



# **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 Albania**

First evaluation round

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Secretariat of the Council of Europe Convention  
on Action against Trafficking in Human Beings  
(GRETA and Committee of the Parties)  
DG I - Directorate General of Human Rights and Rule of Law  
Council of Europe  
F- 67075 Strasbourg Cedex  
France  
+ 33 (0)3 90 21 52 54

[trafficking@coe.int](mailto:trafficking@coe.int)

<http://www.coe.int/trafficking>

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## Preamble

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

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

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

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

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

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

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

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

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.

## Executive summary

In recent years, the Albanian authorities have taken a number of important measures to combat trafficking in human beings (THB). The setting up of the Office of the National Co-ordinator for the Fight against THB, the National Anti-Trafficking Task Force, the national referral mechanism and regional anti-trafficking committees has reinforced the co-ordination of all relevant actors. The adoption and implementation of multiannual national strategies and action plans have aimed to cover all aspects of the fight against THB. In particular, efforts have been made to prevent trafficking, especially in children, and training sessions on the identification of victims have been organised for police officers and other relevant officials,

That said, GRETA stresses the need to plan and maintain measures of prevention on a long-term basis, particularly with a view to achieving a change in public mentality towards the phenomenon of trafficking. Particular attention should be paid to measures geared to fostering access to education and jobs for groups vulnerable to THB, such as women and members of the Roma and Egyptian communities. The Albanian authorities should also continue to raise public awareness of gender equality and the principle of non-discrimination, to better combat the marginalisation of vulnerable groups. Further, GRETA considers that the authorities should strengthen the protection of children, particularly through the recording of all children in the civil status register.

In order to achieve a comprehensive approach to combating THB in Albania, GRETA considers that the Albanian authorities should reinforce action against trafficking in men, national trafficking and the transit of trafficked foreign nationals through Albania, in particular by improving the identification of these categories of victims. The authorities should also remain alert and be ready to adjust their anti-trafficking strategies to the evolution of the routes used by traffickers. Support for research on THB-related issues, as well as ongoing improvement of the national data base allowing follow-up of trafficking trends are of particular importance in this context.

While co-operation with NGOs in the field of assistance to victims of trafficking is to be welcomed, GRETA urges the Albanian authorities to ensure that the assistance measures provided for in law are guaranteed in practice, by finding solutions for their appropriate financing. This is of particular importance in a context where the social reintegration of victims trafficked for the purpose of sexual exploitation and wishing to return from abroad to Albania is sometimes made difficult by their rejection by society and their families. Further, GRETA considers that the Albanian authorities should take steps to ensure that victims of trafficking benefit from the free legal assistance to which they are entitled and can effectively exercise their right to compensation.

Regarding the repatriation and return of victims, GRETA urges the Albanian authorities to step up their efforts to co-operate with destination countries. Particular attention must be paid to the situation of Albanian children taken to Kosovo<sup>1</sup> for the purpose of exploitation of begging or other forms of exploitation.

When it comes to the protection of victims and witnesses from traffickers, GRETA stresses the need for reinforcing the application of appropriate measures. This should be done regardless of whether or not victims have agreed to participate in judicial proceedings and with due regard to the special situation of child victims. For those who agree to co-operate with law enforcement agencies, the authorities should ensure that full use is made of the special protection programme for witnesses, in order to afford victims maximum protection.

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<sup>1</sup> All reference to Kosovo whether to the territory, institutions or population, in this report shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

GRETA considers that the Albanian authorities should undertake an in-depth analysis of the existing substantive criminal law provisions, on the basis of existing case law, in order to address shortcomings which result from the lack of harmonisation between legal provisions and to avoid any confusion between concepts such as prostitution and trafficking for the purpose of sexual exploitation. According to GRETA, the authorities should also assess the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings' provision on non-punishment of victims of trafficking for their involvement in unlawful activities, to the extent that they were compelled to do so.

Regarding the investigation of cases of THB and the prosecution of traffickers, GRETA considers that the Albanian authorities should reinforce the training of police officers, prosecutors and judges with regard to the phenomenon of national trafficking, so that national trafficking offences are duly prosecuted. Furthermore, GRETA considers that the Albanian authorities should closely monitor the implementation of the 2009 Law on the Prevention of and Fight against Organised Crime and Trafficking through Preventive Measures against Assets, to ensure that the Law is effectively enforced.



## I. Introduction

1. Albania deposited the instrument of ratification of the Council of Europe Convention on Action against Trafficking in Human Beings (hereinafter: "the Convention") on 6 February 2007. The Convention as such entered into force on 1 February 2008, following its 10th ratification.

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, Albania being in the first group of 10 Parties to be evaluated in 2010-2011.

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by Albania 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 the Albanian authorities on 11 February 2010. The deadline for submitting the reply to the questionnaire was 1 September 2010. The Albanian authorities submitted their reply on 31 August 2010.

4. In preparation of the present report, GRETA used the reply to the questionnaire by Albania, other information collected by GRETA and information received from civil society. A country visit to Albania took place from 31 January to 3 February 2011. It was carried out by a delegation composed of:

- Mr Nicolas Le Coz, President of GRETA
- Ms Leonor Rodrigues, member of GRETA
- Ms Claudia Lam, Administrator at the Secretariat of the Council of Europe Convention on Action against Trafficking in Human Beings.

5. During the country visit, the GRETA delegation held meetings with representatives of relevant ministries and other public bodies (see Appendix II). These meetings took place in a spirit of close co-operation. The GRETA delegation also met the local authorities involved in action against trafficking in human beings in Elbasan.

6. The GRETA delegation held separate meetings with representatives of non-governmental organisations (NGOs) and civil society active in the field of action against THB.

7. Further, the GRETA delegation visited shelters for victims of trafficking in Tirana and Elbasan.

8. GRETA wishes to place on record the excellent assistance provided to the delegation by the contact person appointed by the Albanian authorities to liaise with GRETA, Ms Iva Zajmi, Deputy Minister of the Interior and National Co-ordinator for the Fight against Trafficking in Human Beings.

9. The draft version of the present report was approved by GRETA at its 10th meeting (21-24 June 2011) and was submitted to the Albanian authorities on 19 July 2011 for comments. The authorities' comments were received on 18 August 2011 and have been taken into account by GRETA when drawing up the final report, which was adopted at GRETA's 11th meeting (20-23 September 2011).

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

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

10. As indicated by the Albanian authorities, Albania is a country of origin for victims of trafficking in human beings (THB). Although Albania used to be a country of transit, according to the Albanian authorities, this is no longer the case. No foreign victims of THB have been identified in the last three years. The Albanian authorities have identified 108 victims of trafficking in 2008 (89 women and 19 children), 94 in 2009 (72 women and 22 children), and 97 (83 women and 14 children) in 2010. No men have been identified as victims of trafficking. All the victims of THB identified to date have been Albanian nationals, the great majority of them being victims of transnational trafficking, mainly for the purpose of sexual exploitation. The main destinations have been Italy, Greece and Kosovo<sup>2</sup>. Only one victim of labour exploitation was identified in 2010. However, there have also been cases of national trafficking (i.e. within Albania), a phenomenon which is reportedly on the increase, particularly in connection with migration from rural areas to towns and seasonal migration to places of tourism (trafficking of women for the purpose of sexual exploitation and children for the purpose of sexual exploitation and/or exploitation of begging).

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

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

11. In addition to the Council of Europe Anti-Trafficking Convention, Albania ratified the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organised Crime ("Palermo Protocol") on 21 August 2002.

12. Under Article 122 of the Albanian Constitution, the international treaties ratified form part of the country's internal legal system and are directly applied, except in cases where the adoption of a law is required to implement them. An international treaty ratified by a law takes precedence over national laws which are incompatible with that treaty. Accordingly, the Albanian authorities have pointed out that the Council of Europe Anti-Trafficking Convention is part of the internal legal system and takes precedence over any law or administrative regulations that would be incompatible with it, a fact that must be taken into account by the judicial and administrative authorities.

13. The Criminal Code (CC) of Albania contains three main provisions relating to trafficking in human beings: Article 110(a) ("trafficking in persons"), Article 114(b) ("trafficking in women") and Article 128(b) ("trafficking in minors"). These articles were incorporated in the CC by Law No. 9188 of 12 February 2004.

14. There are a number of other provisions in Albanian law which make up the legal framework for action against trafficking, in particular:

#### *Provisions concerning measures to protect and assist victims of trafficking:*

- Law No. 9959 of 17 July 2008 on Foreigners;
- Law No. 10173 of 22 October 2009 on the Protection of Witnesses and Persons Collaborating with Justice;

<sup>2</sup> All reference to Kosovo whether to the territory, institutions or population, in this report shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

- Law No. 10/252 of 11 March 2010 supplementing Law No. 9355 of 10 March 2005 on Social Assistance and Services;
- Co-operation Agreement of 18 July 2005 establishing a national referral mechanism for improving identification of and assistance to victims of trafficking, concluded between several ministries and NGOs (see paragraph 27);
- Joint Order No. 1192 of 19 May 2006 of the Minister of the Interior, the Minister of Foreign Affairs and the Minister of Labour, Social Affairs and Equal Opportunities, establishing the authority responsible for the national referral mechanism;
- Order of the Prime Minister No. 139 of 19 June 2006 establishing regional anti-trafficking committees;
- Decision No. 195 of 11 April 2007 approving social service care standards in residential centres for victims of trafficking or persons at risk from trafficking.

*Provisions concerning measures aimed at preventing trafficking:*

- Law No. 10192 of 3 December 2009 on the Prevention of and Fight against Organised Crime and Trafficking through Preventive Measures against Assets;
- Law No. 10220 of 4 February 2010 proclaiming a moratorium on motor boats in the Republic of Albania (extending the 2006 moratorium helping to cut the numbers of trafficking victims leaving Albania by such means).

b. Anti-trafficking strategies and national action plans

15. The first National Anti-Trafficking Strategy (2001-2004) was accompanied by a national action plan. The second National Strategy against Trafficking in Human Beings (2005-2007) covered the following areas: criminal investigations and prosecutions; support and protection of victims and witnesses; prevention of trafficking and re-trafficking, and co-ordination of the fight against trafficking. This strategy was the object of a detailed evaluation report, which in turn served as a basis for drawing up the next strategy<sup>3</sup>.

16. The National Strategy for the Fight against Trafficking in Human Beings for 2008-2010 (hereinafter "the 2008-2010 Strategy") and the additional document entitled "National Strategy for the Fight against Trafficking and the Protection of Child Victims of Trafficking" (hereinafter "the Strategy against child trafficking") were adopted by decision of the Council of Ministers No. 1083 of 23 July 2008. The 2008-2010 Strategy defined the division of tasks and responsibilities between all the structures set up to combat THB at both national and local level, covering the following areas: protection and assistance for victims of trafficking; prevention; prosecution; and co-ordination between institutions. The Action Plan underpinning the Strategy against child trafficking covered prevention, protection and reintegration of child trafficking victims and prosecution of child traffickers.

17. In 2011, a report assessing the implementation of the 2008-2010 Strategy was prepared by the Office of the National Co-ordinator for the Fight against Trafficking in Human Beings and was disseminated to all relevant actors. This report describes the measures taken by the Albanian authorities to combat THB on all fronts (prevention of THB, protection of its victims and prosecution of traffickers) and makes a number of recommendations on future actions. The report underlines the need for, *inter alia*, more proactive investigation particularly in the field of national trafficking; enhanced co-operation with civil society, and local governments in the field of assistance and protection to victims; continuous financial support for non-public shelters; improving statistical data; and reinforcing international co-operation with neighbouring and destination countries. In the field of prevention, it calls for awareness-raising measures targeting the clients, measures reducing child vulnerability to trafficking, and further training of police, migration officials and border guards.

<sup>3</sup> Evaluation Report on the Implementation of the National Strategy against Trafficking in Human Beings 2005-2007, Ministry of the Interior, Republic of Albania, Tirana, 2008.

18. Based on the findings in the reports on the implementation of the previous anti-trafficking strategy, a new National Action Plan on the Fight against Trafficking in Persons for 2011-2013 was drawn up and approved by Council of Ministers Decision No. 142 of 23 February 2011. The new National Action Plan is accompanied by an additional document entitled "Plan of Action on the Fight against Child Trafficking and the Protection of Child Victims of Trafficking".

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

#### **a. State Committee for the Fight against Trafficking in Human Beings**

19. The State Committee for the Fight against Trafficking in Human Beings is an inter-ministerial body set up in 2002, which devises and implements governmental action against THB with the support of the National Co-ordinator for the Fight against Trafficking in Human Beings (see paragraph 21) and the National Anti-Trafficking Task Force (see paragraph 23).

20. The State Committee for the Fight against Trafficking in Human Beings is chaired by the Minister of the Interior and made up of the following members:

- Deputy Minister of the Interior/National Co-ordinator for the Fight against Trafficking in Human Beings
- Deputy Minister of Justice
- Deputy Prosecutor General
- Deputy Minister of Labour, Social Affairs and Equal Opportunities
- Deputy Minister of Education and Science
- Deputy Minister of Foreign Affairs
- Deputy Minister of Defence
- Deputy Minister of Health
- Deputy Minister of Finance
- Deputy Director of the State Intelligence Service.

#### **b. National Co-ordinator for the Fight against Trafficking in Human Beings**

21. The Office of the National Co-ordinator for the Fight against Trafficking in Human Beings (hereinafter "the National Co-ordinator") was set up in 2005. It comes under the Ministry of the Interior and comprises the National Co-ordinator, who is the Deputy Minister of the Interior, and the Anti-Trafficking Unit, which was set up in December 2005 and is currently made up of seven officials (one director and six co-ordinators).

22. The Office of the National Co-ordinator is responsible for co-ordinating all anti-trafficking activities within Albania. It supervises the implementation of national anti-trafficking strategies and draws up periodical reports on the state of efforts to combat trafficking in Albania. It provides secretariat services to the State Committee for the Fight against Trafficking in Human Beings and the National Anti-Trafficking Task Force whose chair is the National Co-ordinator. The Office of the National Co-ordinator is also responsible for collecting and managing data on trafficking, including the contents of the database on victims of THB, which forms part of the Total Information Management System (see paragraph 69). It ensures co-ordination between all the parties to the Co-Operation Agreement establishing a National Referral Mechanism to improve identification of and assistance for trafficking victims (see paragraph 27). Finally, it ensures that the necessary funding is mobilised for anti-trafficking activities.

c. National Anti-Trafficking Task Force

23. The National Anti-Trafficking Task Force (hereinafter "the Task Force") is made up of specialists from the central and local authorities and NGOs involved in combating THB. It assists the State Committee in devising the Government's response to THB and monitoring developments in the country, particularly at regional level. The Task Force also participates in the evaluation of the policies and standards introduced. It meets on a regular basis, at least once a quarter.

d. Police

24. The Police has several entities tasked with combating THB. The department chiefly involved is the Sector against Illicit Trafficking (SAIT). There are branches of the SAIT in all 12 regional police directorates. The Border and Migration Police and the Witness Protection Directorate are also involved in combating THB.

e. First Instance Court for Serious Crimes and Prosecutor General's Office

25. The First Instance Court for Serious Crimes, including THB, was set up in 2004. It is located in Tirana and its jurisdiction covers the entire territory of Albania. The Court is composed of five judges. There are four specialised prosecutors tasked with prosecutions in serious crimes before the First Instance Court for Serious Crimes and two of them form part of a unit specialised in THB offences.

26. THB cases may be investigated by regional prosecutors, usually with a view to taking urgent measures, such as arresting suspects and gathering initial evidence pending the transfer of the case to the specialised prosecutor's office.

f. National Referral Mechanism

27. The Co-operation Agreement of 18 July 2005 mentioned in paragraph 14 established a National Referral Mechanism for improving identification of and assistance to victims of trafficking (hereinafter "National Referral Mechanism"). The current signatories bound by this agreement are the General Directorate of State Police, the Ministry of Labour, Social Affairs and Equal Opportunities (State Social Services), the Ministry of Foreign Affairs (Consular Directorate), the National Reception Centre for Victims of Trafficking in Tirana, the NGO "Vatra" in Vlora, the NGO "Another Vision" in Elbasan, the NGO "Different and Equal" in Tirana, the NGO ARSIS, and the International Organisation for Migration (IOM) in Tirana.

28. The National Referral Mechanism is aimed at improving inter-agency co-ordination in the provision of protection and assistance to potential victims and victims of trafficking in Albania or originating from Albania. It covers every stage of the process, from initial identification, through accommodation and repatriation assistance, to the reintegration of victims.

29. The Responsible Authority of the National Referral Mechanism established by joint Order No. 1192 of 19 May 2006 of the Ministry of the Interior, the Ministry of Foreign Affairs and the Ministry of Labour, Social Affairs and Equal Opportunities is a multidisciplinary group of six experts, two for each of the three previously mentioned governmental entities. The main task of the Responsible Authority is to supervise and co-ordinate the activities carried out within the framework of the National Referral Mechanism. It monitors the implementation of the standards of the National Referral Mechanism, collects relevant data and submits reports to the National Co-ordinator. It also intervenes, as a last resort, in difficult cases of victim referral. The Responsible Authority provides technical support for the Working Group of the National Referral Mechanism, made up of all the agreement participants.

g. Regional Anti-Trafficking Committees

30. The Regional Anti-Trafficking Committees were set up by Order of the Prime Minister No. 139 of 19 June 2006 in each of the country's 12 regions. They are chaired by the prefect and are made up of representatives of local agencies competent for preventing and combating THB and protecting victims.

31. The role of these regional committees is to assess the situation and needs at local level, with a view to improving the identification, protection, assistance and rehabilitation of victims of trafficking. They set priorities and draw up programmes paving the way for and supporting action locally. In addition, the regional committees ensure that municipal/local bodies implement national norms via a monitoring and quality control procedure. They also guarantee access to services for vulnerable individuals/groups and victims of trafficking at regional/local level, and intervene, as a last resort, in difficult cases of victim referral. Finally, they participate in the Task Force and the Working Group of the National Referral Mechanism. In practice, they meet once every three months. In accordance with Order No. 139, each committee is seconded by a working group of experts comprising representatives from all the below-mentioned structures. The working groups are tasked with all the preparatory work in view of the decisions to be taken by the regional committees.

32. The members of the regional anti-trafficking committee are:

- the Prefect
- the Deputy Prefect
- the Chairman of the Regional Council
- the Mayor of the central town of the region
- the Regional Office of the State Social Services
- the Regional Employment Agency
- the Regional Police Directorate
- the Regional Director of the State Intelligence Service
- the Regional Education Directorate
- the Regional Public Health Directorate
- the Social and Protection Assistance Offices

In addition, representatives of the following entities are invited to take part in the meetings:

- the Regional Prosecutor's Office
- local NGOs.

h. Institutions at municipal level

33. The social protection and assistance offices of each municipality handle the tasks of identifying and referring victims of THB and vulnerable individuals and assisting those persons. They manage the individual cases and chair the local multidisciplinary groups/local referral mechanisms. These offices are staffed by professionals specialised in child protection, gender equality, domestic violence and trafficking in human beings, in addition to at least one social worker for each municipality.

34. Local multidisciplinary groups/local referral mechanisms monitor the situation at municipal level, identify groups at risk and victims of trafficking, and co-ordinate prevention, protection, assistance and support measures. The groups are made up of representatives of the local social protection and assistance offices, Police, Prosecutor's Office, health authorities, social workers, educators, job centres, work inspectors, NGOs, etc. They meet on a regular basis and whenever necessary to discuss special cases or prepare operating norms or procedures.

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i. NGOs and other non-governmental actors

35. Many NGOs are involved in action against trafficking in human beings in Albania, be it in the area of prevention or in protection and assistance for victims of THB. Some of them have concluded a co-operation agreement with the State concerning the National Referral Mechanism (see paragraph 27). Some members of the Task Force (see paragraph 23) come from NGOs.

36. Any Albanian civil society organisation which is authorised to take people into its care, which undertakes its activities in compliance with Albanian legislation and which meets the conditions laid down by the Ministry of Labour, Social Affairs and Equal Opportunities or other governmental bodies may apply to join the National Referral Mechanism. To date four NGOs are party to this agreement.

37. A coalition of national and international NGOs was set up in 2002 to combat trafficking in children ("All Together against Child Trafficking", abbreviated in Albanian as *BKTF*), focusing primarily on prevention activities. The coalition's membership has grown from nine to 27. In order to adapt to developments in the country, the coalition decided at the end of 2010 to reorient its activities towards the prevention of abuse and violence against children in more general terms, which means that the prevention of trafficking remains one of the coalition's main activities. Accordingly, the name of the coalition changed into "United for Child Care and Protection". Another coalition of NGOs, the Anti-Child Trafficking and Sexual Exploitation Coalition (ACTSEC), affiliated to ECPAT International since 2006, carries out lobbying, capacity-building and awareness-raising activities aimed at combating trafficking in children for the purpose of sexual exploitation, as well as other forms of sexual exploitation of children.

38. The programme "Albanian Initiative: Co-ordinated Action against Human Trafficking Programme" (CAAHT), was launched in October 2003 and implemented by the Company Creative Associate International Inc. with funding from the United States Agency for International Development (USAID). It ran from 2003 to 2009, providing support for a number of campaigns and other initiatives, including the introduction of anti-trafficking tools.

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

#### 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

39. Article 1(1)(b) of the Convention establishes as one of its purposes the protection of the human rights of the victims of trafficking. Further, Article 5(3) includes the obligation for Parties to promote a human rights-based approach in the development, implementation and assessment of the policies and programmes to prevent THB. The Explanatory Report on the Convention states that the main added value of the Convention is its human rights perspective and its 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>4</sup>.

40. 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. The human rights-based approach entails that a State that fails to fulfil these obligations may, for instance, be held accountable for violations of the European Convention on Human Rights. This has been confirmed by the ECHR 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>5</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.

41. 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 trafficking are properly identified. It also involves measures to empower trafficked persons by enhancing their rights to adequate protection, assistance and redress, including recovery and rehabilitation, in a participatory and non-discriminatory framework, irrespective of their residency status. Further, measures to prevent THB should be taken in the field of socio-economic, labour and migration policies.

42. GRETA wishes to stress the need for States to also address THB as a form of violence against women and to take account of gender-specific types of exploitation, as well as the particular situation of child victims of trafficking, in line with the relevant international legal instruments<sup>6</sup>.

<sup>4</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>5</sup> *Rantsev v. Cyprus and Russia*, no. 25965/04, ECHR 2010, paragraph 282.

<sup>6</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.



43. As far as the situation in Albania is concerned, the Albanian authorities have indicated that the Albanian Constitution contains a number of provisions protecting human rights relevant in the field of THB, such as the prohibition of forced labour and the prohibition of deprivation of liberty. Furthermore, the introduction to the 2008-2010 Anti-Trafficking Strategy stated that "while constituting a serious crime, THB is above all a violation of the human rights of the person affected". One of the guiding principles underpinning the strategy and the accompanying action plan was the human rights-based treatment of victims. The National Strategy against Child Trafficking for 2008-2010 was founded on the Albanian Government's conviction that trafficking in children, like any other form of trafficking in human beings, is a violation of the dignity and human rights of its citizens. The new Action Plan for the Fight against THB for 2011-2013 (see paragraph 18) also refers to the human rights-based treatment of victims as a guiding principle on which the Action Plan is built. Further, it sets out the main principles on the protection of children to be followed for its implementation, referring in particular to the rights recognised in the UN Convention on the Rights of the Child.

44. Other national documents relating to trafficking in human beings also refer to the need to adopt a human rights-based and victim-centred approach. The Albanian authorities have pointed out that training provided in the anti-trafficking field also emphasises the need for such an approach. Under the new Action Plan, obligatory training sessions on human rights and THB, focusing on the victims, are envisaged for police officers, prosecutors and judges, with the involvement of NGOs. GRETA agrees that it is important to reiterate these principles at all times in texts and training.

45. 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 Albanian authorities in these fields.

b. Definitions of "trafficking in human beings" and "victim of THB" in Albanian law

*i. Definition of "trafficking in human beings"*

46. 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.

47. The 2008-2010 Strategy states that the term "trafficking in persons" shall mean for the purposes of the Strategy the "recruitment, transportation, transfer, harbouring or receipt of persons by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation. Exploitation includes, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs". The Strategy specifies that this is the definition given in Article 3(a) of the Palermo Protocol (which is identical to that of Article 4(a) of the Council of Europe's Anti-Trafficking Convention). In the case of a child, i.e. a person under 18 years of age, the Strategy states that it is immaterial whether or not such means as the threat or use of force, etc. have been used. The Co-operation Agreement establishing a National Referral Mechanism (see paragraph 27) also contains a definition of trafficking in human beings taken from the Palermo Protocol.

48. Article 110a of the CC defines trafficking in persons as follows: "the recruitment, transportation, transfer, concealment or receipt of persons, by means of threat or use of force or other forms of coercion, abduction, fraud, the abuse of power or a position of social, physical or psychological vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or putting to use or transplanting organs, as well as other forms of exploitation". Article 114(b) prohibits the same act as Article 110(a) (in terms of action, means and purposes) in respect of women. Article 128(b) prohibits the same act (in terms of action and purposes) in respect of minors (boys or girls), adding as a form of action "the sale" of the minor and removing the condition of deploying means<sup>7</sup>. For a further analysis of the CC provisions on THB, see paragraphs 153-158.

49. According to the Albanian authorities, the above-mentioned definition of THB in the CC, incorporated by an amendment dating from 2004, corresponds to the one given in the Strategy. It refers to all actions referred to in the Convention. In particular, the word "harbouring" is covered by the Albanian word "*Fshehja*" (which can also mean "concealment") and the word "receipt" is covered by the Albanian word "*Pritja*". As regards the means, although deception is not specifically listed, it is covered by the word "fraud" which in Albanian ("*Mashtrim*") has several meanings (fraud, deception, manipulation, etc.). A 2006 study published by USAID-Tirana<sup>8</sup> cites a court decision ruling in which a "false promise of marriage" was the means used in a trafficking case. In another court case the victim was transported abroad with the promise of being provided accommodation while the real intention was to sexually exploit the victim. The means listed in the CC also include abusing a "position of social, physical or psychological vulnerability", which according to the Albanian authorities corresponds to the abuse of the "position of vulnerability" provided for in the Convention.

50. The forms of exploitation targeted by the CC are identical to those of the Convention with one nuance where the removal of organs is concerned, trafficking for the purpose of "putting organs to use" is a punishable offence as well as "transplanting organs", which does not appear to differ greatly in practice from the Convention's definition, which refers to the "removal of organs", since this covers all cases in which organs have been removed, regardless of whether or not they were subsequently transplanted<sup>9</sup>. There has been no case law in Albania on trafficking for the purpose of the removal of organs.

51. As in the Convention, the list of forms of exploitation in the CC is open-ended, prohibiting trafficking for "other forms of exploitation". For instance, the criminal law provisions on THB have been interpreted as encompassing trafficking for the purpose of the exploitation of begging.

52. Aside from the aforementioned nuances, which require monitoring to ensure that Albania's anti-trafficking provisions are interpreted in a manner fully conforming to the Convention, the definition of THB given in the Albanian system is in line with the one set out in the Convention.

<sup>7</sup> The first indent of Article 128(b) of the CC states that: "the recruitment, sale, transportation, transfer, concealment or reception of minors, for the purposes of exploitation of prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or putting to use or transplanting organs, as well as other forms of exploitation shall be punishable by between 7 and 15 years' imprisonment and a fine of between 4 and 6 million ALL". The introduction of the term "sale" is the result of a reform of the CC in 2008 aimed at reinforcing the protection of children from various forms of abuse.

<sup>8</sup> Anti-Trafficking in Persons Resource Manual, a women's legal rights initiative publication, Tirana, September 2006, USAID, p. 4.

<sup>9</sup> See the interpretation of this expression in Anti-Trafficking in Persons Resource Manual, a women's legal rights initiative publication, Tirana, September 2006, USAID, p. 7.

ii. *Definition of "victim of THB"*

53. The Convention defines a "victim of THB" as "any natural person who is subject to trafficking in human beings 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.

54. The Albanian authorities have pointed out that, pursuant to Article 122(1) of the Constitution (see paragraph 12), the definition of a victim of THB as stipulated in Article 4(e) of the Convention is directly applicable in internal law. Moreover, Article 1 of Law No. 10/252 of 11 March 2010 supplementing the 2005 Law on Social Assistance and Services specifies that "victim of trafficking" shall be taken to mean "any natural person who is subject to trafficking in human beings" as in the Council of Europe Anti-Trafficking Convention.

55. Accordingly, the definition of "victim of THB" applicable in Albanian law complies with the definition set out in the Convention. That said, it is important to ensure that the match between the texts is reflected in practice and that no further requirements are stipulated by the officials responsible for applying the law to identify a person as a victim of trafficking and grant them the protection and assistance to which they are entitled.

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

i. *Comprehensive approach and co-ordination*

56. One of the aims of the Convention is to design a comprehensive framework for the protection 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).

57. The Albanian Government's approach towards action against trafficking in human beings is reflected in the 2008-2010 Strategy and the 2011-2013 National Action Plan (see paragraphs 16 and 18). It may be described as comprehensive, as it covers the three aims of action against trafficking: prevention, protection and prosecution. It also deals with all categories of victims and all forms of trafficking, both transnational and national.

58. However, in practice, two aspects must be reinforced in order to adopt a truly comprehensive approach to trafficking in Albania. Firstly, there should be a stronger focus on the phenomenon of trafficking in men. All victims of THB identified to date have been women and children, but there are indications that Albanian men are also victims of trafficking abroad for the purpose of labour exploitation. However, this problem has not yet received sufficient attention from the Government.

59. Secondly, another phenomenon which must be carefully considered is national trafficking. All the measures taken to date have chiefly targeted the transnational trafficking of Albanians to countries such as Greece, Italy or elsewhere in Europe. However, partly because transnational trafficking has been made more difficult, thanks to the measures taken by the Albanian authorities (see, *inter alia*, paragraph 101), traffickers are turning increasingly to national trafficking (trafficking in women for the purpose of sexual exploitation and of children for the purpose of sexual exploitation or begging). National trafficking is now recognised by the Government, and the National Co-ordinator in particular, as a phenomenon to be combated as energetically as transnational trafficking. However, this official recognition, formally expressed in the 2008-2010 Strategy, has yet to be translated into practice and impressed upon those involved in combating trafficking, particularly the prosecution authorities (see paragraph 169).

60. Following the instituting of the National Co-ordinator in 2005, co-ordination of action against trafficking has been gradually strengthened in Albania, including through the creation of local institutions tasked with anti-trafficking activities such as the regional anti-trafficking committees. During its visit to Elbasan, the GRETA delegation observed good communication between the local and municipal authorities, on the one hand, and the national authorities, on the other hand. NGOs generally emphasised the co-ordination efforts made by the Albanian Government and the authorities at the regional level. NGOs themselves are well co-ordinated thanks to several networks (see paragraphs 35-37).

61. As regards the multidisciplinary approach, all main governmental actors are involved in action against trafficking. That said, the extent of the involvement should be stepped up in the case of two entities, namely the Ministry of Labour, Social Affairs and Equal Opportunities and the Ministry of Foreign Affairs, in particular because their respective roles are key to action against THB. The former plays a crucial role in prevention, protection and assistance for victims, while the latter is vital to prevention and as an intermediary between the Albanian authorities and the authorities of destination and transit countries for victims of trafficking. In addition, the co-ordination should be further consolidated and ways should be found of reaching rural and remote areas.

62. Certain factors stemming from the overall situation in Albania, such as the country's economic and social situation and the lack of resources available to the authorities, have adverse effects on the comprehensive effort against trafficking, as may be seen in other sections of this report (see paragraphs 110 and 136).

63. As far as assessment of the Albanian Government's action against THB is concerned, the Office of the National Co-ordinator publishes periodical reports on the implementation of the anti-trafficking strategies and plans of action which contains recommendations on future actions (see paragraph 17).

**64. GRETA invites the Albanian authorities to increase their efforts to co-ordinate action against trafficking at national level and to ensure that a comprehensive approach is taken, in particular by reinforcing action against trafficking in men and trafficking within Albania.**

**65. GRETA also encourages the Albanian authorities to reinforce co-ordination with relevant local authorities of rural and remote areas, with a view to ensuring that all aspects of THB and all regions of Albania are integrated in the efforts undertaken to combat THB.**

**66. Further, GRETA invites the Albanian authorities to introduce, in addition to the governmental reports on the implementation of the national anti-trafficking strategies, a periodic independent evaluation of these strategies and other anti-trafficking activities as a tool for assessing the impact of these activities and for planning future policies and measures to combat THB.**

#### *ii. Training of relevant professionals*

67. Over the years, training of professionals working in the field of prevention of THB, protection of its victims and prosecution of traffickers has been provided in the framework of projects run by the Albanian authorities, in particular the National Co-ordinator, in co-operation with intergovernmental organisations such as the OSCE and IOM and/or NGOs <sup>10</sup>.

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<sup>10</sup> For a full list of training sessions organised in the framework of the implementation of the 2008-2010 Anti-Trafficking Strategy, see the reports of the Office of the National Co-ordinator for the Fight against Trafficking in Human Beings on the implementation of the National Strategy for the Fight against Human Trafficking in Persons, which can be found in Albanian (and in English for 2009 and 2010) on the Ministry of the Interior's website: <http://www.moi.gov.al/> .

68. Some of the training sessions organised in Albania are mentioned in other parts of this report (see for instance paragraph 85 and 169). To mention but a few examples of training sessions relevant to THB organised in 2010:

- from 6 September-23 October, the Ministry of Labour, in co-operation with the Albanian National Training and Technical Assistance Research Centre and with the support of UNICEF organised a training course on “Enhancing capacities of the staff of the residential centres for the victims of trafficking and persons at risk of trafficking”. In this context, a series of training sessions were organized in the cities where these residential centres are operational with the participation of 131 persons, including representatives of the State and municipal social services, local police services, local service providers (residential centres for victims of trafficking and at risk of trafficking), representatives of child protection units, and representatives of NGOs.
- a series of training courses were organised for social workers in local government structures (municipality/region) and in the Social Service Regional Offices, as well as for staff members of the child protection units in the municipalities/communes. The purpose was to inform these professionals of the legislation in force, the national strategies against THB, the existing institutions and mechanisms, and the duties of each specific entity for the identification, interviewing, assistance, protection and re-integration of victims of trafficking.
- other training courses were organised at local level in order to enhance the capacities of the staff working in local social services to deal with cases of child trafficking in Lushnja and Lezha. The training session in Lushnja was attended by 33 participants and the session in Lezha was attended by 23 participants.

### *iii. Data collection and research*

69. The Albanian authorities have indicated that the Total Information Management System database was introduced in 2008. This database is an umbrella system comprising several databases, some of which are accessible only by certain structures within the Police, and complying with all the regulations on confidentiality and protection of sensitive information. This umbrella system includes the Database on victims of THB, managed by the Office of the National Co-ordinator. Only the Responsible Authority and the National Co-ordinator are authorised to consult the database on victims of THB and disclose information from it when necessary. The database is used to compile statistics, some of which are made available to the public. The information collected comes from police departments, social services and consular services, as well as from the shelters for trafficking victims. At certain border-crossing points, for example, the police enter the data identifying a victim directly in the database. These data make it possible to track victims, but also serve as sources of information which, according to the Albanian authorities, have already proved useful in police investigations. Those involved in action against trafficking agree that, after the introduction of the Total Information Management System, the data quantifying the phenomenon of trafficking in Albania, and particularly the number of victims identified and assisted, are far more accurate and closer to reality.

70. As regards statistics on investigations, prosecutions and convictions, the Ministry of the Interior and the Ministry of Justice collect such data, but they have done so separately to date, which has limited the possibilities of data comparison. A unified data collection system is being introduced so that the data logged by the different entities are more easily exploited.

71. Research into THB in Albania has been carried out mainly by national or international NGOs and international governmental organisations. Additional research in the following areas would be useful: the phenomenon of national trafficking, in particular of women for the purpose of sexual exploitation, trafficking in men and trafficking for the purpose of labour exploitation.

72. GRETA welcomes the setting up of a data collection mechanism on THB by the Albanian authorities, which enables the compiling of statistical information and allows its disaggregation (concerning gender, age, type of exploitation, country of destination, etc.). GRETA considers that the Albanian authorities should pursue their efforts in improving the collection of statistical data on arrests, prosecutions and convictions for the offence of THB, convictions and penalties related to trafficking offences and on the situation of the victim of THB in judicial proceedings. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection.

73. GRETA considers that the Albanian authorities should carry out and support research on THB-related issues as an important source of information for future policy measures. Areas where research is needed include national trafficking, trafficking in men and trafficking for the purpose of labour exploitation.

#### *iv. International co-operation*

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

75. The Albanian authorities have indicated that the rules governing international relations in judicial matters applicable to the offence of trafficking are the same as those established for all criminal offences. The Albanian Code of Criminal Procedure (CCP) governs such relations with foreign authorities (including extradition, rogatory commissions and execution of decisions in criminal cases) applicable in the area of THB offences. The European Convention on Mutual Assistance in Criminal Matters and its additional protocols are binding on Albania. Accordingly, the co-operation procedures provided for in these texts are applicable within the framework of THB-related investigations or judicial proceedings. There are also a number of co-operation agreements between Albania and other countries. Law No. 10/193 of 3 December 2010 on Jurisdictional Relationships with Foreign Authorities in Criminal Cases clarified co-operation procedures, specifying the responsibilities of each authority on the Albanian side.

76. Co-operation between the Albanian Police and the police forces of other countries is based on conventions, bilateral or multilateral agreements. In particular, Albania ratified the Police Co-operation Convention for South-East Europe in 2006. Within this framework, bilateral agreements on transfrontier co-operation have been signed with Montenegro, Kosovo<sup>11</sup> and "the former Yugoslav Republic of Macedonia". The Albanian authorities reported that 10 operations were organised in 2008 in co-operation with the Greek Police to prevent illegal border crossings, drug trafficking, trafficking in human beings and other illicit transfrontier activities. Also in 2008, the Albanian Police carried out 89 patrols with the police of "the former Yugoslav Republic of Macedonia" and 168 with the Police of Montenegro. Police co-operation also takes place within the framework of the Regional Centre of the Southeast European Cooperative Initiative (SECI)<sup>12</sup>, of which Albania is a member. According to the Albanian authorities, this co-operation has produced positive results, making it possible to dismantle crime groups involved in trafficking. The Albanian law enforcement officials also co-operated in 2010 with their British counterparts concerning an Albanian organised criminal group involved in trafficking in women for the purpose of the prostitution of others.

<sup>11</sup> All reference to Kosovo whether to the territory, institutions or population, in this report shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

<sup>12</sup> Following the entry into force of the Convention of the Southeast European Law Enforcement Center on 7 October 2011, the SECI became the Southeast European Law Enforcement Centre (SELEC).

77. An agreement signed in 2006 between the Albanian Government and the Greek Government on protection and assistance for child victims of trafficking entered into force after ratification by Greece in 2008. The agreement focuses on several aspects of action against child trafficking, including prosecution and, in particular, co-operation between the prosecution authorities of the two countries, prevention in both countries, *inter alia* through improved access for children to education and vocational training, and raising public awareness of the problem of trafficking in children. In the area of protection, the agreement stipulates the obligation for a party to immediately warn the other party when it identifies a child victim of trafficking on its territory. The parties also undertake to do the necessary to provide for the needs of child victims, including in terms of suitable and safe accommodation, and appointing a temporary guardian where necessary. The agreement provides for a repatriation procedure in the best interest of the child which guarantees his or her safety, and also a procedure for the reintegration of the child in the country to which he or she is returning. For further details of this agreement, see paragraph 147.

78. An "Additional Protocol on the stepping up of transfrontier co-operation in connection with action against trafficking in human beings and the stepping up of measures to identify, notify, refer and return victims and persons thought to be victims of trafficking" was signed in 2007 between the Albanian Ministry of the Interior and the Ministry of the Interior of "the former Yugoslav Republic of Macedonia". A similar Protocol is being negotiated with the authorities of Kosovo<sup>13</sup>, with a view to enabling the conduct of joint border police actions as well as co-operation with the anti-trafficking and social services in Kosovo<sup>14</sup>.

79. Albania took part in a project run by the International Centre for Migration Policy Development (ICMPD) on "Transnational Referral Mechanisms for Trafficked Persons in South-Eastern Europe" and undertakes to apply that mechanism's guidelines. It also participates in the ICMPD projects on "Enhancing Transnational Cooperation on Trafficking Cases in South-Eastern Europe TRM-II" and "Transnational Referral Mechanisms for Trafficked Persons in Europe TRM-EU". The latter project is geared to establishing a standardised procedure grouping the States of origin, destination and transit, and ensuring co-operation between the different institutional and non-governmental actors<sup>15</sup>. This procedure entails initial identification of trafficking victims, emergency assistance for and protection of victims, longer term assistance and social inclusion, return and civil and criminal proceedings.

80. Albania has made substantial efforts to co-operate at international level, particularly with neighbouring countries and trafficking destination countries. Nevertheless, further efforts are required to achieve consolidation and optimum functioning of co-operation with those countries. The Albanian authorities must further pursue the aim of improving implementation of the existing procedures on the basis of assessment, so that all trafficking victims originating from Albania or in transit via Albania may receive the best possible assistance and protection. The authorities should also look for ways of adapting co-operation measures, as the routes used for THB evolve.

**81. GRETA considers that the Albanian authorities should step up their efforts to reinforce co-operation with neighbouring countries and trafficking destination countries in the areas of prevention, protection of victims and prosecution of perpetrators of trafficking, on the basis of existing mechanisms and by introducing further procedures wherever this proves necessary.**

<sup>13</sup> All reference to Kosovo whether to the territory, institutions or population, in this report shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

<sup>14</sup> All reference to Kosovo whether to the territory, institutions or population, in this report shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

<sup>15</sup> The other countries participating are Bulgaria, the Czech Republic, Hungary, Italy, Portugal, "the Former Yugoslav Republic of Macedonia" and Romania. See Guidelines for the development of a transnational referral mechanism for trafficked persons in Europe: TRM-EU, Department for Equal Opportunities-Presidency of the Council of Ministers, Italy, ICMPD, 2010.

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

82. 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).

83. As a country of origin, Albania places the emphasis on prevention. The 2008-2010 Strategy has sought to diversify preventive measures, as may be seen from the examples below. Other measures seek to tackle more general issues at the root of trafficking, such as difficulties in obtaining education or jobs, domestic violence and the poverty afflicting a large part of Albanian society. The Government takes measures to prevent THB, often in co-operation with NGOs, which have a key role to play in this field. Many prevention activities are undertaken at the level of the regional anti-trafficking committees, which means that they can be adapted to the specific circumstances of each region.

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

84. An example of an awareness-raising campaign against THB is the one organised in 2008 and entitled "Human trafficking is a dead-end path. Say no to human trafficking". There have also been several campaigns against child labour in recent years, geared in particular to eliminating the worst forms of child labour. These campaigns have used posters, television advertising spots and educational packs, and have focused partly on trafficking in children for the purpose of labour exploitation.

85. Training sessions have been organised by the National Co-ordinator and the IOM for Albanian journalists to remind them of their role in building awareness of the underlying causes of THB and their obligation to inform the public while fully complying with their code of professional ethics and the rights and dignity of victims.

86. A set of educational tools prepared in co-operation with the IOM was specifically introduced to prevent trafficking, including handbooks for teachers and pupils focusing on trafficking. Children are made aware of the dangers of transnational trafficking through programmes run in schools. An interactive theatre activity ("I travel...alone") organised in 2009 reached 4 000 pupils in the course of a month, explaining how trafficking happens and its dangers.

87. In 2010, a number of awareness-raising activities were organised by the National Co-ordinator in co-operation with other governmental agencies, intergovernmental organisations and/or NGOs. For instance, a conference entitled "Trafficking in human beings destroys lives and is detrimental to society...Together we can fight it!" was organised on the occasion of the Anti-Trafficking Day on 18 October 2010. A workshop for relevant officials took place in November 2010 entitled "Let's make Internet safe for children", which contributed to raise awareness on the danger of recruitment for THB through Internet. 6 000 leaflets focusing on victims and potential victims of THB were distributed at border crossing points, in consular offices and other relevant places.

88. GRETA was informed that the social reintegration of victims trafficked for the purpose of sexual exploitation is made difficult by their rejection by society, and, for some of them, by their families. There should be emphasis on building public awareness of this form of trafficking, as well as among certain officials in contact with victims in order to facilitate the social reintegration of victims, notably by drawing attention to the principle of equality between women and men. In this respect, in order to prevent trafficking and more specifically to discourage demand, there has been a stronger focus on the question of equality between women and men in several school programmes. However, as far as GRETA knows, no special measures have been taken to discourage demand by raising awareness directly among potential clients of services provided in connection with sexual exploitation.



89. While the Albanian authorities have indicated that Albania is no longer a country of transit for THB, in view of the past situation and possible rapid evolution of routes used by traffickers, it remains important to raise the awareness of officials (see also paragraph 101) and the general public about the fact that there may be foreign victims transiting through Albania and to inform them of the dangers such persons could run in order to prevent Albania becoming again a country of transit. It is also important to continue awareness-raising measures among parents in order to make them aware of the need to prevent their children from becoming victims of trafficking. Special attention should be devoted to the situation of the Roma and Egyptian<sup>16</sup> communities, as they are particularly vulnerable to THB because of the marginalisation and neglect they are confronted with.

**90. GRETA considers that future actions in the area of awareness raising and education should be designed in the light of the assessment of previous measures, on the basis of research, and be focused on the needs identified. Measures should be taken to combat stereotypes and neglect towards groups vulnerable to THB, in particular women and members of the Roma and Egyptian communities. The Albanian authorities should also continue to raise public awareness on the question of equality between women and men and the principle of non-discrimination, in order to better combat the marginalisation of groups vulnerable to THB.**

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

91. To prevent trafficking and other forms of abuse of which children may be victims, Albania has introduced a set of measures aimed at improving their social conditions. The Law on Child Protection, adopted in November 2010, places on an institutional footing the child protection units provided for at local level and set up under a pilot scheme in 13 municipalities. The role of these units is to identify and assist children thought to be in difficulty and therefore at risk from trafficking. The Agency on Child Protection set up within the Ministry of Labour, Social Affairs and Equal Opportunities, is drafting and implementing the secondary legislation related to the Law on Child Protection.

92. A number of children, particularly from the Roma or Egyptian minorities have not been recorded in the civil status register, which makes it impossible to enrol them in schools, among other things, and distinctly increases the risks of trafficking where these children are concerned. One of the preventive measures taken entails ensuring that all children born in Albania are recorded in the civil status register. Following the passing of the Law on Civil Registry in 2009, which facilitates the procedure for recording children who were not registered at birth in the civil status register, 7 000 children have been registered, and efforts are ongoing to register others, estimated to number some 600. These efforts should be pursued and, in particular, a solution should be found for children returning to Albania who were born in another country and not registered there at birth. In this context, the Albanian authorities have indicated that, at the initiative of the National Co-ordinator and in co-operation with the Directorate of Civil Registry at the Ministry of the Interior, an action plan and guidelines for resolving the cases of unregistered children were drawn up by an NGO and UNICEF together with the Ministry of Foreign Affairs, the Ministry of Labour, Social Affairs and Equal Opportunities, the Ministry of Health, and the Directorate of State Police.

93. One of the major challenges in preventing trafficking in children and adults in Albania is to combat the elevated school drop-out rate, particularly among children in the Roma and Egyptian communities. In principle, to be eligible for enrolment at school, a child must be recorded in the civil status register. However, measures have been taken to allow children not yet recorded in the civil status register to attend school nevertheless. In addition, the post of school counsellor has been created in primary schools, with the role of monitoring children in difficulty at school and finding solutions to avoid their dropping out of school. Another measure has entailed providing the poorest children with free textbooks and free transport to and from school.

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<sup>16</sup> The "Egyptians" are an Albanian-speaking community living in Albania whose members define themselves by their ethnic origin and historical roots as descendants of the Egyptians, their traditions and cultural heritage. This group, comparable to Roma in certain respects, wishes to be recognised as an ethnic group distinct from Roma. (See the second opinion on Albania of the Advisory Committee of the Framework Convention for the protection of national minorities, 2008, paragraphs 41-46).

94. Another preventive measure taken is to facilitate access to employment and vocational training for vulnerable individuals, particularly women, to avoid their falling into the trap of trafficking. Several programmes have been launched by the Albanian authorities to aid women, unemployed persons in difficulty and Roma (the latter programme carried out with support from the United Nations Development Programme - UNDP), facilitating access for them to vocational training.

95. **While welcoming the efforts made by the Albanian authorities to prevent trafficking, GRETA considers that these efforts should be stepped up as part of a long-term approach aimed at tackling the root causes of trafficking such as poverty and school drop-out.**

96. **GRETA urges the Albanian authorities to step up trafficking prevention measures geared to fostering access to education and jobs for vulnerable groups, particularly women and members of the Roma and Egyptian communities.**

97. **GRETA also considers that the Albanian authorities should pursue their efforts to strengthen the protection of children, particularly through the recording of all children in the civil status register. Municipal child protection units should be set up in all municipalities as provided for in law, and the staff of those units should be trained in the prevention of child trafficking.**

c. Measures to enable legal migration

98. The Albanian authorities have taken measures to ensure that Albanians are informed of the trafficking risks linked to migration to foreign countries by distributing brochures and posters throughout the country and in Albanian consulates and embassies abroad. A national free-phone line has been opened, enabling callers to report cases of trafficking and also to obtain information on the legal requirements governing travel abroad. Consular staff have been provided with manuals instructing them how to inform Albanians who are abroad about their rights and duties. However, it would appear that the subject matter of THB is not covered in the initial training given to consular staff but is dispensed on a case-by-case basis to staff already in post.

99. The abolition of the visa requirement for Albanians wishing to enter the Schengen area at the end of 2010 is a new factor to be taken into account in the anti-trafficking strategy, particularly in the sphere of prevention (need to reinforce measures aimed at informing Albanians wishing to travel abroad of the dangers of trafficking) and co-operation (with neighbouring States and destination States in the Schengen area). The Albanian authorities have launched information campaigns, including on television, explaining to the population that the freedom to travel without a visa does not entitle them to go to the countries concerned to work or seek work and that they should beware of false promises of paid work in other countries.

100. **GRETA considers that the Albanian authorities should step up their efforts to provide initial and on-going training for consular staff on identification and referral of victims and potential victims of THB. The authorities should also continue to build public awareness of the dangers of transnational trafficking.**

d. Border measures to prevent THB

101. Albania has taken steps to curb illicit trafficking in migrants by sea, mainly to Italy, by imposing a moratorium as of 2006 (renewed in 2010) suspending circulation of Albanian motorboats in Albania's territorial waters and on its inland waterways. These measures have helped to cut the numbers of victims of THB leaving Albania by such means. However, it would appear that new land routes are now in operation, making it necessary to step up measures at land borders to prevent and detect trafficking in human beings, as well as strengthening co-operation with the authorities of the neighbouring countries concerned.

102. Consular staff granting entry visas to Albanian territory have been instructed to be attentive to trafficking issues and to identify perpetrators of trafficking through interviews. The Law on Foreigners provides that they must verify with the Ministry of the Interior whether the applicant belongs to the category of "undesirable persons", which specifically includes traffickers in human beings, with a view to refusing them visas. Consular staff have also been requested to identify victims or presumed victims of THB, with a view to referring them to the relevant entities for their formal identification.

103. **GRETA considers that the Albanian authorities should reinforce measures at land borders to prevent and detect trafficking in both Albanian and foreign persons.**

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

#### a. Identification of victims of trafficking in human beings

104. 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.

105. In Albania, the identification process takes place in two phases: initial identification and formal identification. Initial identification of a potential victim of trafficking entails checking different physical, psychological and social characteristics serving as grounds for identifying a person as a victim. The initial identification can be performed, *inter alia*, by:

- police officers
- school psychologists
- teachers
- social service providers
- municipal officials
- health care staff
- members of child protection services
- members of NGOs.

106. Since the vast majority of victims of trafficking identified in Albania are Albanian nationals who have been exploited abroad and return to Albania, efforts have been made to ensure that border and migration police officers receive training and instructions to enable them to make an initial identification, which can then be followed up by formal identification by the police and social services. Circular No. 714 of 3 November 2006 of the Director General of the Police gives instructions on the procedure to adopt for Albanians returning to or foreigners arriving in Albania, in order to detect possible victims of trafficking. Formal identification is performed by an official responsible for action against trafficking within the police force and a social services official, during interviews following set procedures. To support this key activity, Albania has set up a National Referral Mechanism (see paragraph 27). Those conducting the interview must use a questionnaire (appended to the agreement on the National Referral Mechanism) to determine whether a person is an actual, presumed or potential victim of trafficking. The circular indicates, *inter alia* that female police officers are to be present during interviews with potential victims of trafficking.

107. As already stated, since many identified Albanian victims of trafficking have been exploited abroad, co-operation between the authorities of destination and transit countries is important for the proper functioning of the National Referral Mechanism. In practice, it may sometimes be the case that victims are not identified until they return to Albania, which complicates the work of the organisations assisting them. This also makes it more difficult to prosecute the traffickers, since the evidence pointing to trafficking is located mainly abroad and gathering it depends on the other country's authorities' willingness to co-operate. It is vital, therefore, to reinforce this co-operation making it possible to ensure that victims return safely, and improving the chances of punishing the perpetrators of trafficking.

108. The Ministry of Foreign Affairs, through its diplomatic and consular section, has a key role to play in this respect. Two representatives of this ministry form part of the authority responsible for the National Referral Mechanism. The agreement establishing the mechanism stipulates that the Ministry's Consular Directorate must inform the Responsible Authority whenever persons identified as or presumed to be trafficking victims are reported by foreign authorities or NGOs. It also states that staff posted abroad must be trained to provide advice, following a victim-based approach (on this point, see paragraph 98).

109. The National Referral Mechanism provides, *inter alia*, that formal identification of a child as a victim of trafficking must take place in the presence of a parent, guardian or legal representative. Where this is not possible (e.g. if the parent is unavailable or is involved in the trafficking), a specially trained psychologist must be present.

110. A working group on border surveillance, made up of governmental bodies and civil society, has been set up to check on the implementation of identification and referral procedures at borders. The National Co-ordinator regularly organises training sessions for those involved in identifying victims to ensure that they are familiar with the norms applicable in this area and aware of the rights of victims. The teams on the spot usually have the required training, but measures to avoid high turnover amongst staff need to be taken to ensure that they have all the necessary know-how. The lack of financial resources explains in part why the mechanism does not always function in practice, especially at borders and in certain rural areas.

111. In addition, there are other areas in which the identification mechanism needs to be improved. Firstly, as previously mentioned, no Albanian men have been identified as victims of trafficking. However, all actors involved in action against trafficking in Albania agree that there are certainly cases of men being trafficked, mainly for the purpose of labour exploitation abroad. Secondly, the current national referral mechanism should be adapted to ensure the proper identification of victims of national trafficking and efforts should be stepped up to reinforce training and increase awareness of bodies responsible for identifying victims of trafficking with regard to the phenomenon of national trafficking.

112. In addition to being a country of origin, Albania was also a country of transit for a number of years, even though recent measures to curb illegal migration have cut the number of trafficking victims transiting via Albania. It is nevertheless surprising that no foreign victims of trafficking were identified by the Albanian authorities in 2008, 2009 and 2010, which suggests the need to strengthen the mechanism for identifying this category of victims. The Agreement establishing the National Referral Mechanism provides for a procedure to be followed in respect of foreigners when they cross the border or when they are apprehended by the police because of being illegally present on Albanian territory. The agreement takes as its basis a circular from the Ministry of Public Order of 2004, which establishes the procedure for this specific case. The procedure is geared to the identification of persons in need of international protection and assistance (asylum seekers, victims of trafficking, etc.) as soon as they arrive at the border by a "pre-screening team", which must then refer them as soon as possible to the appropriate structures. Through Circular No. 1085 dated 12 June 2006, the Minister of the Interior requires the border police, whenever they identify an illegally present foreigner as a potential or actual victim of trafficking, to notify the anti-trafficking section of the police which, in conjunction with the social services, will take all necessary steps for the safe transport of the person in question to the National Reception Centre for victims of trafficking in Tirana and the provision of any specialised assistance required.

113. **GRETA considers that the Albanian authorities should pursue their efforts to identify victims of trafficking, by ensuring that the norms and procedures are duly followed by all the actors concerned. In particular, the Albanian authorities should seek to improve the identification of certain categories of victims, namely adult men, victims of national trafficking and foreigners. The authorities should also strengthen co-operation with destination and transit countries, in order to improve identification of Albanian victims abroad and the consequent measures of assistance to be provided to such victims.**

b. Assistance to victims

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

115. The Albanian authorities have indicated that all victims of trafficking recognised as such, irrespective of their nationality, benefit from the full range of protection and assistance measures and services provided for in the National Referral Mechanism, regardless of whether they co-operate or not with the judicial authorities. The authorities and NGOs must comply with the rules laid down in Decision No. 195 of the Council of Ministers, dated 11 April 2007, approving the norms applicable to social services dispensed in shelters for actual and potential victims of trafficking. The co-operation agreement establishing the National Referral Mechanism also lays down a set of norms, with which the signatories undertake to comply (see paragraph 27). The Responsible Authority is tasked with supervising the assistance provided by the parties to the Agreement.

116. According to the Albanian authorities, to date, no victims have been refused protection and assistance. If a victim is not to be granted such services, he/she is entitled to lodge a written request with the police directorate and the social services, explaining his/her situation.

117. The assistance afforded to victims of THB is mainly provided by one state-run reception centre and three shelters for victims of trafficking run by NGOs, which cover the whole territory of the country. All these facilities (two of them based in Tirana, one in Elbasan and another one in Vlora), participate in the Co-operation Agreement (see paragraph 27) and are therefore vital elements in the National Referral Mechanism. In 2008, the four shelters formed a network of residential centres for victims of trafficking, with a view to co-operating in a number of areas. In addition to these shelters, the social services and other NGOs which do not manage shelters provide other forms of assistance, particularly legal assistance (see paragraph 136).

118. The National Reception Centre for Victims of Trafficking is a public establishment attached to the Ministry of Labour, Social Affairs and Equal Opportunities, with a capacity of 100 beds. It is more secure than the shelters and provides emergency assistance for women and child victims of trafficking. Victims usually stay in this centre for periods ranging from a few weeks to three months, so that they can recover sufficiently to be transferred to another shelter which handles the reintegration phase. If necessary, victims may remain in the national reception centre for a longer period. During the visit in Albania, the GRETA delegation visited the National Reception Centre and met most of its staff, made up of a director, a legal specialist, a doctor, a psychologist, a head of social affairs, a financial administrator and other staff. In 2010, 74 people were admitted to this centre. The centre used to also accommodate irregular migrants, but following the recent opening of another institution designed for this purpose, it is solely used for victims of trafficking.

119. The three shelters (in Elbasan, Tirana and Vlora) provide assistance to women and child victims of trafficking. This assistance is provided free of charge and includes accommodation, medical assistance, counselling and personalised reintegration programmes which may include vocational training, help with finding jobs and a micro-credit enabling victims to start up businesses. Some of the shelters also manage day facilities where victims or persons at risk of becoming victims of trafficking can seek advice and follow training courses. The accommodation capacity of the National Reception Centre and the three shelters is currently adequate in relation to the number of trafficking victims identified in Albania. Indeed, these facilities also take in victims of other forms of abuse, such as victims of domestic violence, or persons at risk of becoming victims, owing to difficult family circumstances or other problems. In 2010, the four existing facilities accommodated a total of 97 persons (victims of trafficking and persons at risk of being trafficked), out of whom 83 were women and 14 children.

120. The National Reception Centre, the three NGO-run shelters and the departments of the Ministry of Health provide specific support for victims with special needs, particularly pregnant women and persons with disabilities or physical or psychological disorders. An interpreter service is said to be provided by the Albanian authorities in case of trafficking victims who do not speak Albanian.

121. The three NGO-run shelters providing assistance to victims of trafficking are also active in the area of prevention, drawing on the knowledge they have gained when dealing with victims to run awareness-raising activities. They take part in public information work and the training of officials with regard to trafficking and its dangers.

122. As far as the funding of assistance for victims of trafficking is concerned, the National Reception Centre is fully financed by the State. The Government allocated a total of 177 272 euros to the centre in 2010. The other three shelters are managed by NGOs and are mainly funded by foreign donors. The Albanian Government recently began to pay a small proportion of the costs incurred by these shelters. According to the Albanian authorities, in the first six months of 2011, the Ministry of Labour, Social Affairs and Equal Opportunities transferred 7 403,65 euros to cover the food costs of the victims accommodated in the shelters. Under Law No. 10/252 of 11 March 2010 supplementing the 2005 Law on Social Assistance and Services, victims of trafficking receive welfare benefits during their stay in shelters as well as financial aid when they leave the shelter until they find a job. The State also covers the medical expenses of victims of trafficking.

123. Law No. 10/252 of 11 March 2010 provides for another form of funding to shelters for victims of trafficking managed by NGOs, by providing them with staff directly paid by the State. This mode of financing is criticised by the NGOs concerned, which feel that it does not meet their real needs and undermines their independence. They believe it necessary to find another means of financially supporting their activities so that these are maintained in the long term. At the time of writing this report, this part of the law was not implemented, as it requires the signature of an agreement between the State and the NGOs concerned. NGOs have asked for the law to be revised in this respect in order to find a solution that would better meet their needs, and the Albanian authorities have indicated that they are currently considering this request.

124. GRETA must stress the importance of finding solutions for funding assistance measures for victims of trafficking that ensure continuity in the care of the people concerned and consolidation of the existing structures and procedures. GRETA notes that a State agency has recently been set up to provide funding support for projects submitted by NGOs and trusts that this measure will be of benefit to NGOs assisting victims of THB. Albania is also considering a draft law on the setting up of socially-oriented enterprises geared to reintegration and benefiting from favourable tax arrangements, whose income might help to cover the costs of social services and fund a portion of the assistance provided to victims of trafficking. There are also possibilities of funding assistance activities aimed at victims of trafficking on the basis of the legislation on the confiscation of proceeds from trafficking (see paragraph 141).

125. In accordance with Article 12(5) of the Convention, assistance can be provided in co-operation with NGOs, other relevant organisations or other elements of civil society engaged in victim assistance. However, GRETA must stress that, as pointed out in paragraph 149 of the Explanatory Report on the Convention, Parties remain responsible for meeting the obligations in the Convention. Consequently, they have to take the steps necessary to ensure that victims receive the assistance they are entitled to, in particular by making sure that reception, protection and assistance services are funded adequately and in a timely manner.

**126. GRETA urges the Albanian authorities to ensure that all assistance measures for victims of THB provided for by law are guaranteed in practice. When assistance is delegated to NGOs as service providers, the State has an obligation to provide adequate financing and to ensure the quality of the service delivered by the NGOs.**

c. Recovery and reflection period and residence permits

127. As victims of trafficking are extremely vulnerable after the trauma they have experienced, Article 13 of the Convention introduces the obligation for Parties to provide in their internal law for a recovery and reflection period of at least 30 days. The minimum 30-day period constitutes an important guarantee for victims and potential victims and it serves a number of purposes, including to allow them to recover and escape the influence of traffickers and/or to take a decision on co-operating with the competent authorities. During this period, Parties must authorise the person concerned to stay on their territory and expulsion orders cannot be enforced.

128. Article 5(9) of the Co-operation Agreement establishing the National Referral Mechanism stipulates that the authorities must grant a temporary residence permit to any victim wishing to remain in Albania for the purpose of reflection and recovery, to benefit from assisted repatriation or co-operate with the prosecution authorities. The Albanian authorities have indicated that this residence permit is granted to victims or potential victims of THB regardless of their willingness to co-operate with the authorities. Article 5(10) states that a foreigner must not be removed from the territory before they can be interviewed by the police or a prosecutor, examined by a pre-screening team (see paragraph 112), given access to social services and granted the possibility of requesting a temporary stay in the country. The Albanian authorities have pointed out that the victim or presumed victim is informed of the possibility to apply for a temporary residence permit for such a period.

129. The Law on Foreigners provides in Article 31(1)(b) for the issue of a residence permit in exceptional cases, on humanitarian grounds, "if the person is a victim of trafficking and needs temporary protection". Article 3(33) of the Law on Foreigners gives the following definition of a victim of trafficking for the purpose of the law: "a foreigner or stateless person who has been subjected to trafficking in human beings, i.e. a victim of the crime of THB, as provided for in the 2000 Palermo Protocol and current Albanian legislation". The residence permit is issued for a duration of three months, six months or up to one year, with the possibility of renewal.

130. Article 31(2) of the Law on Foreigners states that a foreign victim of trafficking granted this exceptional temporary permit shall enjoy the rights guaranteed to foreigners with an ordinary temporary permit, namely access to health care, financial aid and support. Further, foreign victims of trafficking are entitled to all the assistance afforded to any victim of trafficking in Albania. Article 60(1)(g) of the Law on Foreigners also provides for the issue of a work permit in special cases, valid for a maximum of one year, to a foreigner who is a victim or potential victim of trafficking in human beings, by decision of the relevant public authorities.

131. In addition, Article 31(1)(c) of the Law on Foreigners provides for the possibility of granting a residence permit to a foreigner who "has co-operated or agreed to co-operate with the judicial authorities, at the proposal of the public authorities or national security agencies".

132. As already noted in paragraph 112, no foreign victims of trafficking were identified in 2008, 2009 and 2010. Accordingly, no exceptional residence permits were issued, whether for a recovery and reflection period or on other grounds. The lack of cases aside, GRETA believes that the Law on Foreigners does not sufficiently emphasise the fact that the recovery and reflection period must also be afforded to potential victims and in particular persons who have not yet decided to co-operate with the authorities. Only the co-operation agreement establishing the National Referral Mechanism refers to this period and it would therefore be desirable to clarify in a legal text the difference between this period, applicable also in the case of a potential victim, and a temporary residence permit granted to a victim of THB identified as such. GRETA notes that one of the stated aims of the 2008-2010 Strategy was to prepare instructions for those concerned regarding the recovery and reflection period and residence permits.

**133. GRETA encourages the Albanian authorities to clarify and reinforce the legal arrangements governing the recovery and reflection period by enshrining them in law.**

d. Compensation and legal redress

134. 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.

135. The Albanian authorities have indicated that, from the first moment of contact with a victim of trafficking, the police provide victims with full information on their rights and the judicial and administrative procedures to be followed, including on the right to compensation. In this respect, the National Referral Mechanism defines the responsibilities of the different services tasked with informing and assisting victims. All shelters have a legal advice service available to victims, run either internally or in co-operation with specialised NGOs.

136. Victims of trafficking fulfilling the criteria laid down by Law No. 10/039 on Legal Assistance may receive legal assistance. Under Article 11 of that law, assistance is provided by lawyers authorised to do so and may take two forms. Primary assistance entails providing information on the Albanian legal system to the person concerned, while secondary assistance consists of services involving advice, representation and legal protection, within the framework of criminal, civil and administrative law proceedings. Any person covered by the social protection programme may receive free legal assistance and the Albanian authorities have indicated that victims of THB are beneficiaries of that programme. The Albanian authorities have also indicated that this law has so far been applied in the area of criminal law and will shortly be applicable in civil law cases, following the setting up of a national committee on legal assistance whose role will be to determine who is to receive legal assistance in civil proceedings. Apart from the list of lawyers provided by the National Chamber of Lawyers, the Ministry of Justice has an arrangement with specialised NGOs to provide this service. Legal assistance is funded from the state budget or other public sources. However, in practice, owing to the lack of financial resources, legal assistance is not truly operational in criminal proceedings and NGOs have indicated that they often cover the costs of legal assistance for victims of trafficking.

**137. GRETA urges the Albanian authorities to ensure that victims of trafficking actually benefit from the free legal assistance to which they are entitled.**



138. The right of victims of trafficking to compensation is enshrined in several legal provisions. Articles 61 to 68 of the CCP, which regulate civil lawsuits before criminal courts, guarantee the right of the wronged person to demand the return of property and reparation for material damage. This compensation from the perpetrators can be obtained through Law No. 10/192 of 3 December 2009 on the Prevention of and Fight against Organised Crime and Trafficking through Preventive Measures against Assets, pursuant to which victims of trafficking and victims of organised crime are first on the list of beneficiaries of compensation to be paid from the income generated by property and financial assets confiscated under that law (for further information on the confiscation mechanism, see paragraph 171).

139. It would appear that it is not possible to obtain reparation for non-pecuniary damage from traffickers before the criminal court directly and that a second set of proceedings before a civil court is necessary. Under Article 625 of the Civil Code, any person having suffered non-pecuniary damage, such as a violation of their physical integrity or honour, has a right to compensation. It is on the basis of this provision that the Tirana Court of First Instance decided that a minor who had been the victim of trafficking for the purpose of sexual exploitation should be paid the sum of 40 000 euros by the perpetrator of the criminal offence as compensation for non-pecuniary damage (decision No. 1202 of 19 February 2010). However, at the time of writing this report, the procedure for the transfer of this sum to the victim was still ongoing.

140. According to the Albanian authorities, except for the above mentioned case, no victim of THB has received compensation from perpetrators in 2008-2010. Some NGOs suggested that the requirement to pay judicial levies upon the opening of legal proceedings, which correspond to a percentage of the amount in question and which are refunded or retained, depending on the outcome of the trial, may constitute an obstacle to claiming compensation. The Albanian authorities have indicated that victims of trafficking are not requested to pay such levies as they are all beneficiaries of social protection programmes and therefore eligible for free primary and secondary legal assistance in criminal, civil and administrative law proceedings (see however paragraph 136). Further, the authorities have indicated that training sessions for judges, prosecutors and lawyers have been organised on the right to compensation and other fundamental rights of victims of trafficking.

141. Beside compensation from the perpetrators, Law No. 10/192 of 3 December 2009 on the Prevention of and Fight against Organised Crime and Trafficking through Preventive Measures against Assets provides for the setting up of a "Special State Fund for Preventing Criminality", sourced from property and assets sequestered and confiscated by decision of the First Instance Court for Serious Crimes under that same law. For the fiscal year 2009-2010, 50% of the proceeds of confiscations were to be allocated to the special fund. The special fund is used to finance projects aimed at improving the exercise of justice, but must also serve social purposes, such as the rehabilitation and reintegration of victims of trafficking. Article 37(3)(b) of the law expressly mentions non-profit organisations, including shelters for victims of trafficking, as potential beneficiaries of the special fund. Several pieces of secondary legislation have been adopted in 2010 in order to implement this law, in particular through the setting up of an Agency for Management of Seized and Confiscated Assets. It is too early to assess the impact of this law as the Albanian authorities have indicated that the first properties confiscated on the basis of it are in the process of being sold and all income could go towards the setting up of the special fund (see also paragraph 171).

**142. GRETA considers that the Albanian authorities should take steps to ensure that victims of trafficking can effectively exercise their right to compensation from the perpetrators by taking measures to facilitate the relevant procedures.**

**143. Further, GRETA urges the Albanian authorities to assess the mechanism for State compensation to victims of trafficking, with a view to taking any necessary additional measures to guarantee such compensation, as required by Article 15(4) of the Convention.**

e. Repatriation and return of victims

144. 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.

145. The National Referral Mechanism includes procedures to be followed by the different actors in cases of repatriation and return of victims of trafficking, regardless of whether they involve persons (Albanians or foreigners) coming back from another country to Albania or foreign victims going back from Albania to another country. As a signatory to this agreement, the IOM takes part in the repatriation process.

146. The Albanian consular services abroad must, *inter alia*, immediately notify the relevant authorities in Albania when they are informed by the authorities of the country concerned that the return or repatriation of a victim or potential victim of trafficking is planned, in order to optimise arrangements for the reception and assistance given to that person upon arrival in Albania. The Albanian authorities then contact the authorities of the other country to ensure that the return is effected safely and, when a child is involved, in the best interests of that child. In this context, the Albanian authorities have indicated that they co-operate with the authorities and NGOs of other countries, in particular to assess the risks of the return, establish a programme of aid for the victims tailored to their needs and ensure the safe transportation of the victims to the place where they will be cared for.

147. Certain bilateral co-operation agreements between Albania and other countries, such as the one concluded with Greece on child victims of trafficking, replicate these procedures, adapting them to the special circumstances and category of victims involved (See paragraph 77). The first repatriation carried out on the basis of this agreement took place in August 2009. Since the entry into force of this agreement, three Albanian children potential victims of THB have been repatriated from Greece according to the provisions of the agreement.

148. A study on Albanian children found begging in Kosovo<sup>17</sup> concluded that there was a lack of co-operation between the authorities in Kosovo<sup>18</sup> and those in Albania, leaving child victims or potential victims of trafficking in a difficult situation. In particular, not all the necessary precautions were reportedly taken for their return with due account of the best interest of the child<sup>19</sup>.

149. It may happen that a victim of trafficking is identified only after they have returned to Albania, voluntarily or otherwise, by the Albanian authorities, which have procedures in place for the initial identification of these persons at the border posts where they arrive (see paragraphs 105 and 106). In such cases it is not really possible to speak of co-operation with foreign authorities ensuring the safe return of the victim. In this context, the Ministry of Foreign Affairs has an obligation under the co-operation agreement establishing the National Referral Mechanism to strengthen co-operation with the authorities of destination countries in order to "reduce the number of victims returning without prior notification or without prior activation of the assistance and referral procedures provided for in the present agreement" (Article 5(D)(3) of the agreement).

<sup>17</sup> All reference to Kosovo whether to the territory, institutions or population, in this report shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

<sup>18</sup> All reference to Kosovo whether to the territory, institutions or population, in this report shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

<sup>19</sup> Mario Project, Terre des Hommes, Save the Children, Observation Report: Exploitation of Albanian children in street situation in Kosovo, 2011, available in English and Albanian at: <http://tdh-childprotection.org/documents/observation-report-exploitation-of-albanian-children-in-street-situation-in-kosovo>

150. The co-operation between the Albanian authorities and foreign authorities provided for in the National Referral Mechanism also applies to cases of foreigners repatriated from Albania to their country of origin. In addition, Article 72(d) of the Law on Foreigners stipulates that the border and migration police must prioritise the voluntary return of certain categories of persons, including "victims of trafficking wishing to return to their country of origin". However, as stated previously, no foreign victims were identified in 2008-2010 and, therefore, none were repatriated from Albania.

**151. GRETA urges the Albanian authorities to step up their efforts to co-operate with destination countries regarding the repatriation of victims or presumed victims of trafficking. Particular attention must be paid to the situation of Albanian children taken to Kosovo<sup>20</sup> for the purpose of exploitation of begging or other forms of exploitation.**

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

##### a. Substantive criminal law

152. 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).

153. As stated in paragraph 13, three articles of the Albanian CC prohibit THB: Article 110(a) ("trafficking in persons"), Article 114(b) ("trafficking in women") and Article 128(b) ("trafficking in minors"). Trafficking in women and trafficking in minors are considered as separate and aggravated forms of trafficking in persons and are punished more severely (see paragraph 154). As a result, Article 110(a) only applies in practice to trafficking in adult men.

154. If there are no aggravating circumstances, the penalties provided for trafficking in persons are a prison sentence of between five and 15 years and a fine of between two and five million ALL; between seven and 15 years and between three and six million ALL for trafficking in women; and between seven and 15 years and between four and six million ALL for trafficking in minors. GRETA notes that the minimum prison sentence envisaged in case of THB is five years, which can be considered as constituting a dissuasive sanction.

155. The aggravating circumstances indicated for the three categories of trafficking are as follows:

- organising, running and financing trafficking;
- committing the offence in collaboration with other persons or repeatedly or accompanying the act with ill-treatment or the use of physical force or psychological pressure to coerce the victim into committing various acts, or resulting in serious consequences for the victim's health;
- committing the offence by means of exploiting a position occupied in a state structure or public authority. In this case the prison sentence and fines are increased by a quarter in relation to the penalties normally stipulated.

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All reference to Kosovo whether to the territory, institutions or population, in this report shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

156. In addition, pursuant to Article 50 of the CC ("aggravating circumstances"), a number of other aggravating circumstances can apply to THB offences (e.g. committing the offence in a savage and ruthless way, or when the actions aggravate or increase the consequences of the offence committed). However, none of these explicitly refer to "endangering the life of the victim" as required by Article 24(a) of the Convention.

157. The First Instance Court for Serious Crimes competent for ruling in respect of trafficking provisions has adopted a number of decisions, making it possible to establish case law on certain points of interpretation (see paragraph 49). However, the CC has been successively revised with regard to questions of trafficking and sexual exploitation and there has been no harmonisation since. There are risks of confusion, therefore, between provisions punishing trafficking in persons, and particularly between the provision prohibiting trafficking in women (Article 114(b)) and the one prohibiting the "exploitation of prostitution with aggravating circumstances" (Article 114(a)). The latter punishes, *inter alia*, exploitation of prostitution by deception, coercion or the abuse of a person's physical or mental incapacity and provides for a penalty of seven to 15 years' imprisonment, but not for a fine. This confusion is partly sustained by the fact that, even though the CC provisions on trafficking are applicable not only to acts of transnational trafficking but also to acts of national trafficking, in the latter case the prosecution authorities tend to view national trafficking for the purpose of sexual exploitation solely as a form of exploitation of prostitution with aggravating circumstances (see also paragraph 169). The 2008-2010 Strategy lists the failure to differentiate between prostitution and THB for the purpose of sexual exploitation and between THB for the purpose of exploitation of labour and illicit trafficking in migrants and undeclared work as one of the challenges still to be tackled.

**158. GRETA considers that the Albanian authorities should undertake an in-depth analysis of the implementation of trafficking-related provisions of the CC, in order to identify the shortcomings and points on which clarification is needed (for example regarding the distinction between trafficking offences for the purpose of sexual exploitation and exploitation of prostitution with aggravating circumstances).**

159. As regards the criminalisation of the known use of services of trafficked persons, the Albanian authorities have indicated that they have not yet envisaged adopting such a provision. **GRETA considers that the possibility of criminalising the knowing use of services of a victim of trafficking should be given close consideration.**

160. Concerning the criminalisation of acts relating to travel or identity documents, the Albanian authorities have indicated that, according to the interpretation of THB-related criminal law provisions and the case law established to date, acts relating to forging or taking away travel or identity documents of persons subjected to trafficking is one of the constituent elements of the offence of THB, which is why the accused is held liable only for the offence of THB. In addition, there is a provision criminalising the action of falsifying identity documents, passports or visas, or the fact of using these documents, with aggravating circumstances applying when the perpetrator is an official responsible for issuing such documents (Article 189 of the CC). However, to GRETA's knowledge, there are no criminal provisions establishing as criminal offences the fact of retaining, removing, concealing, damaging or destroying this type of documents when committed intentionally and for the purpose of enabling THB as required by Article 20(c) of the Convention. GRETA recalls that according to paragraph 241 of the Explanatory Report on the Convention, "Article 20(c) takes into account that traffickers very often take trafficking victims' travel and identity papers from them as a way of exerting pressure on them. The drafters felt that this could usefully be made a criminal offence in that it was relatively simple to prove and could thus be an effective law-enforcement tool against traffickers." **GRETA invites the Albanian authorities to adopt measures establishing as criminal offences the fact of retaining, removing, concealing, damaging or destroying travel and identity documents when committed intentionally and for the purpose of enabling THB as required by Article 20(c) of the Convention.**

161. Under Article 45 of the CC, legal entities may be held liable for criminal offences, including those relating to trafficking, committed in their name and on their behalf. This liability does not exclude that of the physical persons involved in the committing of the offence. However, the Albanian authorities have indicated that, to date, there have been no criminal cases regarding the involvement of legal entities in THB offences. **GRETA considers that the Albanian authorities should examine the reasons why no legal entities have been punished for trafficking-related acts to date and, in the light of their findings, take the necessary measures to ensure that the liability of legal entities can be acted upon in practice.**

b. Non-punishment provision applicable to victims of THB

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

163. The Albanian authorities have indicated that there is no specific provision in law stipulating that victims of trafficking having taken part in unlawful activities where they have been compelled to do so will not be punished. However, according to the authorities, the non-punishment rule is nevertheless applicable, owing to the interpretation of Albanian law in the light of the Council of Europe Anti-Trafficking Convention. As stated in paragraph 12, the Convention is part of the internal law system and takes precedence over laws contradicting it, which applies equally for Article 26 of the Convention. The structures responsible for the application of laws must therefore take this into account.

164. According to the Albanian authorities, in practice, victims of trafficking are not prosecuted for the criminal offences they were forced to commit in connection with trafficking. In such cases, the prosecutor puts forward arguments to the effect that the victim should not be held criminally liable for offences committed in connection with trafficking, owing to their vulnerable position and the absence of the subjective aspect of commitment of a criminal offence (*mens rea*), i.e. the mental or moral element accompanying the material element (*actus reus*), to constitute an offence. Furthermore, in Albanian criminal law, acts committed under violent duress or the threat of violence, in a case of *force majeure* or out of extreme necessity, are not punishable, and this could apply in certain cases to acts committed by victims of trafficking under coercion. The Albanian authorities have stated that no victims of trafficking were imprisoned or fined in 2010. Nevertheless, in the light of information according to which not enough attention is paid to national trafficking (see paragraph 59), GRETA would like to insist on the need to ensure that no victim of national trafficking is prosecuted for illegal acts due to the fact that the person concerned has not been identified as victim of THB as should have been the case. This is particularly relevant in the field of trafficking for the purpose of prostitution of others as there seems to be sometimes confusion in the mind of relevant law enforcement authorities between sex workers acting in contradiction with the prohibition of prostitution applying in Albania and trafficked victims who have been forced into prostitution. The latter, in such circumstances, could run the risk of being prosecuted for illegal prostitution due to a lack of being properly identified as victims of THB, which would have allowed for not imposing this sanction on the basis of Article 26 of the Convention.

165. **GRETA considers that the Albanian authorities should take measures to assess the implementation by the judicial and other relevant authorities of Article 26 of the Convention on the non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so. The authorities should be prepared to review on the basis of such an assessment the content and/or the application of the relevant internal provisions with a view to addressing any shortcoming identified.**

c. Investigations, prosecutions and procedural law

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

167. As mentioned above (paragraph 25), the First Instance Court for Serious Crimes has been competent for the offences of trafficking in persons, women and minors since 2004. A total of four prosecutors are assigned to the Prosecutor's Office of this court and two of them form part of a unit specialised in prosecuting THB offences. A specialised judicial officer has been appointed to serve as a victims' co-ordinator. The Albanian authorities indicated that this number of specialised prosecutors and judges is adequate in view of the quantity of cases currently coming before the court (an average of 12 to 18 cases concerning THB per year) and as long as the number of cases does not significantly increase.

168. The Albanian authorities have indicated that in 2008, 19 sets of proceedings were opened and 16 convictions were handed down for THB, and in 2009, 24 sets of proceedings were opened and seven convictions were handed down. All the sentences handed down were followed by custodial sentences. According to the Albanian authorities, in 2010 the police identified 37 cases of THB, 25 more than in 2009, and the Serious Crime Prosecution Office initiated criminal proceedings in 39 cases, 15 more than in the previous year. In 2010, the First Instance Court for Serious Crimes tried 19 cases related to THB and reached a decision on seven out of them resulting in the conviction of 11 persons.

169. The specialisation of prosecutors and judges of the First Instance Court for Serious Crimes makes it possible to train them in protection and assistance for victims. Action against trafficking has formed part of the initial training of prosecutors and judges since 2003. Courses are also available in this area within the framework of further training. The judges and prosecutors assigned to the First Instance Court for Serious Crimes and the Prosecutor's Office attached to it receive specialised training on the offences covered, including trafficking. Basic police training includes modules on trafficking: of the 324 training courses organised in 2010 for chief inspectors for example, 27 were dedicated to action against trafficking. Occasionally, multidisciplinary training sessions are organised on the theme of trafficking, bringing together judges and doctors, for example. However, prosecutors and judges must be made aware of the phenomenon of national trafficking (see paragraph 59), and the need to prosecute these acts as such and as energetically as transnational trafficking.

170. As far as investigation techniques are concerned, in Albania, phone-tapping on preventive grounds is allowed with the authorisation of the prosecutor. Other special procedures, such as the infiltration of a crime network, are also permitted with the authorisation of the prosecutor. The internal monitoring department of the police may investigate cases of involvement of police officers in corruption and trafficking but the Albanian authorities have indicated that, in the last five years, none of this department's investigations had resulted in any accusations of complicity on the part of police officers in THB-related activities. However, there have been cases of involvement and corruption in connection with smuggling of migrants. GRETA stresses the importance of combating this type of offence as part of the anti-trafficking effort, since smuggling in migrants can facilitate THB activities (see also paragraph 101).

171. Article 23(3) of the Convention requires Parties to adopt such legislative and other measures as may be necessary to enable them to confiscate or otherwise deprive the instrumentalities and proceeds of criminal offences related to THB or property the value of which corresponds to such proceeds. The 2009 Law on the Prevention of and Fight against Organised Crime and Trafficking through Preventive Measures against Assets replaced the 2004 Law, which covered only organised crime and had been very difficult to implement because of shortcomings in the management of confiscated assets. The 2009 Law extends the principle of seizing and confiscating assets to the field of trafficking, and gives greater powers to the agency tasked with administering confiscated assets, with a view to ensuring that these yield income which can be divided up between victims to compensate them and other bodies (see paragraphs 138 and 141). In addition, it provides for a reversal of the burden of proof, i.e. it is for the person whose assets are sequestered or confiscated to prove that they are not the proceeds of crime. The 2009 Law entered into force in January 2010, but the new mechanism for administering confiscated assets was not introduced until July 2010. As a result, the 2009 Law had not yet produced successful results at the time of writing this report. GRETA welcomes the adoption of the 2009 Law and recalls that the confiscation of criminal assets, which requires as a prerequisite to detect, identify and seize the illegal assets at the time of the criminal investigations and to have adequate procedures to do so, is crucial as a way of reinforcing the effect of the penalty as well as ensuring the payment of compensation to the victim.

172. Victims of THB may participate in the trial, if they request to do so as a party claiming damages (see paragraph 138). The law does not expressly provide that NGOs pursuing aims of action against THB or human rights protection may attend and/or support the victim consenting to their involvement in THB-related criminal proceedings. However, the Albanian authorities have indicated that NGOs may participate in proceedings, with a view to providing the victim with psychological and/or legal support and, in practice, the judicial authorities co-operate closely with NGOs, giving them the access to proceedings they need.

**173. GRETA considers that the Albanian authorities should reinforce the training of police officers, prosecutors and judges with regard to the phenomenon of national trafficking, so that national trafficking offences are duly prosecuted.**

**174. Furthermore, GRETA considers that the Albanian authorities should closely monitor the implementation of the 2009 Law on the Prevention of and Fight against Organised Crime and Trafficking through Preventive Measures against Assets, and ensure that it is effectively enforced.**

d. Protection of witnesses and victims

175. 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. Further, 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.

176. Since 2004, if a victim of trafficking agrees to co-operate with the authorities, they may benefit from special protection, recently reinforced by Law No. 10/173 of 22 October 2009 on the Protection of Witnesses and Persons Collaborating with Justice. This special protection may include measures such as new identities, changes in place of residence, etc. However, in practice, even though this programme has been in existence since 2004, only two victims of trafficking have benefited from it, one in 2006 and one in 2010. In the view of the NGOs involved in protecting victims of trafficking, the special protection programme for victims of trafficking should be applied more often, given the real danger they face. This would facilitate prosecutions and give victims better protection.

177. In addition to the above-mentioned law, there are other provisions covering the protection of witnesses and victims during proceedings. The CCP provides, *inter alia*, for the questioning of anonymous witnesses and/or witnesses in remote locations in Albania or abroad, the questioning of minors in the presence of a relative or psychologist, the admissibility of evidence before proceedings begin, thus shortening the time in which the victim of trafficking is involved in the court procedure, and hearings in camera to protect witnesses, particularly minors. Further, Law No. 9110 of 24 July 2003 on the organisation of the First Instance Court for Serious Crimes states that the court shall sit in camera where this is in the interest of the parties to the proceedings and that the witness may be questioned in the presence of the accused and their lawyer but hidden from view, to prevent the witness' identity being known.

**178. GRETA urges the Albanian authorities to reinforce measures for protecting victims of trafficking, with due regard to the special situation of child victims, regardless of whether they have agreed to participate in judicial proceedings. For those who agree to co-operate, the authorities should ensure that full use is made of the special protection programme provided for, in order to afford victims maximum protection.**

## 5. Concluding remarks

179. GRETA welcomes the efforts undertaken in recent years by the Albanian authorities in the field of action against THB, notably by establishing the necessary legal and institutional framework. It notes in particular that the national anti-trafficking strategies follow the guiding principle of human rights-based treatment of THB victims and emphasise the need to address the special situation of child victims of THB. The existence of a national co-ordination body and of regional entities specialised in action against THB alongside the creation of a National Referral Mechanism for victims of THB also constitute steps in the right direction.

180. However, as indicated throughout this report, GRETA considers that the framework which has been put in place needs to be reinforced in the fields of prevention of THB, protection of and assistance to victims of THB, and prosecution of traffickers. To be efficient, the legal texts and anti-trafficking strategies should be duly implemented and the Albanian authorities should deploy all the necessary human and financial means to ensure that the human rights-based and victim-centred approach underpinning the Convention is fully reflected and applied in the national policy to combat THB.

181. GRETA considers that the Albanian authorities should enhance internal co-ordination in the fields of prevention of THB, as well as identification of and assistance to victims of trafficking. Measures of prevention should be planned and maintained on a long-term basis, particularly with a view to achieving a change in the mentality of the public towards the phenomenon of trafficking and avoiding the rejection of its victims. The authorities should also improve co-operation with other countries in the police and judicial fields and where return of victims of THB is concerned.

182. While the current co-operation with NGOs in the field of assistance to victims of THB is to be welcomed, GRETA underlines that the Albanian authorities must ensure that the assistance measures are guaranteed in practice. The ultimate goal in this field is that victims of THB can effectively receive the assistance they need to recover and reintegrate society and successfully exercise their rights such as the right to compensation. The authorities should therefore not only support the efforts undertaken by NGOs, but also guarantee that the existing assistance structures fully respond to the needs of the victims of THB.



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183. In order to adopt a comprehensive approach to combating THB in Albania, it is necessary to ensure that national trafficking, trafficking in men and in foreign nationals are effectively covered by all the measures taken by the Albanian authorities. This would ensure that the victims of such forms of trafficking receive all the assistance and protection they need and that traffickers are duly prosecuted and punished.

184. GRETA invites the Albanian 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 Albanian Government for achieving the purposes of this Convention.

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

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

1. GRETA invites the Albanian authorities to increase their efforts to co-ordinate action against trafficking at national level and to ensure that a comprehensive approach is taken, in particular by reinforcing action against trafficking in men and trafficking within Albania.
2. GRETA also encourages the Albanian authorities to reinforce co-ordination with relevant local authorities of rural and remote areas, with a view to ensuring that all aspects of THB and all regions of Albania are integrated in the efforts undertaken to combat THB.
3. GRETA invites the Albanian authorities to introduce, in addition to the governmental reports on the implementation of the national anti-trafficking strategies, a periodic independent evaluation of these strategies and other anti-trafficking activities, as a tool for assessing the impact of these activities and for planning future policies and measures to combat THB.

### **Data collection and research**

4. GRETA welcomes the setting up of a data collection mechanism on THB by the Albanian authorities, which enables the compiling of statistical information and allows its disaggregation (concerning gender, age, type of exploitation, country of destination, etc.). GRETA considers that the Albanian authorities should pursue their efforts in improving the collection of statistical data on arrests, prosecutions and convictions for the offence of THB convictions and penalties related to trafficking offences and on the situation of the victim of THB in judicial proceedings. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection.
5. GRETA considers that the Albanian authorities should carry out and support research on THB-related issues as an important source of information for future policy measures. Areas where research is needed include national trafficking, trafficking in men and trafficking for the purpose of labour exploitation.

### **International co-operation**

6. GRETA considers that the Albanian authorities should step up their efforts to reinforce co-operation with neighbouring countries and trafficking destination countries in the areas of prevention, protection of victims and prosecution of perpetrators of trafficking, on the basis of existing mechanisms and by introducing further procedures wherever this proves necessary.

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

7. GRETA considers that future actions in the area of awareness raising and education should be designed in the light of the assessment of previous measures, on the basis of research, and be focused on the needs identified. Measures should be taken to combat stereotypes and neglect towards groups vulnerable to THB, in particular women and members of the Roma and Egyptian communities. The Albanian authorities should also continue to raise public awareness on the question of equality between women and men and the principle of non-discrimination, in order to better combat the marginalisation of groups vulnerable to THB.

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

8. While welcoming the efforts made by the Albanian authorities to prevent trafficking, GRETA considers that these efforts should be stepped up as part of a long-term approach aimed at tackling the root causes of trafficking such as poverty and school drop-out.

9. GRETA urges the Albanian authorities to step up trafficking prevention measures geared to fostering access to education and jobs for vulnerable groups, particularly women and members of the Roma and Egyptian communities.

10. GRETA also considers that the Albanian authorities should pursue their efforts to strengthen the protection of children, particularly through the recording of all children in the civil status register. Municipal child protection units should be set up in all municipalities as provided for in law, and the staff of those units should be trained in the prevention of child trafficking.

### **Measures to enable legal migration**

11. GRETA considers that the Albanian authorities should step up their efforts to provide initial and on-going training for consular staff on identification and referral of victims and potential victims of THB. The authorities should also continue to build public awareness of the dangers of transnational trafficking.

### **Border measures to prevent THB**

12. GRETA considers that the Albanian authorities should reinforce measures at land borders to prevent and detect trafficking in both Albanian and foreign persons.

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

13. GRETA considers that the Albanian authorities should pursue their efforts to identify victims of trafficking, by ensuring that the norms and procedures are duly followed by all the actors concerned. In particular, the Albanian authorities should seek to improve the identification of certain categories of victims, namely adult men, victims of national trafficking and foreigners. The authorities should also strengthen co-operation with destination and transit countries, in order to improve identification of Albanian victims abroad and the consequent measures of assistance to be provided to such victims.

### **Assistance to victims**

14. GRETA urges the Albanian authorities to ensure that all assistance measures for victims of THB provided for by law are guaranteed in practice. When assistance is delegated to NGOs as service providers, the State has an obligation to provide adequate financing and to ensure the quality of the service delivered by the NGOs.

### **Recovery and reflection period and residence permits**

15. GRETA encourages the Albanian authorities to clarify and reinforce the legal arrangements governing the recovery and reflection period by enshrining them in law.

### **Compensation and legal redress**

16. GRETA urges the Albanian authorities to ensure that victims of trafficking actually benefit from the free legal assistance to which they are entitled.

17. GRETA considers that the Albanian authorities should take steps to ensure that victims of trafficking can effectively exercise their right to compensation from the perpetrators by taking measures to facilitate the relevant procedures.

18. Further, GRETA urges the Albanian authorities to assess the mechanism for State compensation to victims of trafficking, with a view to taking any necessary additional measures to guarantee such compensation, as required in Article 15(4) of the Convention.

## **Repatriation and return of victims**

19. GRETA urges the Albanian authorities to step up their efforts to co-operate with destination countries regarding the repatriation of victims or presumed victims of trafficking. Particular attention must be paid to the situation of Albanian children taken to Kosovo<sup>21</sup> for the purpose of exploitation of begging or other forms of exploitation.

## **Substantive criminal law**

20. GRETA considers that the Albanian authorities should undertake an in-depth analysis of the implementation of trafficking-related provisions of the CC in order to identify the shortcomings and points on which clarification is needed (for example regarding the distinction between trafficking offences for the purpose of sexual exploitation and exploitation of prostitution with aggravating circumstances).

21. GRETA considers that the possibility of criminalising the knowing use of services of a victim of trafficking should be given close consideration.

22. GRETA invites the Albanian authorities to adopt measures establishing as criminal offences the fact of retaining, removing, concealing, damaging or destroying travel and identity documents when committed intentionally and for the purpose of enabling THB as required by Article 20(c) of the Convention.

23. GRETA considers that the Albanian authorities should examine the reasons why no legal entities have been punished for trafficking-related acts to date and, in the light of their findings, take the necessary measures to ensure that the liability of legal entities can be acted upon in practice.

## **Non-punishment provision applicable to victims of THB**

24. GRETA considers that the Albanian authorities should take measures to assess the implementation by the judicial and other relevant authorities of Article 26 of the Convention on the non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so. The authorities should be prepared to review on the basis of such an assessment the content and/or the application of the relevant internal provisions with a view to addressing any shortcoming identified.

## **Investigations, prosecutions and procedural law**

25. GRETA considers that the Albanian authorities should reinforce the training of police officers, prosecutors and judges with regard to the phenomenon of national trafficking, so that national trafficking offences are duly prosecuted.

26. Furthermore, GRETA considers that the Albanian authorities should closely monitor the implementation of the 2009 Law on the Prevention of and Fight against Organised Crime and Trafficking through Preventive Measures against Assets, and ensure that it is effectively enforced.

## **Protection of witnesses and victims**

27. GRETA urges the Albanian authorities to reinforce measures for protecting victims of trafficking, with due regard to the special situation of child victims, regardless of whether or not they have agreed to participate in judicial proceedings. For those who agree to co-operate, the authorities should ensure that full use is made of the special protection programme provided for, in order to afford victims maximum protection.

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<sup>21</sup> All reference to Kosovo whether to the territory, institutions or population, in this report shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

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

### **Public bodies**

- National Co-ordinator for the Fight against Trafficking in Human Beings
- Ministry of the Interior
- Ministry of Justice
- Ministry of Finance
- Ministry of Foreign Affairs
- Ministry of Education and Science
- Ministry of Labour, Social Services and Equal Opportunities
- First Instance Court on Serious Crimes
- Office of the General Prosecutor
- School of Magistrates
- National Reception Centre for Victims of Trafficking
- Agency for Management of Seized and Confiscated Assets
- Elbasan Committee against Trafficking in Human Beings

### **Non-governmental organisations**

- "Amaro-Drom" Union
- Albanian Centre for Human Rights
- Centre for Legal Civic Initiatives (CLCI)
- Children's Human Rights Centre of Albania / Defence for Children International (CRCA / DCI Albania)
- Different and Equal
- Forumi Gruas (Women Forum)
- "Help for Children" Foundation (NPF)
- Home of Hope
- Qendra Psiko-Sociale "Vatra", Vlora (Psycho-Social Centre "Vatra")
- Refleksione
- Rromani Baxt Albania
- Save the Children in Albania
- Terre des Hommes Foundation in Albania
- Tjeter Vizion (Another Vision)
- United for Child Care and Protection (BKTF)

## **Government's comments**

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

GRETA engaged in a dialogue with the authorities of Albania 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 Albanian authorities on 21 October and invited them to submit any final comments within one month. The Albanian authorities' comments, submitted on 1 December 2011, are reproduced hereafter.



REPUBLIC OF ALBANIA  
MINISTRY OF INTERIOR

No. 4519 Prot.

Tirana, 01 December 2011

Ref: Final Comments to the Report on the Evaluation of the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings

To: Ms. Petya NESTOROVA  
Executive Secretary  
Secretariat of the Council of Europe Convention on Action against Trafficking in Human Beings (GRETA and Committee of the Parties)  
Directorate General of Human Rights and Rule of Law  
Council of Europe

Strasbourg CEDEX, France

Dear Ms. Nestorova,

First of all we would like to thank you and all the GRETA members for sending us the final Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Albania.

This final report is a product of a long process, starting with the completion of the questionnaire provided by GRETA. We had also the pleasure to receive and coordinate the agenda of a delegation of GRETA in the framework of country visit which took place in 31 January - 3 February 2011.

We have carefully evaluated all the recommendations and comments of the report and we consider it a good guide to improve our work. Based on its findings and recommendations, we have already taken some concrete steps as follows:

1. Concerning the completion of legislative framework, we have identified all proper interventions and, in collaboration with the Ministry of Justice, we are following the legal procedures for appropriate amendments.
2. Concerning the improvement of mechanisms for the protection of victims of trafficking, we are in the process of redrafting the National Referral Mechanism Agreement with the aim of expanding of actors involved and clarification of duties and responsibilities of each member of the Agreement.
3. Concerning the international collaboration, a special focus has had the drafting of Collaboration and Special Protocol Agreements such as the one

with Kosovo (we have finalized the process of drafting and exchanging opinions with our counterparts- in the time being we are following procedures of signing this Protocol). Another important development in this direction is the reinforcement of collaboration mainly with destination countries. To this aim, we are planning a set of trainings with Albanian consuls and liaison officers to be held in 14-16 December 2011 in Albania.

4. Regarding prevention of human trafficking, we have concentrated our efforts in reinforcement of local institutions and organization of awareness raising campaigns in the community.

We appreciate very much the collaboration we have had and the feedback we have received from GRETA. We are very interested in furthering this cooperation through informing GRETA on the measures and actions undertaken in the fight against human trafficking, especially in the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings.

Yours sincerely,

Dr. Iva ZAJMI

Deputy Minister of Interior  
National Coordinator against Trafficking in Human Beings  
Ministry of Interior





