

COUNCIL OF EUROPE



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**GRETA**

Group of Experts on Action  
against Trafficking in Human Beings

GRETA(2013)19

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

First evaluation round

Adopted on 8 November 2013  
Published on 16 January 2014

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## Preamble

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Executive summary

The Serbian authorities have taken a number of important steps to prevent and combat trafficking in human beings. The national legal framework in the field of action against trafficking has evolved in the light of the country's international commitments as well as the situation and trends of trafficking in Serbia. The social protection and aliens' legislation provide for a number of rights for victims of human trafficking.

The institutional framework put in place aims to bring together in a co-ordinated effort all relevant actors. The post of National Co-ordinator for Combating Human Trafficking was created in 2001, and in 2002 the Republican Team for Combating Trafficking in Human Beings was set up as a forum at national level which brings together governmental bodies, non-governmental organisations and international organisations. Further, the Council for Combating Human Trafficking was established in 2004 as an expert advisory body to the Government. Finally, in 2012, the Centre for the Protection of Victims of Trafficking was set up for the purpose of performing the identification of victims and their referral to assistance. GRETA invites the Serbian authorities to continue developing co-ordination and to ensure that civil society is involved in the planning and implementation of national policy.

Concerning prevention of human trafficking, GRETA welcomes the steps taken by the Serbian authorities, in collaboration with non-governmental and intergovernmental organisations, to raise general awareness of human trafficking, through information campaigns, school education and training of relevant professionals. GRETA also commends the measures taken vis-à-vis groups vulnerable to trafficking and considers that the authorities should continue to develop the aspect of prevention through social and economic empowerment measures. In this context, GRETA urges the authorities to secure the registration of all persons. Further, GRETA invites the authorities to strengthen their efforts to discourage demand for services of trafficked persons as regards all forms of exploitation.

GRETA welcomes the efforts made by the Serbian authorities to adopt a multidisciplinary approach to the identification of victims of trafficking through the setting up of the Centre for the Protection of Victims of Trafficking. Nevertheless, GRETA urges the authorities to take further steps to secure that all victims of trafficking are properly identified and can benefit from all the assistance and protection measures provided for under the Convention. In particular, the Serbian authorities should pursue a proactive approach to the identification of victims of trafficking for labour exploitation by encouraging labour inspection in the sectors most at risk (e.g. agriculture, entertainment, service sector, construction) and pay more attention to the identification of trafficking victims among asylum seekers and unaccompanied minors.

GRETA notes that there is a shortage of accommodation and funding to provide assistance to victims of trafficking in Serbia. Further, there is a lack of long-term integration programmes. GRETA urges the Serbian authorities to ensure that all assistance measures provided for in law are guaranteed in practice, to provide appropriate and safe accommodation with a sufficient number of places for victims of trafficking, including men and children, and to guarantee access to health care to victims.

GRETA urges the Serbia authorities to review the legislation in order to ensure that the recovery and reflection period provided for in Article 13 of the Convention is specifically defined in law and that all the measures of protection and assistance envisaged in Article 12, paragraph 1 and 2, of the Convention are made available during this period. It should be made clear that the recovery and reflection period is not conditional on the victim's co-operation with the law-enforcement authorities. The authorities should also ensure that victims of trafficking can fully benefit from the right to obtain a renewable residence permit.

Despite the existence of legal possibilities for compensation, there have been no cases of successful compensation claims concerning victims of trafficking. There is currently no possibility for victims of trafficking to obtain compensation from the State and victims of trafficking depend on non-governmental organisations for the provision of legal aid. GRETA urges the Serbian authorities to adopt measures to facilitate and guarantee access to compensation for victims of trafficking, including through the systematic provision of information to victims and the setting up of a State compensation scheme accessible to victims of trafficking.

GRETA welcomes the law-enforcement and prosecution efforts against human trafficking in Serbia and invites the authorities to further develop the training and specialisation of investigators, prosecutors and judges, with a view to ensuring that human-trafficking offences are effectively investigated and prosecuted, leading to proportionate and dissuasive sanctions.

Finally, GRETA urges the Serbian authorities to make full use of the measures available to protect victims and witnesses of human trafficking and to take additional measures to ensure that they are adequately protected from potential retaliation or intimidation in the course of judicial proceedings, including by reviewing the practice of direct confrontation of victims with suspected traffickers in court.



## I. Introduction

1. Serbia deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) on 14 April 2009. The Convention entered into force for Serbia on 1 August 2009<sup>1</sup>.

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

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

4. In preparation of the present report, GRETA used the reply to the questionnaire by Serbia, other information collected by GRETA and information received from civil society. An evaluation visit to Serbia took place from 15 to 19 April 2013, carried out by the following delegation:

- Mr Jan Van Dijk, member of GRETA;
- Ms Katerina Levchenko, member of GRETA;
- Ms Petya Nestorova, Executive Secretary of the Convention on Action against Trafficking in Human Beings;
- Mr David Dolidze, Administrator at the Secretariat of the Convention on Action against Trafficking in Human Beings.

5. During the visit, the GRETA delegation held meetings with officials from relevant ministries and public agencies, representatives of the judiciary and the Public Prosecutor’s Office, members of the National Assembly, and the Deputy Ombudsman for Children’s Rights (see Appendix II). These meetings took place in a spirit of close co-operation.

6. The GRETA delegation held separate meetings with representatives of non-governmental organisations (NGOs) and other members of civil society, as well as with the following intergovernmental organisations present in Serbia: the International Organisation for Migration (IOM), the Organisation for Security and Co-operation in Europe (OSCE) and the United Nations High Commissioner for Refugees (UNHCR). GRETA is grateful for the information provided by them.

7. Further, in the context of the evaluation visit to Serbia, the GRETA delegation visited an NGO-run shelter for women victims of trafficking in human beings, as well as two social care establishments, in Belgrade and Novi Sad, providing accommodation and assistance to children requiring social protection, including victims of human trafficking and unaccompanied foreign minors.

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

8. GRETA is grateful for the valuable assistance provided by the contact person appointed by the Serbian authorities to liaise with GRETA, Mr Saša Gosić, senior police inspector at the Section for Suppression of Illegal Migration and Trafficking in Human Beings of the Border Police Directorate of the Ministry of the Interior, as well as by Mr Mitar Djurasković, National Co-ordinator for Combating Trafficking in Human Beings and Head of Department for Suppression of Cross-Border Crime and Criminal Intelligence in the Border Police Directorate of the Ministry of the Interior.

9. The draft version of the present report was adopted by GRETA at its 17th meeting (1-5 July 2013) and was submitted to the Serbian authorities for comments on 1 August 2013. The comments were received on 1 October 2013 and were taken into account by GRETA when establishing its final report, which was adopted at GRETA's 18th meeting (4-8 November 2013).

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

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

10. Serbia is primarily a country of origin of victims of trafficking in human beings (THB), but also to some extent a country of destination and transit. According to official statistics, the number of identified victims was 107 in 2009, 61 in 2010, 76 in 2011 and 79 in 2012. The overwhelming majority of the identified victims were Serbian nationals, with Switzerland, Germany and Italy being among the main countries of destination. The foreign victims of trafficking originated from Bosnia and Herzegovina, Albania, Romania, Republic of Moldova, Montenegro, Slovenia, Dominican Republic, Afghanistan, Turkey and Ukraine. Women accounted for some 43% and children for some 42% of the victims identified in the period 2009-2012. Most of the victims were subjected to sexual exploitation (66 in 2009, 34 in 2010, 36 in 2011 and 42 in 2012). There were also cases of trafficking for forced labour (21 in 2009, six in 2010, 23 in 2011 and 12 in 2012), forced begging (11 in 2009, nine in 2010, seven in 2011, 14 in 2012), forced marriage (six in 2009, eight in 2010, four in 2011, seven in 2012), coercion to commit criminal offences (two in 2009, one in 2010, two in 2011 and three in 2012), and illegal adoption (one in 2009, one in 2010, three in 2011). In some cases, the victims were subjected to a combination of types of exploitation.

11. The trends in human trafficking observed in Serbia in recent years indicate a continuous rise in internal trafficking. According to information provided by the Serbian authorities, in 2012, internal trafficking concerned 60% of the identified victims and in the first eight months of 2013, 58% of the total number of identified victims (57). Women and girls have constituted around 80% of the victims of internal trafficking. As regards transnational trafficking, in the first eight months of 2013 there was an increase in the number of men (21) as result of the identification of a group of construction workers victims of labour exploitation in Belarus.

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

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

12. At the international level, in addition to the Council of Europe Convention on Action against Trafficking in Human Beings, Serbia is Party to the United Nations Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (both of which it acceded to in 2001). Serbia is also Party to the UN Convention on the Rights of the Child<sup>2</sup> and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (ratified in 2001 and 2002, respectively), the Convention on the Elimination of All Forms of Discrimination against Women (ratified in 2001), as well as the following conventions elaborated under the International Labour Organisation (ILO): Convention concerning Forced or Compulsory Labour (No.29), Convention concerning the Abolition of Forced Labour (No.105) and Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No.182). Further, Serbia is Party to a number of Council of Europe conventions in the criminal field which are relevant to action against THB<sup>3</sup>.

<sup>2</sup> Serbia has also signed the Third Optional Protocol to the UN Convention on the Rights of the Child relating to communication of complaints.

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

13. Serbian legislation in the field of action against THB has evolved over the years. Trafficking in human beings was first criminalised in 2003. The revised Criminal Code (CC), in force since 1 January 2006, separated the offence of THB (Article 388) from illegal crossing of the State border and people smuggling (Article 350). Amendments made to Article 388 of CC in 2009 led to increasing the penalties for human trafficking, extending the list of forms of exploitation, making it a criminal offence to knowingly use the services of a victim of trafficking, and specifying the irrelevance of the victim's consent to exploitation. Several other provisions of the CC are relevant for combating human trafficking, in particular Article 389 (trafficking in minors for adoption), Article 390 (holding in slavery and transportation of enslaved persons) and Article 185 (showing, obtaining and possessing pornographic material and child exploitation for pornographic purposes).

14. A number of other internal legal acts have relevance to action against THB, in particular:

- Law on Social Protection (2011), Article 41 of which explicitly recognises trafficked persons as beneficiaries of social protection services without having to prove that they are in social need, whereas Article 206 specifies that the accommodation of trafficked persons should be financed from the State budget;
- Law on Foreigners (2008), Article 28 of which provides for issuing a temporary residence permit to foreign victims of trafficking for the purpose of conducting criminal proceedings;
- Law on Health Care (2005, amended in 2009), Article 241 of which provides that trafficked persons who are foreign nationals have the right to emergency medical care free of charge;
- Law on Seizure and Confiscation of Criminal Assets (2008), Article 2 of which lists human trafficking among the criminal offences for which confiscation of the perpetrators' material assets is envisaged, provided that it exceeds 1.5 million RSD (around 13 500 euros).

15. Further, the Serbian authorities have referred to the following legal acts as being relevant to action against human trafficking: Code of Criminal Procedure<sup>4</sup>; Family Law; Law on Health Insurance; Law on Prohibition of Discrimination; Law on Responsibility of Legal Persons for Criminal Offences; Law on Organisation and Competencies of State Authorities in the Suppression of Organised Crime, Corruption, and Other Especially Grave Crimes; Law on the Police; Law on Protection of State Borders; Law on Asylum; Law on Juvenile Delinquents and Juvenile Criminal Justice; Law on the Protection Programme for Participants in Criminal Proceedings; and Law on Misdemeanours. GRETA was informed of a draft Law on the Rights of the Child which contains a provision related to trafficking and the sale of children. In 2013, the Ombudsman has continued to develop this law to include suggestions by Council of Europe experts as well as from NGOs and private individuals made during a public debate held in 2012. The work is progressing slowly due to the limited human resources and workload of the Ombudsman's office. Once the draft law is completed, the Ombudsman intends to make it available to experts and the general public for comments.

16. In terms of secondary legislation, particular reference should to made to:

- Agreement on Co-operation between State Authorities in Combating THB, signed on 12 November 2009 by the Ministries of the Interior, Justice, Health, Labour and Social Policy, Finance, Education and Science. This agreement, which establishes direct co-operation in the application of the national mechanism for identification of victims of trafficking and their referral to assistance, contains in an annexe Guidelines on Standard Operative Procedures Regarding Victims of Trafficking;
- Special Protocol on Actions of the Judicial Bodies to Protect Victims of THB (published in February 2012), which provides detailed guidance to law enforcement officials, public prosecutors and judges on the detection and identification of victims of trafficking, their protection and assistance, the investigation of the criminal offence of THB and the treatment of victims in criminal proceedings;
- Ministry of the Interior Instruction of 14 July 2009 on the Implementation of the Law on Foreigners, which sets out the procedure for granting temporary residence to foreign citizens who are trafficking victims;
- Ministry of the Interior Instructions on the procedure regarding smuggled persons (2009);

<sup>4</sup> The new Code of Criminal Procedure Code, which was adopted in 2010, is fully implemented as of 1 October 2013.

- Decree of the Government of Serbia from 13 April 2012 establishing the Centre for the Protection of Victims of Trafficking in Human Beings.
- b. National Strategies and Action Plans

17. The first National Strategy for Combating Trafficking in Human Beings was adopted by the Serbian Government on 7 December 2006. This strategy did not have a timeframe and comprised chapters concerning the legal framework, assistance and protection of victims, institutional framework and co-ordination of activities. Two and a half years after the adoption of the strategy, on 30 April 2009, the Serbian Government published the first National Action Plan on Action against THB, covering the period 2009-2011. This action plan consists of chapters dedicated to the development of the institutional framework; victim assistance, protection and reintegration; international co-operation, monitoring of the implementation of the mechanisms for combating THB; and evaluation of results. Each chapter sets forth strategic goals and specific activities to achieve them, as well as institutions responsible for implementing the activities.

18. In 2012, the Ministry of the Interior launched the preparation of a new National Strategy for the period 2013-2018. On 18 May 2012, the first preparatory meeting with relevant stakeholders was held on the premises of the Ministry of the Interior, and on 21-23 May 2012 the first workshop on the development of the new strategy was held in the town of Vršac. The discussions on the new strategy have involved various stakeholders, including two NGOs (Atina and Astra) and the United Nations Global Initiative to Fight Human Trafficking (UN.GIFT) as an independent consultant. At the time of GRETA's evaluation visit to Serbia, a draft of the new strategy was available for public discussion. The draft strategy, which is a rather general document, is accompanied by a concrete two-year action plan with activities and tasks grouped under five headings: 1) partnerships at the local, national and international level; 2) improved prevention and reducing the impact of the root causes of trafficking; 3) proactive detection, effective prosecution of individuals and legal entities and legal protection of victims; 4) improved identification system, protection and support of victims through long-term and sustainable social inclusion programmes; and 5) prevention of child trafficking and protection of child victims.

19. The public discussion of the draft National Strategy to Prevent and Suppress Trafficking in Persons, Especially Women and Children (2013-2018) and the first related Action Plan (for the period 2013-2015) ended in late July 2013. It involved representatives of relevant governmental bodies, specialised NGOs, the Embassy of the USA in Belgrade, the School of Law of the University of Belgrade, the Criminal Police Academy, as well as an expert engaged by the European Commission. The Ministry of the Interior has translated the draft documents into English and had submitted them to the European Commission (DG Home Affairs) for comments.

20. GRETA was informed that a National Strategy for the Prevention and Protection of Children from Trafficking and Exploitation for Prostitution and Pornography has also been developed, following a recommendation by the Committee on the Rights of the Child.<sup>5</sup> According to information provided by the Serbian authorities, this draft strategy has been integrated into the draft National Strategy of Prevention and Suppression of Trafficking in Persons, Especially Women and Children, (2013-2018), which includes specific protection and assistance measures for children.

21. Reference should also be made to the National Youth Strategy (2009-2014), adopted by the Ministry of Youth and Sport, which contains measures to provide equal chances for all young people and especially for those living in difficult conditions. However, the strategy does not refer to trafficking in human beings as a threat to young people. **GRETA invites the Serbian authorities to mainstream anti-trafficking action in the next national youth strategy.**

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<sup>5</sup> Committee on the Rights of the Child, Concluding Observations on Serbia, 22 June 2010 available at: [http://www.bayefsky.com/doc/serbia\\_t4\\_crc\\_opsc\\_54.doc](http://www.bayefsky.com/doc/serbia_t4_crc_opsc_54.doc)

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

#### **a. Council for Combating Trafficking in Human Beings**

22. The Council for Combating Trafficking in Human Beings (“Anti-Trafficking Council”) was established by decision of the Government of Serbia in October 2004 as an expert advisory body to the Government. It held its first meeting in December 2005. The Council is chaired by the Minister of the Interior and includes as members the Ministers of Labour, Employment and Social Policy, Justice, Finance, Education and Sport, and Health. The Council in its current composition was appointed by the Serbian Government on 6 November 2008.

23. The main tasks of the Anti-Trafficking Council are to co-ordinate national and regional activities for combating THB, examine reports by relevant organisations and propose measures for the implementation of the recommendations of international bodies. The Council does not have a separate budget and each ministry represented in it covers the anti-trafficking activities falling under its responsibility from its own budget. The secretariat of the Council is provided by the Ministry of the Interior.

#### **b. Republican Team for Combating Trafficking in Human Beings**

24. The Republican Team for Combating Human Trafficking (“Republican Anti-Trafficking Team”) was established on 30 May 2002 as a forum at national level bringing together relevant actors in a co-ordinated anti-trafficking effort. It is composed of representatives of 10 state bodies, seven non-governmental organisation, two other organisations and expert bodies, and four international organisations. The public bodies represented in the Republican Anti-Trafficking Team are the Ministry of the Interior, Ministry of Labour, Employment and Social Policy, Ministry of Justice, Ministry of Finance, Ministry of Education and Sport, Ministry of Health, Ministry of Foreign Affairs, Office for Human and Minority Rights, Supreme Court and Public Prosecutor’s Office.

25. The following civil society organisations are members on the Republican Anti-Trafficking Team: Astra, BeoSupport, Victimology Society of Serbia, Domestic Abuse Counselling Centre, Atina, Child Rights Centre and Save the Children. Further, the Serbian Red Cross and the Council for Children’s Rights are members of the team. The following international organisations act as observers: IOM, OSCE, United National Children’s Fund (UNICEF) and United Nations High Commissioner for Refugees (UNHCR).

26. To ensure its efficiency, the Republican Anti-trafficking Team is divided into four working groups dealing, respectively, with prevention and education; assistance and protection to victims; combating trafficking in children; and law enforcement. While the Republican Anti-Trafficking Team is responsible for co-ordination of anti-trafficking activities between the various stakeholders, its tasks are not formalised and it does not have a separate budget for its activities. The Ministry of the Interior provides the secretariat of the team as well as premises for its work.

#### **c. National Co-ordinator for Combating Trafficking in Human Beings**

27. The first National Co-ordinator for Combating THB was appointed by decision of the Minister of the Interior on 28 December 2001. The current National Co-ordinator, who is Head of Department for Suppression of Cross-border Crime and Criminal Intelligence within the Border Police Directorate of the Ministry of the Interior, was appointed by the Minister of the Interior on 18 November 2008.

28. The National Co-ordinator chairs the meetings of the Republic Anti-Trafficking Team and is responsible for ensuring its Secretariat, supervising the implementation of the National Action Plan and co-ordinating the activities of governmental and non-governmental stakeholders. These duties as National Co-ordinator come in addition to his regular duties as a senior police officer dealing with cross border crime. The work of the National Co-ordinator is financed from the budget of the Ministry of the Interior.

d. Centre for the Protection of Victims of Trafficking in Human Beings

29. The Centre for the Protection of Victims of Trafficking in Human Beings was established by the Serbian Government on 13 April 2012 for the purpose of performing the identification of victims in a consistent manner and ensuring their referral for assistance and protection. Prior to the setting up of the Centre, the identification of victims was carried out by the Agency for Co-ordination of Protection of Victims of Trafficking, which had been set up in March 2004 as a result of a joint project between the Ministry of Labour and Social Policy and the OSCE Mission to Serbia. The Agency employed only two persons responsible for identification of trafficked persons and co-ordinating activities aimed at providing them with assistance and protection, and did not have a dedicated budget.

30. The Centre comprises the Office for Co-ordination of the Protection of Victims of Trafficking (which replaced the former Agency) and a reception centre for victims of trafficking (with six places), but the opening of the latter facility has been delayed due to failure to secure appropriate premises (see paragraph 166). According to the Centre's internal regulations and systematisation of jobs and duties, approved by the Ministry of Labour, Employment and Social Policy, the Centre is to employ 18 staff. At present, 10 persons are employed, including two psychologists, a lawyer, a social worker, two special educators and an economist. Additional eight staff will be employed once the reception centre becomes operational.

31. The Ministry of Labour, Employment and Social Policy has adopted the Centre's statute which specifies its competencies, *inter alia*, to conduct risk assessment and identify victims of trafficking, develop individual plans for the provision of services and protection to victims, monitor the implementation of these plans, co-ordinate activities related to the provision of social protection to victims, co-operate with relevant bodies with a view to the victims' reintegration or voluntary return to the country of origin, provide emergency reception of victims, and carry out data collection and research.

e. Police

32. Within the General Police Directorate, there are structures specialised in combating THB at several levels. The Border Police Directorate has a Division for Combating Illegal Migration and Human Trafficking and there are units for combating cross border crime, illegal migration and human trafficking in the seven regional Border Police centres operating towards neighbouring countries (Hungary, Romania, Bulgaria, "the former Yugoslav Republic of Macedonia", Montenegro, Bosnia and Herzegovina, and Croatia), as well as the Border Police Stations at Belgrade and Niš Airports. Further, the Criminal Police Directorate has a Service for Combating Organised Crime which has a special section in charge of investigations into smuggling of migrants and trafficking in human beings.

33. According to information provided by the Serbian authorities, a total of 352 police officers work on jobs related to combating irregular migration, cross-border crime and human trafficking, mostly in Belgrade and the 26 regional police departments. The majority of them have followed specialised training on combating human trafficking and protection of victims and the Ministry of the Interior intends to ensure that all the police officers concerned have completed at a minimum one specialised training in the area of combating THB. In addition to these 352 police officers, there are a number of officers within the gendermerie, criminal police, traffic police and the administration of the Ministry of the Interior who have followed training of human trafficking.

f. NGOs, other civil society actors and international organisations

34. NGOs have played a vital role in anti-trafficking action in Serbia, through awareness-raising activities, training, assistance to victims and research. For instance, the NGO Astra organises training and roundtables for relevant professionals (e.g. police officers, social workers, judges, medical doctors, lawyers, teachers), operates an SOS hotline for victims, runs a victim assistance programme which includes the provision of information, medical assistance and legal aid, carries out research on THB, and provides information about the possibilities for legal migration and employment abroad. The NGO Atina runs a transition house for women victims of trafficking, provides long-term assistance and support to victims, organises training of professionals and has programmes addressing the root causes of THB such as domestic violence, poverty, discrimination, lack of access to education and work. The NGO Novi Sad Humanitarian Centre provides psychosocial assistance, educational support and vocational training to vulnerable and marginalised persons, including victims of trafficking. The NGO Praxis provides legal aid and information to socially excluded persons, assists them to acquire birth certificates and identity documents and represents them in legal proceedings. The Victimology Society of Serbia carried out research into the phenomenon of human trafficking.

35. The Red Cross of Serbia, which aims at providing assistance to all vulnerable groups, runs an anti-trafficking programme in co-operation with the Ministries of Health, Labour and Social Policy, and the Interior, as well as IOM. The programme aims at raising awareness about THB among the most socially and economically vulnerable groups, such as Roma, providing emergency one-off material assistance to victims of trafficking and increasing the capacity of medical doctors, health workers and employees of centres for social work to detect victims of trafficking.

36. Concerning children, the Centre for Youth Integration, which assists marginalised children and young people with a view to preventing their falling victim to trafficking, runs a drop-in centre for street children. The Child Rights Centre is involved in drafting legislation and promoting policies to improve the well-being of children, protect their rights and ensure their participation in society, as well as improve the status of children at risk, including victims of trafficking. The activities of the NGO Save the Children include direct assistance and support to child victims of trafficking, measures to prevent trafficking in children and the improvement of the institutional and legal framework to provide a better response to children at risk. This NGO is currently implementing two programmes, "Regional child anti-trafficking programme" and "Comprehensive response to on-line child sexual abuse and exploitation in South Eastern Europe".

37. Memoranda of Understanding have been concluded by the NGO Astra and the General Prosecutor's Office, on the one hand, and the Judicial Academy, on the other. Further, the NGO Atina has concluded a Memorandum of Understanding with the National Employment Service for the economic empowerment of victims of trafficking, and Save the Children has concluded a Memorandum of Understanding with the Ministry of the Interior. In addition, the Centre for Youth Integration has concluded Memoranda of Understanding with all participants in the City Task Force Belgrade.

38. The Serbian Association of Employers, which was established in 1994 as a non-profit organisation, aims to promote corporate responsibility and has programme activities including the prevention of THB, labour exploitation and child labour. In co-operation with the National Co-ordinator, it has developed a project proposal entitled "Employers against Human Trafficking" which is in the process of applying for funding from international donors. **GRETA welcomes this initiative and would like to be kept informed of its outcome.**



39. The activities and projects of the above-mentioned NGOs are implemented in co-operation with international organisations, in particular IOM, OSCE, UNICEF, UNHCR, UNODC, the International Centre for Migration Policy Development (ICMPD) as well as foreign governments providing donor assistance. Particular reference should be made to the Joint Programme to Combat Human Trafficking in Serbia, organised by IOM, UNHCR and UNODC in partnership with the Ministry of the Interior, Ministry of Justice, Ministry of Labour, Employment and Social Policy, Commissariat for Refugees and NGOs. The programme ran from 1 June 2010 to 31 October 2012 and had an overall budget of some USD 1 410 000 provided by Belgium, Switzerland and the UN Global Initiative to Fight Human Trafficking (UN.GIFT).<sup>6</sup> The Joint Programme aimed at providing support to the Serbian authorities to implement the National Action Plan for 2009-2011 by strengthening capacities, improving co-ordination, creating a sustainable framework for prevention of THB among vulnerable groups, strengthening the criminal justice response to THB and improving mechanisms for protection and reintegration of victims of trafficking. The activities carried out under the Joint Programme included research, training for relevant professionals, direct assistance to victims and evaluation of results.

40. Further, reference is made to the regional programme on social protection and prevention of human trafficking supported by GIZ (Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH) on behalf of the German Federal Ministry for Economic Co-operation and Development (BMZ) in Serbia and other countries in the region.<sup>7</sup>

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<sup>6</sup> <http://www.ungiftserbia.org/>

<sup>7</sup> <http://www.htsocialprotection.org/applynow.html>

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

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

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

41. Article 1(1)(b) of the Convention establishes as one of its purposes the protection of the human rights of the victims of trafficking. Further, Article 5(3) includes the obligation for Parties to promote a human rights-based approach in the development, implementation and assessment of the policies and programmes to prevent THB. The Explanatory Report on the Convention states that the main added value of the Convention is its human rights perspective and focus on victim protection. In the same vein, the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking emphasise that “the human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims”.<sup>8</sup>

42. THB constitutes an offence to the dignity and fundamental freedoms of the human being and thus a grave violation of human rights. GRETA emphasises the obligations of States to respect, fulfil and protect human rights, including by ensuring compliance by non-State actors, in accordance with the duty of due diligence. A State that fails to fulfil these obligations may, for instance, be held accountable for violations of the European Convention on Human Rights and Fundamental Freedoms (the ECHR). This has been confirmed by the European Court of Human Rights in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the European Convention on Human Rights (which prohibits slavery, servitude and forced or compulsory labour).<sup>9</sup> The Court further concluded that Article 4 entails a positive obligation to protect victims or potential victims, as well as a procedural obligation to investigate trafficking.<sup>10</sup>

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

44. GRETA wishes to stress the need for States to also address THB as a form of violence against women and to take account of gender-specific types of exploitation, as well as the particular situation of child victims of trafficking, in line with the relevant international legal instruments.<sup>11</sup>

<sup>8</sup> Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

<sup>9</sup> *Rantsev v. Cyprus and Russia*, application No. 25965/04, judgment of 7 January 2010, ECHR 2010, paragraph 282.

<sup>10</sup> See: *Siliadin v. France*, application No. 73316/01, judgment of 26 July 2005, ECHR 2005 VII; *C.N. and V. v. France*, application No. 67724/09, judgment of 11 October 2012, and *C.N. v. United Kingdom*, application No. 4239/08, judgment of 13 November 2012.

<sup>11</sup> Such as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the United Nations Convention on the Rights of the Child and the Optional Protocol thereto on the sale of children, child prostitution and child pornography, and the United Nations Convention on the Elimination of All Forms of Discrimination against Women.

45. Article 26 of the Constitution of Serbia, entitled “Prohibition of slavery, slavery-like conditions and forced labour” (which falls under Chapter 2 “Human and minority rights and freedoms”) explicitly prohibits all forms of human trafficking and specifies that the sexual or financial exploitation of a person in an unfavourable position shall be deemed forced labour. Courts may directly apply this constitutional provision which entails a fundamental human right. Pursuant to Article 170 of the Constitution, acts that violate or deny human or minority rights guaranteed by the Constitution can be appealed against to the Constitutional Court when all other means of legal recourse have been exhausted or no other means of legal recourse for their protection are stipulated.

46. International conventions ratified by Serbia take precedence over national legislation and can be applied directly. The Serbian authorities have indicated that if the legal protection against human trafficking is not explicitly regulated under national legislation, courts may apply directly the Council of Europe Convention on Action against Trafficking in Human Beings to interpret THB as a human rights violation and provide appropriate remedies. To GRETA’s knowledge, there is no case law in Serbia referring to rights under the Convention.

47. Pursuant to Article 13 of the 2009 Law on the Prohibition of Discrimination, slavery and trafficking in human beings are considered “severe forms of discrimination”. This law introduces the institution of Commissioner for Protection of Equality, who is elected by Parliament and has a mandate to deal with complaints concerning discrimination, including from victims of trafficking.

48. The 2006 National Strategy for Combating Trafficking in Human Beings recognises that THB violates the basic human rights of victims and affirms that the national anti-trafficking policy is aimed at the protection of victims’ human rights. Further, the Special Protocol on the Actions of Judicial Bodies for the Protection of Victims of Human Trafficking makes it clear that THB violates the human rights of victims and places a positive obligation on the authorities to prevent and combat it.

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

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

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

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

51. The definition of THB in Serbian law is provided in Article 388 of the Criminal Code (CC) which reads: “whoever by force or threat, deception or maintaining deception, abuse of authority, trust, dependency relationship, difficult circumstances of another, retaining identity papers or by giving or accepting money or other benefit, recruits, transports, transfers, sells, buys, acts as intermediary in sale, hides or holds another person with intent to exploit such person’s labour, forced labour, commission of offences, prostitution or other forms of sexual exploitation, begging, pornography, establishment of slavery or similar relationship, removal of organs or body parts or service in armed conflicts, shall be punished by imprisonment of three to 12 years”.<sup>12</sup>

<sup>12</sup> Unofficial translation provided by the Serbian authorities.

52. The above definition includes the three constitutive elements of THB as regards adults, in line with Article 4(a) of the Convention. Paragraph 2 of Article 388 of the CC states that trafficking a minor<sup>13</sup> is punishable even if none of the means referred to in paragraph 1 have been used, which is in conformity with the Convention.

53. The Serbian authorities have clarified that the actions of “harbouring” and “receipt” in the Convention are covered by the terms “hides” and “holds” in the Serbian CC. GRETA notes that the actions covered by Article 388 of the CC include, in addition to the ones provided for in the Convention, to “sell”, “buy” and “act as intermediary in the sale”.

54. Concerning the means used for committing THB, GRETA notes that “abduction”, “fraud” and “abuse of a position of vulnerability” are not specifically mentioned in the English translation of Article 388 of the CC. The Serbian authorities have indicated that abduction is defined as a separate criminal offence under Article 134 of the CC and that if the offence of trafficking in human beings is committed by means of abduction, there would be a concurrence of offences and the sentence would be higher as it would combine sentences for each offence. According to the authorities, “fraud” is covered by the words “deception or maintaining deception”, and “abuse of a position of vulnerability” by the terms “abuse of trust, dependency relationship, difficult circumstances of another”.

55. GRETA notes that, in addition to the types of exploitation specifically mentioned in the Convention, Article 388 of the CC criminalises trafficking for the purpose of committing offences, begging and service in armed conflicts. Servitude is not mentioned as such in Article 388 of the CC, but the term “slavery or similar relationship” is intended to cover servitude.

56. Article 389 of the CC establishes as a criminal offence trafficking in minors for adoption, defined as abducting a person under 16 years of age for the purpose of adoption contrary to the laws in force, mediating in such adoption, buying, selling, handing over, transporting, accommodating or concealing such a person for that purpose. **GRETA considers that the Serbian authorities should expand the scope of Article 389 of the CC to include persons up to the age of 18, in line with the Convention which considers any person under 18 a child.**

57. Pursuant to Article 4(b) of the Convention, the consent of the victim is irrelevant where any of the means set forth in the definition of THB have been used. GRETA notes with satisfaction that Article 388, paragraph 10, of the CC explicitly states that the consent to exploitation or to the establishment of slavery or similar relationship has no bearing on the establishment of a THB offence.

58. For further analysis of the definition of THB and related offences from a substantive criminal law perspective, see paragraphs 205-210.

*ii. Definition of “victim of THB”*

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

<sup>13</sup> In Serbian law, a “minor” is a person under 18 years of age.

60. Victims of trafficking do not have a legal status as such under Serbian law. Any person subject to the offence foreseen by Article 388 of CC is considered as “injured party” in a criminal case. Victims of trafficking may be identified outside the scope of a criminal investigation and are entitled to certain rights under the Law on Social Protection, the Law on Health Care and the Law on Foreigners. However, GRETA’s attention was drawn to the situation of foreign victims of trafficking whose status is not clear due to the absence of legal provisions guaranteeing their rights under the Convention. GRETA notes that in its concluding observations on Serbia, dated 20 May 2011, the UN Human Rights Committee expressed concern about the uncertain situation of witnesses who are foreign nationals in human trafficking trials, and the fact that they are only granted temporary residence permits for the duration of the trial.<sup>14</sup> In this context, the Serbian authorities have indicated that foreign nationals who are victims of THB are granted temporary stay when this is required for reasons of their safety, regardless of whether they co-operate with the judicial authorities, pursuant to the Instruction on the Implementation of the Law on Foreigners (see paragraph 180).

61. GRETA recalls the 1985 United Nations Declaration on the Principles of Justice for Victims of Crime and Abuse of Powers, according to which a person may be considered a victim “regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted”. It is sufficient for persons to present reasonable grounds that they have been subjected to a combination of the three key elements of the definition of THB referred to in paragraph 50 (action, means and purpose) in order to be considered as victims of trafficking.

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

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

- i. *Comprehensive approach and co-ordination*

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

64. The legal and policy framework in the field of action against THB in Serbia, outlined above, is intended to cover all victims of THB subjected to different types of exploitation, both transnationally and nationally, whether or not connected with organised crime. The 2006 National Strategy and the 2009-2011 National Action Plan aimed to involve all stakeholders, governmental and non-governmental, and covered the aspects of prevention, protection and prosecution, as well as international co-operation. GRETA welcomes the independent evaluation of the implementation of the National Action Plan which was conducted upon the request of the Serbian authorities with funding from the Joint Programme referred to in paragraph 39, and was widely disseminated and discussed.<sup>15</sup> As noted in paragraph 18, the adoption of a new national strategy for 2013-2018 was in the pipeline at the time of GRETA’s evaluation visit.

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<sup>14</sup> Concluding observations of the UN Human Rights Committee on Serbia, CCPR/C/SRB/CO/2, 20 May 2011.

<sup>15</sup> The study, entitled “Protection of Victims and Prevention of Human Trafficking in Serbia”, was carried out by Aleksandra Galonja and Professor Sladana Jovanovic from the NGO Atina, with associates from the Association of Misdemeanour Judges and the Republican Institute for Social Protection. The study is available at: [http://www.ungift.org/doc/knowledgehub/resource-centre/Zastita\\_zrtava\\_i\\_prevenirija-FIN\\_sa\\_koricama.pdf](http://www.ungift.org/doc/knowledgehub/resource-centre/Zastita_zrtava_i_prevenirija-FIN_sa_koricama.pdf)

65. GRETA notes the lack of dedicated State funding for the activities under the 2009-2011 National Action Plan. In fact, the financing of anti-trafficking activities in Serbia has depended to a large extent on foreign donors and international organisations. The Serbian authorities have informed GRETA that in the second half of 2012, a total of RSD 5 390 564 (approximately EUR 46 963) was allocated from the State budget for the running of the Centre for the Protection of Victims of Trafficking in Human Beings and RSD 18 503 343 (approximated EUR 161 201) have been allocated from the State budget for 2013. In addition to the State budget, the Centre uses funds collected through the institute of discretionary right of the prosecutor (i.e. the authority of the prosecutor to give an alternative to the suspect: continuation of criminal prosecution or payment for humanitarian purposes, pursuant to Article 283 of the Law on Criminal Procedure). By September 2013, some EUR 11 743 have been collected by virtue of the discretionary right of the prosecutor. These funds are used exclusively for activities related to the assistance of victims of trafficking (e.g. purchase of medication, payment of specialised health services, financial assistance, purchase of airplane tickets). The spending is controlled by the Monitoring Board of the Centre. The Centre for the Protection of Victims of Trafficking in Human Beings expects an allocation of RSD 17 003 343 (approximately EUR 148 133) from the 2014 budget.

66. According to the new draft National Strategy, the financing of measures envisaged by the Strategy will be implemented through the regular budgetary expenditure of the relevant ministries, but certain activities may be funded from donations. The Ministry of Labour, Employment and Social Policy shall propose to the Government to establish a budget fund for the protection of victims of trafficking. **GRETA stresses that securing funding from the budget will be indispensable for the implementation of the anti-trafficking strategy.**

67. The need to establish a clear mechanism for co-ordination of anti-trafficking activities and policy planning was highlighted by the evaluation of the implementation of the 2009-2011 National Action Plan. At present, the National Co-ordinator is not a separate post and does not have a dedicated secretariat and budget. Given that the National Co-ordinator is expected to perform a variety of tasks linked to the planning, implementation and evaluation of anti-trafficking measures, as well as providing the secretariat of the Council for Combating Trafficking in Human Beings and the Republican Anti-trafficking Team, GRETA considers that strengthening the human and financial resources of the National Co-ordinator would be indispensable for completing these tasks. GRETA notes that, in a number of countries, the structures which co-ordinate action against THB are not placed within a particular Ministry but, rather, are directly subordinated to the Cabinet of Ministers; this can be considered good practice as it demonstrates the willingness of the authorities to ensure that such structures have a genuine inter-agency functioning.

68. As mentioned in paragraph 34, NGOs in Serbia have played an important role in anti-trafficking action in terms of prevention, training, providing assistance to victims, lobbying and research. In January 2011, the Serbian Government set up the Office for Co-operation with Civil Society with a view to systemic involvement of civil society organisations in a continuous dialogue with Governmental institutions. In October 2012, the Office supported the National Co-ordinator for Combating Trafficking in Human Beings in the development of a public call for civil society organisations and the definition of the main criteria for their selection for involvement in the work of the Republican Anti-Trafficking Team and the team for the implementation of the National Strategy for 2013-2018. The Office for Co-operation with Civil Society has earmarked RSD 504 266 (approximately EUR 4 507) in 2013 for co-funding the project "Local Communities in Combating Trafficking in Human Beings" implemented by the NGO Atina within the EU IPA programme. The Serbian authorities have also referred to plans to set up a Council for Development and Co-operation with Civil Society and a National Strategy for Creation of an Enabling Environment for Civil Society Development.

69. Currently NGOs have full member status in the Republican Anti-Trafficking Team, but it is not clear whether this will be the case under the new National Strategy. The absence of a clear mandate for this team and the fact that it meets infrequently limit the involvement of civil society in policy making and monitoring of implementation. GRETA welcomes the conclusion of Memoranda of Understanding between some NGOs and public authorities (see paragraph 37) and stresses the importance of strengthening partnerships between public bodies and civil society in order to increase the consistency and effectiveness of anti-trafficking action. GRETA also notes that NGOs are included as implementing partners in the new draft Action Plan for 2013-2015, which includes as tasks to “develop and adopt sectoral action plans of partners to the Strategy” and to “define and adopt models of co-operation with civil society”.

70. Trafficking in human beings has been the subject of political attention in Serbia. The National Assembly of Serbia has compiled a handbook for parliamentarians on combating THB and is organising public hearings on this subject. Further, there are plans to join the pan-European network of parliamentarians against human trafficking.

71. The Serbian authorities acknowledge the growing problem of trafficking for the purpose of labour exploitation and are making efforts to address this form of trafficking. Despite some research<sup>16</sup> already carried out in this area, there is still a lack of information of the scale of trafficking for the purpose of labour exploitation in Serbia. The NGO Astra, together with partner NGOs in Croatia and Slovenia, is implementing the project “Make it work! – Fighting trafficking and exploitation of workers”. As part of this project, a conference on labour exploitation as a form of human trafficking was organised in Belgrade in March 2012 and an opinion poll and qualitative survey examining people’s perception of labour exploitation were conducted.<sup>17</sup> Representatives of public bodies and NGOs acknowledge that the detection of cases of trafficking for the purpose of labour exploitation is particularly difficult, due to the absence of a consensus on forced labour indicators, difficulties in distinguishing human trafficking cases from labour violations, as well as the limited powers of labour inspectors (see paragraph 156) and the need to build the capacity of frontline staff to proactively detect THB for labour exploitation.

72. Children constituted nearly 50% of identified trafficking victims in 2009-2011. Despite efforts made to decrease the vulnerability of children to THB, children from disadvantaged groups, in particular the Roma, Egyptian and Ashkali communities, displaced children and unaccompanied foreign minors remain particularly vulnerable to trafficking. GRETA notes that in its concluding observations on Serbia, dated 20 May 2011, the UN Human Rights Committee recommended that Serbia vigorously pursue its public policy to combat trafficking, in particular in minors for sexual exploitation, through the adoption of specific targeted measures and action plans on the issue, bearing in mind that the best interests of the child must be a primary consideration in all such actions.<sup>18</sup> The Serbian authorities have referred to the Strategy for Prevention and Protection from Discrimination, adopted by the Serbian Government on 27 June 2013, which is devoted to prevention of discrimination and advancement of the situation of nine vulnerable groups (women; children with disabilities; the elderly; LGBT persons; ethnic minorities; refugees; internally displaced persons and members of other vulnerable migrant groups; persons whose health may be cause for discrimination; members of small religious communities and religious groups). One of the objectives of this strategy is to prevent violations of the prohibition of discrimination of children, through legal and normative reforms and abrogation of discriminatory practices towards children. Particular attention is paid to preventing discrimination of children subjected to multiple forms of discrimination, especially Roma children, children with disabilities, victims of violence and exploitation, victims of trafficking and abuse in prostitution and pornography, refugees and internally displaced children, and children of migrants. The drafting of an action plan for the implementation of this strategy is ongoing.

<sup>16</sup> See, for example, Conny Rijken (ed.). *Combating Trafficking in Human Beings for Labour Exploitation*, April 2010, chapter on Serbia by V. Nikolić-Ristanović and S. Čopić (pp.223-284).

<sup>17</sup> [http://www.astra.org.rs/eng/?page\\_id=971](http://www.astra.org.rs/eng/?page_id=971)

<sup>18</sup> Concluding observations of the UN Human Rights Committee on Serbia, CCPR/C/SRB/CO/2, 20 May 2011.



73. As indicated in paragraph 11, internal trafficking is a growing trend in Serbia. According to evidence collected by the NGO Astra, after Bulgaria and Romania joined the EU and Serbia liberalised the visa regime, human trafficking inside Serbia has been more prevalent than cross-border trafficking, with nearly three quarters of human trafficking in Serbia being internal.<sup>19</sup> This would require appropriate adjustments to the anti-trafficking policy and practice.

74. **GRETA invites the Serbian authorities to continue developing co-ordination between public bodies and civil society actors engaged in anti-trafficking action and to ensure that NGOs are involved in the planning and implementation of national policy. The further conclusion of formal Memoranda of Understanding between public bodies and competent NGOs should be encouraged.**

75. **GRETA considers that the Serbian authorities should establish a fully-fledged post of National Co-ordinator supported by a dedicated office which is commensurate with the tasks at hand, to enable this body to effectively carry out its mandate.**

76. **GRETA also considers that the Serbian authorities should take further steps to ensure that national action to combat THB is comprehensive, and in particular:**

- **strengthen action to combat THB for the purpose of labour exploitation by involving civil society, the Labour Inspectorate, businesses, trade unions and employment agencies in a joint platform and improving the identification of and assistance to victims of THB for the purpose of labour exploitation;**
- **pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking, in particular children from socially vulnerable groups, displaced children and unaccompanied foreign minors, and ensure that the best interest of the child are fully taken into account.**

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

*ii. Training of relevant professionals*

78. Considerable efforts have been made in Serbia by the national authorities, NGOs and intergovernmental organisations to provide training to relevant professionals on issues relating to THB. Training and professional development of all actors involved in identifying victims of THB and providing assistance to them was an integral part of the National Action Plan for 2009-2011.

79. There are three programmes through which police officers are trained on the issue of human trafficking: basic police training programme (six lessons), police officer professional development programme (one day) and specialist training programme for police officers already working in the anti-trafficking field (two courses of seven days). In 2010-2011, a police training of trainers programme in combating THB was implemented with the support of the OSCE Mission to Serbia, covering 38 police officers who subsequently become trainers. By April 2013, a total of 916 police officers had been trained through 65 training programmes with the support of the OSCE Mission to Serbia. In 2012, 574 border police officers followed anti-trafficking training. In addition, in September 2013, two officers of the Border Police Directorate completed anti-trafficking training for trainers organised by Frontex. The Serbian authorities have indicated that in the period 2010-2013, a total of 3 332 police officers across the country received anti-trafficking training through different courses.

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[http://www.setimes.com/cocoon/setimes/xhtml/en\\_GB/features/setimes/features/2011/12/14/feature-03](http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2011/12/14/feature-03)



80. The Serbian Judicial Academy has developed training for judges and prosecutors on combating THB, in co-operation with the General Prosecutor's Office, the Police Academy, the NGO Astra and the Embassy of France in Serbia. In 2010, four seminars on organised crime and human trafficking were organised for judges and prosecutors, involving a total of 325 persons. In 2011, the Judicial Academy organised eight seminars on THB involving 687 participants. Further, in May 2011, the Judicial Academy, in co-operation with the OSCE Mission in Serbia, organised two round-tables on protection of child victims of THB, which were attended by 27 judges and 23 prosecutors from different regions. Further, in April 2013, the Judicial Academy organised three workshops for Supreme Court judges, involving 94 participants. A manual for judges and prosecutors on combating THB was issued in 2011 as part of a project entitled "Initiative for combating trafficking of women and girls in South East Europe", which was implemented by the Judges' Association of Serbia, in co-operation with the OSCE Mission to Serbia and the Austrian Development Agency.

81. In 2007-2010, in the framework of the Joint Programme referred to in paragraph 39, the NGO Children's Rights Centre, in co-operation with the OSCE Mission to Serbia, the Ministry of Labour and Social Policy and the Ministry of the Interior, organised a series of seminars for representatives of the social protection system and police officers, with a special focus on child victims of trafficking. In total 13 seminars were held, attended by 96 social workers and 148 police officers. Further, nine training seminars were organised for social workers as part of the training programme on victim protection accredited by the Institute for Social Protection, with 245 social workers from 77 centres for social work throughout the country being covered.

82. In 2010 training of trainers was organised for 12 labour inspectors and in 2011 two labour inspectors participated in a regional anti-trafficking training course in Zagreb. Further, the NGO Astra, in co-operation with the Institute of Forensic Medicine, organised training for general practitioners in border areas to improve their capacity to identify victims of THB; 32 doctors from 15 clinics attended this trainings.

83. The Serbian authorities have indicated that within the framework of the IPA-funded project Capacity Building of Institutions of the Republic of Serbia in Charge of Migration Management and Reintegration of Returnees (October 2011 - January 2013), training and workshops were organised for civil servants throughout Serbia, including on prevention of trafficking in human beings. The authorities have also referred to the draft Action Plan for Implementation of the Strategy for Migration Management 2013-2014, which provides for the adoption of a programme of training and capacity building, including of diplomatic and consular staff who will be trained on conducting interviews with applicants for visas, migrants in the process of readmission and victims of trafficking.

84. GRETA welcomes the efforts made in Serbia to provide training to professionals working on the prevention of THB and the protection of victims and notes as a good practice the joint training of social workers and police officers referred to above. However, according to civil society actors, there is a need for a more proactive approach on the part of law enforcement officers and labour inspectors to detect human trafficking cases. Street patrol police officers, in particular, have not benefitted from training on THB. The knowledge of judges about human trafficking and the rights of victims of THB also needs to be developed. Further, GRETA notes that in its concluding observations on Serbia (dated 22 June 2010), the UN Committee on the Rights of the Child noted that training activities on trafficking do not include all professionals working for and with children and that they do not adequately include all the provisions of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.<sup>20</sup>

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Committee on the Rights of the Child, Concluding Observations on Serbia, 22 June 2010.

85. **GRETA invites the Serbian authorities to continue improving the knowledge and sensitivity of relevant professionals (including police officers, social workers, professionals working with children, labour inspectors, medical staff, public prosecutors, judges, the media and other groups concerned) about THB and the rights of victims. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.**

*iii. Data collection and research*

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

87. In Serbia, data on identified victims of trafficking is collected by the Centre for the Protection of Victims of Trafficking which is responsible for maintaining a database on victims. Police officers, social work centres and all other stakeholders who may come into contact with victims of trafficking are obliged to contact the Centre when they suspect that a person is a victim of trafficking. The Centre has developed an assessment form for electronic data entry and a standardised electronic form for monthly reporting. These electronic forms enable the collection and processing of data according to different selectable criteria, including sex, form of trafficking, type of exploitation, nationality, etc. This allows for a uniform collection of victim data and analysis of the database. The main statistical information is published on a monthly basis on the Centre's website. Personal data protection is ensured through data encryption and passwords for relevant staff. According to NGOs, the new data collection procedures and the use of the forms has improved the protection of personal data of victims of trafficking. In addition to the data collected by the Centre, NGOs providing assistance to victims of trafficking keep their own records concerning victims detected and assisted by them.

88. The Ministry of the Interior collects data on investigations, prosecutions and convictions for THB, including on the number of victims of trafficking involved in criminal proceedings and the number of convicted traffickers. Statistical information on the outcome of criminal proceedings is recorded by the Statistical Office of Serbia. In 2009 a software application was developed by the Ministry of Justice to facilitate the monitoring of judgments related to different criminal offences, including THB. In December 2012, the Supreme Court of Cassation, the Administrative Court and the four Appellate Courts received the new software SAPC (Standardised Applications of Courts) for management of cases, developed within an EU-funded project entitled "Improvement of Efficiency and Transparency of the Judiciary System" (IPA 2007). Over 11 million court cases are managed electronically and the quality of court statistics has reportedly improved.

89. The collection of data and research on human trafficking are also included in the tasks of the National Co-ordinator, who is responsible for centralising the replies of the Serbian authorities to international requests for information. Article 5 of the Agreement on Co-operation between State Authorities in Combating THB provides for the timely exchange of information relevant to anti-trafficking activities and providing such information to the National Co-ordinator.

90. The evaluation of the implementation of National Action Plan for 2009-2011 concluded that data collection and reporting mechanisms needed improvement with a view to providing comparable statistical information. Public officials and NGOs representatives met during the evaluation visit agreed that there was a need for better co-ordination and harmonisation of the collection of data concerning THB.

91. GRETA notes with satisfaction the improvement in collecting statistical data by the Centre for the Protection of Victims of Trafficking, which enables the compiling of statistical information and allows its disaggregation (concerning gender, age, type of exploitation, country of origin and/or destination, etc.). However, **GRETA considers that the Serbian authorities should enhance exchanges of statistical information among the agencies responsible for collecting different types of information relating to THB. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection. When examining trends of THB in Serbia, the authorities should co-operate with NGOs providing assistance to victims with the view to taking into account the statistical information collected by such NGOs.**

92. As far as research related to human trafficking is concerned, a number of projects have been carried out in recent years by public bodies, NGOs, universities and international organisations. By way of example, a study on the criminal justice response and case law in the area of THB was published in 2011 in the auspices of the Joint Programme.<sup>21</sup> In 2012 the NGO Astra published research of case law entitled “Standing of Victims of Trafficking in Human Beings in Court Procedures”.<sup>22</sup> Further, the NGO Atina has conducted a study on the support provided to victims of trafficking, in particular children, by centres of social work.

93. Further, in 2013 the NGO Save the Children, in co-operation with the NGOs Atina and Group 484 published a report entitled “Children on the Move: Status and Programmes of Support and Protection of Children on the Move in Serbia”<sup>23</sup> based on research of children living in the street, victims of trafficking and children returned to Serbia through readmission agreements. The report contains recommendations, *inter alia*, to establish a comprehensive and functioning national protection system for children on the move, which is based on the needs of the children and guarantees their protection and exercise of their rights, regardless of their migration status.

94. In 2007, a regional study entitled “Children Talk: THB Risks and Resilience Factors” was conducted to identify groups of children at risk. The study, published in May 2007, indicated that homeless children and children living in institutions are particularly vulnerable to THB. Based on this study, prevention programmes were developed for these groups including interactive art therapy workshops as well as outreach activities.

95. The Law Faculties of Belgrade, Novi Sad and Niš have been involved in research into the problem of human trafficking in Serbia, following the establishing in 2010 and 2011 of legal clinics to combat THB, as part of the Joint Programme. For example, in 2011, the Legal Clinic in Niš published a collection of papers “Trafficking in Human Beings - Legal Protection in International and National Framework”.<sup>24</sup> Further, the Victimology Society of Serbia has carried out research on various aspects of human trafficking.<sup>25</sup>

96. According to information provided by the Serbian authorities, the Centre for the Protection of Victims of Trafficking is currently taking part in a survey to assess the scope of high technology crime, particularly as regards illegal migration and human trafficking, as part of a project implemented by the UK Home Office, the Czech Police Presidium and the Serbian Ministry of the Interior. Further, in 2014, the Social Inclusion and Poverty Reduction Unit will conduct a survey on mechanisms providing support to victims of trafficking.

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<sup>21</sup> Joint Programme of UNHCR, UNODC and IOM to Combat Trafficking in Human Beings in the Republic of Serbia, Comprehensive Study on the Criminal Justice Response and Jurisprudence in the Area of Anti-Human Trafficking in Serbia, Belgrade, 2011.

<sup>22</sup> Available at: <http://www.astra.org.rs/eng/wp-content/uploads/2008/07/Legal-analysis-2012.pdf>

<sup>23</sup> Available at: [http://s3.amazonaws.com/rcpp/assets/attachments/1613\\_children\\_on\\_the\\_move\\_eng-korekcije\\_original.pdf](http://s3.amazonaws.com/rcpp/assets/attachments/1613_children_on_the_move_eng-korekcije_original.pdf)

<sup>24</sup> Available at: [http://pravnaklinika.prafak.ni.ac.rs/files/TRGOVINA\\_LJUDIMA\\_zbornik.pdf](http://pravnaklinika.prafak.ni.ac.rs/files/TRGOVINA_LJUDIMA_zbornik.pdf)

<sup>25</sup> Available at: <http://www.vds.org.rs/VDSCentarZalstrazivanjeIEdukacijuE.htm>

97. According to the Labour Inspectorate, the Serbian Association of Employers and NGOs it is necessary to conduct more research on labour exploitation and THB in the grey zones of economy and unregistered businesses. Further, research is needed to shed more light on the exploitation of children and adults with disabilities for forced begging.

**98. GRETA invites the Serbian authorities to continue conducting and supporting research on THB-related issues as an important source of information for the evaluation of current programmes and for planning future policy measures. Areas where more research is needed in order to shed light on the extent and trends of human trafficking in Serbia and inform policy makers include trafficking for the purpose of labour exploitation, trafficking in children and trafficking within Serbia.**

*iv. International co-operation*

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

100. In Serbia, co-operation with other countries in combating THB is based on the 2009 Law on International Legal Assistance in Criminal Matters, international treaties to which Serbia is a Party and relevant bilateral agreements. These measures are further strengthened through international and regional cooperation through the Southeast European Law Enforcement Centre (SELEC), Interpol, Frontex and foreign police liaison officers in Belgrade.

101. Serbia has concluded bilateral agreements on international legal assistance in criminal matters with a large number of countries.<sup>26</sup> Agreements in the criminal field covers co-operation in matters such as extradition, transfer of criminal proceedings, enforcement of foreign criminal judgments, implementation of procedural acts such as handing of invitations to appear before a foreign court, interrogation of witnesses and court experts, crime scene investigation, search of premises and persons, seizure of tools and proceeds from crime, etc. These agreements also regulate the application of special investigation techniques, including surveillance and telephone tapping, controlled delivery, provision of simulated business services, using undercover investigators, spontaneous provision of information without prior request and establishment of joint investigation teams.

102. The police forces of the Ministry of the Interior carry out and plan joint actions with law enforcement agencies of other countries. By way of example, reference can be made to the operation “VIA” in 2011, which involved the Service for Combating Organised Crime (SBPOK), the Office of the Prosecutor for Organised Crime and the Higher Public Prosecutor’s Office in Belgrade, on one side, and the Italian Carabinieri Investigation Unit and Anti-Mafia Prosecutor of Department Brescia, on the other, through the assistance of the Interpol NCB and the police liaison officers from the Criminal Police Directorate, and with the support of information received by police officers from Romania (through the SELEC Centre) and Germany. This operation resulted in three persons being deprived of liberty in Serbia and two persons (one of whom was in charge of an organised crime group) being deprived of liberty in Italy. The organised crime group comprised of Serbian nationals and one Romanian national was recruiting women in Serbia and transferring them to Italy where they were forced to street prostitution. In the course of a second action implemented as part of the same operation, after a joint action on suppressing a trafficking chain which sexually exploited Serbian women in Vienna, three persons were deprived of liberty in Serbia and five persons were deprived of liberty in Austria. Further, Serbia participates in a project initiated in 2011 for the establishment of Joint Investigation Teams to fight THB in Southeast Europe, which is financed jointly by the Ministry of the Interior of Slovenia and the Ministries of the Interior and Justice of Bulgaria.

<sup>26</sup> Albania, Algeria, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Denmark, France, Germany, Greece, Italy, Iraq, Hungary, Mongolia, Montenegro, Netherlands, Poland, Romania, Russian Federation, Slovak Republic, Slovenia, Spain, Switzerland, “the former Yugoslav Republic of Macedonia”, Turkey, United Kingdom, United States of America.

103. Serbia also participates actively in the network of National Co-ordinators for South-East Europe, which brings together Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Montenegro, Romania, Serbia, Slovenia and “the former Yugoslav Republic of Macedonia”. By way of example, on 18 October 2012 the national anti-trafficking co-ordinators of South-East Europe issued the Joint Declaration on Enhancing Transnational Referral Mechanisms. As part of the activities of this network, the legal and practical aspects of establishing joint investigation teams have been addressed.

104. Joint actions with foreign police forces are implemented also in the area of preventing THB and awareness raising. A good example is the establishment of the “MARRI Co-operation Network of National THB Co-ordinators”, most of whom are officers of the Ministry of the Interior, which was established in June 2011 in Belgrade during a conference dedicated to the problem of homeless children. The second MARRI meeting of the Co-operation Network of National THB Co-ordinators was held in November 2011 in Skopje.

105. According to public officials met during the evaluation visit, international co-operation related to action against human trafficking, in particular with neighbouring countries, was very good.

106. **GRETA welcomes the efforts of the Serbian authorities in the area of international co-operation and invites them to continue developing international co-operation with a view to combating THB and providing assistance to victims.**

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

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

108. In accordance with the Convention, measures to discourage demand for the services of victims of trafficking, especially women and children, should be understood as a positive obligation on Parties to adopt and reinforce such measures as regards THB for the purpose of any form of exploitation (see paragraph 108 of the Explanatory Report of the Convention). As it is stated in the Recommended Principles and Guidelines on Human Rights and Human Trafficking, strategies aimed at preventing THB shall address demand as a root cause of trafficking.<sup>27</sup>

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

109. A range of measures have been taken by the Serbian authorities, in co-operation with NGOs and intergovernmental organisations, to raise awareness about THB among the general public and specific groups targeted because of their vulnerability to human trafficking. Many of these activities have been funded by the Joint Programme referred to in paragraph 39. In 2011 Serbia joined the United Nations “Blue Heart Campaign” against THB. In the framework of this campaign and with the support of the Joint Programme, the feature film “Sisters” was produced in order to raise awareness of human trafficking through a “real life story”. After a premiere in Belgrade on 10 April 2011, the film was screened in 12 other towns and was aired on national television, with an estimated seven million viewers. Screenings of the film were followed by public debates and television talk shows with the participation of a well-known actress (Bojana Maljević) who was the promoter of the “Blue Heart Campaign”, the Minister of the Interior and the National Co-ordinator. The film was disseminated on DVD in 10 000 copies (with subtitles in Italian and English). Parallel to the film, 3 000 posters, 4 000 Blue Heart symbols, 5 000 information cards and 3 000 bookmarks were produced and disseminated. The film was also screened at the VIVSECT and Mixer festivals in Serbia and the UN offices in Vienna, Geneva and New York.

110. Every year the month of October is declared anti-trafficking month in Serbia and is marked by a variety of anti-trafficking activities. For example, representatives of the Ministry of the Interior take part in round tables, radio and TV shows. Thus in October 2010 police officers participated in public forums in some 359 educational establishments. In 2010-2012 an estimated 250 000 young people received information on THB and how to avoid its risks.

111. The Ministry of Education is taking measures to raise the awareness of children and young people of THB, gender-based violence and drug abuse. The project “School without Violence - Towards Safe and Enabling Environment for Children” is implemented in 212 elementary and nine secondary schools comprising 210 000 students. Further, a teachers’ manual on THB prevention was prepared in co-operation with IOM.

112. As noted in paragraph 40, GIZ as an implementing organisation of the German Government has financed a programme on social protection and prevention of THB since January 2011.<sup>28</sup> The programme is implemented in co-operation with the Ministry of Labour, Employment and Social Policy and involves round-table meetings and awareness-raising events for children and the general public. A poster competition was organised on 18 October 2012 and the selected posters were displayed at an exhibition entitled “What Serbia does not see” and are being used in an information campaign.

<sup>27</sup> Principle 4 of Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add. 1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

<sup>28</sup> <http://www.htsocialprotection.org/applynow.html>.

113. Following the adoption of the National Youth Strategy and the Action Plan for its implementation in 2009, the Ministry of Youth and Sport supported financially two projects relevant to preventing THB: “Improving youth safety through better informing in co-operation with the local youth offices” concerning prevention of THB, school violence and violence against young people from vulnerable groups, and “Education of young men for the prevention of violence and gender-based violence – Be a Man”.

114. In 2011 the Serbian Red Cross produced and disseminated the “Human Trafficking Prevention Kit” containing a manual for educators with case studies and presentations for interactive workshops. The kit comprised two board games, “1, 2, 3, on the way to school”, aimed at advising children aged 6+ on how to act in risky situation, and “Traffedo” intended to teach about human trafficking by means of puzzles, colouring and picture books for preschool children and children with mental disabilities. A total of 2 132 children were involved in presentations of the kit by volunteer educators in 30 municipal organisations of the Red Cross. The kit was also presented at a regional anti-trafficking event organised by the Red Cross societies of Serbia, Montenegro and Croatia on the occasion of the European Anti-Trafficking Day on 18 October 2011.

115. In 2012 the NGO Astra, in co-operation with the OSCE Mission to Serbia and with the financial support of the Austrian Development Agency, ran the media campaign “Stop Labour Exploitation” which involved the dissemination of commercials, music, videos and other materials on television and the Internet with a view to alerting the general public about THB for labour exploitation and promoting proactive action to combat it.

116. Another awareness-raising activity funded by the Joint Programme was carried out by the NGO Roma Cultural Centre. It consisted of four theatre plays entitled “Life by the Road” which were shown in Romani language to some 920 persons from the Roma, Ashkali and Egyptian communities in four settlements. Further, a compilation of songs performed by a Romani musical band was disseminated.

117. The NGO Centre for Youth Integration has organised workshops on prevention of trafficking among children living and/or working on the streets of Belgrade. Since 2003, the NGO Save the Children has run a programme for the prevention of child trafficking. As a follow-up to the study referred to in paragraph 93, preventive measures were developed for homeless children and children without parental care, including interactive art and therapy workshops, outreach activities for homeless children and workshops for children in residential institutions.

118. As an example of private-public partnership, Telenor Serbia and the Ministry of Foreign and Internal Trade and Telecommunications supported the production of a play “Children on the Internet” which highlights the risks that children are exposed to when using Internet, such as paedophilia and human trafficking. The play, which was first presented on 9 November 2012 in the Children’s Cultural Centre in Belgrade, has since been played 10 times in front of 1 450 spectators from 16 schools of Belgrade and is also available on YouTube.

119. In 2011 the NGOs Open Club Nis and Theatre in Action staged theatre plays called “Second Generation” for 350 refugees and internally displaced persons (IDPs). Further, a special publication with information on THB and how to seek assistance is being prepared for asylum seekers and irregular migrants.

120. The use of services of trafficked persons was criminalised in 2009 through paragraph 8 of Article 388 of the CC.<sup>29</sup> Apart from this legislative development, no campaigns or other preventive measures have been conducted to discourage demand leading to THB. Civic education classes for primary and secondary school pupils cover gender equality and the unacceptable nature of discrimination based on sex and its consequences, but this is not a part of systematically planned anti-trafficking activities.

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<sup>29</sup> “Whoever knows or could have known that a person is a victim of human trafficking and abuses the person’s position or enables another person to abuse such a positions for the purposes of exploitation envisaged in paragraph 1 of this Article, shall be punished by imprisonment for six months to five years.”

121. GRETA welcomes the efforts made in Serbia to develop the aspect of prevention of human trafficking through a variety of awareness-raising measures, education in schools and special actions targeted at vulnerable groups. To GRETA's knowledge, the impact of these measures has not been studied. **GRETA considers that future awareness-raising measures should be designed in the light of the assessment of previous measures and be focused on the needs identified. Awareness raising should continue targeting vulnerable groups and inform the general public of forms of THB which are on the rise, such as labour exploitation, forced begging, forced commission of criminal offences and trafficking within Serbia.**

122. **GRETA also invites the Serbian authorities to pursue their efforts to discourage demand for the services of trafficked persons, for all forms in exploitation, in partnership with the private sector and civil society.**

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

123. The National Employment Action Plans for 2010, 2011 and 2012 considered victims of THB as an especially vulnerable category and envisaged active labour market programmes to foster their employment opportunities and achieve greater social inclusion.<sup>30</sup> In July 2010, the National Employment Service and the Agency for Co-ordination of the Protection of Victims of Trafficking signed a Memorandum of Understanding which regulates co-operation in the area of employment of victims of trafficking and their social protection.

124. The NGO Atina carried out a project entitled "Economic Inclusion of Victims of Trafficking through the Labour Market" with financial support from the IOM, the National Employment Service and the Agency for Co-ordination of the Protection of Victims of Trafficking. The project envisaged tax exemptions for employers who provide jobs to victims of trafficking. As noted in paragraph 37, Atina has signed a Memorandum of Understanding with the National Employment Service. As a result of this project, six victims obtained employment contracts and 24 attended vocational training programmes.

125. The Roma community in Serbia is recognised as being at risk of human trafficking. According to the 2011 census, there were 147 604 self-declared Roma in Serbia<sup>31</sup>, but domestic and international sources estimate Serbia's Roma population to number 300 000 to 460 000. According to UNICEF, Roma represent one of Serbia's most marginalised population groups, with nearly 50% poor, 60% unemployed and most living in informal settlements.<sup>32</sup> Lack of education is a major cause and consequence of poverty: 62% of Roma have no elementary education.

<sup>30</sup> See National Employment Action Plan for 2012, Ministry of Economy and Regional Development, at p.15, available at: [http://lokalnirazvoj.rs/assets/files/National%20Employment%20Action%20Plan\\_2012\\_eng.pdf](http://lokalnirazvoj.rs/assets/files/National%20Employment%20Action%20Plan_2012_eng.pdf)

<sup>31</sup> Statistical Office of the Republic of Serbia, 2011 Census of Population, Households and Dwellings in the Republic of Serbia, Supported by the EU, available at:

<http://webrzs.stat.gov.rs/WebSite/userFiles/file/Aktuelnosti/Nacionalna%20pripadnost-Ethnicity.pdf>

<sup>32</sup> [http://www.romachildren.com/?page\\_id=705](http://www.romachildren.com/?page_id=705)



126. Another issue increasing the vulnerability of Roma to human trafficking is the lack of registration at birth and absence of personal documents. The NGO Praxis, which specialises in providing free legal aid to so-called “legally invisible people”, has assisted since 2004 some 2 500 persons to acquire birth certificates and/or personal identity documents, but it is estimated that there are still some 4 000 persons in need of registration. According to a report by Praxis, “women who are not registered into birth registry books cannot register their children either. Such women, and therefore such children, are at a higher risk of becoming victims of violence, exploitation and human trafficking”.<sup>33</sup> The Serbian authorities have taken a number of measures, including legal amendments, to ensure that all persons lacking the required personal documents have access to registration and the necessary documents to exercise their rights.<sup>34</sup> Until the adoption of the Law on Amendments to the Law on Non-Contentious Procedure on 31 August 2012, persons without registration needed to initiate an administrative procedure of subsequent registration. The new legislation provides for a simplified procedure for resolving cases of persons with unrecognised legal status, who can submit a proposal to the court for proving their birth, and based on the final decision regarding the time and place of birth, may enter the birth data to the register of births. The law came into force at the beginning of September 2012 so it remains to be seen how it will be implemented.

127. The Serbian authorities have referred to a number of measures taken to improve the issuance of personal identity documents, such as the adoption of an Action Plan for implementation of the Strategy for Improvement of the Status of Roma for the period up to 2015 and the passing of the Law on Habitual and Temporary Residence of Citizens in 2011. Personal documents for undocumented persons are said to be issued as a matter of priority following an accelerated procedure. Further, the Centre for Co-operation with Civil Society, which is a member of the Technical Group for Registration into Birth Registers, is co-organising five meetings with Roma representatives in the autumn of 2013 throughout Serbia to raise awareness of the need to perform birth registration and assist the process of acquisition of personal documents.

128. The Ministry of Health has set up a Roma Health Mediators programme which is relevant to prevention of THB among the Roma community. An initial training of 75 health mediators on issues related to prevention of THB and protection of children and women was conducted by the Ministries of Health and the Interior, supported by UNICEF and the NGOs Centre for Integration of Roma from the Region and Gitanes. Health mediators perform outreach work in Roma neighbourhoods, visit families and facilitate their access to health care, including vaccinations and examination by doctors. Further, health mediators assist families to send their children to school. Some 131 000 Roma have been visited by health mediators, 30 000 obtained health insurance and 20 800 were registered for employment. GRETA welcomes this programme which promotes the social inclusion of Roma and contributes to preventing THB. Reference should also be made to the UNDP project “Reducing Vulnerability of Roma in Serbia”.

129. A compulsory pre-school programme for Roma children was introduced as part of the Decade of Roma Inclusion 2005-2015 and the Strategy for the Improvement of the Status of Roma in Serbia<sup>35</sup>. According to UNICEF, while the introduction of a compulsory preparatory pre-school programme and affirmative action programmes resulted in more than 60% of Roma six year olds attending pre-school in 2010, primary school enrolment is still low, at only 66% of primary-age children in Roma settlements.<sup>36</sup> This is followed by high drop-out rates caused by discrimination within schools, lack of educational opportunities, and early employment or marriage. Only 13% per cent of Roma children in Serbia complete primary education. GRETA was informed that the Action Plan for Roma Education was being redefined and a number of measures were being planned to foster the enrolment of Roma children in secondary schools and colleges.

<sup>33</sup> See report submitted by the NGO Praxis to the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) for consideration at its 53rd session in October 2012.

<sup>34</sup> Committee on the Elimination of Racial Discrimination, Concluding observations on Serbia, Information received from the Government of Serbia regarding the recommendations in paragraphs 11, 15, 19 and 22 of the concluding observations, 28 June 2013, CERD/C/SRB/CO/1/Add.1, pp.87-106.

Available at: <http://www2.ohchr.org/English/bodies/cerd/docs/co/CERD-C-SRB.CO.1-Add.1.doc>

<sup>35</sup> Available at: <http://www.inkluzija.gov.rs/wp-content/uploads/2010/03/Strategija-EN-web-FINAL.pdf>

<sup>36</sup> [http://www.romachildren.com/?page\\_id=705](http://www.romachildren.com/?page_id=705)

130. The Office for Human and Minority Rights has co-ordinated the process of drafting the Action Plan for implementing the Strategy for Improvement of the Status of Roma until 1 January 2015, which was adopted by the Government on 10 June 2013. Further, in June 2013, the Government established the Council for Improvement of the Status of Roma and Implementation of the Decade of Roma as a task force of the Government tasked with enhanced monitoring of inter-ministerial collaboration. In September 2013, the Office for Human and Minority Rights put in place a new programme entitled Regional Programme, Social Protection and Prevention of Trafficking in Human Beings in collaboration with GIZ and with the financial support of the German Government. The programme will pay particular attention to the aspect of social inclusion of ethnic minorities and identification of victims of trafficking among asylum seekers. Further, over the last 12 months, some 155 200 euros have been allocated to projects of 12 associations dealing with prevention and assistance in implementing asylum and readmission-related policies, with focus on Roma; more efficient implementation of existing strategies related to Roma in Serbia; improvement of the quality of life of Roma through creating and promoting programmes of integrated local services; prevention and suppression of THB in Roma communities, etc. Within the framework of IPA 2011 project entitled Implementation of Anti-Discrimination Policies a training was organised on 4 June 2013 attended by 25 officials from different ministries and agencies.

131. Reference should also be made to the activities of NGOs aimed at decreasing the vulnerability of Roma to trafficking. The NGO Centre for Youth Integration runs a shelter and day care centre where street children receive psycho-social assistance with the aim of their reintegration into the education system. The support activities of the NGO Save the Children focus on the development of new and strengthening of existing alternative services and programmes for street children.

132. Serbia has a large number of returnees from Western Europe under readmission agreements and the authorities recognise the complexity of the problem of vulnerable population categories such as ethnic minorities, displaced persons from Kosovo\* and Metohija, and displaced persons from the former Yugoslavia. The Government has adopted a Strategy for Reintegration of Returnees Based on Readmission Agreements and an Action Plan for implementing this strategy, both of which involve relevant state bodies at the central and local level, NGOs and international agencies. The integration of returnees is aimed at preventing secondary migrations and abuse of women and children. Further, the authorities have appointed working groups for the reception of returnees and have revised the Rulebook and Information Booklet for Returnees.

**133. GRETA welcomes the measures taken by the Serbian authorities vis-à-vis groups vulnerable to THB and considers that the authorities should continue to develop the aspect of prevention through targeted social and economic empowerment measures.**

**134. GRETA urges the Serbian authorities to include in the Strategy for the Improvement of the Status of Roma in Serbia measures to prevent the trafficking of Roma and to provide victims with assistance and protection.**

**135. Further, GRETA invites the Serbian authorities to continue taking steps to secure the registration of all persons, both as a prevention measure and in order to avoid re-trafficking.**

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

136. The control and security of Serbia's borders is the responsibility of the Border Police Directorate within the General Police Directorate of the Ministry of the Interior. As already noted in paragraph 32, there are police officers specialised in combating THB in the seven regional Border Police centres and the Border Police stations at the airports of Belgrade and Niš. A special telephone line for reporting THB offences has been introduced in the operative call centre of the Border Police Directorate, operating 24/7.

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

137. All Regional Border Police Centres have mobile units whose primary task is preventing illegal migration. One of the key tasks of the Border Police is the implementation of an early warning system for detecting forged documents, which is a measure for counteracting THB. The information gathered by the Border Police Directorate is entered in the Case Management Intelligence System which enables rapid response and detection of THB cases. On 1 May 2009 the Minister of the Interior adopted an instruction on the procedure for smuggled persons which sets forth the procedures to be followed by police officers when dealing with smuggled minors, persons with special needs and asylum seekers. This instruction also regulates the procedure for referral of victims of THB.

138. Serbia has established intensive police co-operation with all neighbouring countries and has signed a number of agreements which are the basis for joint action and regular exchange of the information relevant for combating cross-border crime, including THB. The agreement between Serbia and Bulgaria on cross-border police co-operation (signed on 12 November 2007) sets out the modalities for co-operation in combating cross-border crime, especially THB, illegal migration and smuggling of goods. Further, the protocol between the Ministry of the Interior of Serbia and the Ministry of the Interior of Croatia on the establishment of Joint Contact Service, signed on 29 December 2010, sets out co-operation procedures at the border crossing Bajakovo (Croatia). Joint border controls have been established at the borders with Bosnia and Herzegovina, Bulgaria, Montenegro and “the former Yugoslav Republic of Macedonia”; further, the work on establishing joint border controls with Croatia and Hungary are at the final stage. Serbia has a “relaxed regime” for crossing of the border with Bosnia and Herzegovina, Montenegro and “the former Yugoslav Republic of Macedonia” (an ID card is sufficient).

139. On 17 February 2009, the Ministry of the Interior and Frontex signed a Working Arrangement on the Establishment of Operational Co-operation. Further, a Frontex and Western Balkans Risk Analysis Network was established in 2009 which puts in place a system for exchange of information and risk analysis at regional level.

140. Since 2012, the Serbian authorities have introduced an integrated Visa Information System, accessible to all Serbian diplomatic and consular missions abroad, the Ministry of Foreign Affairs and the Ministry of the Interior. The implementation of this system allows for a fast search when checking information and raises the security level of the visa issuance process. To avoid issuing visas where there are grounds to believe that a person may become a victim of THB or is involved in THB, consular staff hold interviews with visa applicants, and in case of children the consent of both parents is obligatory. Visa applications of nationals with high migration risk (e.g. China, India, Pakistan) are screened by specialised units of the Ministry of the Interior. The Serbian authorities have stressed that the visa regime with third countries is in line with the EU Resolution 539/2201 and the visa regulations and standards are synchronised with those of EU and Schengen countries.

141. The consulates and embassies of Serbia abroad provide information concerning the legal entry and stay in Serbia through direct contacts and the websites of the missions.

142. **GRETA welcomes the measures taken by the Serbian authorities and considers that the authorities should make further efforts to:**

- **detect cases of THB in the context of border control;**
- **introduce a checklist to identify potential THB-related risks during the visa application system.**

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

143. When issuing biometric documents the Ministry of the Interior follows the latest protection standards and procedures to prevent any unlawful use and ensure the integrity and security of the documents produced. The new Law on Travel Documents and its by-laws set out provisions to ensure the protection of travel document templates from abuse by incorporating biometric data, thus increasing the security of travel documents. The Law on Travel Documents stipulates that all children must have their own personal travel document and that a request for issuing such a document must be submitted by one of the parents with a written approval of the other parent or legal representative.

144. In Serbia travel document templates are produced in accordance with ICAO 9303 standards, EU Council Recommendation (EC) No. 2252/2004, and ISO, ISO/IEC 14443 and ICAO NTWG standards. As of 29 November 2009 Serbia has started issuing new micro-chipped travel documents containing EAS standards as an additional protection element, which is the second generation electronic passport (passport with a chip containing fingerprint, in addition to photograph and signature), having a higher level of protection in relation to the previous generation.

145. However, the use of identity cards of the previous generation has not yet been discontinued in Serbia. These identity cards allegedly do not meet the security standards and are relatively easy to counterfeit. The Serbian authorities have indicated that identity cards issued prior to the Law on Changes and Amendments to the Law on Identity Cards shall be valid until the date of the identity cards and no later than until 31 December 2016.

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

a. Identification of victims of trafficking in human beings

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

147. The Standard Operative Procedures concerning identification and referral of victims of trafficking, which are contained in an appendix to the Agreement on Co-operation signed on 12 November 2009 between the Ministries of the Interior, Justice, Health, Education, and Labour and Social Policy (see paragraph 16), have been developed under a regional project ran by ICMPD with the support of United States Agency for International Development (USAID). They comprise chapters detailing procedures for the identification of victims, emergency care and assistance, long-term assistance, rehabilitation and reintegration, return to country of origin, participation in criminal proceedings and compensation.

148. Until 2012, the identification of victims of THB was carried out by the Agency for Co-ordination of the Protection of Trafficking Victims, functioning as the National Referral Mechanism for identification of victims of trafficking and co-ordinating activities aimed at establishing victims' needs, providing them with assistance and facilitating their participation in criminal proceedings. As noted in paragraph 29, in April 2012 the Serbian Government set up the Centre for the Protection of Victims of Trafficking in Human Beings with the purpose of performing the identification and referral of victims. The Centre comprises the Office for Co-ordination of the Protection of Victims of Trafficking, the competences of which partly correspond to those of the former Agency. The Centre is a structural part of the Ministry of Labour, Employment and Social Policy and therefore victim identification is based on a social protection approach.

149. The identification of victims of trafficking is initiated by the police, centres for social work, NGOs, shelters for victims of domestic violence, centres for children without parental care or other relevant structures. The body or person who comes across a possible victim of trafficking sends the initial information to the Centre for the Protection of Victims of Trafficking. According to the Centre, some 80% of the possible trafficking cases are reported by the police. There is an internal circular instructing police officers to refer all detected possible victims of trafficking to the Centre. Staff from the Office for Co-ordination of the Protection of Victims travel to the location where the victim has been detected, interview him/her and co-ordinate actions to determine whether the person concerned is a victim of trafficking. The assessment is based on an interview with the possible victim and information received from other relevant sources (the police, NGO, centre for social work, etc.). The Centre has developed a semi-structured questionnaire for the assessment and identification of victims and a standardised form for entering the findings. Staff currently use indicators developed by ILO and UNODC, but it is envisaged that specific indicators will be developed for Serbia and applied to preliminary identification. Once a person has been identified as a victim of trafficking, the Centre issues a certificate to this effect. On the basis of needs assessment, an individual service plan is set up for the victim concerned.

150. In 2012, a Guidance for social work centres on the organisation of the protection of victims of trafficking was published as part of the Joint Programme referred to in paragraph 39. It contains indicators for human trafficking, information on victims' rights and detailed instructions on the planning of individual care plans. Further, a Rulebook on Protection of Victims of Trafficking in the Social Protection System was drafted in May 2012, but it was still not in force at the time of the GRETA visit. The Rulebook is based on the 2011 Law on Social Protection and prescribes the steps to be followed by social services when they detect a possible victim of trafficking. According to the draft Rulebook, "preliminary identification" is carried out by social work centres. The Centre for the Protection of Victims of Trafficking has to establish direct contact with the possible victim within 24 hours of being informed about the preliminary identification. Identification has to be completed by the Centre within three months from the first contact with a possible victim. The Centre is also in charge of co-ordination of support to adult victims, while the provision of support to child victims and adult victims with disabilities are the responsibility of municipal centres for social work.

151. The Serbian authorities have indicated that another by-law of the Law on Social Protection, namely the Rulebook on Minimum Conditions and Standards of Provision of Social Protection Services, which came into effect on 22 May 2013, governs the standards of all social protection services and thus also the conditions for accommodation in reception centres for victims of THB. As numerous by-laws have not yet been adopted, the Ministry of Labour, Employment and Social Policy has drafted an Action Plan for the implementation of the Law on Social Protection. This plan provides for actions in six areas, the first one of which is adoption of the lacking rulebooks, *inter alia*, the Rulebook on Specific Tasks Related to Protection of Victims of Human Trafficking.

152. According to statistical information provided by the Serbian authorities, in 2010-2012 the Agency for Co-ordination of the Protection of Victims of Trafficking identified a total of 304 possible victims, of whom 244 were confirmed as victims of trafficking. The police referred for formal identification 265 of the possible victims, the Shelter for Children without Parental Care (run by the Children and Youth Education Institute) - 10, the NGOs Astra and Atina - 15, IOM - five, centres for social work - two, UNHCR - one, and a shelter for trafficking victims in Bosnia and Herzegovina - two. After the setting up of the Centre, in the period between 1 July and 31 December 2012, a total of 43 victims of trafficking were formally identified (including 23 children).

153. GRETA notes that although NGOs can refer possible victims of THB to the Agency, they do not have a formal role in the identification process. The NGO Astra has operated an SOS Hotline since March 2002 and some 402 persons have reportedly been identified and/or assisted through it. Not all of these persons were reported to the Agency as Astra respects the person's wish not to contact State institutions for fear that if they are officially identified, they could be put under open or covert pressure to assist the police and testify against traffickers. The Serbian authorities have highlighted that the Centre for the Protection of Victims of Trafficking is completely independent from the police and the judiciary. Currently a document is being developed to establish detailed procedures for practical co-operation between the Centre and the NGOs Astra, Atina and Centre for Integration of Youth. One of the points is the participation of NGOs in the process of identification.

154. In 2009-2010, the NGO Atina, in co-operation with the OSCE Mission to Serbia, implemented a project "Development of Local Referral Mechanisms and Regional Campaign", which aimed at strengthening the capacities of local institutions in Novi Pazar, Raska and Prijepolje regions to identify and refer for support victims of trafficking through the creation of referral mechanisms at the local level. The target group included women victims and potential victims of trafficking, staff working in centres for social work, local NGOs, health-care professionals, police officers, prosecutors and employment agency representatives. The campaign contributed to the establishment of a victim identification and referral network at the local level.

155. GRETA was informed of the setting up of city task forces for detecting human trafficking cases in seven towns in Serbia (with EU funding), which has involved the signing of Memoranda of Co-operation in October. Further, GRETA learned of the setting up of a mobile team in Vojvodina (composed of a psychologist, social worker, lawyer, etc.) under a project run by the NGO Novi Sad Humanitarian Centre. Since May 2013, the Ministry of the Interior and IOM have been implementing the project "Strengthening the Systematic Partnership for the Implementation of the National Strategy on Combating Trafficking in Human Beings" which provides for the establishment of local co-ordination teams in 10 Serbian municipalities (Pančevo, Kikinda, Sombor, Novi Pazar, Šabac, Smederevo, Požarevac, Leskovac, Pirot and Prokuplje). These teams will gather representatives of centres for social work, offices for youth protection, the judiciary, the prosecution, the police, the Red Cross of Serbia and NGOs.

156. Labour inspectors may have a role in detecting and referring potential cases of trafficking for labour exploitation. In Serbia, labour inspectors have the right to inspect only officially registered businesses. The Labour Inspectorate has a limited capacity (250 labour inspectors for some 324 500 registered businesses) which does not enable it to cover all economic areas where labour exploitation might be taking place. Labour inspectors can inspect individual farmers (if registered with the Ministry of Finance), but have no authority in the area of domestic work. In cases where labour inspectors receive initial information about a suspected victim of trafficking, they are obliged to report this information to the competent authorities without delay. GRETA understands that the legislation related to labour inspections is in the process of amendment with a view to, *inter alia*, giving labour inspectors the legal powers to undertake measures against all legal and physical entities that illegally employ foreigners. The Serbian authorities have indicated that the new law is expected to enhance the efficiency of inspections and improve the co-ordination of the state authorities taking part in the identification and suppression of cases of labour exploitation.

157. According to information provided by the Serbian authorities, a key role in the control of unregistered business entities is played by the Tax Administration, which is a body under the Ministry of Finance. One of the core competencies of the Tax Administration is the registration of taxpayers by awarding tax ID numbers. Further, the Market Inspection, which is subordinated to the Ministry of Foreign and Internal Trade and Telecommunications, has the power to control, *inter alia*, trade, online trade, conditions for trade of good and the provision of services, including by unregistered businesses. In addition, the control of non-registered business entities is performed by the Tourist Inspection, which belongs to the Ministry of Economy. If the Labour Inspectorate discovers that an employer is not registered with the Business Registers Agency, it notifies one of the previously mentioned authorities.

158. Concerning children, GRETA was informed that the identification interview is adjusted to the child's age and the presence of the guardianship authority is mandatory. Special attention is said to be paid to assessing the family and whether it provides a safe environment. The Family Law stipulates the appointment of a temporary guardian in respect of unaccompanied minors, guardianship being performed by the social work centre in the municipality where the child was found. In July to December 2012, temporary guardianship was provided to 14 child victims of trafficking and in the first eight months of 2013, to two suspected child victims of THB who had applied for asylum. However, GRETA notes that according to a UNHCR report on Serbia published in 2012, there are a number of gaps in the current arrangements (e.g. the child can have up to three different guardians during the asylum process, which makes it difficult, if not impossible, for a relationship of trust to develop between the child and the guardian; the guardians are not sufficiently trained to meet the needs of unaccompanied children and rarely visit them in the asylum centres beyond the first contact).<sup>37</sup> According to the Serbian authorities, the procedure set out in Articles 126 to 134 of the Family Law is such that it is impossible for one person to have several guardians. The Commissioner of Refugees and Migrations has clarified that an unaccompanied minor may change up to three different guardians, but this is the only way to secure the presence of a guardian at any moment at three different locations where the child appears (i.e. border crossing, temporary accommodation, reception centre). In practice, a child asylum seeker does not have several temporary guardians at the same moment.

159. According to information received from the asylum authorities, in the first six months of 2012, 176 unaccompanied minors were registered as asylum seekers (the majority of them were boys aged 16-17) and in the first eight months of 2013, 216 unaccompanied minors. Like most adult asylum-seekers, unaccompanied minors often leave Serbia before their case is decided and move on to EU countries. Unaccompanied children who apply for asylum are accommodated in the institutions for asylum seekers in Banja Koviljača and Bogovadja, which are under the mandate of the Commissioner for Refugees and Migrations. The Serbian authorities have indicated that four staff of the Commissioner's Office attended workshops on the protection of victims of THB in 2012. As for unaccompanied foreign minors who have entered illegally Serbia or whose stay in the country is irregular, they are accommodated in two facilities, at the Institute for Education of Children and Youth in Belgrade in Belgrade, with 12 places (see paragraph 172) and in Niš, with 10 places. The Serbian authorities have indicated that only a few unaccompanied minors apply for asylum while being accommodated in the centres for unaccompanied minors in Belgrade and Niš (only 12 out of 216 applications came from such institutions in the first eight months of 2013).

160. GRETA is concerned by the situation of unaccompanied minors in Serbia and the apparent lack of efforts to identify children at risk among them. The Serbian authorities have indicated that immediately upon their arrival in the Centre for Accommodation at the Institute for Education of Children and Youth in Belgrade, foreign minors are provided with written information on their rights and responsibilities in the language of their country of origin. Within 24 hours, they meet an interpreter, a psychologist and a lawyer who inform them of their rights and provide psychological and legal support. All the experts of the Centre for Accommodation at the Institute for Education of Children and Youth in Belgrade have attended training related to the treatment of victims of trafficking. Further, the Commissioner for Refugees and Migrations and the Ministry of the Interior have proposed a TWINNING project that should be implemented in 2014 whereby experts from competent institutions of EU Member States would help develop procedures for reception and work with unaccompanied minor asylum seekers.

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<sup>37</sup> UNHCR, Serbia as a Country of Asylum - Observations on the Situation of Asylum-Seekers and Beneficiaries of International Protection in Serbia, August 2012, pp.56-58.

161. According to the above-mentioned UNHCR report, Serbia is a country of transit for mixed migration flows from Asia and the Middle East towards EU member States. Serbia has seen a dramatic increase in asylum applicants over the period 2008-2011 (77 applications in 2008 as compared to 3 100 in 2011). According to the Serbian authorities, about one-third of irregular migrants arriving to Serbia apply for asylum to avoid detention, but the majority of them leave Serbia before their asylum application has been dealt with. The Asylum Office lacks capacity to process the increasing numbers of asylum applications and to detect possible victims of trafficking among them. GRETA is concerned that this may leave considerable numbers of victims of trafficking not being identified as such. According to the Serbian authorities, when staff of the Asylum Office come across a potential victim of trafficking during the discharge of their regular duties, they inform the competent organisational unit of the Ministry of the Interior which takes all the necessary steps and informs the Centre for Protection of Victims of Trafficking. **GRETA considers that the Serbian authorities should increase their efforts to detect possible victims of trafficking among asylum seekers and ensure their referral to the Centre for the Protection of Victims of Trafficking for formal identification and support.**

162. GRETA welcomes the multidisciplinary approach to the identification of victims of trafficking and notes with satisfaction that the formal status of victim of THB in Serbia does not depend on the person's co-operation with law enforcement authorities in the investigation of trafficking cases. As the same time, GRETA notes that specialised NGOs can substantially contribute to the victim identification process and should be involved in a multi-agency effort to ensure that no victim of trafficking remains unidentified. This is envisaged by Article 10 of the Convention, according to which identification is a collaborative process between the authorities and relevant victim support organisations.

163. **GRETA considers that the Serbian authorities should take further steps to ensure that victims of trafficking are properly identified and can benefit from all the assistance and protection measures provided for under the Convention. To this end, the Serbian authorities should:**

- **promote multi-agency involvement in victim identification by formalising the role and input of specialised NGOs and involving other relevant actors, such as labour inspectors, social workers and medical staff;**
- **provide frontline staff with operational indicators, guidance and toolkits to be used in the identification process; these indicators should be regularly updated in order to reflect the changing nature of human trafficking;**
- **pursue a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by encouraging labour inspections in sectors most at risk (e.g. agriculture, entertainment, service sector, construction, domestic work);**
- **pay more attention to the identification of victims of trafficking among asylum seekers and unaccompanied foreign minors and provide additional training to staff who come in contact with such persons as well as information on the risks of human trafficking to unaccompanied minors.**



b. Assistance to victims

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

165. In Serbia, the 2011 Law on Social Protection (Article 41) recognises trafficked persons as beneficiaries of social protection services without having to prove that they are in social need, whereas Article 206 specifies that the accommodation of trafficked persons should be financed from the State budget. The Centre for Protection of Victims of Trafficking is responsible for establishing victims' needs and referring them to assistance, which includes accommodation, psychological and financial assistance, counselling, information, medical assistance, access to education, labour market and vocational training. Assistance is provided mainly by NGOs and centres for social work.

166. As already noted in paragraph 30, the planned opening of a State reception centre for victims of trafficking, within the structure of the Centre for Protection of Victims of Trafficking, has been delayed due to the fact that the building assigned to the purpose was subject to temporary seizure because of suspicion that it was acquired by criminal means. The situation is expected to be resolved in the course of 2014.

167. At the time of the GRETA evaluation visit, specialised accommodation for victims of trafficking was provided in a transition house run by the NGO Atina. GRETA visited this facility which is located in a rented apartment in a secret location and has the capacity to accommodate up to six women. At the time of GRETA's visit, the transition house was accommodating three victims of THB. It employed two social workers and one psychologist; medical and other necessary assistance was provided by contracted outside specialists. Victims were provided with psychological support, assistance in access to education and employment, as well as support during court proceedings. The funding for running the transition house was provided mostly by IOM.

168. GRETA was informed that female victims of trafficking could also be accommodated in a shelter for victims of domestic violence run by the centre for social work in Leskovac. Further, between July 2011 and October 2012 the NGO Novi Sad Humanitarian Centre, in partnership with the local centre for social work, implemented the project "Protection and integration of victims of trafficking in Vojvodina" with funding from the Joint Programme. Under this project, part of the premises of the safe house for victims of domestic violence in Novi Sad were adapted to accommodate female victims of trafficking. However, this activity was discontinued in October 2012 due to insufficient human and financial resources of the centre for social work.

169. The Serbian authorities have indicated that the Office for Co-ordination of Protection of Victims of Trafficking refers victims in need of accommodation to the above-mentioned facility run by the NGO Atina and shelters/reception centres managed by the centres for social work in Novi Sad, Sombor, Zrenjanin, Pančevo and Čačak. Negotiations are ongoing with the centres in Šabac and Priboj and the shelter in Niš. During the second half of 2012, only 27 of the 43 identified victims of trafficking were in need of accommodation. The accommodation was most often used by children (20 as compared to seven adults). Adult victims were accommodated in the transition house run by the NGO Atina and one victim, a man, was accommodated in the Gerontology Centre in Belgrade.

170. There are no accommodation facilities for male victims of trafficking in Serbia. Representatives of public bodies indicated that such victims would be provided with necessary assistance on an *ad hoc* basis. In the second half of 2012, 24 male victims were identified (18 adults and six boys). As regards the boys, four were put under guardianship and two were accommodated in specialised social protection institutions. The adult men were victims of trafficking for labour exploitation and there was reportedly no need to accommodate them. In case of need for urgent accommodation, an adult male victim would be placed in a reception centre for adults in need of social protection. There are some 73 institutions of this kind in Serbia where persons with certain needs (the elderly, persons with physical disability, persons with developmental problems) may be placed and where the beneficiaries are ensured 24-hour medical care, accommodation and food. In addition to accommodation, male victims of trafficking may be provided with all other types of assistance received by women victims of trafficking (medical assistance, financial assistance, psychotherapeutic assistance, legal aid, assistance in employment or continuation of education). However, the Serbian authorities have referred to difficulties in providing assistance to male victims (e.g. they are usually persons supporting their families who upon termination of a job immediately accept another; the nature of the jobs they execute, e.g. construction or seasonal work, requires frequent change of locations where they are engaged; personal attitude towards the experience they had undergone; mistrust of the possibility of being helped.).

171. Article 241-6 of the Law on Health Care places foreign nationals identified as victims of THB into the category of persons whose health-care fees should be covered by the state budget. However, GRETA was informed that local health-care centres are mostly not aware of this provision and request NGOs and other service providers to pay for the medical assistance provided to foreign THB victims. As regards health-care measures for Serbian victims of THB, it is to be provided by local social services.

172. The GRETA delegation visited two facilities accommodating, *inter alia*, child victims of trafficking. The first one was located within the Institute for Education of Children and Youth in Belgrade (under the Ministry of Labour and Social Protection), which comprised a shelter for boys and girls (aged 7 to 18) in need of urgent social protection, a centre for unaccompanied foreign minors and a programme for street children. The shelter had a total of 16 places, with separate sections for boys and girls (each section comprising two bedrooms with four beds each and a living area). The annual turnover was around 500-600 children. At the time of GRETA's visit, the shelter was accommodating 19 children, including two girls victims of trafficking. The staff (14 in total) comprised a psychologist, a pedagogue, two social workers, a nurse and special educators (six working during the day and two working at night). All staff have received specialised training. Children received individual psychological support, attended school outside the Institute and had access to a variety of activities. As regards the centre for unaccompanied foreign minors, it comprised two rooms (with four and eight beds respectively) and a common living area. Foreign minors also had access to activities (e.g. Internet club, TV in foreign languages, sports halls, art workshops).

173. Further, GRETA visited the safe house of the centre for social work in Novi Sad which accommodated, *inter alia*, child victims of trafficking. It had a total of 30 places (in rooms with four to six beds). The NGO Novi Sad Humanitarian Centre was involved in the provision of support to victims. In 2012 the safe house had accommodated 12 child victims of trafficking whose stay lasted from one to two months, except for one child from Afghanistan who had stayed for 13 months. Staff consisted of seven nurses for 0-3 year-old children and seven special educators, psychologists and social workers who were taking care of children between seven and 18 years of age. In addition, an expert team composed of pedagogues, psychologists and social workers trained to work with traumatised children was available. The centre for social work was responsible for determining the needs of children and ensured the appointment of a guardian.

174. According to information provided by the Serbian authorities, in 2011 Belgrade municipality provided approximately 40 000 euros towards the financing of assistance and protection of victims of THB delivered by NGOs and other actors in Belgrade. Further, in 2011, the budget of the Ministry of Labour and Social Policy envisaged some 19 000 euros for financing the transition house ran by the NGO Atina. However, the main part of expenses for victim assistance is financed by external donors. The Joint Programme included a Fund for Direct Protection of THB Victims, which covered measures such as obtaining additional qualifications, re-qualification and employment of THB victims. These activities were implemented by the NGOs Atina, the Centre for Youth Integration in Belgrade, Novi Sad Humanitarian Centre, the centre for social work in Novi Sad, the NGO Dawn and the children's home "Duško Radović" in Niš, for the total amount of about 150 000. The staff expenses, as well as expenses relating to the use of premises of the centre for social work in Novi Sad and the children's home "Duško Radović", were covered from the state budget.

175. In 2011-2012 a project entitled "Sustainable Social Inclusion of Victims and Potential Victims of Trafficking" was implemented by the NGOs Atina, Centre for Youth Integration, Novi Sad Humanitarian Centre and the Shelter for Victims of Family Violence in Niš, under the auspices of the Joint Programme. The project involved setting up a network of service providers for victims of trafficking in three communities outside Belgrade. This network assisted victims to access accommodation in half way houses, regulate their legal status, obtain legal assistance in courts proceedings, as well as assistance to find employment, psychological support, life skills training, etc.

176. While welcoming the plans to set up a State reception centre for victims of trafficking, GRETA notes that there is a shortage of accommodation and funding to provide assistance to victims of trafficking in Serbia. Further, there is a lack of long-term integration programmes and initiatives to achieve sustainable reintegration of victims of THB. The evaluation of the implementation of the National Action Plan for 2009-2011 considered it essential to ensure continuous financing of the services provided to victims by NGOs. GRETA notes that the draft National Strategy for 2013-2018 envisages increasing the financing of anti-trafficking activities from the State budget by introducing a separate budget line as of 2014.

**177. GRETA urges the Serbian authorities to step up their efforts to provide assistance to victims of trafficking, and in particular to:**

- **ensure that all assistance measures provided for in law are guaranteed in practice; when assistance is delegated to NGOs as service providers, the State has an obligation to provide adequate financing and ensure the quality of the services delivered by the NGOs;**
- **provide appropriate and safe accommodation with a sufficient number of places for victims of trafficking, including for men and children, in the light of the assessment of trafficking trends in Serbia;**
- **ensure that the services available are adapted to the specific needs of trafficking victims, including children, and that minimum standards are guaranteed when victims of trafficking are accommodated in structures not specifically designed for such victims;**
- **guarantee access to public health care for victims of trafficking;**
- **facilitate the reintegration of victims of trafficking into society and avoid re-trafficking by providing them with long-term assistance, including vocational training and access to the labour market.**

**178. GRETA also invites the authorities to continue providing regular training to all professionals responsible for implementing assistance measures for victims of trafficking.**

c. Recovery and reflection period

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

180. Serbian legislation does not provide specifically for a recovery and reflection period for victims of trafficking. The Serbian authorities have referred to the Instruction on the implementation of the Law on Foreigners, issued by the Minister of the Interior on 14 July 2009. Chapter XXVII of this Instruction, entitled "Humanitarian residence", provides that foreign nationals whom the Agency for Co-ordination of the Protection of Victims of Trafficking has determined are in need of protection as victims of trafficking will be granted temporary residence on humanitarian grounds. Paragraph 68 of the Instruction states that a temporary residence permit may be granted to a victim of trafficking, due to humanitarian reasons, for a period of three months, for the purpose of protection and assistance during the recovery period and repatriation or return to the country of previous residence. Pursuant to paragraph 69 of the Instruction, temporary residence may be granted to a victim of trafficking for a period of six months if he/she co-operates with the competent authorities in the investigation. Further, paragraph 70 of the Instruction states that temporary residence may be granted for a period of one year if the victim actively participates in the court proceeding as a witness or damaged party, as well as when it is necessary for his/her personal safety.

181. Paragraph 72 of the Instruction states that within seven days from accommodating a foreign victim in a shelter for victims of trafficking, the Agency for Co-ordination of the Protection of Victims of Trafficking should apply for a temporary residence to the relevant unit of the Ministry of the Interior according to the place of residence. The request for issuing a temporary residence permit must be personally signed by the victim of trafficking. The procedure for issuing temporary residence permits to victims of trafficking lasts three days from the day of filing the request.

182. According to information provided by the Serbian authorities, the number of victims of trafficking who were granted a recovery and reflection period was seven in 2009, two in 2010 and 11 in 2011.

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

**184. GRETA urges the Serbian authorities to review the legislation in order to ensure that the recovery and reflection period provided for in Article 13 of the Convention is specifically defined in law and that all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention are made available during this period. It should be made clear that the recovery and reflection period is not conditional on the victim's co-operation with the law enforcement authorities.**

d. Residence permits

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

186. Pursuant to Article 28 of the Law on Foreigners, a foreigner who is a victim of trafficking in human beings is issued a temporary residence permit if that is in the interest of conducting criminal proceedings, except for reasons of public order and security and when there are reasonable grounds to believe that a stay will not be used for the intended purpose. For the duration of the temporary residence, foreign victims of trafficking who do not have sufficient means for their subsistence are to be provided appropriate accommodation, food and essential living conditions. Pursuant to Article 29 of the Law on Foreigners, temporary residence may be granted for the duration necessary for the victim's participation in criminal proceedings. The Instruction on the implementation of the Law on Foreigners provides that a temporary residence permit granted to a victim of trafficking may be extended if the grounds persist as follows: up to six months if the person co-operates with the authorities in disclosing criminal offences, up to one year if the person takes an active part in the court proceedings as a witness or injured party, as well as for reasons of personal safety.

187. As already mentioned in paragraph 180, the Instruction on the Implementation of the Law on Foreigners provides for a possibility of granting victims of THB a temporary residence on humanitarian grounds for up to three months. However, it would appear that this provision is assimilated to granting a recovery and reflection period, which should not be confused with the issue of the residence permit (see paragraph 175 of the Explanatory Report on the Convention). The Serbian authorities have indicated that the Instruction on the implementation of the Law on Foreigners does not provide for an extension of the three-month temporary residence on humanitarian grounds.

188. According to information provided by the Serbian authorities, six victims of trafficking were issued a residence permit in 2008, one in 2010 and two in 2011. In the second half of 2012, humanitarian residence was approved for one victim of trafficking who accepted support in recovery and integration and to co-operate in the criminal prosecution. The victim subsequently opted for voluntary return to the country of origin for family reasons. In 2013, the need to grant residence arose in one case (first for three months followed by an extension of six months).

**189. GRETA urges the Serbian authorities to ensure that victims of trafficking can fully benefit from the right to obtain a renewable residence permit, particularly when they are unable to co-operate with the authorities.**

e. Compensation and legal redress

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

191. Pursuant to the Serbian Code of Criminal Procedure (CCP), the injured party, the victim, their inheritors and powers of attorney may file a request for compensation of damages resulting from the criminal offence. The request may be submitted by the end of the main inquiry to the court which decides upon the compensation request in the course of the trial. If the consideration and deliberation of the request would unreasonably prolong the proceedings, the court refers the person to the civil procedure for exercising his/her right to receive compensation of damages. The person who filed the request may waive it by the end of the main inquiry. After the waiver, the request may be exercised only in the civil procedure.

192. Article 210 of the CCP allows courts to temporarily freeze the assets of the perpetrator to secure a forthcoming compensation request. According to the Serbian authorities, this measure has been successfully applied in certain cases involving organised crime. Further, in accordance with Article 45 of the Law on Recovery of Illegally Gained Assets, it is possible to provide compensation to victims of offences when the property is confiscated after a final judgment of the court. If compensation cannot be claimed from the perpetrator the court may decide to pay compensation from the confiscated property.

193. In practice, obtaining compensation from perpetrators is very difficult in Serbia. GRETA was informed that courts are generally reluctant to include the consideration of compensation claims in criminal proceedings due to a risk of prolonging them and usually refer victims to civil proceedings. Civil proceedings may last even longer, require considerable expenses on the part of victims and place the burden of proof on the victim. There have been no cases of successful compensation claims concerning victims of trafficking in Serbia, be it through criminal or civil proceedings.

194. There is currently no possibility for victims of trafficking to obtain compensation from the State. The OSCE mission to Serbia initiated an analysis of the existing mechanisms for compensation of victims of THB and produced a report with recommendations to that effect. GRETA notes that Serbia has signed the Council of Europe Convention on Compensation for Victims of Violent Crime, but has not yet ratified it. According to information provided by the Serbian authorities, the ratification of this Convention is expected in the course of 2014.

195. There is no law on free legal aid in Serbia and victims of trafficking depend on NGOs in this respect. For example, the NGO Astra has reportedly spent some 32 000 euros on legal representation of victims of trafficking. GRETA was informed that the right to legal aid for vulnerable witnesses (including victims of THB) is provided for in the new Code of Criminal Procedure. The Ministry of Justice and State Administration has established a task force for drafting the Law on Free Legal Aid. The draft law is to be finalised by the end of 2013 and will be sent to the Council of Europe for expertise.

196. The Centre for Protection of Victims of Trafficking has spent from its budget RSD 210 550 (approximately EUR 1 834) in 2012 and RSD 264 700 (approximately EUR 2306) by the end of August 2013 for engaging lawyers. Since the establishment of the Centre in June 2012, legal assistance has been provided to 28 victims of trafficking. In 2013, the engagement of lawyers was also provided by the NGO Astra in four cases. Four victims of trafficking (of whom three were children) received free legal aid through the appointment of a lawyer by the court.

197. **GRETA urges the Serbian authorities to adopt measures to facilitate access to compensation for victims of trafficking, and in particular:**

- **ensure that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;**
- **enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid, by building the capacity of legal practitioners to support victims to claim compensation and including compensation into existing training programmes for law enforcement officials and the judiciary;**
- **enable victims of trafficking who have left Serbia to benefit from the possibilities to claim compensation.**

198. **Further, bearing in mind that no victims of trafficking have received compensation from the perpetrators, GRETA urges the Serbian authorities to set up a State compensation scheme accessible to victims of THB regardless of their nationality and residence status.**

f. Repatriation and return of victims

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

200. Pursuant to the Standard Operative Procedures Regarding Victims of Trafficking (see paragraph 147), the responsibility for the safe return of victims is vested with the Agency for Co-ordination of the Protection of Victims of Trafficking. The Agency establishes contacts with relevant institutions in the foreign country which is referring the victim and requests the necessary assessments (from the police - a safe return assessment, from the centre of social work - an assessment of whether the victim can return to his/her family of origin and, if not, adequate accommodation for the victim is found and other types of assistance that the victim may need are prepared, depending on his/her psychological and physical health condition). After the victim is received and informed about his/her rights, he/she is referred to other service providers (State institutions or NGOs).

201. When it comes to co-operation with other countries in respect to the preparation for repatriation of foreign nationals identified as victims of THB on the territory of Serbia, the procedure is similar. Contact is made with the consular mission of the country of origin, a representative of the organisation that provides assistance in the country of origin is contacted and it is ensured that there is someone waiting for the victim at the airport or border crossing and that accommodation is ensured, if needed.

202. Following the setting up of the Centre for the Protection of Victims of Trafficking in June 2012, it became responsible for the repatriation and return of victims of THB, pursuant to Article 7 of the draft Rulebook on Minimum Standards for the Protection of Victims of Trafficking. According to the Rulebook, the assessment of risks involved in the return of victims to Serbia is conducted by the competent centre for social work, the Centre for Protection of Victims of Trafficking and the Ministry of the Interior. In collaboration with the corresponding bodies in other countries, centres for social work assess the risk factors related to the family and personality of the victim. The safety assessment of the Ministry of the Interior is essential. All participants are engaged in the process via competent ministries or consular missions/embassies and direct contact is made with organisations of the country where the victim is located. The first contact in the countries where there is a national coordinator is most often made via the office of the national coordinator. In case of a child victim of trafficking, the decision on repatriation is made by the parents or guardian of the child, in co-operation with the Centre for the Protection of Victims of Trafficking. The parents of the child are assessed in order to ensure that they are not responsible for trafficking the child and have adequate parental capacities. The decision-making process always involves the child victim, with respect of his/her rights and development. The decision-making process is the same when the victims are foreign nationals.

203. **GRETA considers that the Serbian authorities should take further steps to ensure that the return of victims of trafficking is conducted with due regard for the rights, safety and dignity of the person and the status of legal proceedings; this implies protection from retaliation and re-trafficking.**

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

##### **a. Substantive criminal law**

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

205. Article 388, paragraph 1, of the Serbian Criminal Code (see paragraph 51) provides for penalties of three to 12 years of imprisonment for the basic offence of human trafficking. Further, pursuant to Article 389 of the CC, trafficking in minors for adoption is punished by imprisonment of one to five years. Reference should also be made Article 390 of the CC "slavery and a relationship similar to slavery", which prescribes penalties of one to 10 years of imprisonment.

206. The aggravating circumstances provided for in Article 388, paragraphs 3, 4, 5, 6 and 7, of the CC, include trafficking of children (punishable by at least five years of imprisonment), trafficking resulting in a serious bodily injury (five to 15 years of imprisonment), trafficking resulting in the death of one or more persons (at least 10 years of imprisonment), repeated trafficking offence or trafficking by a group (at least five years of imprisonment), and trafficking by an organised group (at least 10 years of imprisonment). However, two aggravating circumstances provided for in the Convention are omitted from the text of Article 388 of the CC, namely when the offence is committed by a public official in the performance of his/her duties and when it deliberately or by gross negligence endangered the life of the victim. The Serbian authorities have indicated that when a criminal offence of THB is perpetrated by a public official in performance of his/her duties, the official shall be responsible under two charges: criminal offence of trafficking in human beings under Article 388 of the CC and the criminal offence "abuse of office" under Article 359 of the CC. More generally, aggravating circumstances are governed by Article 54 of the CC which allows the court to assess, in each particular case, whether there are some other mitigating or aggravating circumstances for the defendant. Further, Article 388, paragraph 4, of the CC defines serious bodily harm of a person as a result of perpetration of a criminal offence as a qualified form of the criminal offence of THB. A serious bodily harm pursuant to Article 121, paragraph 2, of the CC involves also impairment of health of the injured party to the extent that it threatened his/her life. Consequently, the provision under Article 388, paragraph 4, of the CC covers also threat to life of a victim as regulated in the Convention, be it intentionally or through gross negligence.

207. Courts in Serbia have the possibility to take into account previous convictions when applying sentences for THB offences. Article 54 of the CC on the general principles of sentencing stipulates that court shall determine the penalty within the statutory limits specified for offences, taking into account the purpose of the sanction and all the mitigating and aggravating circumstances. According to the Serbian authorities, when applying this provision, courts consider previous convictions as an aggravating circumstance, which would lead to a more stringent penalty. Courts may request previous criminal records from other countries pursuant to the Law on International Legal Assistance in Criminal Matters, as well as the international agreements on this subject of which Serbia is Party.



208. As noted in paragraph 120, Article 388, paragraph 8, of the CC establishes as a criminal offence to knowingly use the services of a victim of human trafficking. GRETA welcomes the inclusion of this provision in Serbian legislation. The penalty envisaged in from six months to five years of imprisonment (and in the case of child victims, from one to eight years of imprisonment) During the evaluation visit, the GRETA delegation was informed of a recent case in Smederevo (operation "Lantern") which involved the sexual exploitation of 12 persons (seven women and five girls) recruited by taxi drivers; 16 persons were charged under Article 388, paragraph 8, of the CC in January 2013. In the course of identification, the seven women were found not to be victims of THB and criminal charges were filed against the taxi drivers under Article 184 of the CC (mediation in prostitution). Only one person agreed to co-operate with the Centre for the Protection of Victims of Trafficking and accepted support. All five girls were identified as victims of trafficking. The plan of services for each of the victims was developed by the competent centre for social work in Smederevo with the involvement of the Centre and the NGO Astra.

209. Retaining of personal documents for the purpose of enabling THB is stipulated as one of the actions in the definition of the THB offence under Article 388 of the CC. However, the other actions listed in Article 20 of the Convention (removing, concealing, damaging or destroying a travel or identity document of another person committed intentionally and for the purpose of enabling THB) do not appear to be established as criminal offences. The Serbian authorities have indicated that while these actions are not established as criminal offences enabling THB, in their practice, courts consider them as retaining of personal documents and fostering a dependency relationship and hardship of another person, which are criminal offences established by law. Articles 355 and 357 of the CC establish as criminal offences: forgery of a personal document and forgery of public document, which state the actions to be constructing or changing a personal document for the purpose of using it as genuine and use and procurement of false personal documents, destruction, damaging or concealing of an official document. If the said offences have been committed for the purpose of trafficking, the perpetrator would, in addition to these offences, also be charged for the criminal offence of trafficking.

210. The 2008 Law on the Liability of Legal Entities for Criminal Offences applies to THB and is applicable to Serbian and foreign legal entities responsible for criminal offences in Serbia, foreign legal entities committing offences on the territory of a foreign country which damage Serbia or a Serbian national or legal entity, and Serbian legal entities committing offences abroad. Pursuant to Article 13 of this law, the sanctions include a fine and termination of the status of legal entity. Further, the law allows for the prohibition of practicing activities and operations, confiscation of instrumentalities and publication of the judgment. **GRETA would like to be informed if any legal entities have been convicted of THB-related offences.**

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

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

212. Serbian legislation does not contain a specific legal provision concerning the non-punishment of victims of trafficking. According to the Serbian authorities, the provisions of Article 14(2) of the CC establish the general principle that there is no criminal offence without an unlawful act or culpability, regardless of the presence of elements of crime. Further, Article 21 of the CC stipulates that an act committed under irresistible force would not be considered a criminal offence, while the commission of an offence under force which was not irresistible would trigger the application of mitigating circumstances leading to more lenient sanctions. Pursuant to Article 236 of the CCP, the prosecutor may postpone prosecution for an offence punishable by a maximum of three years of imprisonment and, subject to the court's approval, for offences punishable by imprisonment from three to five years.

213. Further, Article 15 of the Law on Misdemeanours stipulates that if a misdemeanour was committed under force or under threat it would not be considered as such. Reference should also be made to paragraph 71 of the Instruction on the Implementation of the Law on Foreigners, which states that if a victim of trafficking entered Serbia illegally or if his/her stay is irregular, the competent authority is obliged to define any facts and circumstances excluding or reducing the criminal or administrative responsibility of the victim of trafficking. The Centre for the Protection of Victims of Trafficking has information about three victims of trafficking who entered Serbia illegally after 2 July 2012. A misdemeanour procedure was not initiated in two cases. In one case, a procedure was initiated for misdemeanours pursuant to the Law on Foreigners and the Law on Misdemeanours, the person was found to be guilty and the most lenient sanction (warning) was pronounced.

**214. GRETA considers that in order to strengthen the implementation of the non-punishment provision of the Convention, the Serbian authorities should take legislative measures allowing 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 well as issue guidance to public prosecutors advising them on the steps to be taken when prosecuting suspects who might be victims of trafficking.**

c. Investigation, prosecution and procedural law

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

216. In Serbia, a criminal investigation into trafficking in human beings is initiated *ex officio* by the public prosecutor or the police following a request by the prosecutor. If the prosecutor concludes that there are no grounds for prosecution he/she must notify the injured party within eight days and inform the injured party that he/she may undertake private prosecution. The court must act in the same manner if it decides to terminate proceedings on the grounds of prosecution being waived by the public prosecutor.

217. Within the Public Prosecutor's Office,<sup>38</sup> there are two Prosecutor's Offices with special competencies: Prosecutor's Office for Organised Crime (which deals with terrorism and other organised crimes, including THB) and Prosecutor's Office for War Crimes, both of which are based in Belgrade but have competences over the territory of the whole country. GRETA was informed that only two cases of THB had been dealt with by the Prosecutor's Office for Organised Crime in the last three years as the great majority of THB cases had not involved organised crime groups.

218. According to senior police officers met during the evaluation visit, the Serbian police adopt a proactive approach to combating human trafficking. The GRETA delegation was presented several examples of police inquiries leading to successful convictions for human trafficking. However, according to NGOs, there is need for a more proactive approach by the police, both as regards trafficking for the purpose of sexual exploitation (no raids were apparently carried out in 2012) and in respect of other forms of exploitation. According to the Serbian authorities, police officers and in particular those working in the specialised police units for combating THB conduct continuous activities related to the control of services and tourist facilities with a view to identifying potential THB cases and potential victims, with emphasis on the control of hotels and night clubs.

<sup>38</sup> The Public Prosecutor's Office consists of Republican Public Prosecution, appellate prosecutor's offices, higher prosecutor's offices, basic prosecutor's offices and prosecutor's offices with special jurisdictions.

219. GRETA was informed that the investigation of THB cases is often carried out by joint teams involving specialised police officers from the Border Police Directorate and the Criminal Police Directorate. The use of special investigation techniques is regulated by Article 161 of the new Code of Criminal Procedure, which provides for the following techniques: covert interception communication, secret surveillance and recording, simulated deals, computer search of data, controlled delivery and undercover investigator. Article 161 of the new CCP established the list of criminal offences in respect of which special investigation techniques may be ordered, which includes THB. With respect to THB, special investigation techniques may be ordered in case the criminal offence was not perpetrated by an organised criminal group, except undercover investigator, which may be ordered only for criminal offences committed by organized criminal groups, subject to a procedure of the public prosecutor's office with special competencies as established by a separate law.

220. Article 91 of the CC proscribes retaining of the proceeds of crime and Article 92 of the CC sets forth the terms and conditions for their seizure and confiscation. Further, the Law on Seizure and Confiscation of the Proceeds of Crime stipulates the terms, procedure and authorities responsible for the detection, seizure and confiscation of the proceeds of crime, including from the offence of THB. There is a financial investigation unit within the Criminal Police Directorate and financial investigations are mandatory in organised crime cases. The Prosecutor's Office can request immediate temporary seizure and ban on the use the property. The Serbian authorities have indicated that there has been only one decision in a case directly linked to human trafficking: in 2010, the Higher Court in Novi Sad ordered the temporary seizure of property in the "Djuric" case. **GRETA considers that the Serbian authorities should take steps to guarantee the effective application of the legal provisions concerning the confiscation of traffickers' assets.**

221. According to statistical information provided by the Serbian authorities, the number of criminal proceedings initiated on grounds of THB was 56 in 2009, 68 in 2010 and 48 in 2011. The number of convictions was 26 in 2010 and 63 in 2011, with imprisonment sentences ranging from six months to 10 years. As regards 2012, GRETA was informed that 36 criminal charges were filed for THB in respect of 68 alleged perpetrators and involving 63 victims (including 28 children). All but one of the alleged perpetrators were Serbian nationals. As regards the victims, 58 of them were Serbian nationals and the remainder were from Montenegro (one), Bosnia and Herzegovina (one), the Republic of Moldova (one) and two stateless persons. The majority of the victims (42) had been subjected to THB for sexual exploitation.

222. GRETA was informed of two cases of THB involving police officers who had abused their position: one dating back to 2007 and involving the recruitment of young women for sexual exploitation in Novi Pazar, and another in 2011 in Sombor. In both case, the police officers involved had reportedly been convicted.

223. During the country visit, the GRETA delegation sought information on the case "SerbAz" which had involved men from Bosnia and Herzegovina, Serbia and "the former Yugoslav Republic of Macedonia" allegedly trafficked to Azerbaijan in 2009. The persons in question were recruited as construction workers by the company "SerbAz Project Design and Construction LLC" (registered in the Netherlands and Azerbaijan). According to a report by the NGO Astra, the persons concerned had had their passports taken away upon their arrival in Azerbaijan, had been accommodated in poor conditions and had not had their salaries paid. The GRETA delegation was informed that the Office for the Protection of Victims of Trafficking received information about the "SerbAz" case from the police on 22 October 2009. On 3 November 2009, identification interviews were conducted with six Serbian citizens and they were accorded the status of victims of labour exploitation, but they refused further assistance and support. Also in November 2009, the Serbian Ministry of Foreign Affairs established contact with the Ministry of Foreign Affairs of Azerbaijan and instructed an official of the embassy of Serbia in Turkey to travel to Azerbaijan and find out about the status of the Serbian nationals. The feedback received was that they were well, the payment of outstanding salaries had been agreed with the Ministry of Youth and Sports of Azerbaijan, the conditions of residence had changed and the workers could get their documents at the company headquarters. The Serbian police interviewed some 19 persons in relation to this case and requested assistance from Interpol, Azerbaijan and Bosnia and Herzegovina, but in the end there was no confirmation of a human trafficking case and the prosecution was suspended.

224. **While welcoming the law enforcement and prosecution efforts against human trafficking in Serbia, GRETA invites the Serbian authorities to develop further the training and specialisation of investigators, prosecutors and judges with a view to ensuring that human trafficking offences are effectively investigated and prosecuted, leading to proportionate and dissuasive sanctions.**

d. Protection of victims and witnesses

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

226. In accordance with Article 66 of the CCP, representatives of NGOs and victim support organisations may participate in criminal proceedings on the basis of a power of attorney of the injured party if these proceedings are open to the public. The Law on the Protection Programme for Participants in Criminal Proceedings stipulates the terms and procedure for the provision of protection and assistance to participants in criminal proceedings (suspects, defendants, protected witnesses, witnesses, injured parties, court experts and professionals) and persons close to them whose lives, health, physical integrity, freedom or property is threatened because they have given evidence or information that is relevant for the establishment of proof in the criminal proceedings.

227. Further, by virtue of Article 109 of the CCP the court must ensure protection of witnesses or the injured parties from verbal abuse, threats and any other form of assault. At the proposal of the court chamber president, the investigative judge or the public prosecutor may request specific protection measures to be applied. Should there be circumstances indicating that a witness or persons close to him/her would have their lives, bodily integrity, health, freedoms or large value assets threatened as a result of giving public testimony, especially in criminal offences involving organised crime, corruption and other grave criminal offences, including THB, the court may decide to accord such witness the status of a protected witness, which would allow his/her to be interviewed without revealing their identity and be provided with physical security measures in the course of the trial. Protection of an injured party is also provided under Article 337(1) of the CCP, which states that testimony records may be read, if the court so decides, in case the appearance of persons who gave the testimony before the court is difficult or impossible due to old age, illness or other relevant reasons.

228. Special measures on the protection of minors as injured parties in the criminal procedure are provided under the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles. In particular, this law states that a minor who is an injured party may be interviewed more than twice only in exceptional cases and this interview may be conducted without the presence of the other participants in the proceedings by transmitting questions through the judge, psychologist, pedagogue or other professional person. If the interviewed witness is a minor in an especially difficult emotional state, it is prohibited to have a face contact with the defendant. A minor must have a legal representative from the first hearing.

229. As stipulated in Article 103 of the new CCP, the authority conducting proceedings may *ex officio*, or at the request of parties or the witness, designate as an especially vulnerable witness a witness who is especially vulnerable in view of his age, experience, lifestyle, gender, state of health, nature, the manner or the consequences of the criminal offence committed, or other circumstances. The ruling determining a status of an especially vulnerable witness is issued by the public prosecutor, president of the panel or individual judge.

230. On 1 May 2012 the Ministry of Justice adopted “Special Protocol on Acting of the Judicial Bodies in Protection of Victims of THB” which aims at raising the awareness of judges, prosecutors and other legal professionals of THB and its impact on victims. The Protocol provides detailed guidance on the recognition, detection and proving of human trafficking offences, types of investigations, methods of collecting and exchanging intelligence, victims in criminal proceedings, and victim care.

231. GRETA takes note with satisfaction of the existing legal measures to ensure the protection of victims and witnesses during proceedings relating to THB. However, there is no information available on the practical implementation of the existing measures of protection or the number of cases where such measures were invoked. A number of studies<sup>39</sup> suggest that there are important shortcomings in the implementation of the legal provisions, such as lack of protection from threats by defendants and their relatives, insufficient protection of the identity of especially vulnerable victims, repeated interviewing of victims at court hearings, frequent adjournment of court hearings due to malevolent non-appearance of defendants at court proceedings. Further, GRETA is concerned by the practice of direct confrontation of victims of THB with the presumed traffickers during court hearings (i.e. cross examination of victims by traffickers in court). Reference is made to Recommendation No. R(97) 13 of the Committee of Ministers of the Council of Europe concerning intimidation of witnesses and the rights of the defence, which establishes a set of principles as guidance for national law and provides a list of measures which could help protect the interests both of witnesses and of the criminal justice system, while guaranteeing the defence appropriate opportunities to exercise their rights in criminal proceedings.

**232. GRETA urges the Serbian authorities to make full use of the measures available to protect victims and witnesses of THB and to take additional measures to ensure that they are adequately protected from potential retaliation or intimidation in the course of judicial proceedings, including by reviewing the practice of direct confrontation of victims with suspected traffickers in court.**

**233. GRETA also considers that the Serbian authorities should ensure that child victims of trafficking are afforded special protection measures taking into account the best interests of the child.**

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<sup>39</sup> “Comprehensive Study on the Criminal Justice Response and Jurisprudence in the Area of Anti-Human Trafficking in Serbia”, produced under the Joint Programme in 2011; “Standing of Victims of Trafficking in Human Beings in Court Procedures – 2012 Analysis of Case Law” published by NGO Astra in 2012; Combating Trafficking in Human Beings – Good Practices / Manual for Institutions.

## 5. Concluding remarks

234. GRETA welcomes the steps taken by the Serbian authorities to combat trafficking in human beings and support victims of trafficking, through the development of a comprehensive legal and policy framework and the setting up of specialised structures. The emphasis on training of relevant professionals, the efforts to raise awareness and reduce the vulnerability to trafficking, and the multidisciplinary approach to the identification of victims are positive features of Serbia's anti-trafficking efforts. Moreover, GRETA commends the independent evaluation of the implementation of the previous National Action Plan and the involvement of civil society in the preparation of the new National Strategy and Action Plan.

235. However, GRETA draws attention to the need for adapting the existing anti-trafficking policies with a view to strengthening action against trafficking for the purpose of labour exploitation and addressing the particular vulnerability of children to trafficking. Additional measures should be taken to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with the private sector and civil society. Securing funding from the State budget will be indispensable for the implementation of the new National Strategy.

236. Several important challenges remain to be tackled through legislative, policy or practical measures in order to meet the requirements of the human rights-based and victim-centred approach followed by the Convention. It is incumbent on the authorities to ensure that all victims of trafficking are properly identified and can benefit from the assistance measures provided for under the Convention and Serbian law. Further, notwithstanding the legal possibility of granting a recovery and reflection period, issuing residence permits and awarding compensation to victims of human trafficking, the authorities must ensure the effective access to these entitlements.

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

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

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

## **Appendix I: List of GRETA's proposals**

### **National Strategies and Action Plans**

1. GRETA invites the Serbian authorities to mainstream anti-trafficking action in the next national youth strategy

### **Definition of "trafficking in human beings"**

2. GRETA considers that the Serbian authorities should expand the scope of Article 389 of the CC to include persons up to the age of 18, in line with the Convention which considers any person under 18 a child.

### **Comprehensive approach and co-ordination**

3. GRETA invites the Serbian authorities to continue developing co-ordination between public bodies and civil society actors engaged in anti-trafficking action and to ensure that NGOs are involved in the planning and implementation of national policy. The further conclusion of formal Memoranda of Understanding between public bodies and competent NGOs should be encouraged.

4. GRETA considers that the Serbian authorities should establish a fully-fledged post of National Co-ordinator supported by a dedicated office which is commensurate with the tasks at hand, to enable this body to effectively carry out its mandate.

5. GRETA also considers that the Serbian authorities should take further steps to ensure that national action to combat THB is comprehensive, and in particular:

- strengthen action to combat THB for the purpose of labour exploitation by involving civil society, the Labour Inspectorate, businesses, trade unions and employment agencies in a joint platform and improving the identification of and assistance to victims of THB for the purpose of labour exploitation;
- pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking, in particular children from socially vulnerable groups, displaced children and unaccompanied foreign minors, and ensure that the best interest of the child are fully taken into account.

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

### **Training of relevant professionals**

7. GRETA invites the Serbian authorities to continue improving the knowledge and sensitivity of relevant professionals (including police officers, social workers, professionals working with children, labour inspectors, medical staff, public prosecutors, judges, the media and other groups concerned) about THB and the rights of victims. Future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify victims of trafficking, to assist and protect them, to facilitate compensation for victims and to secure convictions of traffickers.

## **Data collection and research**

8. GRETA considers that the Serbian authorities should enhance exchanges of statistical information among the agencies responsible for collecting different types of information relating to THB. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection. When examining trends of THB in Serbia, the authorities should co-operate with NGOs providing assistance to victims with the view to taking into account the statistical information collected by such NGOs.

9. GRETA invites the Serbian authorities to continue conducting and supporting research on THB-related issues as an important source of information for the evaluation of current programmes and for planning future policy measures. Areas where more research is needed in order to shed light on the extent and trends of human trafficking in Serbia and inform policy makers include trafficking for the purpose of labour exploitation, trafficking in children and trafficking within Serbia.

## **International co-operation**

10. GRETA invites the Serbian authorities to continue developing international co-operation with a view to combating THB and providing assistance to victims.

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

11. GRETA considers that future awareness-raising measures should be designed in the light of the assessment of previous measures and be focused on the needs identified. Awareness raising should continue targeting vulnerable groups and inform the general public of forms of THB which are on the rise, such as labour exploitation, forced begging, forced commission of criminal offences and trafficking within Serbia.

12. GRETA also invites the Serbian authorities to pursue their efforts to discourage demand for the services of trafficked persons, for all forms in exploitation, in partnership with the private sector and civil society.

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

13. GRETA considers that the authorities should continue to develop the aspect of prevention through targeted social and economic empowerment measures.

14. GRETA urges the Serbian authorities to include in the Strategy for the Improvement of the Status of Roma in Serbia measures to prevent the trafficking of Roma and to provide victims with assistance and protection.

15. Further, GRETA invites the Serbian authorities to continue taking steps to secure the registration of all persons, both as a prevention measure and in order to avoid re-trafficking.

## **Border measures to prevent THB and measures to enable legal migration**

16. GRETA considers that the Serbian authorities should make further efforts to:

- detect cases of THB in the context of border control;
- introduce a checklist to identify potential THB-related risks during the visa application system.



## Identification of victims of trafficking in human beings

17. GRETA considers that the Serbian authorities should increase their efforts to detect possible victims of trafficking among asylum seekers and ensure their referral to the Centre for the Protection of Victims of Trafficking for formal identification and support.

18. GRETA considers that the Serbian authorities should take further steps to ensure that victims of trafficking are properly identified and can benefit from all the assistance and protection measures provided for under the Convention. To this end, the Serbian authorities should:

- promote multi-agency involvement in victim identification by formalising the role and input of specialised NGOs and involving other relevant actors, such as labour inspectors, social workers and medical staff;
- provide frontline staff with operational indicators, guidance and toolkits to be used in the identification process; these indicators should be regularly updated in order to reflect the changing nature of human trafficking;
- pursue a proactive approach to the identification of victims of trafficking for the purpose of labour exploitation by encouraging labour inspections in sectors most at risk (e.g. agriculture, entertainment, service sector, construction, domestic work);
- pay more attention to the identification of victims of trafficking among asylum seekers and unaccompanied foreign minors and provide additional training to staff who come in contact with such persons as well as information on the risks of human trafficking to unaccompanied minors.

## Assistance to victims

19. GRETA urges the Serbian authorities to step up their efforts to provide assistance to victims of trafficking, and in particular to:

- ensure that all assistance measures provided for in law are guaranteed in practice; when assistance is delegated to NGOs as service providers, the State has an obligation to provide adequate financing and ensure the quality of the services delivered by the NGOs;
- provide appropriate and safe accommodation with a sufficient number of places for victims of trafficking, including for men and children, in the light of the assessment of trafficking trends in Serbia;
- ensure that the services available are adapted to the specific needs of trafficking victims, including children, and that minimum standards are guaranteed when victims of trafficking are accommodated in structures not specifically designed for such victims;
- guarantee access to public health care for victims of trafficking;
- facilitate the reintegration of victims of trafficking into society and avoid re-trafficking by providing them with long-term assistance, including vocational training and access to the labour market.

20. GRETA also invites the authorities to continue providing regular training to all professionals responsible for implementing assistance measures for victims of trafficking.

## **Recovery and reflection period**

21. GRETA urges the Serbian authorities to review the legislation in order to ensure that the recovery and reflection period provided for in Article 13 of the Convention is specifically defined in law and that all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention are made available during this period. It should be made clear that the recovery and reflection period is not conditional on the victim's co-operation with the law enforcement authorities.

## **Residence permits**

22. GRETA urges the Serbian authorities to ensure that victims of trafficking can fully benefit from the right to obtain a renewable residence permit, particularly when they are unable to co-operate with the authorities.

## **Compensation and legal redress**

23. GRETA urges the Serbian authorities to adopt measures to facilitate access to compensation for victims of trafficking, and in particular:

- ensure that victims of trafficking are systematically informed in a language that they can understand of the right to seek compensation and the procedures to be followed;
- enable victims of trafficking to exercise their right to compensation by ensuring their effective access to legal aid, by building the capacity of legal practitioners to support victims to claim compensation and including compensation into existing training programmes for law enforcement officials and the judiciary;
- enable victims of trafficking who have left Serbia to benefit from the possibilities to claim compensation.

24. Further, bearing in mind that no victims of trafficking have received compensation from the perpetrators, GRETA urges the Serbian authorities to set up a State compensation scheme accessible to victims of THB regardless of their nationality and residence status.

## **Repatriation and return of victims**

25. GRETA considers that the Serbian authorities should take further steps to ensure that the return of victims of trafficking is conducted with due regard for the rights, safety and dignity of the person and the status of legal proceedings; this implies protection from retaliation and re-trafficking.

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

26. GRETA considers that in order to strengthen the implementation of the non-punishment provision of the Convention, the Serbian authorities should take legislative measures allowing 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 well as issue guidance to public prosecutors advising them on the steps to be taken when prosecuting suspects who might be victims of trafficking.

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

27. GRETA considers that the Serbian authorities should take steps to guarantee the effective application of the legal provisions concerning the confiscation of traffickers' assets.

28. GRETA invites the Serbian authorities to develop further the training and specialisation of investigators, prosecutors and judges with a view to ensuring that human trafficking offences are effectively investigated and prosecuted, leading to proportionate and dissuasive sanctions.

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**Protection of victims and witnesses**

29. GRETA urges the Serbian authorities to make full use of the measures available to protect victims and witnesses of THB and to take additional measures to ensure that they are adequately protected from potential retaliation or intimidation in the course of judicial proceedings, including by reviewing the practice of direct confrontation of victims with suspected traffickers in court.

30. GRETA also considers that the Serbian authorities should ensure that child victims of trafficking are afforded special protection measures taking into account the best interests of the child.

## Appendix II: List of public bodies, intergovernmental organisations and civil society organisations with which GRETA held consultations

### Public bodies

- Ministry of the Interior
  - Mr Vanja Vukić, State Secretary
  - Mr Vladimir Bozović, State Secretary
  - Mr Milorad Veljovic, Director of the Police
  - Mr Mitar Djurasković, National Co-ordinator for Combating Human Trafficking
  - Border Police Directorate
  - Directorate of Criminal Police (Service for Combating Organised Crime)
  - Directorate for administrative affairs
  - Bureau for strategic planning
  - Bureau for International Co-operation and EU Integration
  - City of Belgrade Police Department, Directorate for Foreigners, Department for Suppression of Illegal Migration and THB
  - Smederevo Police Department
  - Novi Sad Police Department, Department of border police, foreigners, suppression of illegal migration and trafficking in human beings
- Ministry of Labour, Employment and Social policy
  - Centre for the Protection of Victims of Human Trafficking
  - Centre for social work, Novi Sad
  - Centre for social work, Leskovac
  - Institute for Education of Children and Youth, Belgrade
- Ministry of Justice and Public Administration
- Ministry of Foreign Affairs
- Ministry of Education, Science and Technological Development
- Ministry of Youth and Sport
- Ministry of Health
- Labour Inspectorate
- Public Prosecutor Office
- Supreme Cassation Court
- Higher court in Novi Sad
- Ombudsman's Office
- General Assembly of the Republic of Serbia
- Office for Human and Minority Rights
- Office for co-operation with civil society
- Council for gender equality and Department for gender equality

- 
- Judicial Academy
  - Institute for Forensic Medicine
  - Team for Social inclusion and poverty reduction

### **Intergovernmental organisations**

- OSCE
- IOM
- UNHCR
- UNODC
- Joint programme of IOM, UNODC and UNHCR for combating Human Trafficking in Serbia, under the auspices of UN.GIFT

### **Civil society organisations**

- Astra
- Atina
- Belgrade Centre for Human Rights
- Belgrade University, Faculty of Law
- Centre for Youth Integration
- Novi Sad Humanitarian Centre
- Praxis
- Save The Children
- Serbian Association of Employers
- Serbian Red Cross

## **Government's comments**

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

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

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the Serbian authorities on 4 December 2013 and invited them to submit any final comments. The comments of the authorities of Serbia, submitted on 6 January 2014 are reproduced hereafter.



**Government of the Republic of Serbia  
Ministry of Interior  
Cabinet of the Minister**

**01 Ref.No: 419/12  
Date: 06 January 2014  
B e l g r a d e**

**Council of Europe  
Directorate General of Human Rights and Rule of Law  
Secretariat of the Council of Europe Convention on Action  
against Trafficking in Human Beings**

STRASBOURG

**SUBJECT: Final Comments of the Republic of Serbia  
on the Report concerning the implementation of the  
Council of Europe Convention on Action against Trafficking in Human Beings**

The authorities of the Republic of Serbia have received the report prepared by the Group of Experts on Action against Trafficking in Human Beings (GRETA) concerning the implementation of the Convention of the Council of Europe on Action against Trafficking in Human Beings.

We believe that the Council of Europe Convention on Action against Trafficking in Human Beings ranks among the most superior legal acts in the domain of promotion and protection of human rights and a model for the activities the states are taking to counter trafficking in human beings.

We take this opportunity to express our gratitude to the members of GRETA delegation who visited the Republic of Serbia in April 2013: Ms Katerina Levchenko, Mr Jan Van Dijk, as well as Ms Petya Nestorova, Executive Secretary of the Convention and Mr David Dolidze, from the Secretariat of the Convention on their outstanding cooperation during the mission.

We are particularly grateful to Ms Nestorova on the high level of cooperation we established since the very beginning of collaboration with GRETA – receipt and filling out of the Questionnaire in the course of 2012, mission preparations, the procedure of commenting on the Report and provision of additional data and information. We commend the professionalism, expertise and commitment of the Secretariat of the Convention.

Hereby we also wish to thank all the stakeholders in the Republic of Serbia, the state authorities, institutions, civil society organisations and international agencies taking part in countering trafficking in human beings, on their constructive contributions and cooperation in the complex process of assessment of the Convention implementation.

We have reviewed the GRETA Report and hereby submit our comments to certain parts thereof as given by the competent institutions.

We are confident of the significance of the GRETA Report for continued strengthening of the established system of identification, provision of assistance to and protection of the victims of trafficking in human beings in the Republic of Serbia and we consider it as welcome guidelines for promotion of our policies to combat human trafficking.

The Republic of Serbia is looking forward to continuous constructive cooperation with GRETA and will continue reporting to the Secretariat of the Convention on the activities undertaken concerning the implementation of the Convention and recommendations of GRETA.

**MINISTER OF INTERIOR  
CHAIRMAN  
OF THE ANTI-TRAFFICKING COUNCIL**

**Ivica Dačić**



**Final Comments of the Republic of Serbia  
on the Report concerning the implementation of the  
Council of Europe Convention on Action against Trafficking in Human Beings**

**68. Office for Cooperation with the Civil Society**

The Office for Cooperation with the Civil Society prepared the draft “**Regulation on the standards of cooperation between public administration and civil society and the participation of CSOs in decision-making processes**“ in September 2013. This document represents a general framework for promotion of involvement and cooperation of the civil society organisations with the public authorities and the stakeholders, as well as an initial step towards the changes of specific regulations and acts to that effect in the future. The Regulation aims to establish transparent criteria and general principles of cooperation of the public authorities and the civil society in the decision-making processes with a view to ensuring their effective and efficient implementation.

The Office published the text of this document on its Internet page (<http://civilnodrustvo.gov.rs/vesti/kancelarija-predstavila-radni-tekst-smernica/>) and on social networks so as to inform the public about the proposed solutions. All the interested citizens were invited to submit their comments and suggestions, and thus contribute to improvement of the proposed solutions. **The public discussion** lasted from 23 September to 14 October 2013. During this period, a round table “Presentation of the draft Regulation on the standards of cooperation between public administration and civil society and the participation of CSOs in decision-making processes“ was organised and 70 representatives of state administration and civil society organisations took part in it.

In addition to the comments received at the round table presentation, the Office received comments from nine civil society organisations during the public discussion period. The majority have been incorporated into an improved version of the document which was subsequently put into the procedure of obtaining an integrated opinion. The document is to be adopted by the Government. Thereafter, the final version of the document in English will be published on the Internet page of the Office <http://civilnodrustvo.gov.rs/en/documents/>

**69 and 74. Ministry of Interior**

We are satisfied to note that the civil society organisations are highly involved in planning and implementation of the national policy in the Republic of Serbia aimed at combating all forms of trafficking in human beings. The **drafts of the new National Strategy and the Action Plan**, that are in the final stage of adoption by the Government, **have continued to strengthen the links with the civil society organisations involving them into development, implementation and assessment of anti-trafficking actions as equal partners.**

The civil society organisations will be equally represented in the work of the **Implementation Team**, through **appointment of five representatives of CSOs engaged in combating trafficking in human beings**. The representatives will be selected by the CSOs in cooperation with the Office for Cooperation with the Civil Society within three months from adoption of the Strategy - the appointment that the National Coordinator will be duly informed of by the Office. The work of the CSO representatives in the Team will be elaborated in detail the *Rules of Procedure of the Council*.

At the same time, the civil society organisations are designated as equal implementers of activities in the Action Plan which identifies them as partners in the column “competent institutions and partners”.

In this respect, we note the enormous importance of the project "**Local Communities in Combating Trafficking in Human Beings**" being implemented in the Republic of Serbia in cooperation with the civil society organisations. Memoranda of Understanding have been signed with seven Serbian cities in the course of October 2013. In the Republic of Serbia, October has been traditionally marked as the “Month of Combating Trafficking in Human Beings” since 2007.

Memoranda of Understanding were signed in Niš, Novi Sad, Sremska Mitrovica, Kraljevo, Kragujevac, Vranje and Subotica, where local teams for protection of the victims of trafficking in human beings and prevention of THB were established. To that effect, within the framework of marking 18 October 2013 – the “European Anti-Trafficking Day” central conference was held in the City Hall of the City of Niš, whereby a “Declaration on Combating All Forms of Trafficking in Human Beings” was adopted. All the urban local authorities in the Republic of Serbia were recommended to adopt the Declaration. The Declaration on Combating All Forms of Trafficking in Human Beings is attached herewith.

#### 91. Commissariat for Refugees and Migrations

**The Commissariat for Refugees and Migrations** has been performing the tasks related to development and regular updating of the **Migratory Profile of the Republic of Serbia** since 2010. Development and regular updating of the Migratory Profile represents a **significant step towards building of mechanisms and systems for collection of data on all categories of migrants**. The Migratory Profile serves as an **instrument for monitoring migration flows and trends in the country** and as a basis for establishment and development of mechanisms for collection of data on migrations. The document is updated annually and provides a better insight into the overall situation of migrations in the country. It aims to ensure insight of the competent authorities in the Republic of Serbia into relevant migratory trends and, consequently, allow for policy development and adoption of the necessary regulations in the domain of migration management.

**The Migratory Profile offers an annual overview of the situation in the area of trafficking in human beings in the Republic of Serbia, with an indication on the number of the victims identified.** The data are disaggregated by nationality, gender, age, type of exploitation, the established status of victims, number of verdicts pronounced against perpetrators of trafficking in human beings and the number of persons convicted for the criminal offence of trafficking in human beings. The draft Action Plan for implementation of the Migration Management Strategy 2013 – 2014 provides for development of a **Regulation on the Type of Data Collected, Analysed, Processed, Exchanged, Preserved and Protected within the framework of an Integrated System and the methods, dynamics and technical tools applied in the Integrated System.**

#### 127. Ministry of Interior

The Law on Habitual and Temporary Residence of Citizens (“Official Gazette of the Republic of Serbia“ no. 87/11) was published in the “Official Gazette of the Republic of Serbia“ on 21 November 2011. It came into effect on 29 November 2011 and that is the date of commencement of its implementation.

#### 145. Ministry of Interior

With respect to the template of old identity cards, we wish to note that the identity cards of previous generation in the Republic of Serbia will be valid until the date stated in the identity cards and no later than 31 December 2016, in line with Law on Changes and Amendments to the Law on Identity Cards.

The identity cards issued on the old template have security elements of protection, but these are not in line with the European standards on security of documents (ICAO 9303, ISO, ISO/IEC 14443, etc.).

The old identity card template is printed by the Institute for Manufacturing Banknotes and Coins, National Bank of Serbia, and the actions related to takeover and distribution were conducted up to the highest security standards. Identity cards on the old template were issued by a competent authority respecting strictly the regulations of the Law on Identity Cards. Issuance of these identity cards has ceased since the first half of 2012.

#### 206. Public Prosecutor's Office, Republic of Serbia

The provisions of the mentioned paragraphs (3,4,5,6 and 7), Article 388 of the Criminal Code of the Republic of Serbia "Trafficking in Human Beings" **do not represent aggravating circumstances but qualified forms of this criminal offence, in respect of which more severe punishments are prescribed.**

#### 212. Public Prosecutor's Office, Republic of Serbia

We wish to stress that the Code on Criminal Procedure effective at the time of the GRETA mission (April 2013) and submission of comments to the draft Report (August and September 2013), has been replaced by a new Code on Criminal Procedure ("Official Gazette of the Republic of Serbia" no.72/11). For this reason, the below comments refer primarily to the current solutions for the purpose of better understanding of mechanisms of protection of the injured parties (including victims of trafficking) as provided by the new Code on Criminal Procedure.

According to the current **Code on Criminal Procedure** (*which came into effect in respect of all criminal offences in Serbia on 01 October 2013*), **postponement of criminal prosecution** is regulated in Article 283 (public prosecutor may postpone criminal prosecution for criminal offences punishable by a fine or a five-year term of imprisonment, if the suspect accepts one or more of the following responsibilities: 1) to rectify the detrimental consequences caused by the commission of a criminal offence or indemnify the damage caused; 2) to pay a certain amount of money to the benefit of a humanitarian organisation, fund or a public institution; 3) to perform a certain community service or humanitarian work; 4) to fulfill the maintenance obligations which have fallen due; 5) to undergo an alcohol or drug treatment programme; 6) to undergo psychosocial treatment to eliminate the causes of violent behaviour; 7) to execute the obligation established by a final court verdict and to observe the restrictions established by a final court verdict.)

#### 216. Public Prosecutor's Office, Republic of Serbia

The presented solution is taken from the former Code on Criminal Procedure. According to the current Code on Criminal Procedure, following the dismissal of the criminal complaint, discontinuation of the investigation or waiver of the public prosecutor from prosecution until confirmation of the indictment, pursuant to the Article 51, the injured party has a right to file an objection directly to the higher public prosecutor. Pursuant to Article 52, in case of waiver of the public prosecutor from the charges after the confirmation of charges, the injured party has the right to take over prosecution and represent the charges in the capacity of a subsidiary prosecutor.

## 227. Public Prosecutor's Office, Republic of Serbia

Pursuant to the current Code on Criminal Proceedings, the basic protection of victims is stipulated in the Article 102.

“The authority conducting proceedings is required to protect an injured party or witness from an insult, threat and any other attack. The public prosecutor or the court will caution a participant in proceedings or other person who, before the authority conducting proceedings insults an injured party or a witness, threatens him or endangers his safety, and the court may also fine him up to 150,000 dinars.<sup>40</sup> An appeal against a ruling pronouncing a fine is decided on by the panel. The appeal does not stay execution of the ruling. Upon receiving notification from the police or the court or upon learning about the existence of violence or a serious threat directed at an injured party or a witness, the public prosecutor will undertake criminal prosecution or notify the competent public prosecutor thereof. A public prosecutor or the court may request that the police undertake measures to protect an injured party or a witness in accordance with the law.”

Protection of injured parties has been regulated, *inter alia*, also in Article 388 of the new Code on Criminal Procedure that stipulates “**due to the passage of time, protection of witnesses or other important reasons**, the panel may, after the parties have stated their positions, decide by a ruling not to examine witnesses and expert witnesses again, but to examine the transcripts of their testimonies given at the earlier trial or, if necessary, for the president of the panel to summarize the content of the testimony or read it out. No appeal can be filed against this ruling.”

### ATTACHMENT:

-Declaration on Combating All Forms of Trafficking in Human Beings

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<sup>40</sup> EUR 1308 per official exchange rate of the National Bank of Serbia as at 24 December 2013 ( EUR 1 = 114,65 RSD)



## **DECLARATION ON COMBATING ALL FORMS OF TRAFFICKING IN HUMAN BEINGS**

Recognizing that human trafficking is a grave crime that violates human dignity and threatens basic human rights and freedoms,

We, the participants of the Conference, are determined to get involved in the fight against all forms of human trafficking.

We support the efforts of the Republic of Serbia invested in the full implementation of the Constitution of the Republic of Serbia and the Council of Europe Convention on Action against Trafficking in Human Beings, as well as in respect of the United Nations Convention against Transnational Organized Crime, and the accompanying Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, being an international framework for the combating human trafficking.

We are concerned that, despite continuous activities and measures at international, regional, national and local level, trafficking in human beings for the purpose of sexual and labor exploitation, commission of criminal offenses, forced begging and marriage, illegal adoption of children, pornography, and other forms of exploitation remains a serious problem.

Therefore, we adopt and solemnly proclaim this Declaration, deciding to take all the necessary measures towards improvement and fulfillment of the objectives defined by the Strategy to Combat Human Trafficking in the Republic of Serbia ("Official Gazette of RS", No. 111/06), as well as the existing legal framework, by-laws and local strategic documents.

We are aware of the need to take appropriate actions in order to ensure the prevention of secondary victimization.

We will invest additional efforts in identification of the victims of trafficking in human beings and in extending the necessary assistance to them, especially given the fact that most of the identified victims originate from the groups already suffering multiply marginalization. In developing policies, we will take into consideration the social, economic, cultural, political and other factors that contribute to vulnerability to trafficking in human beings.

As a part of our efforts to combat trafficking in human beings, special attention will be given to cooperation with civil society organizations active in the field of prevention and protection of victims of trafficking, as well as to provision of support to multiply marginalized groups, being particularly vulnerable to the phenomenon of trafficking in human beings. We will inform and involve the citizens in the activities carried out in the area of combating trafficking in human beings on the territory of the City of Niš.

We are aware that the systems of child protection must be strengthened in order to efficiently assist in preventing, identifying and responding to all the forms of trafficking in children, and to provide appropriate assistance and protection to children - victims of trafficking and/or children at risk of becoming victims of trafficking. In this respect, we will monitor the operation and offer support to

institutions and organizations that implement child assistance and support programmes, and that respect the key principles of the Convention on the Rights of the Child.

We recognize that labour rights must be consistently respected in order to efficiently prevent labour exploitation. We will participate in development and monitoring of the implementation of interventions aimed at improving working conditions and promoting effective implementation of internationally and nationally recognized labour rights, through the improvement of labour inspection services, monitoring of private employment agencies, and development of other programmes to support the workers in exercising their labour rights.