cooling-off period, of the possibilities and conditions of the issue of a temporary residence permit for participation in criminal proceedings and the grant of international protection.

Conditions of issue of temporary residence permit for participation in criminal proceedings: A temporary residence permit for participation in criminal proceedings shall be issued if the conditions of issue of temporary residence permit provided for are met with regard to an alien and the alien does not constitute a threat to public order or national security.

A minor or a person with restricted active legal capacity may be issued a temporary residence permit for participation in criminal proceedings if the issue of the residence permit is in compliance with her or his rights and interests.

Period of validity of temporary residence permit issued for participation in criminal proceedings: A temporary residence permit for participation in criminal proceedings shall be issued for six up to twelve months on the application of the prosecutor's office. A temporary residence permit for participation in criminal proceedings shall be extended for the term stated in the application of the prosecutor's office, but for no longer than for twelve months at a time.

If an alien proves that he has the right to demand unreceived remuneration for employment in Estonia from the employer, the Police and Border Guard Board may extend the temporary residence permit for participation in criminal proceedings until payment of remuneration in the case the stay in Estonia of the alien contributes to the performance of the obligation to pay remuneration.

Additional information can be found at <https://www.riigiteataja.ee/en/eli/501022017001/consolide> (sub-division 8).

¹ Aliens Act, [RT I 2010, 3, 4](#), www.riigiteataja.ee.

² Penal Code, [RT I 2001, 61, 364](#), www.riigiteataja.ee.

- *Question 35:* Can a person be removed from your country during the process of identification as a victim of THB (for example, if he/she is present illegally)?

The administrative authority that is conducting the procedural acts in the proceedings provided for in Alien's Act, OLPEA and Act on Granting International Protection to Aliens is required to take into account the specific needs of minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence (Aliens Act § 226(3), OLPEA § 6⁷ and Act on Granting International Protection to Aliens § 36³ (4)). Thus, the special needs, incl. protection needs of victims of trafficking are taken into account in different administrative proceedings. According to Estonian legislation, the investigative body or prosecutor's office shall decide within 10 days on the commencement of criminal proceeding. Investigative bodies and Prosecutors' Offices are required to conduct criminal proceedings when facts referring to a criminal offence become evident (Code of Criminal Procedure § 6). Even if a victim withdraws their accusations, the state is still obliged to carry out the proceedings.

In case the person himself or herself or another person has submitted a report on a criminal offence related to trafficking in persons to an investigative body or prosecutor's office, the Police and Border Guard Board shall submit a respective report on the person to the Social Insurance Board which is obliged to provide victim support services, incl. counselling to the potential victim until the Social Insurance Board is notified of refusal to commence criminal proceedings by an investigative body or prosecutor's office. During this period of time the Social Insurance Board has right on its own initiative or based on the report of the Police and Border Guard Board to provide support services to the potential victim until the Social Insurance Board is notified of refusal to commence criminal proceedings by an investigative body or prosecutor's office (Victim Support Act § 3 (2), (2²) and (2³)).

Aliens Act § 205 states that upon decision of the prosecutor's office a reflection period of 30 to 60 calendar days is granted to an alien from the moment when he or she is notified about the possibilities and conditions of the issue of a temporary the residence permit to participate in the criminal proceedings. Under the Obligation to Leave and the Prohibition on Entry Act section 14 (5) point 3 the expulsion will be suspended during the reflection period upon the proposal of the prosecutor.

- *Question 36:* Does your country recognise the status of victim of THB granted by another party when the victim is on your territory?

The administrative authority that is conducting the procedural acts in the proceedings provided for in Alien's Act, OLPEA and Act on Granting International Protection to Aliens is required to take into account the specific needs of minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence (Aliens Act § 226(3), OLPEA § 6⁷ and Act on Granting International Protection to Aliens § 36³ (4)). Thus, the special needs, incl. protection needs of victims of trafficking are taken into account in different administrative proceedings.

Victim Support Act enables to define as an alleged victim a person who has been recognised as a victim by another party:

VSA § 3: (1²) For the purposes of this Act, an alleged victim of trafficking in human beings is a person:
2) in respect of whom a competent foreign authority has submitted information to the Estonian National Social Insurance Board about falling victim of trafficking in human beings in that state.
Competent authority has been defined in the Explanatory Note as a prosecutor's office or investigative body.

- *Question 37:* Please indicate which types of assistance described in Article 12 of the Convention are provided to victims of THB in your country. Please specify who provides the different types of assistance.

Provision of victim support services includes (regulated by the Victim Support Act):

- 1) counselling of victims;
- 2) assisting victims in communicating with state and local government authorities and legal persons.
- 3) ensuring safe accommodation;
- 4) ensuring catering;
- 5) ensuring access to necessary health services;
- 6) providing necessary material assistance;
- 7) providing necessary psychological assistance;

- 8) enabling necessary translation and interpretation services for receiving the services provided within the framework of victim support services;
- 9) providing other services necessary for physical and psycho-social rehabilitation of victims.

Most support services are provided by NGOs: NGO Eluliin and NGO SOS Children's Village. Health services are provided by Medicum (medical facility). Services are arranged by the state organization Estonian Social Insurance Board and financed by the State.

- *Question 38:* Please describe the differences in the assistance and protection measures envisaged for victims of transnational trafficking and those envisaged for victims of national trafficking.

If a person is identified as victim of THB, same services are available for victims of transnational trafficking and those envisaged for victims of national trafficking.

- *Question 39:* Does your state budget allocate specific funding for these assistance and protection measures? Please indicate the amount (in euros), the criteria for receiving such funding and who receives it. Please specify the bodies/agencies/NGOs which actually cover the costs of the different types of assistance?

Services are arranged by the state organisation Estonian Social Insurance Board and financed by the State. State budget foresees specific funding for these services. The amount per year per services is 132400 euro per year and it has been sufficient budget so far. In addition to that, there are medical help and translation costs. Most services are provided by NGO Eluliin and NGO SOS Children's Village. Health services are provided by Medicum (medical facility). Social Insurance Boards has contracts with these organizations.

- *Question 40:* Please describe how the recovery and reflection period provided for in Article 13 of the Convention is defined in your internal law. Please indicate the minimum and maximum duration of the recovery and reflection period and how your internal law foresees it being adapted to the particular circumstances of victims.

The prosecutor's office or an investigative authority on the order of the prosecutor's office shall grant an alien a cooling-off (read: reflection) period of 30 to 60 calendar days and notify an alien of the services offered during the cooling-off period, of the possibilities and conditions of the issue of a temporary residence permit in case of substantial public interest and the grant of international protection (Aliens Act § 204 and 205).

According to Aliens Act § 203 and 207 a temporary residence permit shall be issued if the victim shall have previously facilitated the ascertaining of facts relating to the subject of proof of a criminal offence or has given consent for doing so and has broken off all the relations with the persons who are being suspected or accused of committing the respective offence and the victim does not constitute a threat to public order or national security.

An alien shall be placed with his or her consent for the period of the cooling-off period, of the review of the application for a temporary residence permit and, upon the issue of the specified residence permit, for the period of validity of the residence permit to a place designated by the Social Insurance Board. The Social Insurance Board shall provide the services specified in §§ 3 and 3¹ of the Victim Support Act to an alien with his or her consent (Aliens Act § 226 (1) and (2)). Upon the provision of services to an alien the specific needs of minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence consent (Aliens Act § 226 (3)).

- *Question 41:* What are the grounds (personal situation and/or co-operation with the law enforcement authorities) for issuing residence permits to victims of THB provided for in Article 14 of the Convention? Please indicate the different types of residence permits which can be issued to victims of THB, their minimum and maximum duration, if any, and the grounds for their renewal.

According to the Aliens Act¹ § 203 a third country national may be granted a temporary residence permit to participate in the criminal proceedings for assistance in the ascertaining of the facts of the subject of proof of a criminal offence if:

(s)he is a victim or a witness in a criminal procedure, the object of which is a criminal offence provided for in § 133-133³, 138-140, §-s 145¹, 175, § 260¹(1) p 3 or 5 of the Penal Code.

In case of the issue of a temporary residence permit to participate in the criminal proceedings the victim or witness shall have previously facilitated the ascertaining of facts relating to the subject of proof of a criminal offence or has given consent for doing so and has broken off all the relations with the persons who are being suspected or accused of committing the respective offence. A temporary residence permit shall be issued if the conditions of issue of temporary residence permit provided for in this section are met with regard to an alien and the alien does not constitute a threat to public order or national security. Temporary residence permit to participate in the criminal proceedings shall be issued for a period of 6 to 12 months and it is renewable. The renewed residence permit cannot be for more than one year at a time.

In addition to the previously marked ground for temporary residence permit, starting from 1st of January 2016 Police and Boarder Guard Board can also issue a temporary residence permit on humanitarian grounds. Temporary residence permit can be issued as an exception for settling permanently in Estonia if the alien is staying in Estonia and in the course of the proceedings concerning the entry of an alien into Estonia, his or her temporary stay, residence and employment in Estonia and the obligation to leave Estonia of an alien it has become evident that it would be clearly unduly burdensome to him or her, the alien lacks the possibility of getting the residence permit in Estonia on another basis and the alien does not constitute a threat to public order and national security (Aliens Act § 210³).

- *Question 42:* Please describe how your internal law provides for the right of victims of THB to compensation. Please specify if your country has adopted any specific measures to guarantee compensation for victims of THB as provided for in Article 15 of the Convention.

According to the Victim Support Act, § 7, compensation shall be paid to victims of crimes of violence committed in the territory of the Republic of Estonia and to their dependants and to persons specified in subsection 9 (4) of this Act. Also, compensation shall be paid to the victim of a crime of violence committed abroad if the victim is a permanent resident of Estonia or an Estonian citizen who does not reside permanently in Estonia and was abroad for reasons related to studies, employment or service duties or for other good reasons and if the victim is not entitled to similar compensation under the law of the country where the crime was committed. If the victim dies, compensation shall be paid to a dependant who was permanently residing in the Republic of Estonia at the time when the crime of violence was committed. Estonian citizens who have suffered damage as a result of an act specified in subsection 8 (1) of this Act are entitled to receive compensation. THB victims are included as persons with the right to receive compensation. An alien is entitled to receive compensation under the conditions provided for in subsection (1) of this section if he or she is a victim of trafficking in human beings or sexually abused minor, regardless of whether he or she has a legal basis for stay in the Republic of Estonia. The amount of compensation shall be determined on the basis of the following material damage caused by a crime of violence: 1) damage arising from incapacity for work or work decrement; 2) expenses incurred due to damage caused to victim's health; 3) damage arising from the death of the victim; 4) damage caused to spectacles, dentures, contact lenses and other appliances substituting for bodily functions and to clothes; 5) the victim's funeral expenses. More information can be found at: <https://www.riigiteataja.ee/en/eli/502012017002/consolide>

- *Question 43:* Please describe the procedure established under your internal law for the repatriation and return of victims of THB.

According to Obligation to Leave and Prohibition on Entry Act § 6⁷ the administrative authority that is conducting the procedural acts in the proceedings provided for in this Act is required to take into account the specific needs of minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence. Thus, the special needs, including protection needs of victims of trafficking are taken into account when issuing obligation to leave and also during expulsion.

¹ Aliens Act, RT I 2010. 3. 4. www.riigiteataja.ee.

Victim of trafficking who is an alien has right for a residence permit in accordance with the directive 2004/81/EC. During the reflection period the victim is protected from the enforcement of any return decision. The victim of trafficking shall be placed with his or her consent to a place designated by the Social Insurance Board. The Social Insurance Board shall provide the services specified in §§ 3 and 31 of the Victim Support Act to the victim with his or her consent.

The return decision is taken to all foreign nationals who have no legal basis for stay in Estonia. The foreign national has usually 30 days as of notification of the return decision to voluntarily fulfil the obligation imposed upon them to leave the territory. In view of the personal situation of the foreign national, the period for voluntary departure may be exceeded. A person residing without authorisation may return by their own means, or may request assisted voluntary return. IOM provides needs based support during the pre-departure and post-arrival stages of the return process. Reintegration is in-kind support (in the form of material goods and services – not in cash) provided to victim according to an individual reintegration plan.

- *Question 44:* Does a person, repatriated to your country as a victim of THB, continue having victim status? If so, please specify on which grounds such recognition is made (for example, declaration of the victim). What assistance measures are envisaged for such persons after repatriation?

If there is an case of repatriation and victim is in Estonia, then by the Victim Support Act it is regulates as follows:

§ 3. Victim support services

(2²) The following persons have the right to receive the services prescribed for victims of trafficking in human beings and sexually abused minors:

5) a competent foreign authority has submitted information to the Estonian National Social Insurance Board about an Estonian citizen or a permanent resident of Estonia falling victim of trafficking in human beings in that state;

(2⁴) In the cases specified in clauses (2²) 4) to 6) of this section, a person is entitled to receive the services for up to 60 days as of the decision of the Estonian National Social Insurance Board on provision of victim support services.

Persons are entitled to have following services:

- 1) counselling of victims;
- 2) assisting victims in communicating with state and local government authorities and legal persons.
- 3) ensuring safe accommodation;
- 4) ensuring catering;
- 5) ensuring access to necessary health services;
- 6) providing necessary material assistance;
- 7) providing necessary psychological assistance;
- 8) enabling necessary translation and interpretation services for receiving the services provided within the framework of victim support services;
- 9) providing other services necessary for physical and psycho-social rehabilitation of victims.

- *Question 45:* What are the grounds for the victim status to come to an end:
 - victim status claimed improperly;
 - victim's refusal to co-operate with the authorities;
 - return to the country of origin;
 - request of the victim;
 - other, please specify.

A prosecutor's office may revoke the decision for granting a cooling-off period to an alien prematurely if an alien has voluntarily and on his or her own initiative renewed contacts with a person who is being suspected or accused of committing a criminal offence, or if an alien constitutes a threat to public order or national security.

A temporary residence permit to participate in the criminal proceedings may be revoked:

- 1) upon termination of criminal proceedings;

- 2) if an alien has abandoned contributing to the clarification of facts of the subject of proof of the criminal offence, or if an alien has voluntarily and on his or her own initiative renewed contacts with the persons being suspected or accused of committing the criminal offence or;
- 3) if an alien constitutes a threat to public order or national security.

By the Victim Support Act § 3 (victim support services) (2) provision of victim support services includes:

- 1) counselling of victims;
- 2) assisting victims in communicating with state and local government authorities and legal persons.
- 3) ensuring safe accommodation;
- 4) ensuring catering;
- 5) ensuring access to necessary health services;
- 6) providing necessary material assistance;
- 7) providing necessary psychological assistance;
- 8) enabling necessary translation and interpretation services for receiving the services provided within the framework of victim support services;
- 9) providing other services necessary for physical and psycho-social rehabilitation of victims.

(2¹) Victims of trafficking in human beings and sexually abused minors have the right to receive the services specified in clauses (2) 3) to 9) of this section. **The services are provided until the need for the services ceases to exist.**

If the Victim status claimed improperly, then it is a matter of the concrete case to decide.

Section II.3. Implementation of measures concerning substantive criminal law, investigation, prosecution and procedural law

Questions in this section aim to obtain information on the implementation by parties of measures concerning substantive criminal law contained in Chapter IV of the Convention (Articles 18 to 26) as well as measures concerning investigation, prosecution and procedural law contained in Chapter V of the Convention (Articles 27 to 31).

Questions:

- *Question 46:* Is THB subject to a single criminal offence in your internal law? If so, please provide (a translation of) the legal text(s) in English or French. If not, please specify the combination of criminal offences, covering as minimum all conducts falling within the definition of THB as contained in Article 4 of the Convention, used under your internal law to prosecute for THB.

Following criminal offences in Estonian Penal Code are considered as THB:

§ 133. Trafficking in human beings

- (1) Placing a person in a situation where he or she is forced to work under unusual conditions, engage in prostitution, beg, commit a criminal offence or perform other disagreeable duties, or keeping a person in such situation, if such act is performed through deprivation of liberty, violence, deceit, threatening to cause damage, by taking advantage of dependence on another person, helpless or vulnerable situation of the person, is punishable by one to seven years' imprisonment.
- (2) The same act if:
 - 1) committed against two or more persons;
 - 2) committed against a person of less than eighteen years of age;
 - 3) committed against a person in a helpless situation;
 - 4) committed in a torturous or cruel manner;
 - 5) serious health damage is caused thereby;
 - 6) danger to life is caused thereby;
 - 7) committed by a group;
 - 8) committed by taking advantage of official position,
 - 9) serious consequences are caused thereby;
 - 10) committed by a person who has previously committed a criminal offence provided for in this section or §§ 133¹, 133², 133³ or 175; is punishable by three to fifteen years' imprisonment.
- (3) An act provided for in subsection (1) or (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment.
- (4) For the criminal offence provided for in this section, the court may impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 83² of this Code.
- (5) For the purposes of this section, vulnerable situation is a situation where a person lacks an actual or acceptable opportunity not to commit any of the acts specified in subsection (1) of this section.

§ 133¹. Support to human trafficking

- (1) Transportation, delivery, escorting, acceptance, concealment or accommodation without prior authorization of a person placed in a situation specified in subsection 133 (1) of this Code, or aiding without prior authorization his or her forced acts in any other way, is punishable by up to five years' imprisonment.
- (2) The same act if:
 - 1) committed against two or more persons;
 - 2) committed against a person of less than eighteen years of age;
 - 3) committed against a person in a helpless situation;
 - 4) committed by taking advantage of official position, is punishable by two to ten years' imprisonment.
- (3) An act provided for in subsection (1) or (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment.
- (4) For the criminal offence provided for in this section, the court may impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 83² of this Code.

§ 133². Pimping

- (1) Organization of a meeting of a person engaged in prostitution with a client, owning, managing of a brothel, aiding of prostitution or renting of premises for keeping a brothel, or influencing of a person to

cause him or her to commence or continue prostitution, if the act does not contain the necessary elements of an offence provided for §§ 133 or 133¹ of this Code, is punishable by a pecuniary punishment or up to five years' imprisonment.

(2) The same act if:

1) committed by a person who has previously committed an offence provided for in this section or §§ 133, 133¹, 133³ or 175;

2) committed for the purpose of large proprietary gain, is punishable by one to five years' imprisonment.

(3) The same act, if committed by a legal person, is punishable by a pecuniary punishment.

(4) For the criminal offence provided for in this section, the court may impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 83² of this Code.

(5) For the purposes of this section, a brothel denotes any premises or limited area where a third party mediates the engagement of two or more people in prostitution or aids engagement of two or more people in prostitution.

§ 133³. Aiding prostitution

(1) Knowing aiding of prostitution if the act does not contain the necessary elements of an offence provided for §§ 133, 133¹ or 133² of this Code, is punishable by a pecuniary punishment or up to three years' imprisonment.

(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.

§ 175. Human trafficking in order to take advantage of minors

(1) Influencing of a person of less than eighteen years of age in order to cause him or her to commence or continue commission of a criminal offence, begging, engagement in prostitution or working under unusual conditions or to appear as a model or actor in the manufacture of a pornographic or erotic performance or work, but it does not contain the necessary elements of an offence provided for in § 133 of this Code, and a person aiding in other manner in the activities specified in this section of a person of less than eighteen years of age, is punishable by two to ten years' imprisonment.

(1¹) The same act if committed by a person who has previously committed a criminal offence provided for in this section or §§ 133 to 133³, § 175¹ or §§ 178 to 179, is punishable by three to ten years' imprisonment.

(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.

(3) For the criminal offence provided for in this section, the court may impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 83² of this Code.

§ 138. Illegal conduct of human research

(1) Conduct of medical or scientific research on a person who has not granted consent thereto pursuant to the procedure prescribed by law or who before granting such consent was not notified of the essential potential dangers arising from the research is punishable by a pecuniary punishment or up to three years' imprisonment.

(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.

§ 138¹. Forcing person to donate organs or tissue

(1) Placing a person in a situation where organs, tissue or cells are removed from him or her, if such act is performed through deprivation of liberty, violence, deceit, threatening to cause damage, by taking advantage of dependence on another person, helpless situation or vulnerable situation of the person and such act does not contain the necessary elements of an offence provided for in § 118 of this Code, is punishable by up to five years' imprisonment.

(2) The same act if:

1) committed against two or more persons;

2) committed against a person of less than eighteen years of age;

3) committed against a person in a helpless situation;

4) committed in a torturous or cruel manner;

5) serious health damage is caused thereby;

6) danger to life is caused thereby;

7) committed by a group;

8) committed by taking advantage of official position,

9) serious consequences are caused thereby; is punishable by two to ten years' imprisonment.

(3) An act provided for in subsection (1) or (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment.

(4) For the criminal offence provided for in this section, the court may impose extended confiscation of assets or property acquired by the criminal offence pursuant to the provisions of § 83² of this Code.

(5) For the purposes of this section, vulnerable situation is a situation where a person lacks an actual or acceptable opportunity not to be placed in a situation specified in subsection (1) of this section.

§ 139. Illegal removal of organs or tissue

(1) Removal, for transplantation purposes, of human organs or tissue by a person with the corresponding right arising from law, if the person from whom the organs or tissue are removed has not been notified of the essential potential dangers arising from the removal of organs or tissue before he or she grants consent thereto, or if the person removing the organs or tissue was aware that the person from whom the organs or tissue are removed will receive remuneration therefor, is punishable by a pecuniary punishment or up to one year's imprisonment.

(2) The same act, if committed by a legal person, is punishable by a pecuniary punishment.

§ 140. Inducing person to donate organs or tissue

(1) Illegal inducing of a person to grant a consent for removal of his or her organs, tissue or cells, if the act does not contain the necessary elements of an offence specified in §§ 118 or 138¹ of this Code, is punishable by a pecuniary punishment or up to one year's imprisonment.

(2) The same act, if committed against a person of less than eighteen years of age, is punishable by up to five years' imprisonment.

(3) An act provided for in subsection (1) or (2) of this section, if committed by a legal person, is punishable by a pecuniary punishment.

- *Question 47:* Does your internal law establish as a criminal offence the use of services of a victim of THB with the knowledge that the person is a victim of THB as provided for in Article 19 of the Convention?¹

The Penal Code at the moment does not establish as a criminal offence the use of services of a victim of THB with the knowledge that the person is a victim of THB.

After the enactment of the amendment regarding to Penal Code § 133¹ (1) in regards to the Istanbul Convention, buying sex from the victim of THB will be considered as a crime. The objective of criminalization of this act is to discourage the demand leading to THB and protect the rights of victims.

- *Question 48:* Does your internal law establish as a specific criminal offence retaining, removing, concealing, damaging or destroying a travel or identity document of another person committed intentionally and for the purpose of enabling THB as provided for in Article 20c of the Convention?

In regards to implementing Article 20c of the Convention, The Penal Code establishes the following as a criminal offence:

§ 346. Destruction, damaging, theft, withholding or concealment of documents, seals or stamps

Destruction, damaging, theft, withholding or concealment of an official document, seal or stamp is punishable by a pecuniary punishment.

- *Question 49:* Does your internal law ensure that a legal person can be held liable for criminal offences established in accordance with the Convention as provided for in its Article 22? What types of legal persons are subject to corporate liability for such offences?

Legal person can be held liable for all criminal offences considered as THB in the Estonian Penal Code which are § 133, § 133¹, § 133², § 133³, § 138, § 138¹, § 139, § 140 and § 175.

Liability of legal person is provided in the Penal Code as following:

§ 14. Liability of legal person

(1) In the cases provided by law, a legal person shall be held responsible for an act that is committed in the interests of the legal person by its body, a member thereof or by a senior official or competent representative.

(2) Prosecution of a legal person does not preclude prosecution of the natural person who committed the offence.

¹ Article 19 of the Convention does not concern using the services of a prostitute as such and the criminalisation of her/his client (see paragraphs 229 to 236 of the Explanatory Report of the Convention).

(3) The provisions of this section do not apply to the state, international organisations, local governments or to legal persons in public law.

- *Question 50:* Which sanctions does your internal law provide for criminal offences established in accordance with the Convention? Please specify the criminal, civil and administrative sanctions.

Sanctions in provisions related to THB according to the Penal Code:

§ 133. Trafficking in human beings is punishable by one to seven years' imprisonment. The same act if committed under aggravating circumstances is punishable by three to fifteen years' imprisonment. An act committed by a legal person is punishable by a pecuniary punishment.

§ 133¹. Support to human trafficking is punishable by up to five years' imprisonment. The same act if committed under aggravating circumstances is punishable by two to ten years' imprisonment. An act committed by a legal person is punishable by a pecuniary punishment.

§ 133². Pimping is punishable by a pecuniary punishment or up to five years' imprisonment. The same act if committed under aggravating circumstances is punishable by one to five years' imprisonment. An act committed by a legal person is punishable by a pecuniary punishment.

§ 133³. Aiding prostitution is punishable by a pecuniary punishment or up to three years' imprisonment. An act committed by a legal person is punishable by a pecuniary punishment.

§ 138. Illegal conduct of human research is punishable by a pecuniary punishment or up to three years' imprisonment. An act committed by a legal person is punishable by a pecuniary punishment.

§ 138¹. Forcing person to donate organs or tissue is punishable by up to five years' imprisonment. The same act if committed under aggravating circumstances is punishable by two to ten years' imprisonment. An act committed by a legal person is punishable by a pecuniary punishment.

§ 139. Illegal removal of organs or tissue is punishable by a pecuniary punishment or up to one years' imprisonment. The same act, if committed by a legal person, is punishable by a pecuniary punishment.

§ 140. Inducing person to donate organs or tissue is punishable by a pecuniary punishment or up to one years' imprisonment. The same act, if committed against a person of less than eighteen years of age is punishable up to five years' imprisonment. An act committed by a legal person is punishable by a pecuniary punishment.

§ 175. Human trafficking in order to take advantage of minors is punishable by two to ten years' imprisonment. The same act if committed by a person who has previously committed a criminal offence provided for in this section or §§ 133 to 133³, § 175¹, or §§ 178 to 179 is punishable by three to ten years' imprisonment. An act committed by a legal person is punishable by a pecuniary punishment.

§ 346. Destruction, damaging, theft, withholding or concealment of documents, seals or stamps is punishable by a pecuniary punishment.

§ 347. Falsification of important identity documents is punishable by a pecuniary punishment or up to three years' imprisonment. The same act, if committed by a legal person is punishable by a pecuniary punishment.

§ 348. Obtaining, use or grant of permission to use falsified important identity document is punishable by a pecuniary punishment or up to three years' imprisonment. The same act, if committed by a legal person is punishable by a pecuniary punishment.

In regards to confiscation measures, Estonian Penal Code §§ 83, 83¹, 83² and 84 provide for the confiscation of the object used to commit offence, direct object of the offence and the assets acquired through offence. Confiscation is obligatory for the confiscation of assets acquired through offence. In addition, several provisions related to human trafficking (§§ 133, 133¹, 133², 138¹, 175) provide for the extended confiscation of assets acquired through criminal offence.

If the assets acquired by an offence have been transferred, consumed or the confiscation thereof is impossible or unreasonable for another reason, the court may order payment of an amount which corresponds to the value of the assets subject to confiscation.

- *Question 51:* Does your internal law provide for the possibility to take into account previous convictions in another party when determining the penalty in relation to offences established in accordance with the Convention?

According to § 6 p 7 of Criminal Records Database Act, information concerning punishments of persons shall be entered in the database on the basis of a foreign conviction in a criminal matter against an Estonian citizen or an alien who holds a residence permit or right of residence in Estonia which has entered into force, if information concerning his or her punishment has been communicated by a foreign state or if an Estonian court has recognized the judgment of conviction.

As provided in § 5 of the same Act, the information concerning punishments of persons entered in the database has legal effect for ascertaining the punishment record of the person and recurrence of criminal offences or misdemeanours committed by the person until deletion of the information.

- Question 52: Please describe how your internal law provides for the possibility of not imposing penalties on victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so, as provided for in Article 26 of the Convention.

The preclusion of unlawfulness can occur in the situation of necessity which is provided in Penal Code § 29. According to this paragraph, an act is not unlawful if the person commits the act in order to avert a direct or immediate danger to the legal rights of the person or of another person, and if the means chosen by the person are necessary for the aversion of the danger and the interest protected is evidently of higher importance than the interest subject to damage. In considering interests, the importance of the legal rights, the degree of the danger by which they are threatened and the danger arising from the act shall be taken into account. For example acting in order to avert a direct or immediate danger can occur when the victim of the human trafficking is threatened by a danger of higher importance (for example serious health damage) and by which the victim is forced to commit a crime (for example theft). Therefore, when the interest protected (health) is evidently of higher importance than the interest subject to damage (property) then it is not possible to convict the victim of THB.

The Code of Criminal Procedure § 202 also provides for a possibility of termination of criminal proceedings in case of lack of public interest in proceedings and negligible guilt. Therefore if the object of criminal proceedings is a criminal offence in the second degree and the guilt of the person suspected or accused of the offence is negligible, and he or she has remedied or has commenced to remedy the damage caused by the criminal offence or has paid the expenses relating to the criminal proceedings, or assumed the obligation to pay such expenses, and there is no public interest in the continuation of the criminal proceedings, the prosecutor's office may request termination of the criminal proceedings by a court with the consent of the suspect or accused.

Another possibility to terminate criminal proceedings is provided in the Code of Criminal Procedure § 205. It states, that the Office of the Prosecutor General may, by its order, terminate criminal proceedings with regard to a person suspected or accused with his or her consent if the suspect or accused has significantly facilitated the ascertaining of facts relating to a subject of proof of a criminal offence which is important from the point of view of public interest in the proceedings and if, without the assistance, detection of the criminal offence and taking of evidence would have been precluded or especially complicated.

- Question 53: Does your internal law provide for the initiation of legal proceedings by the victim and/or *ex officio* (for example, by the public prosecutor)?

The principle of mandatory criminal proceedings is provided in Criminal Procedure Code § 6. According to this provision, investigative bodies and Prosecutors' Offices are required to conduct criminal proceedings upon the appearance of facts referring to a criminal offence, unless the circumstances provided for in § 199 of this Code exist which preclude criminal procedure or unless the grounds to terminate criminal proceedings pursuant to subsection 201 (2), §§ 202, 203, 203¹, 204, 205, 205¹, 205² or subsection 435 (3) of this Code exist. Furthermore, Criminal Procedure Code § 30 (1) provides that a prosecutor's office represents public prosecution in court which means that the victim cannot file private charges in criminal proceedings pursuant to Estonian law.

According to Criminal Procedure Code § 38 (1) 1), a victim has the right to contest a refusal to commence or termination of criminal proceedings pursuant to the procedure provided for in §§ 207 and § 208 of this Code.

- Question 54: Please describe how your internal law allows for NGOs or associations/groups assisting or supporting victims to participate in legal proceedings (for example, as third parties)? Please specify the conditions for this participation as well as their legal status during these proceedings.

According to the Code of Criminal Procedure § 16 Bodies conducting proceedings and participants in proceedings, then (1) Proceedings shall be conducted by courts, Prosecutors' Offices and investigative bodies. (2) A suspect or accused, his or her counsel, victim, civil defendant and third parties are the participants in a proceeding.

According to the Code of Criminal Procedure § 41 (1), a victim, civil defendant or third party who is a natural person may participate in the criminal proceeding personally or through a representative. Personal participation in a criminal proceeding does not deprive the person of the right to have a representative. Subsection of the same paragraph provides that a victim, civil defendant and third party may have up to three representatives. A representative may have several principals if the interests of the principals are not in conflict. An advocate or any other person who has acquired at least officially recognised Master's degree in the field of study of law or a qualification equal thereto for the purposes of subsection 28 (2²) of the Republic of Estonia Education Act or a foreign qualification equal thereto may be a contractual representative in court proceeding.

The representative is a subject to criminal proceedings and is not considered not the participant in a proceeding or a party to a court proceeding. Therefore according to § 41 (5) a representative has all the rights of the principal.

A victim also has the right according to the Code of Criminal Procedure § 38 (5) 3) to have one person chosen by him or her to accompany him or her in any procedural acts unless the body conducting the proceedings has refused it with good reason.

- *Question 55:* Please describe the measures taken in your internal law to protect the identity and safety of victims before, during and after investigations and legal proceedings.

In general, court hearings in Estonia are public, but according to Code of Criminal Procedure § 12 (1) 2) and 3) a court may declare that a session or a part be restricted on public access in order to protect morals or the private and family life of a person and in the interests of a minor or a victim.

The victim has a right pursuant to Code of Criminal Procedure § 38 (1) 10) to give consent to the application of temporary restraining order and request application of a restraining order. The same paragraph subsection 5 provides, that a victim who is a natural person shall have a right to receive information concerning taking into custody of a person suspected of a criminal offence and request to be notified of release of the person held in custody in the event of any danger, except in the case communication of such information would cause any harm to the suspect and also request to be notified of the release of the convicted offender before the prescribed time or escape of the convicted offender from a custodial institution in the case the information can prevent danger to the victim;

According to the Code of Criminal Procedure § 37 (3) the provisions applicable to witness apply to victims in the performance of procedural acts. Therefore, for ensuring the safety of witnesses (victims), a preliminary investigation judge may, as provided in Code of Criminal Procedure § 67, declare a witness anonymous by a ruling in order to ensure the safety of the witness. A fictitious name shall be assigned to an anonymous witness on the basis of the ruling on anonymity. In a court proceeding, a witness bearing a fictitious name shall be heard by telephone using voice distortion equipment, if necessary.

In addition, Code of Criminal Procedure § 69 provides that a body conducting the proceedings may organise telehearing of a witness if the direct hearing of the witness is complicated or involves excessive costs or if it is necessary to protect the witness or the victim.

The Code of Criminal Procedure § 69¹ also provides for an opportunity of deposition of testimony. According to this provision, the prosecutor's office, suspect or counsel may request hearing, before a preliminary investigation judge, of a person who is a witness in a criminal proceeding, if the object of the criminal proceeding is an intentional criminal offence for which at least up to three years' imprisonment is prescribed as punishment. A court shall satisfy the request if circumstances arise which enable to conclude that later hearing of a witness in the court hearing of a criminal matter may be impossible or the witness may be influenced to give false testimony. The prosecutor, counsel, suspect and witness shall be summoned to the hearing before a preliminary investigation judge. A suspect shall not be summoned to hearing at the request of a witness or the prosecutor if the presence of the suspect at the hearing poses a threat to the safety of the witness. Summoning of persons to deposition of testimony shall be arranged by the participant in a proceeding who requests the hearing

The Witness Protection Act provides for the procedure for witness protection. According to § 5 a person placed under witness protection can be a person who is a victim in criminal proceedings and who is under actual risk of falling subject to unlawful influence or the suspect or accused person may continue to commit offences against him or her. As provided in § 8, witness protection is applied during pre-trial proceedings, during judicial proceedings and after judicial proceedings. The duration of application of witness protection depends on the degree of risk to the protected person and the conditions of the protection agreement and

compliance with the conditions by the protected person. Witness protection is carried out by the Police and Border Guard Board. Other state and local government bodies and authorities and legal persons in public law are required to assist in witness protection within the limits of their competence.

Intelligence information can be "restricted" depending on the security level and information systems users level (low to high, depending on how sensitive information is). By the State Secrets and Classified Information of Foreign States Act § 5 intelligence information is defined as "restricted" level in the classification of state secrets, which is following: State secrets are protected at the following levels of classification, listed in increasing importance of classification, starting from the lowest level:

- 1) 'restricted' level;
- 2) 'confidential' level;
- 3) 'secret' level;
- 4) 'top secret' level.

During the investigations, there are restrictions for the persons and also situations, who/when are able to use the restricted data.

In the Public Information Act § 35 it is stated that grounds for classification of information as internal can be as follows: (1) A holder of information is required to classify the following as information intended for internal use: 1) information collected in criminal or misdemeanour proceedings, except for the information subject to disclosure under the conditions provided by the Code of Misdemeanour Procedure and the Code of Criminal Procedure;

I. Statistics on THB

Question	Table 1: Victims of THB	2014				2015				2016			
		women	men	children ¹	total	women	men	children ¹	total	women	men	children ¹	total
	Article 10 – Identification of the victims												
T1	Number of victims identified ² during the year	1	1	2	4	2		11	13		1	8	9
T2	Types of exploitation identified victims of THB were subject to:												
	- sexual exploitation	1		2	3	1		9	10			8	8
	- forced labour or services		1		1	1		2	3		1		1
	- slavery or practices similar to slavery				0				0				0
	- servitude				0				0				0
	- removal of organs				0				0				0
	- other, please specify				0				0				0
T3	Number of persons whom the competent authorities had reasonable grounds to believe were victims of:												
	- national trafficking												
	- transnational trafficking												
	Article 12 – Assistance to victims												
T4	Number of victims of THB who received assistance of any type	2		1	3	2	1	11	14	1	2	9	12
T5	Number of victims of THB who refused assistance which was offered to them												
T6	Number of shelters for victims of THB in your country	1		1	2	1		1	2	1		1	2
T7	Total number of places in shelters for victims of THB	5		5	10	5		5	10	5		5	10
T8	Number of victims of THB accommodated in shelters	2		1	3	2	1	3	6	1	2	3	6

¹ "Child" shall mean any person under eighteen years of age (Article 4-d of the Convention).

² "Identified" within the meaning of the Convention.

Question	Table 1: Victims of THB (continued)	2014				2015				2016			
		women	men	children ¹	total	women	men	children ¹	total	women	men	children ¹	total
	Article 13 – Recovery and reflection period												
T9	Number of victims of THB (including persons whom the competent authorities had reasonable grounds to believe were victims of THB) who were granted a recovery and reflection period				0			2	2				0
	Article 14 – Residence permit												
T10	Number of victims of THB who were issued a residence permit												
	- owing to their personal situation				0			2	2				0
	- for the purpose of their co-operation with the competent authorities				0								0
	Article 15 – Compensation and legal redress												
T11	Number of victims of THB who obtained compensation				0				0				0
T12	Compensation awarded to victims of THB:												
	- minimum amount awarded to a victim (in euros)				0				0				0
	- maximum amount awarded to a victim (in euros)				0				0				0
	Article 16 – Repatriation and return of victims												
T13	Number victims of THB who were repatriated to your country				0				0				0
T14	Number of victims of THB who were repatriated from your country to another country			1	1				0				0

¹ "Child" shall mean any person under eighteen years of age (Article 4-d of the Convention).

Question	Table 2: Criminal Proceedings and Sanctions	2014	2015	2016
	<u>Article 18 – Criminalisation of trafficking in human beings</u>			
T15	Number of criminal proceedings initiated/ registered on grounds of THB ¹	5	4	15
T16	Number of convictions ² for THB ³	3/4	1/4	4/11
	<u>Article 19 – Criminalisation of the use of services of a victim</u>			
T17	Number of convictions for the use of services of a victim of THB	0	0	0
	<u>Article 23 – Sanctions and measures</u>			
T18	Number of convictions for THB resulting in penalties involving deprivation of liberty	4 persons	4 persons	11 persons
T19	Duration of penalties on grounds of THB involving deprivation ⁴ of liberty ⁵	2 persons	4 persons	8 persons
	- minimum duration	3 years	6 years	6 month
	- maximum duration	9 years 4month	10 years	5 years
T20	Number of judgements resulting in the confiscation of assets ⁶	0	1	2
T21	Number of judgements resulting in the closure of a business or an establishment which was being used to carry out THB	0	0	0
	<u>Article 26 – Non-punishment provision</u>			

¹ Article of the Penal Code is 133, up to April 2012 the article was called "enslaving, since then "trafficking". Data from Register of Criminal Proceedings.

² Numbers are presented as follows: number of court decisions/number of convicted persons.

³ Article of the Penal Code is 133, up to April 2012 the article was called "enslaving, since then "trafficking". Information System of Courts.

⁴ Number of people to whom real imprisonment was used, either partially from the sanction or as full sanction.

⁵ Normally all the sanctions are sanctions of imprisonment/deprivation of liberty. Whether person is to sent to prison, depends from the following: 1) whether it is an imposition of aggregate punishment (Penal Code § 64) or 2) does a person has committed former criminal acts, which are valid until the new crimes are committed.

⁶ Descriptions from the court decisions.

T22	Number of victims of THB who benefitted from the non-punishment provision	0	0	0
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Question	Table 3: Country of origin of victims of THB			2014	2015	2016
T23	Number of victims of THB originating from:					
	- Council of Europe Member States:	Albania				
		Andorra				
		Armenia				
		Austria				
		Azerbaijan				
		Belgium				
		Bosnia and Herzegovina				
		Bulgaria				
		Croatia				
		Cyprus				
		Czech Republic				
		Denmark				
		Estonia	3	11	8	
		Finland				
		France				
		Georgia				
		Germany				
		Greece				
		Hungary				
		Iceland				
		Ireland				
		Italy				
		Latvia				
		Liechtenstein				
		Lithuania				
		Luxembourg				
		Malta				
Republic of Moldova						
Monaco						
Montenegro						
Netherlands						
Norway						
Poland						

	Portugal			
	Romania	1		
	Russian Federation			1
	San Marino			
	Serbia			
	Slovak Republic			
	Slovenia			
	Spain			
	Sweden			
	Switzerland			
	"the former Yugoslav Republic of Macedonia"			
	Turkey			
	Ukraine			
	United Kingdom			
	- other, please specify			
	Vietnam		2	1