



# **GRETA**

Group of Experts on Action  
against Trafficking in Human Beings

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

First evaluation round

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## Preamble

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

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

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

As trafficking in human beings is a worldwide 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 into 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 fifteen 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.

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## Executive summary

The Latvian authorities have taken a number of measures to develop the legal and institutional framework for combating trafficking in human beings. In addition to the criminalisation of human trafficking in the Criminal Law, provisions pertaining to the assistance and protection of victims were introduced in a number of legal acts. Two National Programmes for Prevention of Human Trafficking have been adopted since 2004 (the current one covering the period 2009-2013). Further, an Inter-Institutional Working Group, led by the Ministry of the Interior, was set up in 2010 and a National Co-ordinator for Combating Trafficking in Human Beings was appointed. A specialised anti-trafficking unit has also been established within the State Police.

GRETA welcomes the efforts made to prevent human trafficking through awareness-raising campaigns and border measures. However, GRETA considers that the actions taken to date in the area of prevention are not sufficient. The Latvian authorities should step up their efforts to develop preventive policies based on social and economic initiatives for groups vulnerable to trafficking and encompassing measures to discourage demand for the services of trafficked persons. Further, GRETA urges the Latvian authorities to ensure the registration of all children at birth as a preventive measure against trafficking.

The identification of victims of trafficking by the police depends on the presence of sufficient elements for initiating a criminal case. This, together with the lack of a formalised mechanism for the identification and referral to assistance of victims of trafficking, results in a number of victims of trafficking remaining outside the identification and assistance arrangements. GRETA urges the Latvian authorities to review the current identification procedure to address these shortcomings and to ensure that all actors involved in identification are adequately trained and provided with operational indicators and guidance. GRETA stresses the importance of a proactive approach to the identification of victims of trafficking, including those trafficked within Latvia, and calls upon the authorities to pay particular attention to the identification of child victims.

Victims of trafficking are entitled to a six-month programme of State-funded social rehabilitation. GRETA welcomes the allocation of funds in the State budget to cover the provision of services by non-governmental organisations. That said, GRETA notes that in some cases, due to lack of funds, there is a waiting period before victims receive assistance. GRETA urges the Latvian authorities to take further measures to provide all victims of trafficking with effective access to assistance, for the duration necessary to achieve their rehabilitation and regardless of their participation in criminal proceedings. Furthermore, GRETA makes recommendations concerning the recovery and reflection period and the issuing of residence permits to victims of trafficking.

While welcoming the existing possibilities for compensation of victims under Latvian law, GRETA considers that additional steps should be taken to improve access of victims of trafficking to compensation, including by ensuring their effective access to legal aid.

GRETA is concerned that the investigation of trafficking offences often does not lead to successful prosecutions and effective penalties and urges the Latvian authorities to identify gaps in the investigation procedure and the presentation of cases in court. The authorities should make full use of the available measures to protect victims and to prevent intimidation during the investigation and during and after the court proceedings.

Finally, GRETA considers that there is need for improvement of the knowledge and sensitivity of judges, prosecutors, investigators and lawyers about human trafficking 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, and to secure convictions of traffickers.

## I. Introduction

1. Latvia deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) on 1 July 2008. The Convention entered into force in respect of Latvia on 1 November 2008<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, Latvia being in the second group of 10 Parties.

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by Latvia 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 Latvia on 11 February 2011. The deadline for submitting the reply to the questionnaire was 1 September 2011. Latvia submitted its reply on 31 August 2011.

4. In preparation of the present report, GRETA used the reply to the questionnaire by Latvia, other information collected by GRETA and information received from civil society. An evaluation visit to Latvia took place from 14 to 17 February 2012. It was carried out by a delegation composed of:

- Mr Vladimir Gilca, member of GRETA;
- Mr David Dolidze, Administrator at the Secretariat of the Council of Europe Convention on Action against Trafficking in Human Beings.

Ms Alexandra Malangone, who was appointed by GRETA as the second rapporteur for the evaluation, was not able to participate in the country visit due to health reasons.

5. During the evaluation visit, the GRETA delegation held meetings with representatives of relevant ministries and public agencies, the Ombudsman of Latvia and members of Riga City Council (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) active in the field of action against trafficking in human beings (THB), lawyers from the Council of Sworn Advocates and staff of the local office of the International Organisation of Migration (IOM).

7. Furthermore, the delegation visited a crisis centre for women and children victims of domestic violence in Riga, which can accommodate victims of trafficking.

8. GRETA wishes to place on record its appreciation for the valuable assistance provided to its delegation by the contact person appointed by the Latvian authorities Ms Lāsma Stabiņa, Senior Desk Officer at the Ministry of the Interior, as well as by Mr Dimitrijs Trofimovs, Director of Sectoral Policy Department, National Co-ordinator for Combating Trafficking in Human Beings, Ministry of the Interior.

9. The draft version of the present report was adopted by GRETA at its 14th meeting (25-29 June 2012) and was submitted to the Latvian authorities on 25 July 2012 for comments. The comments were received on 25 September 2012 and were taken into account by GRETA when establishing its final report, which was adopted at GRETA’s 15th meeting (26-30 November 2012).

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



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

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

10. According to information provided by the Latvian authorities, Latvia is primarily a country of origin for trafficked persons. Almost all victims of trafficking identified in recent years have been Latvian nationals: nine out of 12 victims in 2008; all victims in 2009-2011 (respectively 13, 12 and 14); all 17 victims identified from January to September 2012. The great majority of the victims identified in 2008-2010 were women subjected to sexual exploitation, but in recent years other forms of exploitation, such as forced labour and marriages of convenience leading to exploitation have also emerged. The main countries of destination have been Cyprus, Germany, Ireland and the United Kingdom. There were two children identified as victims of trafficking in 2008. The three foreign victims of trafficking identified in 2008 were from Thailand. Only one case of national trafficking (i.e. within Latvia) has been identified since 2008. Further, the Latvian authorities have indicated that 93 persons were identified as presumed victims of THB in 2011, and 75 until September 2012. These persons refused to be granted the status of victims of trafficking and are therefore not counted as victims of trafficking, but according to the authorities, they were nevertheless provided with information and counselling.

11. GRETA notes that the above figures of identified victims of trafficking in Latvia may not reveal the real scale of the phenomenon, as there is insufficient attention to trafficking for purposes other than sexual exploitation, shortcomings in the identification of victims of trafficking, and lack of awareness about the problem of THB among the general public.

### **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 Anti-Trafficking Convention, Latvia is Party to the United Nations (UN) Convention against Transnational Organised Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), the UN Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, the UN Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, as well as conventions elaborated under the International Labour Organisation (ILO)<sup>2</sup>. Latvia is also Party to a number of Council of Europe conventions in the criminal field relevant to action against THB<sup>3</sup>.

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<sup>2</sup> Convention concerning the Abolition of Forced Labour and Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

<sup>3</sup> European Convention on Extradition and its two Additional Protocols; European Convention on Mutual Assistance in Criminal Matters and its two additional protocols; Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime; Criminal Law Convention on Corruption and its Additional Protocol; European Convention on the Transfer of Proceedings in Criminal Matters; European Convention on the International Validity of Criminal Judgments; Convention on Cybercrime and its Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems; Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism.

13. Latvia became member of the European Union (EU) on 1 May 2004 and is bound by the EU legislation in the field of combating THB, in particular Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims; Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, and who co-operate with the competent authorities; Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims; and Framework Decision 2001/220/JHA of 15 March 2001 of the Council of the European Union on the standing of victims in criminal proceedings. In addition, Latvia is party to the Convention between the Member States of the European Communities on the Enforcement of Foreign Criminal Sentences.

14. As regards the Latvian national legal framework in the field of action against THB, the main provisions are contained in the Criminal Law<sup>4</sup> (CL), in particular Articles 154<sup>1</sup> and 154<sup>2</sup> which establish THB as a criminal offence. Provisions relevant to combating THB and protecting its victims are also contained in the Law on Protection of the Rights of the Child, the Law on Special Protection of Persons, the Law on Social Services and Social Assistance, the Law on Support for Unemployed Persons and Persons Seeking Employment, the Law on Residence of Victims of Trafficking, and the Immigration Law. Furthermore, the Criminal Procedure Law (CPL) contains provisions relevant to protecting and assisting victims of crime and prosecuting perpetrators.

15. Concerning secondary legislation, of particular relevance are Cabinet of Ministers' Regulation No. 889 of 31 October 2006 on "The procedures by which victims of THB receive social rehabilitation services and the criteria for recognising a person as a victim of THB" and Prime Minister's Decree No. 207 of 10 June 2011 establishing the Inter-Institutional Working Group for co-ordination of the implementation of the National Programme for the Prevention of Human Trafficking for 2009-2013.

#### b. National Programmes

16. Since 2004, the Latvian Government has adopted two National Programmes for Prevention of Human Trafficking. The first one, covering the period 2004-2008, resulted in the setting up of a state-funded rehabilitation programme for victims of trafficking. It also involved the organisation of awareness-raising campaigns for the general public and the introduction of harsher penalties for trafficking offences.

17. The current National Programme, covering the period 2009-2013, was approved by the Cabinet of Ministers on 27 August 2009. It consists of five parts: data collection and research; development of anti-trafficking legislation; implementation of preventive measures; improvement of co-operation between state institutions and NGOs acting in this field; and enhancing the actions of law enforcement institutions. The Inter-Institutional Working Group (see paragraph 18) co-ordinates the activities of all stakeholders in the implementation of the National Programme.

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<sup>4</sup> "Criminal Law" and "Criminal Procedure Law" are the names of the Criminal Code and Criminal Procedure Code in Latvia.

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

#### a. Inter-Institutional Working Group

18. The Inter-Institutional Working Group for co-ordination of the implementation of the National Programme was established by virtue of Prime Minister's Decree No. 77 of 3 March 2010 to ensure the exchange of information and co-ordinated action of all institutions and NGOs involved in action against THB, under the lead of the Ministry of the Interior. The composition of the Inter-Institutional Working Group was later expanded pursuant to Prime Minister's Decree No. 207 of 10 June 2011. At present, the Group is chaired by the National Co-ordinator for Combating Trafficking in Human Beings, who is also the Director of Sectoral Policy Department of the Ministry of the Interior, and consists of representatives of:

- Ministry of the Interior
- Ministry of Foreign Affairs
- Ministry of Justice
- Ministry of Education and Sciences
- Ministry of Health
- Ministry of Economics
- Ministry of Welfare
- General Prosecutor's Office
- Prosecutor's Office of Liepaja city
- State Police
- State Border Guard
- Riga City Council
- Riga Municipal Police
- Office of Citizenship and Migration Affairs
- NGO "Shelter Safe House"
- NGO "Resource Centre for Women Marta"
- Office of the International Organisation for Migration (IOM) in Latvia.

19. The Inter-Institutional Working Group meets four times a year and its Head may convene additional meetings when necessary. The main task of the Group is to co-ordinate the implementation of the measures contained in the National Programme and to ensure co-operation among all relevant institutions.

20. The Head of the Working Group may invite other specialists and experts to participate in its meetings. Thus representatives of the State Labour Inspectorate, State Employment Agency, Information Centre of the Ministry of the Interior and the Latvian Council of Sworn Advocates have participated in its meetings. The Ministry of the Interior is currently drafting an update of the Prime Minister's Decree in order to expand the composition of the Inter-Institutional Working Group to include representatives of the Ministry of Culture, the Office of the Ombudsman, and the Information Centre of the Ministry of the Interior.

21. The NGO representatives referred to above have full membership in the Working Group. The IOM is the only international organisation accredited in Latvia which has a representative in the Working Group.

22. Prior to the establishment of the Working Group, the Ministry of the Interior organised *ad hoc* meetings of relevant stakeholders, including NGOs and international organisations present in Latvia. The evaluation of the implementation of the National Programme for 2004-2008 was carried out through such meetings.

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b. National Co-ordinator for Combating Trafficking in Human Beings

23. One of the functions of the Director of Sectoral Policy Department in the Ministry of the Interior is that of a National Co-ordinator for Combating Trafficking in Human Beings. As stated above, the National Co-ordinator chairs the meetings of the Working Group and reports annually to the Cabinet of Ministers on the implementation of the National Programme. The National Co-ordinator also organises meetings of experts at all levels, represents the interests of anti-trafficking stakeholders in the Cabinet of Ministries and Parliament, and communicates with diplomatic representations of other states on anti-trafficking matters. Further, the National Co-ordinator is responsible for collecting information from different state institutions and NGOs and facilitating its exchange. The National Co-ordinator is assisted by two staff members in charge of anti-trafficking activities.

c. Specialised anti-trafficking units

24. The 3rd Unit for the Fight against Human Trafficking and Pimping was established in 2003 within the Organised Crime Board of the Main Criminal Police with the task of detecting and investigating THB cases. At present, the Unit employs 19 police officers in Riga and four in the regional boards of the State Police. In addition, in 2008, a separate unit consisting of eight police officers was established within the State Police in Riga, with the responsibility to investigate cases of sexual offences against children.

25. Since 2001, in the framework of combating organised crime, a specialised organised crime prevention unit has been set up in the Prosecutor's Office, which deals, *inter alia*, with THB offences. This unit currently comprises 10 prosecutors.

d. Non-governmental organisations

26. NGOs have played an important role in action against THB in Latvia through implementing projects aimed at raising awareness on human trafficking among the general public, carrying out research, providing assistance to victims, participating in their identification and providing training to public officials. The NGO "Shelter Safe House" and the Resource Centre for Women "Marta" are presently the main non-governmental actors in the area of action against THB. On 21 May 2008 these two NGOs signed a Memorandum of Co-operation with the Ministry of the Interior which formalises their interaction with the Ministry in the field of action against THB.

27. Since 2007, the NGO "Shelter Safe House" has been contracted by the State to provide assistance to victims of trafficking, which includes medical and psychological assistance, legal advice and accommodation. On 15 February 2012, the State Police signed a co-operation agreement with this NGO concerning the assistance to and protection of victims and witnesses of human trafficking. In addition, this NGO has carried out a number of awareness-raising activities to prevent trafficking (see paragraphs 90-92).

28. The Resource Centre for Women "Marta" assists women trafficked for sexual exploitation. In December 2008 it was obliged to suspend its assistance to victims and discontinue its telephone hotline due to lack of funding. The hotline resumed functioning in January 2010. This NGO is involved in the implementation of awareness-raising campaigns and other social campaigns, in order to better inform society on the risks of THB (see paragraphs 90 and 107) and participates in the training of professionals having a role in the identification of victims of THB.

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

#### 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

29. 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 of the Convention states that the main added value of the Convention is its human rights perspective and focus on victim protection. In the same vein, the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking emphasise that “the human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims”<sup>5</sup>.

30. 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 (in case the State concerned is a Party to it). This has been confirmed by the European Court of Human Rights in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB “within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the European Convention on Human Rights”<sup>6</sup> (which prohibits slavery, servitude and forced or compulsory labour). The Court further concluded that Article 4 entails a positive obligation to protect victims, or potential victims, as well as a procedural obligation to investigate trafficking.

31. GRETA considers that the human rights-based approach to action against THB 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 THB are properly identified. It also includes 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, irrespective of their residency status. Further, measures to prevent THB should be taken in the field of socio-economic, labour and migration policies.

32. 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 THB, in line with the relevant international legal instruments<sup>7</sup>.

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

<sup>6</sup> *Rantsev v. Cyprus and Russia*, no. 25965/04, paragraph 282, ECHR 2010.

<sup>7</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.

33. According to the Latvian authorities, the inclusion of Articles 154<sup>1</sup> and 154<sup>2</sup> in Chapter XV of the Criminal Law, entitled “Criminal Offences against Personal Liberty, Honour and Dignity”, indicate that trafficking in human beings is considered a human rights violation. The authorities have also referred to the Constitution of Latvia, in particular Article 94 (right to freedom and personal inviolability), Article 95 (prohibition of torture, inhuman or degrading treatment or punishment) and Article 106 (prohibition of forced labour).

34. Enhancing public awareness of human rights and the mechanisms for protecting these rights is one of the functions of the Ombudsman of Latvia. The Ombudsman may receive personal complaints or requests as regards the protection of human rights, equal treatment and prevention of discrimination. That said, the Ombudsman has not received any complaints from victims of THB or their representatives and THB has not been a topic addressed in the Ombudsman’s annual reports.

35. 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 Latvian authorities in these fields and their impact on the human rights of trafficked persons.

b. Definition of “trafficking in human beings” and “victim of THB” in Latvian law

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

36. 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 immaterial whether the means referred to above have been used.

37. Under Latvian law, THB is defined in Article 154<sup>2</sup> of the Criminal Law (CL) as follows:

“(1) Human trafficking is the recruitment, conveyance, transfer, concealment or reception of persons for the purpose of exploitation, committed by using violence or threats or by means of deceit, or by taking advantage of the dependence of the person on the offender or of his or her state of helplessness, or by the giving or obtaining of material benefits or benefits of another nature in order to procure the consent of such person, upon which the victim is dependent.

(2) The recruitment, conveyance, transfer, concealment or reception of minor persons for the purpose of exploitation shall be recognised as human trafficking also in such cases, if it is not connected with the utilisation of any of the means referred to in paragraph one of this Section.

(3) Within the meaning of this Section, exploitation is the involvement of a person in prostitution or in other kinds of sexual exploitation, the compulsion of a person to perform activities or to provide services, the holding of a person in slavery or other similar forms thereof (debt slavery, serfdom or the compulsory transfer of a person into dependence upon another person), and the holding a person in servitude or also the unlawful removal of a person’s tissues or organs.”<sup>8</sup>

<sup>8</sup> Unofficial translation provided by the Latvian authorities.

38. The above-mentioned provisions cover all forms of THB (national and transnational, linked to organised crime or not). The forms of exploitation covered by Article 154<sup>2</sup>, paragraph 3, of the CL correspond to those included in Article 4(a) of the Convention. However, GRETA notes that the means listed in Article 154<sup>2</sup>, paragraph 1 of the CL omit “abduction”, “fraud” and “deception”, which are specifically mentioned in the Convention. In reply to GRETA’s request to provide clarification on this issue, the Latvian authorities have indicated that “abduction” is covered by the wording “by using violence” in Article 154<sup>2</sup> which comprises all actions performed by using force and violence. As regards “deception” and “fraud”, they are covered by the Latvian word for “deceit”. The authorities have made reference to paragraph 70 of the Explanatory Report of the Convention which states that the definition contained in the Convention should not be transposed word by word in national legal acts, and have affirmed that all means contained in the Convention are covered by the definition of THB in Article 154<sup>2</sup>, paragraph 1, of the CL.

39. According to Article 154<sup>2</sup>, paragraph 2, of the CL when a victim of trafficking is a minor, there is no need to prove the use of any means to establish the offence of THB, which is in line with the Convention. Pursuant to Article 3 of the Law on the Protection of the Rights of the Child, a minor is a person below 18 years of age, with two exceptions: a person who has not attained 18 years of age, but has been declared of legal age in accordance with the law, or has entered into marriage, is no longer considered a child. The Latvian authorities have indicated that Article 154<sup>2</sup>, paragraph 2, of the CL would not apply to children who are considered as adults before they attain 18 years of age. **GRETA urges the Latvian authorities to ensure that Article 154<sup>2</sup>, paragraph 2, applies to all children, i.e. persons under 18 years of age as defined in Article 4(d) of the Anti-Trafficking Convention, regardless of the Latvian legislation on the age of majority.**

40. 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. Although this is not explicitly stated in the above-mentioned legal provisions, the Latvian authorities have indicated that the consent of a victim of trafficking, if obtained through the use of any of the means listed in Article 154<sup>2</sup>, paragraph 2 of the CL, would be irrelevant for establishing a trafficking offence. **GRETA considers that stating explicitly the irrelevance of the consent of a victim to the intended exploitation where any of the means set forth in the definition of THB have been used could improve the implementation of the anti-trafficking provisions and provide victims with greater confidence in self-reporting to NGOs and public authorities.**

41. In addition to Article 154<sup>2</sup>, the CL contains Article 165<sup>1</sup> entitled “sending a person for sexual exploitation” which is considered by the Latvian authorities as being relevant to combating THB (see paragraph 170). For further analysis of the definition of THB and related offences from a substantive criminal law perspective, see paragraphs 166 -173.

## *ii. Definition of “victim of THB”*

42. 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 THB 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.

43. Pursuant to Article 4e of the Law on Social Services and Social Assistance, a victim of trafficking in human beings is a person who has been recognised as victim of the criminal offence of trafficking of human beings, or whom the State Police has issued with a statement that he/she is a victim of trafficking of human beings in a foreign state, or who has been recognised by a social service provider as conforming to the criteria of being a victim of trafficking of human beings.

44. The issue of the definition of victim of THB and its implications for the identification process and the assistance provided to victims will be 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 by GRETA.

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

- i. *Comprehensive approach and co-ordination*

45. One of the aims of the Convention is to design a comprehensive framework for the protection and assistance of 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).

46. The Latvian authorities have taken steps to develop the legal and institutional framework for action against THB. The implementation of the first National Programme for 2004-2008 was supervised by an ad hoc Inter-Institutional Working Group, set up by the Ministry of the Interior, which was operating without written terms of reference. The implementation of the second National Programme for 2009-2013 is co-ordinated by the current Working Group. The composition of the Working Group reflects a multidisciplinary approach to tackling THB. GRETA welcomes the fact that representatives of two NGOs and the IOM Office in Latvia have full membership in the Inter-Institutional Working Group, which demonstrates the willingness of the Government to ensure their involvement in developing and implementing anti-trafficking policy. While most of the public authorities in the Working Group are represented by senior desk officers or legal advisers, the law enforcement and prosecutorial authorities have a higher level of representation (chief of unit for the fight against human trafficking and pimping of the organised crime enforcement board, chief prosecutor).

47. The Inter-Institutional Working Group and the National Co-ordinator for Combating THB are within the administrative structure of the Ministry of the Interior, which takes the lead in planning, implementing and evaluating anti-trafficking activities. As the main task of the Ministry is combating crime, action against THB is carried out primarily from a law enforcement perspective. It is noteworthy that the implementation of 17 of the 26 tasks set out in the National Programme for 2009-2013 is under the exclusive or partial responsibility of the Ministry of the Interior. 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 demonstrates the willingness of the authorities to ensure that such structures have a genuine inter-agency functioning.

48. During the evaluation visit, the GRETA delegation was informed that some of the public bodies represented in the Working Group were not sufficiently involved in its work and their respective roles in anti-trafficking action did not appear to be clear enough. GRETA notes that there is room for improvement in the level of co-operation and exchange of information between members of the Working Group.



49. In 2001-2005, at the initiative of international organisations and the Embassy of the United States in Latvia, three multidisciplinary anti-trafficking working groups were established in Riga, Liepaja and Daugavpils municipalities, bringing together representatives of law enforcement agencies, social workers, NGOs and other relevant actors. However, several years after the setting-up of these working groups, the donor funding was discontinued. The only multidisciplinary working group which continues to function on an informal basis is the one in Liepaja. Its main activity is to organise and implement preventive measures at local level, including through participating in education on human trafficking in schools and disseminating information about this phenomenon in the media. It has also initiated training sessions for regional social workers on identification of victims of human trafficking, with the support of the Liepaja City Council. While the working group is partly supported by the Liepaja local government, it does not have a budget and lacks financial resources which would allow it to develop its activities. The Latvian authorities have indicated that the setting up of similar working groups in other regions of Latvia is not envisaged, this will be discussed in the course of 2013 when developing the new National Human Trafficking Prevention Guidelines (Strategy) for the next seven-year period.

50. According to public officials and representatives of NGOs met during GRETA's visit to Latvia, co-operation between public bodies and NGOs is building up, but the existing framework falls short of ensuring effective identification and assistance for victims of trafficking due to the absence of a structured national referral mechanism and the lack of financial resources.

51. GRETA notes that anti-trafficking action in Latvia has focused on trafficking for the purpose of sexual exploitation. Not enough attention is paid to other forms of exploitation, in particular forced labour. According to the National Co-ordinator, better implementation of the National Programme, strengthening the administrative system for combating THB for labour exploitation, improving the identification of victims and informing the general public of the dangers of THB remain among the main challenges.

52. Stocktaking of the implementation of the National Programme is carried out through annual reports prepared by the Ministry of the Interior. GRETA notes that the National Programme for 2009-2013 envisages an assessment of the effectiveness of the activities carried out by law enforcement bodies in the field of THB.

53. In the light of the above, **GRETA considers that the Latvian authorities should take further measures to:**

- **strengthen co-ordination between all actors in the field of action against THB, including at local level;**
- **encourage more effective participation of all public bodies involved in the implementation of anti-trafficking measures at national and local levels; in this context, the issuing of procedural guidelines might be envisaged;**
- **provide the Inter-Institutional Working Group with sufficient authority and enhance the level of representation of institutions with responsibilities under the National Programme to achieve their greater accountability in the implementation of the National Programme and the decisions of the Group;**
- **step up action to combat trafficking for labour exploitation;**
- **pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking.**

54. Further, in addition to the annual reports of the Ministry of the Interior, GRETA invites the Latvian authorities to consider commissioning an independent evaluation of the implementation of the National Programme as a tool for assessing the impact of the activities and for planning future policies to combat human trafficking.

*ii. Training of relevant professionals*

55. Significant efforts have been made in Latvia to provide training to professionals involved in preventing THB and identifying and assisting victims. In 2009-2010 the Ministry of the Interior, the Ministry of Foreign Affairs, the State Police and the Ministry of Welfare organised the following activities:

- training for police officers, border guards, officials of the Office of Citizenship and Migration Affairs, prosecutors, officials of the State Employment Agency and the State Labour Inspectorate, specialists from Orphan's Courts<sup>9</sup>, social assistance services and the State Inspectorate for Protection of Children's Rights to improve their capacity to identify victims of THB;
- two training courses on investigation of cases of human trafficking and pimping, organised by the 3rd Unit for the Fight against Human Trafficking and Pimping;
- annual training for consular officials working in the member states of the Schengen Agreement and outside the Schengen area, as well as for diplomats and consular officials working in foreign diplomatic missions in Riga, which includes as a topic trafficking in human beings and information that needs to be provided to potential victims.

56. The curriculum of the National Police College includes training on human rights and the protection of children, which encompasses the aspect of trafficking in human beings. In 2010, a number of seminars were organised on investigation of criminal offences related to THB and international search of missing persons. In 2011 the National Police College developed a plan consisting of six training courses which include the aspect of THB and aim to provide 20 police officers in each regional office and 40 police officers in Riga with the necessary knowledge to enable them to identify cases of THB. The Latvian authorities have indicated that since 2010, 239 police officers have followed training on investigation of cases of THB and pimping.

57. The State Border Guard College does not provide specific training on THB, but this subject is covered as part of training on immigration control, border checks and combating organised crime. Under the project "Common Core Curriculum updating" for EU border guards, FRONTEX has developed a handbook on combating THB at border checkpoints in EU member states, and it is planned to provide training to 20 Latvian border guards by the end of 2012.

58. According to representatives of the General Prosecutor's Office, the training of prosecutors is a priority and the number of prosecutors who have attended THB training has increased from three in 2009 to 43 in 2011. The General Prosecutor's Office co-operates with the Latvian Judicial Training Centre and ensures that prosecutors participate in joint trainings organised by the Centre.

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<sup>9</sup> Pursuant to Article 2 of the Law on Orphan's Courts, an Orphan's Court is a guardianship and trusteeship institution established by a municipality or city self-government.

59. On 7 December 2010, on the occasion of the Day of Criminal Justice, 70 court administration officials took part in a seminar where THB was discussed in the context of “qualification of sex crimes”. According to information from the Latvian Judicial Training Centre, no training for judges on THB has been organised in recent years as there have been no substantial legal amendments warranting it and only a small number of human trafficking cases have been brought to courts. On 22-23 November 2012, 25 officials (police officers, prosecutors and judges) participated in a regional workshop about pre-trial investigation organised in the framework of the project “Nordic, Baltic, Russian Co-operation on the Fight against Human Trafficking - Regional Co-operation across Juridical, Law Enforcement, Social Authorities”. A training course for practitioners on “Recognition, investigation and prevention of human trafficking as an effective tool for the termination of the phenomenon” is planned for the autumn 2013. In addition, a training session on Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims is to be included in the 2013 curriculum of the Latvian Judicial Training Centre. The Ministry of Justice has submitted a project proposal on THB training, with a particular focus on labour exploitation and the identification of victims, to the European Union Programme “Criminal Justice”.

60. Professionals involved in the protection of children are required to undergo a 40-hour training programme which covers, *inter alia* the protection of children against trafficking. According to representatives of the Ministry of Welfare, an important part of funding allocated in 2009 and 2010 for the training of social workers, officials of the State Labour Inspectorate and the State Employment Agency was used for providing assistance for victims of THB. As a result, no training on THB was organised. In 2011, training on the issue of children’s rights was organised for 1075 persons (officials of social services, orphan courts, municipal police, State Police, prosecutors and judges).

61. In 2010, the Ministry of Education and Sciences held seminars for 215 teachers and heads of educational institutions of secondary schools in addition to eight professional development programmes on prevention of THB for the purpose for sexual exploitation.

62. Riga municipality implemented two training seminars within the project “Preventive measures for the elimination of human trafficking”, during which 60 social workers were provided with guidance on the identification of victims of THB, psychological assessment, the need to avoid stigmatisation, assessment of the needs of victims and providing assistance. In addition, the municipality published a brochure “Human trafficking prevention” in Latvian and Russian. In 2012, the Riga municipality allocated funding to continue this project and further training sessions for officers of Riga municipal police, and social workers of Riga social services took place. Training on human trafficking will also be provided to 50 social educators in schools. In addition, it is planned to publish 5 000 copies of the brochure.

63. The transnational project “A Safety Compass: signposting ways to escape trafficking” will be launched by the end of 2012. The project is run by the Resource Centre for Women “Marta” and will be implemented in co-operation with the Ministry of the Interior, the State Inspectorate for Protection of Children’s Rights and partners from the United Kingdom and Estonia. Among other things, this project aims at creating an international referral mechanism and providing training on human trafficking to approximately 200 persons (police officers on duty and operators of the emergency line 112) in Latvia.

64. While most of the funds for training activities come from the State budget, the Embassy of the United States of America in Latvia, IOM and the Council of the Baltic Sea States (CBSS) also provide institutional and financial support. The most recent example is a training seminar on methods of identification of human trafficking cases and providing of assistance to victims of THB, organised in Riga on 29 November-2 December 2010 by the IOM and the Embassy of the USA, with some 40 participants, including representatives of ministries, the State Police, the Office of Citizenship and Migration Affairs, Riga City Council, prosecutors and NGOs.

65. GRETA welcomes the steps taken by the Latvian authorities to provide training to professionals involved in action against THB. However, it notes that THB has often been only an auxiliary element of training programmes. **GRETA considers that the Latvian authorities should ensure that all relevant professionals are trained periodically, throughout their careers, in preventing and combating THB, and in identifying, assisting and protecting victims. Such training should be designed taking full account of gender and child-specific aspects and should be provided to all relevant professionals.**

*iii. Data collection and research*

66. 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 the performance of 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.

67. In Latvia, several sets of data relating to trafficking are collected by different bodies. The Information Centre of the Ministry of the Interior operates an information system on persons who have committed offences on the territory of Latvia, as well as Latvian nationals, "non-citizens"<sup>10</sup> and foreigners with permanent residence in Latvia who commit offences and administrative violations abroad. In September 2010, the Information Centre completed the setting up of "Criminal Proceedings Information System" which contains data concerning all victims of criminal offences in Latvia, including THB. This system includes personal data (name, identification number, date of birth, nationality, gender, place of residence), as well as information about the offence, the relationship between the victim and the offender, the type of assistance provided to the victim, the results of any expertise performed, the amount of compensation to which the victim has applied in pre-trial proceedings and the amount of compensation received. Collection of data started on 1 January 2011.

68. The General Prosecutor's Office collects data on prosecuted cases and makes this information available to the Ministry of the Interior. This data is published in the annual reports of both bodies.

69. The Court Information System, operated by the Court Administration under the supervision of the Ministry of Justice, provides data on court cases, including criminal, civil and administrative cases. This system contains, *inter alia* statistical data on the number of convicted persons, persons against whom charges are dropped, sentences given, suspended sentences, acquittals, and cases which were returned for additional procedural actions.

70. The Ministry of Welfare collects data on the number of victims of trafficking who receive social rehabilitation services during the 30-day reflection period or while holding a temporary residence permit. This data is forwarded to the Ministry of the Interior and published in annual reports. The Latvian authorities have stressed that the processing of any data collected by the Ministry of Welfare is regulated under the Personal Data Protection Law and other legal instruments providing for the protection of personal data in Latvia and the European Union.

71. NGOs working in the area of THB collect data on victims of THB, which includes information about persons who received assistance outside the scope of the state-funded social rehabilitation programme for victims of THB.

<sup>10</sup> "Non-citizens" are persons who are not citizens of Latvia or any other country but, who, in accordance with the Latvian law "Regarding the status of citizens of the former USSR who possess neither Latvian nor other citizenship", have the right to a non-citizen passport issued by the Latvian government as well as other specific rights.

72. The State Border Guard, the Office of Citizenship and Migration Affairs and the State Labour Inspectorate collect data in their respective domains, some of which is relevant for THB. The State Border Guard gathers information on possible cases of trafficking detected at the borders, which is transferred to the Ministry of the Interior. The Office of Citizenship and Migration Affairs has the task of issuing and registering of temporary residence permits and collects information on the number of permits issued to victims of human trafficking disaggregated by sex, age, nationality and other personal information; however, this data does not indicate the form of exploitation for which the victim was trafficked.

73. According to the Latvian authorities, all data collection systems ensure protection of personal data and access to information is restricted to a limited number of persons who need it for the performance of their duties. Despite the existence of a range of data, GRETA notes that there is no comprehensive and coherent information concerning all aspects of THB in Latvia. Further, statistics concerning the number of victims differ between law enforcement authorities and NGOs as the latter take into account victims who do not co-operate with law enforcement agencies or do not qualify for the state-funded social rehabilitation programme for victims of THB.

**74. GRETA considers that the Latvian authorities should continue their efforts to develop and maintain a comprehensive and coherent information system on trafficking in human beings by compiling reliable statistical data from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination, etc.). In this context, GRETA encourages the Latvian authorities to include statistical information on human trafficking victims collected by NGOs in the annual reports concerning THB.**

75. No research in the area of THB has been commissioned by the Latvian authorities since 2007. GRETA notes that the National Programme for 2009-2013 does not envisage any research on trends, or on the scope and nature of THB in Latvia. In 2010, the State Police, together with the NGO "Shelter Safe House", applied for funding from the European Commission programme with a project entitled "Assessment of free movement of individuals and update of national policies according to observed trends in the field of human trafficking" which proposed to research the problem of marriages of convenience involving Latvian nationals and non-EU country nationals in Ireland and Cyprus. The project did not receive funding and was not implemented.

76. Research projects involving Latvia have been carried out by international organisations, in particular the Council of the Baltic Sea States (CBSS) of which Latvia is a member. Reference can be made to the project entitled "Data and Education on Forced Labour and Counter Trafficking" which was initiated in June 2011 by the CBSS Task Force against Trafficking in Human Beings. Further, in 2011 the CBSS carried out research concerning the collection of data relevant to trafficking and providing guidance for further development of a unified data collection system.<sup>11</sup> In addition, the United Nations Office on Drugs and Crime (UNODC) and the CBSS produced a research report "Human Trafficking in the Baltic Sea Region: co-operation between state and civil society in the field of assistance and protection of victims of human trafficking".<sup>12</sup>

**77. GRETA considers that the Latvian authorities should conduct and support research on THB-related issues as an important source of information for future policy measures and for identifying areas where priority action is needed to prevent and combat THB.**

<sup>11</sup> [Hard Data](#): Data Collection Mechanisms on Human Trafficking in the Baltic Sea Region

<sup>12</sup> UNODC [Human Trafficking in the Baltic Sea Region](#): State and Civil Society Cooperation on Victims' Assistance and Protection

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*iv. International co-operation*

78. 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).

79. The Criminal Procedure Law contains provisions in the area of international legal assistance, including on extradition, transfer of criminal proceedings, transfer of convicted persons for the enforcement of sentences involving deprivation of liberty, execution of procedural actions, and recognition and enforcement of judgments. Latvian legislation authorises the State Police, the Prosecutor’s Office and courts to spontaneously provide information to the corresponding authorities of other countries. Transmission of this information often takes place through co-operation with Interpol and Europol.

80. At the bilateral level, Latvia has concluded agreements on legal assistance and combating organised crime with Albania, Austria, Azerbaijan, Belarus, Belgium, Croatia, Cyprus, the Czech Republic, Georgia, Estonia, Finland, Hungary, Lithuania, Malta, the Republic of Moldova, the Russian Federation, the Slovak Republic, Slovenia, Spain, Switzerland, Turkey, Ukraine, as well as with China, Israel, Kazakhstan, Kyrgyzstan, Uzbekistan and USA. In cases where co-operation is required with a state that Latvia does not have an agreement with, the Minister of Justice and the Prosecutor General are entitled to submit a request for legal co-operation to the competent authorities of that state, or to receive such a request and render assistance, which may be subject to confirmation that reciprocity will be observed.

81. The international treaties referred to in paragraph 12, relevant EU legislation and bilateral or multilateral agreements signed by Latvia form an integral part of the legal basis for international co-operation in preventing and combating THB. The implementation of the EU Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union is carried out through the Law on the Exchange of Information for the Prevention, Detection and Investigation of Criminal Offences and a special Cabinet of Ministers’ Regulation<sup>13</sup> concerning the application form to be used for such exchange.

82. During the evaluation visit, the GRETA delegation was informed of difficulties in co-operation with Ireland in identifying and assisting Latvian nationals trafficked for the purpose of concluding marriages of convenience (“sham marriages”). On the occasion of the 12th session of the Human Rights Council Working Group on the Universal Periodic Review concerning Ireland (6 October 2011), Latvia recommended that Ireland amend its anti-trafficking legislation so as to include sham marriage as a form of exploitation and to provide the Irish Police with the necessary powers to intervene in such cases.

83. According to information provided by the Latvian authorities, in 2009-2011, the Latvian Police co-operated with German law enforcement agencies through the German liaison officer in Riga. A number of joint actions were carried out, resulting in the conviction of three German and five Latvian nationals for human trafficking offences. In 2009, the Latvian Police, in co-operation with the British law enforcement authorities, prevented the trafficking for sexual exploitation of two minors (16 and 17 years of age) from Latvia to the United Kingdom. This joint action resulted in a criminal case under Article 154<sup>1</sup> and Article 165<sup>1</sup> of the CL. Further, in 2011, the British law enforcement bodies, in co-operation with the Latvian State, arrested a criminal group of four persons who held a number of Latvian women in sexual exploitation in London. In the framework of international co-operation the 3rd Unit for the Fight against Human Trafficking and Pimping of the State Police of Latvia provided assistance to Belgian law enforcement agencies from 26 November 2011 to 8 February 2012 in a case under investigation about a Latvian citizen who had been trafficked for the purpose of forced labour.

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<sup>13</sup> Regulation No. 886 on Content and Form of Application Forms for Provision of Information for the Prevention, Detection and Investigation of Criminal Offences.

84. In 2011, the Nordic Council of Ministers initiated a project entitled “Nordic, Baltic, Russian Co-operation on the Fight Against Human Trafficking - regional co-operation across juridical, law enforcement, social authorities”, the goal of which is to strengthen the regional operational network and co-operation mechanisms through training of judges, law enforcement officers and social workers, as well as NGOs.

85. While welcoming the efforts made by the Latvian authorities in the area of international legal assistance, **GRETA considers that the Latvian authorities should further enhance international co-operation in the criminal and non-criminal fields by concluding agreements with states to which Latvian nationals are trafficked, covering aspects of prevention of trafficking and return of victims.**

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

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

### **a. Awareness raising and education**

87. In its chapter on measures to prevent THB, the National Programme for 2009-2013 refers to informative events to educate society on this subject, providing information on the risks of human trafficking to persons seeking employment abroad, updating the information available on websites, training relevant professionals with a view to improving their ability to detect trafficking victims, and improving the supervision of companies offering employment in foreign countries. The implementation of activities to prevent THB is mainly assigned to the Ministry of the Interior, the Ministry of Welfare and the Ministry of Foreign Affairs.

88. Since September 2009, the State Police has carried out a campaign “Safe days at school” which aims, *inter alia*, at improving the awareness of pupils of the risks of THB. In 2009 this campaign was held in 213 educational institutions in Riga region, 104 institutions in the Kurzeme region, 144 in the Latgale region, 130 in the Vidzeme region and 106 in the Zemgale region. In the course of 2010, the campaign covered a total of 2 910 educational institutions.

89. Other awareness-raising activities organised by public bodies, in co-operation with NGOs, have been dedicated to alerting the public to the risks of sham marriages and providing information on safe travel and employment abroad, including for young people wishing to continue their studies or take up employment in foreign countries.

90. The NGOs “Shelter Safe House” and Resource Centre for Women “Marta” have implemented several activities aiming to prevent THB. In 2010 the NGO “Marta” carried out an awareness-raising campaign “Challenging Gender Roles for Prevention of Trafficking!” As part of this campaign a website [www.lielaskirba.lv](http://www.lielaskirba.lv) was set up, containing information on negative stereotypes relating to gender roles and educational material on gender equality. Further, the NGO “Marta” organised a social campaign “Buy a girl - save the county!” which aimed at drawing the attention of the public and the law enforcement authorities to web sites offering sex services. Further, in 2011 the NGO “Marta”, in co-operation with the cosmetics company Body Shop, organised a campaign entitled “Stop Sex Trafficking!”

91. On 18 January 2011 the NGO "Shelter Safe House" initiated a campaign entitled "Sham marriage - a trap!" which was supported by the Ministry of the Interior, the Ministry of Foreign Affairs and the Riga City Council. The campaign emphasised possible risks related to marriages which do not serve the purpose of developing a family relationship and included a survey which assessed the awareness of society on this issue. The campaign activities concentrated on Latvia's main travel hubs, such as Riga international airport.

92. Further, from September to December 2011, a campaign "Open your eyes!" was organised by the NGO "Shelter Safe House", in co-operation with the Ministry of the Interior, the State Police and the General Prosecutor's Office. The campaign consisted of a series of lectures and covered 237 librarians and 118 young people throughout Latvia. It is considered that libraries are important places of gathering for the rural population and therefore an appropriate forum for informing the public on THB. The NGO "Shelter Safe House" has also produced awareness-raising materials on the prevention of THB which are distributed in schools, professional education establishments, social care institutions and orphanages in Riga, Ikšķile, Lipupe and Jelgava.

93. GRETA welcomes the measures taken to raise awareness on THB in Latvia. However, GRETA was informed by NGOs and representatives of public authorities that there is still insufficient knowledge of the nature of trafficking and the various forms of exploitation that it may involve. GRETA notes that the chapter on prevention of THB in the National Programme for 2009-2013 does not contain reference to any specific awareness-raising campaigns.

94. **GRETA considers that the Latvian authorities should step up their efforts to inform the general public about the problem of THB in its various forms. Awareness-raising measures should be designed in the light of impact assessment of previous measures and with a view to reaching out to vulnerable groups, such as children and young persons. Further, targeted awareness raising is necessary in areas inhabited by persons in economically disadvantaged situations with a view to enabling such persons to make well-informed decisions concerning employment, migration or marriage offers.**

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

95. GRETA was informed by representatives of public bodies and NGOs that children abused by their parents or legal guardians, children placed in public care institutions and young persons leaving such institutions are particularly vulnerable to THB. Another factor making children vulnerable to trafficking is the occasional failure to ensure birth registration. The scale of this problem is reportedly more significant in large cities. Despite the efforts of municipalities to register all children within their jurisdictions, representatives of public bodies and NGOs indicate that this problem is still not fully solved.

96. The Latvian authorities have referred to a number of measures aimed at improving the life skills of children placed in state institutions and preparing them to lead independent lives. Over the last few years, under the supervision of the State Children Inspectorate, municipalities have been developing halfway homes for children and young persons without parental care where they can be placed from the age of 16. Six months before reaching 18 years of age, the institution responsible for providing care for children notifies the municipality concerned about the forthcoming return of a young adult, so that the municipality can provide assistance with housing and employment.

97. In the course of 2009-2011 the Cabinet of Ministers approved a number of programmes and action plans on the protection of children and the improvement their education. These programmes cover the prevention of juvenile crime and protection of juveniles against criminal offences; the prevention, reduction and combat of organised crime; improving the use of information technologies in education; and protecting minors from criminal offences against morals and sexual inviolability. The Latvian authorities are also implementing the guidelines "Latvia suitable for children", which is a long-term strategic document containing basic principles, objectives and priorities of the children's rights policy.



98. The Law on Social Services and Social Assistance provides for social services and benefits to, *inter alia*, adults and children with disabilities, children in long-term state institution care and children victims of violence. The services include social counselling, housing and long-term care, as well as financial benefits. While the provision of services and allocation of benefits is ensured by the local governments, some of the services such as long-term social care and social rehabilitation institutions, are financed from the State budget. During the evaluation visit, the GRETA delegation was informed about recent difficulties in financing social support programmes for persons in precarious financial situation.

99. The State Employment Agency registers unemployed persons and persons seeking employment from the age of 15 and should also offer them vocational training as well as traineeship opportunities. The Law on Support for Unemployed Persons and Persons Seeking Employment contains measures to promote employment and reduce unemployment. However, due to the economic crisis, it has not been possible to provide priority employment to people vulnerable to THB.

100. During the evaluation visit, the GRETA delegation was informed that the activities of modelling agencies, often recruiting young persons under 18 years of age, are insufficiently regulated and, in some cases, these agencies recruit children without seeking their parents' prior agreement. Since recently, modelling agencies wishing to be licensed by the State Labour Inspectorate are obliged to accept an examination of their contracts. However, according to the Ministry of Welfare, such licensing has not been made mandatory and not all agencies are willing to accept reviews of their contracts.

101. The Latvian authorities have also stressed that the State Inspectorate for Protection of Children's Rights performs checks of modelling agencies to verify that they respect children's rights and Regulation n°407 of the Cabinet of Ministers of 5 May 2009 on "Procedures by which children may be involved in activities concerned with the demonstration of outer appearance". In 2009, this Inspectorate checked five modelling agencies and the main conclusions of these checks were that there was a lack of information on the number of minors engaged in modelling agencies. In the context of an inspection carried out in 2010, the State Inspectorate recommended that the modelling agency concerned check the identity of the legal representative of the child. **GRETA considers that the Latvian authorities should pay particular attention to preventing child trafficking in the field of modelling notably by making all modelling agencies bound by the regulations concerning children and by ensuring that they comply with these regulations.**

102. While taking into account the above-mentioned economic and social measures, GRETA notes that no specific initiatives for groups vulnerable to THB are envisaged in the National Programme for 2009-2013. **GRETA considers that the Latvian authorities should further strengthen the aspect of prevention of THB through social and economic empowerment measures for groups vulnerable to THB. Such measures should be based on the identified root causes of THB (such as difficult economic and social conditions, absence of employment opportunities, inadequate education, etc.) and should aim to decrease and ultimately eliminate these causes.**

103. GRETA stresses that children without registration represent a category particularly vulnerable to trafficking. **GRETA urges the Latvian authorities to ensure the registration of all children at birth as a prevention measure against trafficking. Further, GRETA urges the Latvian authorities to take steps to secure the registration of all persons from vulnerable groups for social services, both as a prevention measure and in order to avoid re-trafficking.**

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c. Measures to discourage demand

104. In accordance with the Convention, measures to discourage demand for the services of victims of THB, 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 on 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>14</sup>.

105. According to numerous press reports, confirmed by various interlocutors during the evaluation visit, sex tourism attracts a number of people to Latvia. The Tourism Division of the Ministry of Economics, which is represented in the Working Group, is responsible for promoting Latvia as a safe tourist destination. GRETA was informed that one of the guiding documents for the work of the Tourism Division is the Global Code of Ethics for Tourism, which stipulates the inadmissibility of exploitation of persons in any form. However, the Tourism Division's activities do not envisage alerting tourists about THB and the possible use of trafficked persons to provide sexual services.

106. Latvia has not criminalised the use of services of victims of THB with the knowledge that the person is a victim, with the exception of where an employer uses work or services from a non-EU national illegally present in the country with the knowledge that he/she is a victim of trafficking in human beings (see paragraph 172).

107. In 2011 the NGO "Marta", as part of the campaign "Stop Sex Trafficking" (see paragraph 90), launched a petition for signatures calling for the criminalisation of buyers of sexual services. The petition collected 15 430 signatures and led to a request to set up an Inter-Institutional working group at the Government level to address the demand for sexual services. The Inter-Institutional working group was set up on 30 March 2012 and is composed of representatives from several ministries (Justice, Interior, Welfare, Education and Science, Health, and Culture), the State Police and two NGOs, "Marta" and "Papardes Zieds". It issued a report including an analysis of the situation in other countries and proposals as to how to reduce prostitution in Latvia. The working group decided not to support the criminalisation of buyers of sexual services. However, it proposed that the Ministry of Justice, in co-operation with other competent authorities, consider the necessity of amending the CL with a view to adding a new provision criminalising the use of sexual services from victims of trafficking. The Ministry of Justice should submit a proposal for an amendment to the Cabinet of Ministers by 15 February 2013. The working group also proposed a number of other measures aimed at reducing demand for sexual services through education, awareness raising, training of relevant professionals, and health care. These proposals are under discussion.

**108. GRETA considers that the Latvian authorities should step up their efforts to discourage demand for the services from persons trafficked for any form of exploitation.**

d. Border measures and measures to enable legal migration

109. The entry and residence of foreigners in Latvia are regulated by the Immigration Law and Regulation (EC) No. 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code). The Office for Citizenship and Migration Affairs is responsible for documenting the entry and residence of foreigners in Latvia. In addition, the State Border Guard is responsible, within the limits of its competence, for documenting and controlling the entry and residence of foreigners in Latvia.

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Addendum to the Report of the United National High Commissioner for Human Rights (E/2002/68Add.1).

110. The surveillance of the state border is the main task of the State Border Guard whose activities cover the borderland, border control points, border crossing points, as well as the inland territory of Latvia. In the performance of their duties, the State Border Guard use an Automated Fingerprint Identification System (AFIS) which enables the collection of data for the identification of persons in violation of the migration, residence and transit rules. In addition, the State Border Guard has access to other relevant databases and technical equipment to prevent crossing the border with forged documents.

111. The State Border Guard co-operates with counterparts in other countries such as Belarus, Georgia, Estonia, Lithuania and the Russian Federation. Liaison officers have been deployed in Belarus, Georgia and the Russian Federation with the task of maintaining contact with the authorities responsible for combating illegal migration and enabling early detection and prevention of illegal migration cases.

112. When carrying out checks of persons leaving Latvia, particular attention is paid to detecting children in order to prevent their unauthorised removal from Latvia. Children travelling without a parent or a legal guardian should hold a valid passport and a written consent of at least one of the parents certified by a notary. When a child is accompanied by an adult, the latter should hold a written consent of at least one of the parents certified by a notary. According to representatives of the State Border Guard, frontline staff have prevented the illegal removal from Latvia of 21 children in 2009, 60 in 2010 and 80 in 2011.

113. According to representatives of public bodies, victims of THB tend to co-operate with recruiters when leaving the country, which makes it is very difficult to identify them at this early stage of trafficking. The Latvian authorities are taking measures to increase the capacity of the State Border Guard to detect potential victims of trafficking and refer them to competent bodies. As of January 2010, the IOM Office in Riga, in co-operation with the US Embassy in Latvia, is implementing a training programme entitled "Enhancement of Capacities of Border Control Detachment of Border Guard Troops of National Security Service of Latvia", which contains a module on preventing trafficking in human beings.

114. Information concerning legal entry and stay in Latvia is placed on the websites of the Ministry of Foreign Affairs and Latvian Embassies and Consulates of Latvia abroad. Consulates also provide guidance and advice to interested persons on the spot.

115. GRETA welcomes the measures taken by the Latvian authorities and **considers that further efforts should be made to:**

- **improve detection of THB cases in the context of border control;**
- **ensure systematic training of frontline staff of the State Border Guard on identification and referral of potential victims of THB.**

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

#### a. Identification of victims of THB

116. 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 that if the competent authorities have reasonable grounds to believe that a person has been a victim of trafficking, that person shall not be removed from the country until the identification process is completed and shall receive the assistance required by the Convention.

117. In Latvia, the identification of victims of THB is carried out in accordance with Regulation No. 889 of 31 October 2006 on "The procedures by which victims of THB receive social rehabilitation services and the criteria for recognising a person as a victim of THB". Pursuant to this Regulation, victims of trafficking can be identified by:

- law enforcement bodies (the State Police, the prosecutor's office) and the court in charge of the criminal case;
- foreign law enforcement bodies;
- a commission of specialists convened by the NGO responsible for the provision of state-funded assistance to victims of THB, when this NGO is the first point of contact with the presumed victim or a criminal case cannot be initiated.

118. If a person is identified as a victim of THB by the law enforcement authorities, no additional examination of his/her compliance with the criteria for recognition as a victim of THB is required. In such cases identification of victims of trafficking is determined by the police depending on the presence of sufficient elements for initiating a criminal case. Formal recognition of a person as a victim of trafficking within the meaning of the criminal procedure may also be carried out by the court in charge of the criminal case.

119. If identification is not performed by the law enforcement authorities, the potential victim must undergo an assessment following the criteria contained in Annex 2 to the Regulation. An assessment report is drawn up using the form in Annex 1 to the Regulation. The assessment is carried out by a commission of specialists convened by the NGO providing assistance to victims. The commission is composed of a social worker, a psychologist, a lawyer, a medical doctor, an official of the State Police and other specialists when necessary. Paragraph 8 of the Regulation sets out the indicators<sup>15</sup> for identifying a victim of trafficking.

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<sup>15</sup> These indicators include, *inter alia*, a person being: recruited, transported, conveyed or received, kidnapped or sold or, upon arrival in the country of destination; forced to do other work instead of the one promised; held under debt bondage with his/her income collected by others; unable to quit or change the job at free will; deprived of identity documents; facing direct or indirect threats of violence; threatened with retaliation upon him/herself or family and relatives or with deportation.

120. The Latvian authorities have set up a multi-disciplinary commission of specialists for the identification of victims of THB. The commission meets in Riga and all potential victims of THB discovered throughout the territory of Latvia must be transported there for interviews. GRETA was informed by representatives of NGOs that the identification of victims of THB, even when carried out by this commission, aims at facilitating the criminal investigation instead of assisting and protecting victims. GRETA is concerned that such an approach to identification could undermine the otherwise good practice of identification of victims of THB by a multi-disciplinary commission and risks leaving trafficked persons outside the protection they are entitled to under the Convention. The Latvian authorities, while recognising that investigation is not the least important part of the commission's work, have stated that the work of the multi-disciplinary commission aims at assisting and protecting victims of trafficking and assessing and preventing possible risks. According to them, the main reason for setting up this commission was to provide social rehabilitation services to victims of human trafficking.

121. According to representatives of NGOs and law enforcement authorities, in practice the majority of potential victims of THB are detected and identified as victims by the police. Most Latvian victims of trafficking are identified abroad by foreign law enforcement agencies, who refer them to the Latvian State Police. In order to receive State funded social rehabilitation services, the above-mentioned recognition procedure by the multi-disciplinary commission of specialists is needed.

122. No cases of persons trafficked to Latvia for the purpose of labour exploitation have been identified in 2008-2012. Labour inspectors are entitled to perform checks of all companies employing people, including construction and agricultural sites, without the need to give advance notice, but such checks aim to detect persons employed in violation of the residence or employment regulations. There have been reports concerning Moldovan and Ukrainian nationals held in slavery-like conditions on construction sites, but no such persons have been identified as victims of THB. The Latvian authorities have indicated that the State Labour Inspectorate has not received any information about possible violations of employment requirements concerning Ukrainian or Moldovan citizens.

123. GRETA notes that there is a lack of proactive identification of victims of trafficking in Latvia, especially when it comes to trafficking for exploitation other than sexual. In large cities like Riga, Liepaja and Daugavpils the police are making attempts to gather intelligence that would lead to criminal cases relating to the organisation of sexual services, but their main objective is to combat the organisation of prostitution, rather than to identify victims of trafficking.

124. GRETA notes that at present there is no formally established national referral mechanism for victims of THB in Latvia. Further, no active outreach work is carried out by relevant public bodies for the purpose of detecting victims of THB. As a result, a number of victims of THB risk remaining outside the current identification and assistance arrangements, in particular if no criminal investigations are carried out due to the lack of information. Further, GRETA notes that there are currently no special procedures for the identification of child victims of trafficking.

125. The Ministry of the Interior and the State Police, in co-operation with the State Labour Inspectorate, and the NGO "Shelter Safe House" have elaborated Guidelines for identification of victims of human trafficking for the purpose of labour exploitation, which were published on 6 January 2012 on the website of the Ministry of the Interior. The guidelines are intended for law enforcement agencies, public institutions and NGOs who may detect cases of human trafficking for the purpose of labour exploitation.

126. **GRETA urges the Latvian authorities to review the current victim identification procedure and in particular to:**

- **set up a formalised national referral mechanism for the identification of victims of THB and ensure that all actors involved in it are adequately trained and have full knowledge of their respective roles;**
- **pursue a proactive approach to the identification of victims of trafficking, in particular victims of trafficking for labour exploitation and provide frontline staff with operational indicators, guidance and toolkits for the identification of victims;**

- **pay particular attention to identification of victims of trafficking among children;**
- **ensure that the identification of victims of trafficking, whether by the police or by the multi-disciplinary commission of specialists, is not solely aimed at enabling criminal investigation, but primarily at referring victims to appropriate assistance and protection.**

b. Assistance to victims

127. 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 THB (Article 12(7)). The Convention also establishes that the assistance to victims of THB must include appropriate and secure accommodation.

128. Pursuant to the above-mentioned Regulation No.889 on "Procedures by which victims of THB receive social rehabilitation services and the criteria for recognising a person as a victim of THB", victims of trafficking are entitled to a six-month programme of State-funded social rehabilitation. The conditions for access to this programme are: a written agreement of the person concerned or his/her legal representative and a decision of the law enforcement body in charge of the criminal procedure in connection with the offence committed in respect of the person concerned; a statement of the law enforcement authority confirming that the person was trafficked abroad; or an assessment report by the NGO providing assistance to victims of THB.

129. The provisions concerning the different entitlements of victims of trafficking to assistance are contained in a number of laws and regulations, in particular the Law on Social Services and Social Assistance, the Law on Residence of a Victim of THB, the Law on Support for Unemployed Persons and Persons Seeking Employment, the Law on Education, the Law on Protection of the Rights of the Child, Cabinet of Ministers Regulation No.1613 on the procedures for providing necessary assistance for a child who has suffered from unlawful activities, and Cabinet of Ministers Regulation No.1046 on the procedure for organising and financing of medical treatment.

130. The assistance measures for victims of THB include safe accommodation, emergency medical aid, consultations with a psychologist, a lawyer, a medical doctor and other specialists, access to education and vocational training. These services are provided by NGOs selected through a procurement tender. Since 2008, the NGO "Shelter Safe House" has provided state-funded assistance to victims of trafficking. The expenses of the social rehabilitation programme are covered by the Social Service Board of the Ministry of Welfare.

131. GRETA welcomes the fact that the state budget intends to fully cover the expenses required for assisting victims of THB. That said, GRETA notes that the state allocation to cover assistance to victims of THB has decreased over the years: from some 50 603 Euros in 2008, to approximately 32 400 Euros in 2011. The financial resources allocated in the state budget represent a fixed sum of money per day per victim and may only be increased through a cumbersome and time-consuming process, should there be more victims identified during the year than it was budgeted for. As a consequence, newly identified victims of trafficking may have to wait weeks, in some cases months, until funding is made available in order to get the assistance they need.

132. Pursuant to Regulation No.889, the social rehabilitation programme for a victim of THB can last no longer than six months. After this period, five additional consultations may be envisaged, but no further assistance can be offered, even when there are reasons to believe that such assistance would be necessary to ensure that the victim has recovered and the risk of his/her re-trafficking has been effectively eliminated. Representatives of NGOs and public bodies indicated that continuous assistance is particularly necessary when victims participate in criminal proceedings, which often last longer than six months.

133. No common minimum standards have been defined as regards the assistance measures provided to victims. The only supervision as regards the provision of services to victims of THB is limited to annual budgetary audits carried out by the Ministry of Welfare. Systematic adherence to quality standards is all the more important bearing in mind that specialist assistance is often provided by outside professionals contracted by the NGO "Shelter Safe House".

134. During the evaluation visit to Latvia, the GRETA delegation visited a crisis centre for women and children victims of violence located in Riga. The centre has the capacity to assist up to 20 persons and, pursuant to arrangements with the NGO "Shelter Safe House", can also accommodate women victims of THB. Since 2008, the centre has accommodated three victims of trafficking. The centre employs a psychologist, a therapist, a social worker and an educator. Beneficiaries of the centre may be accommodated for up to six months and are provided with vocational training, life skills, creative workshops and other assistance aiming at their rehabilitation. In addition, victims of trafficking placed in the centre are offered legal counselling and medical assistance.

135. According to representatives of the family crisis centre and the NGO "Shelter Safe House", many victims of trafficking do not wish to be accommodated in the family crisis centre and prefer instead to go back to their places of residence where they can receive assistance through the NGO "Shelter Safe House". The reluctance of victims to participate in the state-funded social rehabilitation programme can be attributed to the fact that trafficked women are afraid of being stigmatised as "prostitutes" if they stay at the centre. According to information provided by the Latvian authorities, eight victims of THB benefited from social rehabilitation services in 2008, 12 in 2009, 12 in 2010 and 12 in 2011. Most of the victims received such services for six months.

136. There are no specific shelters for child victims of trafficking, but they can be accommodated in crisis centres for children. During the country visit, representatives of public authorities expressed the view that male victims of trafficking do not need special accommodation arrangements. When necessary, assistance to male victims of THB can be provided through social institutions of municipalities, regional crisis centres and religious organisations.

137. GRETA notes that the absence of a formalised national referral mechanism, exacerbated by the fact that the different types of assistance to which victims of THB are entitled are scattered in numerous laws and regulations, makes it difficult for victims of THB to access to services they are entitled to. **GRETA urges the Latvian authorities to take further measures aimed at providing victims and potential victims of THB with adequate assistance, and in particular to:**

- **provide all victims of THB with effective access to assistance for the duration necessary to achieve their rehabilitation, taking into account their specific circumstances and regardless of their participation in criminal proceedings;**
- **adopt minimum standards for the services provided to victims of THB and ensure the provision of adequate funding to maintain them;**
- **ensure that all victims of THB are informed of the assistance to which they are entitled;**

- **improve the assistance provided to child victims of trafficking, including accommodation and medium- and long-term support programmes tailored to their needs;**
  - **provide adequate assistance measures, including appropriate accommodation, to male victims of THB;**
  - **facilitate the reintegration of victims of trafficking into society and prevent re-trafficking by providing them with vocational training and access to the labour market.**
- c. Recovery and reflection period

138. As victims of THB 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 minimum 30-day period constitutes an important guarantee for victims and potential victims and serves a number of purposes, including allowing them to recover and escape the influence of traffickers. During this period, Parties must authorise the person concerned to stay on their territory and expulsion orders cannot be enforced.

139. A reflection period for victims of THB is envisaged under the Law on Residence of Victims of Trafficking, Article 1(2) of which defines this period as the “time granted to a person who has been recognised as a victim of trafficking in human beings so that he or she would consider a possibility to provide information which would promote the disclosure or elimination of the cases of trafficking in human beings, to the investigative institution or a performer of procedures”<sup>16</sup>. Article 4 of this Law stipulates that a person should make a request to be granted a reflection period within three days from being recognised as a victim of THB. The decision on granting the reflection period should be taken by a law enforcement authority within five working days. The refusal to grant a reflection period cannot be appealed. Article 4(2) of the Law on Residence of Victims of Trafficking states that “the reflection period shall not be granted to the victim of trafficking in human beings if he/she has been recognised as the victim of a criminal offence that is related to trafficking in human beings”. In this context, the Latvian authorities have stressed that the wording “person recognised as a victim of trafficking” (“upuris” in Latvian) does not mean “a person recognised as a victim of the criminal offence of THB” (“cietušais” in Latvian). The latter person would not need a reflection period because he/she already co-operates with the law enforcement authorities.<sup>17</sup>

140. According to Article 4(4) of the Law on Residence of Victims of Trafficking, the duration of the reflection period is 30 days. During the reflection period, victims are entitled to assistance and protection measures, which include safe accommodation, medical aid, psychological and legal assistance, vocational training and access to education.

141. According to information provided by the Latvian authorities, no victims of THB were granted a reflection period in 2008-2011.

142. GRETA stresses that in accordance with the Convention, even persons who are not yet formally identified as victims of THB, but are likely to have been trafficked, are entitled to a recovery and reflection period. One of the essential purposes of this period is to allow victims and potential victims to recover and escape the influence of traffickers. GRETA is concerned that this is not reflected in Article 1(2) of the Law on Residence of Victims of Trafficking.

<sup>16</sup> Unofficial translation provided by the Latvian authorities.

<sup>17</sup> Unofficial translation provided by the Latvian authorities.



143. Further, GRETA notes that the provisions of the Law on Residence of Victims of Trafficking do not apply to EU nationals. The Latvian authorities have indicated that all the provisions applying to Latvian victims of trafficking apply to victims of trafficking who are EU nationals. However, GRETA wishes to stress that the Convention establishes the need to a grant recovery and reflection period to all victims and potential victims of trafficking, regardless of their nationality and immigration status.

**144. GRETA urges the Latvian authorities to ensure that the recovery and reflection period provided for in Article 13 of the Convention is fully reflected in Latvian legislation and practice, and in particular, to:**

- **ensure that all victims of THB, regardless of their nationality and immigration status, are systematically informed of the recovery and reflection period and are effectively granted such a period;**
- **raise the awareness among the law enforcement officials regarding the purpose of and the need to grant recovery and reflection period.**

d. Residence permits

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

146. In Latvia, residence permits are issued by the Office of Citizenship and Migration Affairs, in accordance with the Law on Residence of Victims of Trafficking and the Immigration Law. Pursuant to Article 6 of the Law on Residence of Victims of Trafficking, a non-EU national recognised as a victim of THB who provides written information which may help investigating a THB case, or is recognised as a victim of a THB-related offence, may be provided with a residence permit, upon request of the law enforcement authority in charge of the criminal case. Such a request should be made during or immediately after the termination of the reflection period and should contain an assessment on whether the further residence of the victim of THB in Latvia is beneficial for the criminal proceedings initiated on the case, as well as a verification that the person has not maintained contacts with those suspected, accused, indicted or convicted of a trafficking offence.

147. The duration of the residence permit should be no less than six months and should take into account the estimated duration of the criminal proceedings, as well as any risks or threats faced by the victim of THB concerned. The law enforcement authority may request an extension of the residence permit, if this is necessary for the advancement of the criminal investigation.

148. A residence permit may be annulled if it is established that the victim actively, voluntarily and on his/her own initiative continued contacts with persons suspected, accused, indicted or convicted of a trafficking offence, provided false information in the course of the criminal proceedings, or if the law enforcement authority decided to terminate criminal proceedings. In addition, Article 35(22) of the Immigration Law envisages annulment of a temporary residence permit if the law enforcement authority informs the Office of Citizenship and Migration Affairs that the presence in Latvia of the person is no longer necessary for the criminal case.

149. According to the Latvian authorities, the three foreign victims of THB identified in 2008 were given residence permits.

150. GRETA notes that the grounds for issuing residence permits for victims of THB are limited to their contribution to the criminal proceedings, while the Convention envisages an opportunity to provide such permits also due to personal circumstances of victims. In addition, according to Latvian legislation, the request for a residence permit can only be made by the law enforcement authority and not by the victim him/herself. The Latvian authorities have stressed that under Article 23, paragraph 2, of the Immigration Law, in cases that are not provided for in the Immigration Law, a temporary residence permit is issued for up to five years by the Head of the Office of the Citizenship and Migration Affairs, for reasons of a humanitarian nature, which may include human trafficking.

151. Further, even though victims of THB who are granted residence permits are entitled to assistance through the social rehabilitation programme under Regulation No.889, such assistance can only last for up to six months. After this period assistance may be provided by the social services of the local municipality.

**152. GRETA considers that the Latvian authorities should take steps to ensure that victims of THB can take full advantage of the right to be granted a temporary residence permit.**

**153. Further, GRETA encourages the Latvian authorities to consider granting residence permits to victims who, for various reasons, do not co-operate with the law enforcement authorities, but their stay would be necessary owing to their personal situation, as envisaged by Article 14 of the Convention.**

e. Compensation and legal redress

154. 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. 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.

155. Pursuant to the State Legal Aid Law, victims of offences who do not have sufficient means are to be provided with state-funded legal aid for the entire duration of the criminal proceedings, provided that it is otherwise not possible to ensure the protection of the rights of the victim in criminal proceedings. The Latvian authorities do not have information on how many victims of THB have received legal aid. Representatives of the Ministry of Justice, the Legal Aid Administration and the Council of Sworn Advocates (Bar Association) regularly meet to discuss issues related to legal aid in criminal procedure. GRETA was informed that in practice, access to legal aid for victims of THB is problematic. Victims must request legal aid through the law enforcement officials or prosecutor who will assess their need to have free legal aid before submitting the request to the Council of Sworn Advocates. In some cases, the entire process may take a long time.

156. Pursuant to the Criminal Procedure Law, victims of any criminal offence have the right to request compensation for injuries, which includes moral injury, physical suffering or financial loss. Compensation can be claimed from natural or legal persons. The compensation claim must be submitted as soon as the criminal case has been initiated, but prior to the first court hearing. In addition, victims have the right to request compensation from the offender through civil proceedings. Both the criminal and the civil compensation routes concern all victims of criminal offences, regardless of their nationality or residence status in Latvia.

157. In addition, and in particular when the perpetrator cannot be found or cannot be held criminally liable, victims may request compensation from a state fund established for this purpose. The Law on State Compensation to Victims establishes the right for a person recognised as a victim of an offence to receive State compensation for moral injury, physical suffering or financial loss, if it resulted in the death of a person or caused severe or moderate bodily injuries to the victim, violated the sexual integrity of the victim, or resulted in the victim being infected with HIV/AIDS, Hepatitis B or Hepatitis C. In such cases, the claim for compensation is considered by the Legal Aid Administration, an institution subordinated to the Ministry of Justice. The maximum amount of State compensation is set at three times the minimum monthly wage<sup>18</sup>. The full amount is only paid if the offence caused the death of a victim. In the case of severe bodily injury, violation of sexual integrity or infection with HIV/AIDS, Hepatitis B or Hepatitis C, victims are entitled to 70% of the maximum amount, and in case of moderate bodily injury, to 50% of the maximum amount. The Latvian authorities have indicated that a draft law adding the right to State compensation for persons who have been victims of THB to the Law on State Compensation to Victims is under preparation.

<sup>18</sup>

In 2012, the minimum monthly salary in Latvia was equivalent to approximately 286 euros.

158. The Latvian authorities have no information about the number of victims who have received compensation from perpetrators. Five victims applied for State compensation in 2009 (of whom two received compensation). Two victims applied in 2010 and received no compensation, and none applied in 2011. The Legal Aid Administration regularly organises seminars and training for persons directing criminal proceedings and social workers, as well as informing the public at large about the possibility to receive legal aid. However, according to representatives of NGOs and public authorities, victims of THB are not systematically informed of possibility of obtaining compensation. Further, in many cases it is impossible to confiscate the offenders' assets to pay compensation to victims. Obtaining compensation through civil proceedings is made difficult by the length of the proceedings and the additional burden on the victim to prove damages.

159. While welcoming the existing possibilities for compensation of victims of THB under Latvian law, **GRETA considers that the Latvian authorities should to take additional steps to:**

- **ensure that victims of trafficking have effective access to legal aid in practice;**
- **improve access of victims of THB to compensation, including by systematically informing them about the various possibilities for compensation.**

f. Repatriation and return

160. 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.

161. Latvia has transposed Directive 2008/115/EC of the European Parliament and the Council on common standards and procedures in Member States for returning illegally staying third-country nationals into its legislation. According to the Latvian authorities, a non-EU national who is a victim of trafficking and is illegally present in Latvia will be offered voluntary return to his/her country of origin. If voluntary return is not accepted, the person may be deported from Latvia, without banning him/her from entering the Schengen area. The return of unaccompanied child victims of trafficking is carried out in accordance with the special procedure established for this purpose. The Office of Citizenship and Migration Affairs and the State Border Guard who detect such minors inform the State Police and the Orphan's Court to ensure the protection of the rights and best interests of the child throughout the removal procedure. During the removal, the interests of an unaccompanied minor are represented by the Orphan's Court, an appointed legal guardian or the head of the childcare institution where the minor is placed.

162. GRETA is concerned that expedited removal procedures do not allow sufficient time for the identification of victims of trafficking and assessment of the risks of their return. As far as GRETA could ascertain, there is no procedure for the repatriation of Latvian nationals identified as victims of THB abroad. In practice, such victims, if identified by foreign law enforcement authorities or other competent bodies, are returned through Latvian embassies, the Ministry of Foreign Affairs and the State Police. The risk assessment is made by the embassy before repatriation with the assistance of relevant stakeholders in Latvia. Upon arrival in Latvia, victims are received by specialised NGOs. The costs of repatriation of Latvian victims of THB are covered by the respective municipalities according to their residence, NGOs or the victims' families.

163. On 8 May 2012, the Government approved Regulation No 322 on “providing financial assistance for a person in an emergency situation abroad”. The Regulation provides for the procedure for granting financial assistance to a person who has a Latvian passport and is in an emergency situation abroad in order to ensure the return of this person to Latvia. This Regulation specifies that persons who are officially recognised as victims of THB after their return to Latvia as well as children accompanying them are not obliged to reimburse the money allocated in the framework of financial assistance.

164. **GRETA considers that the Latvian authorities should review the institutional and procedural framework for the repatriation and return of victims of trafficking in order to ensure that return is conducted with due regard to the rights, safety and dignity of the person and the status of legal proceedings.**

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

##### a. Substantive criminal law

165. 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).

166. According to Article 154<sup>1</sup> of the Criminal Law (CL), the commission of THB is punished by imprisonment for from three to eight years. Trafficking in children is considered as an aggravating circumstance and is punished by imprisonment for from five to 12 years and confiscation of property. The same penalty applies to offences committed by a group of persons pursuant to prior agreement or the repeated commission of the offence. Further, it is considered as aggravating circumstances when the offence caused serious consequences to a person or was committed by an organised group, in which case the penalty is increased to imprisonment for from 10 to 15 years and confiscation of property. The Latvian authorities have informed GRETA that a draft law has been submitted to Parliament, with a view to adding as an aggravating circumstance “endangering the life of a victim”.

167. Article 48 of the CL on general aggravating circumstances includes the commission of a criminal offence by “taking advantage in bad faith of an official position or the trust of another person”, which applies to persons who do not hold a public official function. A public official who has committed the offence of THB in the performance of her/his duties, would be held liable for the offence of THB as well as for any of the offences listed in Chapter XXIV “Criminal Offences Committed in State Authority Service” of the CL (Articles 316–330), for instance the offence of using, as a public official, an official position in bad faith provided for in Article 318.

168. Articles 274 and 275 of the CL criminalise stealing, concealment, intentional destruction, damaging and forgery of documents. These provisions are applicable regardless of the purpose of such acts. Therefore, they can also be applied when these acts are committed for the purpose of enabling trafficking.

169. In addition to the offence of THB defined under Articles 154<sup>1</sup> and 154<sup>2</sup> of the CL, Article 165<sup>1</sup> establishes as a criminal offence “sending of a person with his or her consent for sexual exploitation, that is, for any act which facilitates legal or illegal movement, transit or residence of a person for such purpose within the territory of one country or several countries”. The penalty envisaged under this provision is up to six years of imprisonment, and in cases where the offence was committed by an organised group, from eight to 15 years of imprisonment and confiscation of property. Unlike the offence of THB, there is no reference to any means for establishing an offence under Article 165<sup>1</sup>. According to the Latvian authorities, the mere fact that another person is organising or facilitating the engagement of an adult in the provision of sexual services, without referring to any means, represents a form of exploitation. Adult persons willing to engage in the provision of sexual services in countries where such activity is not prohibited, including Latvia, would be considered victims of this offence. Representatives of the Prosecutor’s Office indicated that the absence of means as a necessary component to constitute an offence facilitates the prosecution of trafficking cases under this Article and makes it easier to obtain convictions. Persons who are victims of the offence established under Article 165<sup>1</sup> can receive the State funded social rehabilitation services provided for victims of the offence established in Article 154<sup>1</sup>. Reference is made to Latvia’s statement in the Draft Report of the Working Group on the Universal Periodic Review, according to which “Latvia went beyond the Palermo Protocol, as the use of force against potential victims of sexual exploitation is not a pre-condition for instituting a criminal case against traffickers.”<sup>19</sup>

170. Without prejudice to the legitimacy and public interest of the cause pursued by criminalising the act described in Article 165<sup>1</sup> of the CL, GRETA notes that it does not correspond to the definition of trafficking in human beings contained in Article 4 of the Convention. Where an adult has full control of his/her actions, is not subjected to any of the means listed in Article 4 of the Convention, is in a position to refuse the services provided by those facilitating his/her engagement in sexual services and has full opportunity to make use of the earnings from this activity, the act under Article 165<sup>1</sup> of the CL would not constitute trafficking in human beings within the meaning of the Convention. The reliance on Article 165<sup>1</sup> to prosecute traffickers and secure convictions may have negative implications for the number of prosecutions and convictions under Article 154<sup>1</sup> and may also fuel the existing prejudice towards victims of THB who are often considered as “prostitutes”.

171. Latvian legislation does not establish criminal liability for using the services of a person with the knowledge that the person concerned is a victim of trafficking, with the exception of where an employer uses work or services from an illegally staying non-EU national (Article 280 of the CL as amended on 16 June 2011). **GRETA invites the Latvian authorities to consider criminalising the use of services of a person with the knowledge that the person is a victim of trafficking regardless of the form of exploitation, regardless the person’s nationality and immigration status.**

172. The criminal liability of legal persons is envisaged under Chapter VIII of the CL entitled “Coercive Measures Applicable to Legal Persons”. According to the provisions of this Chapter, legal persons may be held liable for any offence established by the CL, including trafficking. The sanctions envisaged include liquidation, limitation of rights, confiscation of property and a monetary fine. So far, no legal person has been convicted or prosecuted for trafficking in human beings.

b. Non-punishment of victims of THB

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

<sup>19</sup> Human Rights Council, Eighteenth session, Agenda item 6, Universal Periodic Review, Geneva, 2-13 May 2011 [Report](#) of the Working Group on the Universal Periodic Review Latvia.

174. Latvian legislation does not contain an explicit provision exonerating victims of trafficking from punishment for offences which they were forced to commit while being trafficked. According to the Latvian authorities, a person can be held liable for a criminal offence only if he/she committed it intentionally or through negligence. As long as victims of trafficking were forced to be involved in criminal activity due to their trafficking situation, it is presumed that they had no intention of committing these offences and would therefore be released from liability and prosecution. No criminal cases have been initiated against victims of trafficking in Latvia. GRETA was informed that a number of amendments to the CL and the CPL are being submitted to Parliament with a view to spelling out the circumstances exonerating victims of trafficking from liability for criminal offences. The current proposal is to insert a provision in Article 58 of the CL under which a person may be exempted from criminal liability if the criminal offence was committed during the time period when the person is subject to human trafficking and the person is compelled to commit the offence along with a corresponding provision in Article 379 of the CPL providing for the possibility of discontinuing criminal proceedings against a person in such a situation.

**175. GRETA encourages the Latvian authorities to 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.**

c. Investigation, prosecution and procedural law

176. One of the purposes of the Convention is to ensure the effective investigation and prosecution of THB. In this context, Parties are required to co-operate with each other regarding investigations and criminal proceedings related to THB (Article 32). Further, the Convention establishes that the investigation or prosecution of THB offences must not depend 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).

177. By virtue of Article 6 of the CPL, a criminal investigation is initiated *ex officio* by the prosecutor or law enforcement authority whenever there are reasonable grounds or information for initiating such an investigation, regardless of whether there has been a complaint by a person harmed as a result of an offence. THB related offences are investigated by the 3rd Unit for Fight against Human Trafficking and Pimping of the State Police of Latvia (see paragraph 24).

178. Law enforcement officials may use special investigation techniques, subject to authorisation of an investigating judge. These special investigation techniques are provided for in Article 215 of the CPL and comprise control of correspondence; control of means of communication; control of data in an automated data processing system; control of the content of transmitted data; audio-control of a site or a person; video-control of a site; surveillance and tracking of a person; surveillance of an object; special investigative experiment; acquisition in a special manner of samples necessary for a comparative study; and control of a criminal activity. A decision on the use of special techniques should be taken within seven days from the day a request for such an authorisation was submitted. In cases where the need for use of such techniques is urgent, an authorisation may be given by the prosecutor, but must be approved by the judge within 24 hours. GRETA welcomes the use of special investigation techniques envisaged by Latvian legislation and, with reference to Recommendation Rec(2005)10 on "special investigation techniques" in relation to serious crimes including acts of terrorism, recalls the importance of such techniques for the efficiency of investigations.

179. Article 154<sup>1</sup> of the CL provides for the possibility of confiscating the property of persons convicted of THB offences. According to information provided by the Latvian authorities, from January 2008 until 5 September 2012, five judgements were delivered under Article 154<sup>1</sup> of the CL resulting in confiscation of assets. In other THB cases no such confiscation was pronounced because it was impossible to identify property in Latvia or because Article 49<sup>1</sup> of the CL on determination of a lesser sentence than the one provided for by law was applicable.

180. According to statistical information provided by the Latvian authorities, four criminal cases were initiated under Article 154<sup>1</sup> in 2008, four in 2009 and three in 2010. No cases under Article 154<sup>1</sup> were initiated in 2011. In 2008 there were two convictions for THB, both of which were suspended sentences, in 2009 there was one conviction (imprisonment for three years), and in 2010 there were three convictions (two suspended sentences and one of imprisonment for two years).

181. As regards statistics concerning criminal cases initiated under Article 165<sup>1</sup> of the CL (“sending of a person with his or her consent for sexual exploitation”), there were 13 such cases in 2008, 31 in 2009, 28 in 2010 and 21 in 2011. GRETA notes that a tendency to prosecute criminal cases under Article 165<sup>1</sup> may result in failing to identify a number of victims of trafficking because their identification largely depends on the initiation of a criminal case for the offence prescribed under Article 154<sup>1</sup>. GRETA is also concerned that as a result, perpetrators are not punished for THB offences which carry heavier penalties.

182. During the evaluation visit the GRETA delegation was informed that criminal proceedings in trafficking cases are often very lengthy and in a number of cases do not result in effective and dissuasive sanctions. According to representatives of some NGOs, this state of affairs may explain the victims’ unwillingness to participate in criminal cases and the general mistrust of the justice system when it comes to trafficking offences. GRETA was informed of instances of repeated interviewing of victims of THB, and prejudices towards victims of THB among representatives of the judiciary, who tended to consider them as “prostitutes” and therefore not reliable as witnesses.

**183. GRETA urges the Latvian authorities to take measures to identify gaps in the investigation procedure related to THB cases and the presentation of cases in court, *inter alia*, with a view to ensuring that crimes related to THB are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions.**

**184. Further, GRETA considers that the Latvian authorities should improve the knowledge and sensitivity of judges, prosecutors, investigators and lawyers about THB, the rights of victims, the applicable legislation and the case law, including the need to apply a human rights-based approach to action against THB on the basis of the Convention and the case-law of the European Court of Human Rights. Training programmes should be designed with a view to enabling professionals to identify victims of trafficking, to assist and protect them, and to secure convictions of traffickers. Particular attention should be paid to overcoming entrenched negative attitudes and prejudices vis-à-vis victims of trafficking.**

d. Protection of victims and witnesses

185. 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 THB, 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. Article 30 of the Convention includes a provision requesting 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.

186. The Law on Special Protection of Persons provides for the following measures: security guards, relocation of the person to confidential premises, issuing of a passport and other documents with different personal identity information, change of permanent residence and employment, and relocation of the person to another country. Victims who do not participate in criminal proceedings are entitled to the assistance and protection measures provided in the framework of the state funded social rehabilitation programme (see paragraph 129).

187. Article 104 of the CPL provides that a victim may be represented by any natural person of legal age on the basis of the power of attorney, certified by a notary. The CPL also provides for the possibility to hear a case without the victim's presence. It is also possible to have a psychological examination of a victim with a view to ascertaining whether repeat interviewing would have an adverse effect on the victim, in which case such interviewing is avoided. Representatives of the police, prosecution and judiciary informed GRETA that there is a tendency towards limiting the number of interviews taken from victims of offences. Interrogations of victims during investigation and court proceedings may be carried out in a manner not allowing direct contact with the offenders by means of special rooms equipped with a one sided mirror or through video recording. According to representatives of the judiciary, it is planned that all courts in Latvia will be equipped with such equipment by 2012.

188. The CPL also requires that the materials of the criminal case be protected by the secrecy of the investigation and are only accessible to the officials performing criminal proceedings and other persons authorised by the law. Further, Article 11 of the Law on Personal Data Protection prohibits the processing of sensitive personal data (race, ethnic origin, religious, philosophical or political convictions, trade union membership, or information concerning health or sex life).

189. As regards children, pursuant to the provisions of the CPL, they should be interviewed only in the presence of a responsible adult and with the assistance of a psychologist. Such an interview will be recorded and used as evidence in court if the psychologist concludes that the presence of the minor is not advisable during the proceedings. As regards the protection of the privacy and identity of child victims during the proceedings, the Law on the Protection of the Rights of the Child provides for the confidentiality of information concerning a child obtained by an employee of any public body (child care, educational, social or other institution, state or self-government institution) and prohibits dissemination of any information which could harm the future development of the child. This Law also prohibits interviewing a child and disseminating to the media any information relating to the child victim or witness of an offence, except in cases where the child expresses the wish to do so with the consent of a parent or a legal representative. Since 2006, a number of prosecutors have been trained on methods for interviewing children who have suffered from violence, taking into account their age.

190. **GRETA considers that the Latvian authorities should make full use of the available measures to protect victims and to prevent intimidation during the investigation and during and after the court proceedings.**

## 5. Concluding remarks

191. GRETA welcomes the steps taken by the Latvian authorities to combat THB and support victims of trafficking, including the setting up of the Inter-Institutional Working Group which includes NGO representatives and the adoption of National Programmes for Prevention of Human Trafficking. The government has allocated financial resources to the assistance of victims of trafficking and co-operates well with NGOs and international organisations. That said, GRETA considers that further steps are needed to ensure that the human rights-based and victim-centred approach is fully reflected and applied in the national policy to combat trafficking, especially as regards identification of victims of trafficking, assistance and protection, prosecution and redress.

192. The aspect of prevention of trafficking among vulnerable groups, such as children in state institutions and people living in areas where an adverse economic situation prevails, should be given much greater attention, though targeted awareness-raising measures and social and economic initiatives.



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193. The Latvian authorities should make sure that all victims of trafficking receive the necessary assistance, irrespective of their co-operation with law enforcement authorities. Assistance measures especially tailored for child victims of trafficking should be developed and common standards should be established for the quality of services provided to all victims. Access to compensation, which exists in law, should be made effective in practice, including by systematically informing victims about possibilities to obtain it.

194. Strengthening the effectiveness and expeditious investigation and prosecution of THB-related offences, with a view to securing proportionate and dissuasive sanctions, is another area where further action is needed in order to apply the victim-centred approach promoted by the Convention.

195. All relevant professionals who may come into contact with potential victims of trafficking need to be continuously trained on 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.

196. GRETA invites the Latvian authorities to keep it regularly informed of developments as regards the implementation of the Council of Europe Anti-Trafficking Convention and looks forward to continuing its good co-operation with the Latvian authorities for achieving the purposes of this Convention.

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## Appendix I: List of GRETA's proposals

### Core concepts and definitions

1. GRETA urges the Latvian authorities to ensure that Article 154<sup>2</sup>, paragraph 2, applies to all children, i.e. persons under 18 years of age as defined in Article 4(d) of the Anti-Trafficking Convention, regardless of the Latvian legislation on the age of majority.
2. GRETA considers that stating explicitly the irrelevance of the consent of a victim to the intended exploitation where any of the means set forth in the definition of THB have been used could improve the implementation of the anti-trafficking provisions and provide victims with greater confidence in self-reporting to NGOs and public authorities.

### Comprehensive approach and co-ordination

3. GRETA considers that the Latvian authorities should take further measures to:
  - strengthen co-ordination between all actors in the field of action against THB, including at local level;
  - encourage more effective participation of all public bodies involved in the implementation of anti-trafficking measures at the national and local levels; in this context, the issuing of procedural guidelines might be envisaged;
  - provide the Inter-Institutional Working Group with sufficient authority and enhance the level of representation of institutions with responsibilities under the National Programme to achieve their greater accountability in the implementation of the National Programme and the decisions of the Group;
  - step up action to combat trafficking for labour exploitation;
  - pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking.
4. In addition to the annual reports of the Ministry of the Interior, GRETA invites the Latvian authorities to consider commissioning an independent evaluation of the implementation of the National Programme as a tool for assessing the impact of the activities and for planning future policies to combat human trafficking.

### Training of relevant professionals

5. GRETA considers that the Latvian authorities should ensure that all relevant professionals are trained periodically, throughout their careers, in preventing and combating THB, and in identifying, assisting and protecting victims. Such training should be designed taking full account of gender and child-specific aspects and should be provided to all relevant professionals.

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### **Data collection and research**

6. GRETA considers that the Latvian authorities should continue their efforts to develop and maintain a comprehensive and coherent information system on trafficking in human beings by compiling reliable statistical data from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination, etc.). In this context, GRETA encourages the Latvian authorities to include statistical information on human trafficking victims collected by NGOs in the annual reports concerning THB.

7. GRETA considers that the Latvian authorities should conduct and support research on THB-related issues as an important source of information for future policy measures and for identifying areas where priority action is needed to prevent and combat THB.

### **International co-operation**

8. GRETA considers that the Latvian authorities should further enhance international co-operation in the criminal and non-criminal fields by concluding agreements with States where Latvian nationals are trafficked to covering aspects of prevention of trafficking and return of victims.

### **Awareness raising, education and measures to discourage demand**

9. GRETA considers that the Latvian authorities should step up their efforts to inform the general public about the problem of THB in its various forms. Awareness-raising measures should be designed in the light of impact assessment of previous measures and with a view to reaching out to vulnerable groups, such as children and young persons. Further, targeted awareness raising is necessary in areas inhabited by persons in economically disadvantaged situation with a view to enabling such persons to make well-informed decisions concerning employment, migration or marriage offers.

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

10. GRETA considers that the Latvian authorities should pay particular attention to preventing child trafficking in the field of modelling notably by making all modelling agencies bound by the regulations concerning children and by ensuring that they comply with these regulations.

11. GRETA considers that the Latvian authorities should further strengthen the aspect of prevention of THB through social and economic empowerment measures for groups vulnerable to THB. Such measures should be based on the identified root causes of THB (such as difficult economic and social conditions, absence of employment opportunities, inadequate education, etc.) and should aim to decrease and ultimately eliminate these causes.

12. GRETA urges the Latvian authorities to ensure the registration of all children at birth as a prevention measure against trafficking. Further, GRETA urges the Latvian authorities to take steps to secure the registration of all persons from vulnerable groups for social services, both as a prevention measure and in order to avoid re-trafficking.

### **Measures to discourage demand**

13. GRETA considers that the Latvian authorities should step up their efforts to discourage demand for the services from persons trafficked for any form of exploitation.

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**Border measures and measures to enable legal migration**

14. GRETA considers that further efforts should be made to:

- improve detection of THB cases in the context of border control;
- ensure systematic training of frontline staff of the State Border Guard on identification and referral of potential victims of THB.

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

15. GRETA urges the Latvian authorities to review the current victim identification procedure and in particular to:

- set up a formalised national referral mechanism for the identification of victims of THB and ensure that all actors involved in it are adequately trained and have full knowledge of their respective roles;
- pursue a proactive approach to the identification of victims of trafficking, in particular victims of trafficking for labour exploitation and provide frontline staff with operational indicators, guidance and toolkits for the identification of victims;
- pay particular attention to identification of victims of trafficking among children;
- ensure that the identification of victims of trafficking whether by the police or by the multi-disciplinary commission of specialists is not solely aimed at enabling criminal investigation, but primarily at referring victims to appropriate assistance and protection.

**Assistance to victims**

16. GRETA urges the Latvian authorities to take further measures aimed at providing victims and potential victims of THB with adequate assistance, and in particular to:

- provide all victims of THB with effective access to assistance for the duration necessary to achieve their rehabilitation, taking into account their specific circumstances and regardless of their participation in criminal proceedings;
- adopt minimum standards for the services provided to victims of THB and ensure the provision of adequate funding to maintain them;
- ensure that all victims of THB are informed of the assistance to which they are entitled;
- improve the assistance provided to child victims of trafficking, including accommodation and medium- and long-term support programmes tailored to their needs;
- provide adequate assistance measures, including appropriate accommodation, to male victims of THB;
- facilitate the reintegration of victims of trafficking into society and prevent re-trafficking by providing them with vocational training and access to the labour market.

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## **Recovery and reflection period**

17. GRETA urges the Latvian authorities to ensure that the recovery and reflection period provided for in Article 13 of the Convention is fully reflected in Latvian legislation and practice, and in particular, to:

- ensure that all victims of THB, regardless of their nationality and immigration status, are systematically informed of the recovery and reflection period and are effectively granted such a period;
- raise the awareness among the law enforcement officials regarding the purpose of and the need to grant recovery and reflection period.

## **Residence permits**

18. GRETA considers that the Latvian authorities should take steps to ensure that victims of THB can take full advantage of the right to be granted a temporary residence permit.

19. GRETA encourages the Latvian authorities to consider granting residence permits to victims who, for various reasons, do not co-operate with the law enforcement authorities, but their stay would be necessary owing to their personal situation, as envisaged by Article 14 of the Convention.

## **Compensation and legal redress**

20. GRETA considers that the Latvian authorities should to take additional steps to:

- ensure that victims of trafficking have effective access to legal aid in practice;
- improve access of victims of THB to compensation, including by systematically informing them about various possibilities for compensation.

## **Repatriation and return**

21. GRETA considers that the Latvian authorities should review the institutional and procedural framework for the repatriation and return of victims of trafficking in order to ensure that return is conducted with due regard to the rights, safety and dignity of the person and the status of legal proceedings.

## **Substantive criminal law**

22. GRETA invites the Latvian authorities to consider criminalising the use of services of a person with the knowledge that the person is a victim of trafficking regardless of the form of exploitation, regardless the person's nationality and immigration status.

## **Non-punishment of victims of THB**

23. GRETA encourages the Latvian authorities to 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.

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

24. GRETA urges the Latvian authorities to take measures to identify gaps in the investigation procedure related to THB cases and the presentation of cases in court, inter alia, with a view to ensuring that crimes related to THB are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions.

25. GRETA considers that the Latvian authorities should improve the knowledge and sensitivity of judges, prosecutors, investigators and lawyers about THB, the rights of victims, the applicable legislation and the case law, including the need to apply a human rights-based approach to action against THB on the basis of the Convention and the case-law of the European Court of Human Rights. Training programmes should be designed with a view to enabling professionals to identify victims of trafficking, to assist and protect them, and to secure convictions of traffickers. Particular attention should be paid to overcoming entrenched negative attitudes and prejudices vis-à-vis victims of trafficking.

#### **Protection of victims and witnesses**

26. GRETA considers that the Latvian authorities should make full use of the available measures to protect victims and to prevent intimidation during the investigation and during and after the court proceedings.

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

### **Public bodies**

- State Police, Ministry of the Interior
- Office of Citizenship and Migration Affairs, Ministry of the Interior
- State Border Guard Service, Ministry of the Interior
- Information Centre, Ministry of the Interior
- General Prosecutor's Office
- Ombudsman
- Ministry of Justice
- Ministry of Foreign Affairs
- Ministry of Education and Sciences
- Ministry of Health
- Ministry of Economics
- Ministry of Welfare
- State Labour Inspectorate
- State Inspectorate for Protection of Children's Rights
- Riga City Council

### **Intergovernmental organisations**

- International Organisation for Migration (IOM) Office in Latvia

### **Non-governmental actors**

- Council of Sworn Advocates
- Shelter Safe House
- Resource Centre for Women "Marta"
- Youth with a Mission Riga

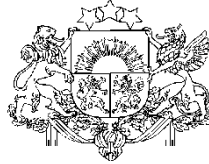
## **Government's comments**

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

GRETA engaged in a dialogue with the authorities of Latvia 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 Latvian authorities on 18 December 2012 and invited them to submit any final comments. The Latvian authorities' comments, submitted on 22 January 2013, are reproduced hereafter.



**MINISTRY OF THE INTERIOR OF THE REPUBLIC OF LATVIA**

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Rīga

21.01.2013      № 1-36/174

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Latvia's comments to the final Report  
concerning the implementation of the  
Council of Europe Convention on Action  
against Trafficking in Human Beings by Latvia

The Ministry of the Interior of the Republic of Latvia presents its compliments to the Secretariat of the Council of Europe Convention on Action against Trafficking in Human Beings.

With respect to *the Council of Europe Convention on Action against Trafficking in Human Beings Article 38 Paragraph 6 and Rule 14 of Rules of procedure for evaluating implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties* herewith the Ministry of the Interior is forwarding to you Latvia's comments to the final Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Latvia.

Enclosure: Latvia's comments to the final Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Latvia on 5 pages.

Sincerely yours,

State Secretary

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Neoficiāls tulkojums

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Sekretariāta izpildsekretārei

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Par Latvijas komentāriem par Noslēguma ziņojumu  
par Eiropas Padomes Konvencijas cīņai pret cilvēku  
tirdzniecību saistību īstenošanu Latvijā

Latvijas Republikas Iekšlietu ministrija apliecina savu cieņu Eiropas Padomes Konvencijas  
pret cīņu pret cilvēku tirdzniecību Sekretariātam.

Saskaņā ar *Eiropas Padomes Konvencijas par cīņu pret cilvēku tirdzniecību 38.panta  
6.punktu un Eiropas Padomes Konvencijas par cīņu pret cilvēku tirdzniecību Pušu ieviešanas  
izvērtēšanas procedūras noteikumiem* Iekšlietu ministrija nosūta Latvijas komentārus par  
Eiropas Padomes Konvencijas cīņai pret cilvēku tirdzniecību saistību īstenošanu Latvijā.

Pielikumā: Latvijas komentāru par Eiropas Padomes Konvencijas cīņai pret cilvēku  
tirdzniecību saistību īstenošanu Latvijā angļu valodā uz 5 lapaspusēm.

Ar cieņu,

Valsts sekretāre

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**Comments by the Government of the Republic of Latvia  
to the final Report concerning the implementation of the Council of Europe Convention  
on Action against Trafficking in Human Beings by Latvia**

The authorities of Latvia express their gratitude to the Delegation of the Group of Experts on Action against Trafficking in Human Beings (GRETA) composed of Mr Vladimir Gilca and Mr David Dolidze, Administrator at the Secretariat of the Council of European Convention on Action against Trafficking in Human Beings, for the excellent cooperation during the monitoring process.

Herewith Latvia submits its comments on the Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Latvia:

1. Paragraph 37

Transposing the requirements of the “Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA” the proposals for amendments to Criminal Law (CL) Article 154<sup>2</sup> (Meaning of Human Trafficking) were elaborated supplementing the concept and the definition of “trafficking in human beings”.

“(1) Human trafficking is the recruitment, transportation, transfer, **harbouring**, concealment or reception of persons for the purpose of exploitation, committed by using violence or threats or by means of deceit, or by taking advantage of the dependence of the person on the offender or of his or her state of helplessness, or by the giving or obtaining of material benefits or benefits of another nature in order to procure the consent of such person, upon which the victim is dependent.

(2) The recruitment, transportation, transfer, **harbouring**, concealment or reception of a minor for the purpose of exploitation shall be recognised as human trafficking also in such cases, if it is not connected with the utilisation of any of the means referred to in the Paragraph one of this Section.

(3) Within the meaning of this Section, exploitation is the involvement of a person in prostitution or in other kinds of sexual exploitation, the compulsion of a person to perform labour, ~~or~~ **or to provide services or to commit criminal activities**, the holding of a person in slavery or other similar forms thereof (debt slavery, serfdom or the compulsory transfer of a person into dependence upon another person), and the holding a person in servitude or also the illegal removal of a person’s tissues or organs.”

CL Amending Law was adopted by the Parliament on December 13, 2012, published on December 27, 2012 in “Official Gazette” No 201 (4805), will come into force on April 1, 2013.

2. Paragraph 40

The Latvian authorities have previously explained that for the qualification of the trafficking offence it is not important whether a minor has consented or not (or has consented, for example, under the influence of deception). CL Article 154<sup>2</sup> Paragraph 2 is elaborated as an exception from CL Article 154<sup>2</sup> Paragraph 1 in order to provide that the recruitment, transportation, transfer, concealment or reception of a minor for the purpose of exploitation shall be recognised as human trafficking also in cases, when it is not connected to the utilisation of any of the means referred to in the CL Article 154<sup>2</sup> Paragraph 1.

The reference to the CL Article 154<sup>2</sup> Paragraph 1 made in the CL Article 154<sup>2</sup> Paragraph 2 provides that offence should be qualified as a trafficking offence despite the consent or disapproval of a victim. Wherewith Latvian authorities consider that there is no need to amend the CL Article 154<sup>2</sup> Paragraph 2.

### 3. Paragraph 53 Recommendation 4

Implementing a transnational project that focuses on trafficking for forced labour and labour exploitation in 11 countries in the Baltic Sea region “ADSTRINGO – Addressing trafficking in human beings for labour exploitation through improved partnerships, enhanced diagnostics and intensified organisational approaches” the Latvia’s first national meeting was organized on December 12, 2012, which was intended to start a dialogue among key labour actors at the national level to create and raise awareness on this issue, policy-makers to promote awareness of labour exploitation and human trafficking for labour exploitation, as well as a national informal network between the national competent public authorities, law enforcement agencies and non-governmental organizations was developed, thus enhancing cooperation and building a strong position in the national prevention of human trafficking for labour exploitation and human trafficking victim identification.

### 4. Paragraph 83

In 2012 the State Police cooperated with German law enforcement agencies through the German liaison officer in Riga and with law enforcement agencies in Greece and United Kingdom. In cooperation with German law enforcement agencies two criminal proceedings regarding human trafficking for sexual exploitation are initiated. In cooperation with law enforcement agencies in Greece human trafficking in the sense of the Palermo Protocol was stopped and according to spontaneous information provided by the Latvian State Police two Latvian women were saved from captivity in Greece. The criminal case is initiated in Greece. In cooperation with law enforcement agencies in the United Kingdom according to spontaneous information provided by the Latvian State Police two Latvian women (one of them a minor) were saved from captivity in the United Kingdom. The criminal case is initiated in the United Kingdom. A recruiter (male) from Latvia was detained by the Latvian State Police in Latvia. The extradition of this person from Latvia to the United Kingdom is organized.

### 5. Paragraph 84

In the framework of the Nordic Council of Ministers project “Nordic, Baltic, Russian Cooperation on the Fight against Human Trafficking – Regional cooperation across Juridical, Law enforcement, Social authorities” a regional seminar on investigation, prosecution and conviction of cases of trafficking in human beings took place in Riga on November 22-23, 2012. In the seminar a total 57 participants (judges, prosecutors, police officers) took part: 10 from Russian Federation, 4 from Lithuania, 5 from Estonia, 1 from Norway, 37 from Latvia.

### 6. 2.c Measures to discourage demand

Recognising sham marriages as the risk of human trafficking, in order to reduce the essential increase of sham marriages concluded mostly in Ireland between citizens of Latvia and third-country nationals (mostly from Pakistan, Bangladesh, India), with the sole aim of circumventing the rules on entry and residence of third-country nationals and obtaining for the third-country national a residence permit or authority to reside in the Member State, and to discourage demand for brides and grooms from Latvia, a new article supplementing the CL was elaborated:

“Article 285.<sup>2</sup> Malicious (abusive) provision with an opportunity to obtain legal right to reside in Latvian Republic, another EU Member State, Member State of the European Economic Area or the Swiss Confederation

(1) For malicious provision with an opportunity to obtain legal right to reside in Latvian Republic, another EU Member State, Member State of the European Economic Area or the Swiss Confederation,-

the applicable punishment is deprivation of liberty for a term not exceeding three years, or short-term imprisonment or community service, or a fine.

(2) For malicious provision with an opportunity to obtain legal right to reside in Latvian Republic, another EU Member State, Member State of the European Economic Area or the Swiss

Confederation, if it is committed for purposes of acquiring property or if it provided for two or more persons, or if it is committed by a group of persons,-  
the applicable punishment is imprisonment for a term not exceeding five years or short-term imprisonment, or community service, or a fine, with or without confiscation of a property.<sup>20</sup>

CL Amending Law was adopted by the Parliament on December 13, 2012, published on December 27, 2012 in "Official Gazette" No 201 (4805), will come into force on April 1, 2013.

#### 7. 3.b. Assistance to victims

On December 28, 2012 the State Border Guard and the society "Shelter "Safe House"" signed an "Agreement on providing support to human trafficking victims". The agreement aims to establish long-term cooperation mechanism providing support to trafficked persons in order to ensure adequate protection and assistance to victims of trafficking and to promote public awareness on different forms of human trafficking and their negative impact on public safety, and to take preventive measures against human trafficking.

#### 8. Paragraph 128

Regulation No 889 on "Procedures by which victims of human trafficking receive social rehabilitation services and the criteria for recognising a person as a victim of human trafficking" was supplemented providing that if a person is recognized as a victim of human trafficking or a witness within the criminal proceedings, at the end of receiving social rehabilitation services for victims of human trafficking, the person is eligible to receive support within criminal proceedings not exceeding 150 hours. Support includes psycho-social assistance (including consultations of individual lawyer, social worker, psychologist), interpreter services and assistance in processing legal documents and, if necessary, representation in court.

The amendment to Regulation No 840 was adopted by the Cabinet of Ministers on December 11, 2012, was published on December 14, 2012 in "Official Gazette" No 197 (4800), and came into force on January 1, 2013.

#### 9. Paragraphs 131 and 135

In year 2012 the state budget for providing social rehabilitation services for victims of human trafficking was substantially increased – up to 87 893 Euros. According to information provided by the society "Shelter "Safe House"" (provider of the state funded social rehabilitation services for victims of human trafficking) in 2012 a total of 30 victims of human trafficking benefited from state funded social rehabilitation services – 25 females and 5 males, forms of exploitation – sexual exploitation (7 victims), labour exploitation (7 victims) and sham marriages (16 victims), countries where persons were exploited – Latvia, Ireland, United Kingdom, Germany, Belgium, Greece, Sweden, Russia, ages of victims: 18-25 years – 1 male, 14 female, 26-30 years – 4 males, 6 females, 31-40 years – 1 female, 41-50 years – 2 females, 51-60 years – 2 females, education: 4 victims with uncompleted elementary education, 7 – elementary education, 16 – secondary or professional education, 2 – higher education. All victims are nationals of Latvia.

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<sup>20</sup> Unofficial translation provided by the Latvia authorities

## 10. Paragraph 157

Transposing the requirements of the “Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA” the “Law on State Compensation to Victims” was supplemented. The Law provides that the victim recognized as a victim of human trafficking within criminal proceeding has the rights to receive State compensation which in this case is 70% from maximum of State compensation which is amount of 1 140 Euros.

Amending Law was adopted by the Parliament on November 15, 2012, published on November 30, 2012 in “Official Gazette” No 189 (4792), came into force on January 1, 2013.

## 11. Paragraph 166

In order to ensure the comprehensive implementation of “The Concept of Criminal Penalties Policy” adopted by the Cabinet of Ministers on January 9, 2009, CL Article 154<sup>1</sup> has been amended, providing changes in sanction and disposition:

(1) For a person who commits human trafficking, the applicable punishment is deprivation of liberty for a term of ~~not less than three years and~~ not exceeding eight years, with or without confiscation of property.

(2) For a person who commits ~~the same acts~~ **human trafficking** if commission thereof is with respect to a minor, or if commission thereof is by a group of persons pursuant to prior agreement, or if commission thereof is repeated, the applicable punishment is deprivation of liberty for a term of not less than ~~five~~ **three** years and not exceeding twelve years, with confiscation of property.

(3) For a person who commits ~~the same acts~~ **human trafficking**, if **the life of victim was endangered or** serious consequences are caused thereby **or it was committed with particular cruelty** or if commission thereof is with respect to an underage person, or by an organised group, the applicable punishment is deprivation of liberty for a term of not less than ~~ten~~ **five** years and not exceeding fifteen years, with **or without** confiscation of property, and with or without probationary supervision for a term not exceeding three years.

CL Amending Law was adopted by the Parliament on December 13, 2012, was published on December 27, 2012 in “Official Gazette” No 201 (4805), and will come into force on April 1, 2013.

## 12. Paragraphs 174 and 175

Transposing the requirements of the “Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA” the proposals for amendments to CL and the Criminal Procedure Law (CPL) were elaborated. CL Article 58 (Release from Criminal Ability) was supplemented with paragraph 6: “A person may be released from criminal liability if the criminal offence is committed during the time period when the person is subjected to human trafficking and the person was compelled to commit the offence.”<sup>21</sup> CPL Article 379 (Termination of Criminal Proceedings, Releasing a Person from Criminal Liability). paragraph 1 was supplemented with subparagraph 5: “An investigator with the consent of a supervising public prosecutor, public prosecutor or a court may terminate criminal proceedings, if the criminal offence is committed during the time period when the person is subjected to human trafficking and the person was compelled to commit the offence”.<sup>22</sup> This legal regulation aims to protect the human rights of a victim, to avoid re-victimization, and to encourage them to get involved as a witness in criminal proceeding against the perpetrators. This protection measure should not preclude prosecution or conviction for offences that a person has committed or participated in on a voluntary basis. The compulsion should be understood as the

<sup>21</sup> Unofficial translation provided by the Latvia authorities

<sup>22</sup> Unofficial translation provided by the Latvia authorities

situation in which a person could not choose his or her own actions, because violence, threats or other kind of influence was used against the person and due to it the person did not have an opportunity to avoid the commitment of an offence. Victims of trafficking should be protected from prosecution or punishment for criminal activities such as the use of false documents and offences under the legislation regarding prostitution or immigration, if they were compelled to commit these activities or this was a direct consequence of the fact that they have been subjected to human trafficking.

CL Amending Law was adopted by the Parliament on December 13, 2012, was published on December 27, 2012 in "Official Gazette" No 201 (4805), and will come into force on April 1, 2013.

CPL Amending Law was adopted by the Parliament on December 20, 2012, was published on January 9, 2012 in "Official Gazette" No 6 (4812), and will come into force on April 1, 2013.

**Latvia considers that this recommendation is fulfilled.**

13. Paragraph 180

In 2012 three criminal cases under CL Article 154<sup>1</sup> (Human Trafficking) were initiated, two persons (males) were identified as suspects, and three persons (females) were identified as victims. In 2012 there were two convictions for human trafficking (the penalties applied were suspended sentence, fine and confiscation of property).

14. Paragraph 181

In 2012 13 criminal proceedings were initiated under CL Article 165<sup>1</sup> (sending of a person with his or her consent for sexual exploitation), fifteen persons were identified as suspects (eight males and seven females).

15. Paragraph 189

Transposing the requirements of the "Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA" proposals for amendments to CPL were elaborated regarding interviewing of a minor victim of human trafficking. CPL Article 152 (Special Features of an Interrogation of a Minor) and Article 153 (Interrogation of a Minor Person with the Intermediation of a Psychologist) were amended, providing that regarding minors who are victims of human trafficking, direct interrogation shall be performed only with the permission of the investigating judge, but in a court – with a court decision and it shall be performed with the intermediation of technical means and a psychologist.

CPL Amending Law was adopted by the Parliament on December 20, 2012, was published on January 9, 2012 in "Official Gazette" No 6 (4812), and will come into force on April 1, 2013.